

109TH CONGRESS  
1ST SESSION

# H. R. 846

To establish a Federal program to provide reinsurance to improve the availability of homeowners' insurance.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2005

Ms. GINNY BROWN-WAITE of Florida (for herself, Mr. DAVIS of Florida, Mr. SHERMAN, Ms. ROS-LEHTINEN, Mr. LARSEN of Washington, Ms. BORDALLO, Mr. LEWIS of Georgia, Mr. WELDON of Florida, Ms. HOOLEY, Mr. WOLF, Ms. WASSERMAN SCHULTZ, Mr. BILIRAKIS, Mr. GENE GREEN of Texas, and Mr. FEENEY) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To establish a Federal program to provide reinsurance to improve the availability of homeowners' insurance.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Homeowners’ Insurance Availability Act of 2005”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Program authority.
- Sec. 3. Qualified lines of coverage.

- Sec. 4. Covered perils.  
 Sec. 5. Auction of contracts for reinsurance coverage.  
 Sec. 6. Minimum level of retained losses and maximum Federal liability.  
 Sec. 7. Disaster Reinsurance Fund.  
 Sec. 8. National Commission on Catastrophe Risks and Insurance Loss Costs.  
 Sec. 9. Definitions.  
 Sec. 10. Regulations.  
 Sec. 11. Termination.  
 Sec. 12. Annual study of cost and availability of disaster insurance and program need.

1 **SEC. 2. PROGRAM AUTHORITY.**

2 (a) IN GENERAL.—The Secretary of the Treasury  
 3 shall carry out a program under this Act to make reinsur-  
 4 ance coverage available through contracts for reinsurance  
 5 coverage under section 5, which shall be made available  
 6 for purchase by purchasers under section 5(a)(1) only  
 7 through auctions under section 5(a).

8 (b) PURPOSE.—The program shall be designed to  
 9 make reinsurance coverage under this Act available to im-  
 10 prove the availability of homeowners' insurance for the  
 11 purpose of facilitating the pooling, and spreading the risk,  
 12 of catastrophic financial losses from disasters and to im-  
 13 prove the solvency of homeowners' insurance markets.

14 (c) CONTRACT PRINCIPLES.—Under the program  
 15 under this Act, the Secretary shall offer reinsurance cov-  
 16 erage through contracts with covered purchasers, which  
 17 contracts—

18 (1) shall not displace or compete with the pri-  
 19 vate insurance or reinsurance markets or capital  
 20 markets;

1           (2) shall minimize the administrative costs of  
2           the Federal Government; and

3           (3) shall provide coverage based solely on in-  
4           sured losses within the region established pursuant  
5           to section 5(a) for which the auction is held.

6 **SEC. 3. QUALIFIED LINES OF COVERAGE.**

7           Each contract for reinsurance coverage made avail-  
8           able under this Act shall provide insurance coverage  
9           against residential property losses to homes (including  
10          dwellings owned under condominium and cooperative own-  
11          ership arrangements) and the contents of apartment  
12          buildings.

13 **SEC. 4. COVERED PERILS.**

14          Each contract for reinsurance coverage made avail-  
15          able under this Act shall cover losses that are proximately  
16          caused by—

17                 (1) earthquakes;

18                 (2) perils ensuing from earthquakes, including  
19                 fire and tsunamis; and

20                 (3) tropical cyclones having maximum sustained  
21                 winds of at least 74 miles per hour, including hurri-  
22                 canes and typhoons.

23          The Secretary shall, by regulation, define the disaster per-  
24          ils under this section.

1 **SEC. 5. AUCTION OF CONTRACTS FOR REINSURANCE COV-**  
2 **ERAGE.**

3 (a) **AUCTION PROGRAM REQUIREMENTS.**—The Sec-  
4 retary shall carry out a program to auction contracts for  
5 reinsurance coverage under this Act made available pursu-  
6 ant to section 2(a), which shall comply with the following  
7 requirements:

8 (1) **PURCHASERS.**—The auction program shall  
9 provide for auctioning all contracts made available  
10 under this section to private insurers and reinsurers,  
11 State insurance and reinsurance programs, and  
12 other interested entities.

13 (2) **REGIONAL AUCTIONS.**—The auction pro-  
14 gram shall provide for auctions on a regional basis.  
15 The Secretary shall divide the States into not less  
16 than 6 regions for the purpose of holding such re-  
17 gional auctions, which shall include separate regions  
18 for all or part of the State of California and all or  
19 part of the State of Florida. In determining the  
20 boundaries for such regions, the Secretary shall con-  
21 sider which areas have greater risks of losses from  
22 covered perils and which areas have lesser risks of  
23 losses from covered perils, and shall attempt not to  
24 combine those different types of areas. Auctions for  
25 each region shall be conducted not less often than  
26 annually.

1           (3) RESERVE PRICE.—In auctioning contracts  
2 under this section for reinsurance coverage, the Sec-  
3 retary shall set, for each contract, a reserve price  
4 that is the minimum price at which the contract may  
5 be sold, based upon the recommendations of the  
6 Commission. The reserve price shall be determined  
7 on the basis of the following components:

8           (A) RISK-BASED PRICE.—A risk-based  
9 price, which shall reflect the anticipated  
10 annualized payout of the contract according to  
11 the actuarial analysis and recommendations of  
12 the Commission.

13           (B) RISK LOAD.—A risk load in an  
14 amount that is not less than the risk-based  
15 price under subparagraph (A).

16           (C) ADMINISTRATIVE COSTS.—A sum suf-  
17 ficient to provide for the operation of the Com-  
18 mission and the administrative expenses in-  
19 curred by the Secretary in carrying out this sec-  
20 tion.

21           (D) MITIGATION.—An adjustment based  
22 on an actuarial analysis that takes into account  
23 any efforts that are being made to reduce losses  
24 to property in the region in which the contract  
25 is being sold.

1           (4) PRICE GOUGING PROTECTIONS.—The auc-  
2           tion program may provide reinsurance coverage for  
3           losses incurred only for property located in a State  
4           for which the State entity authorized to make such  
5           determinations has certified to the Secretary that  
6           there are in effect, in such State, laws or regulations  
7           sufficient to prohibit price gouging, during the term  
8           of such reinsurance coverage, in any disaster area  
9           located within the State.

10           (5) MITIGATION REQUIREMENTS.—

11           (A) IN GENERAL.—The auction program  
12           shall require each purchaser of a contract, as a  
13           condition of such purchase, to contribute an  
14           amount, that the Secretary (in consultation  
15           with the Director of the Federal Emergency  
16           Management Agency) shall establish and which  
17           shall not exceed 5 percent of the price paid for  
18           the contract, to communities that—

19                   (i) are located in the State in which  
20                   the reinsurance coverage under the con-  
21                   tract is provided (or in the case of multiple  
22                   States, among such States, as determined  
23                   by the Secretary);

24                   (ii) are designated by the Director of  
25                   the Federal Emergency Management

1 Agency and the appropriate emergency  
2 management agency for the State as  
3 Project Impact communities (for purposes  
4 of the pre-disaster mitigation program of  
5 such Agency); and

6 (iii) are participating in such pro-  
7 grams or initiatives as the Secretary may  
8 require that provide incentives for con-  
9 struction of structures and communities  
10 that are resistant to damage from covered  
11 perils, which shall include the Building  
12 Code Effectiveness Grading Schedule of  
13 the Insurance Services Office.

14 (B) USE OF CONTRIBUTIONS.—Amounts  
15 contributed to communities pursuant to the re-  
16 quirement under subparagraph (A) shall be  
17 used only—

18 (i) for activities to reduce losses from  
19 covered perils to properties covered under  
20 the reinsurance contract purchased under  
21 the auction program that are located in  
22 such communities; and

23 (ii) in accordance with such require-  
24 ments as the Secretary, in consultation  
25 with the Director of the Federal Emer-

1           gency Management Agency and appro-  
2           priate State agencies, shall establish to en-  
3           sure cost-effective use of such amounts.

4           (C) ALLOCATION.—The Secretary, in con-  
5           sultation with the Director of the Federal  
6           Emergency Management Agency, shall establish  
7           requirements for allocation of contributions  
8           among communities eligible under subpara-  
9           graph (A) to receive such contributions.

10          (6) OTHER REQUIREMENTS.—The Secretary  
11          may establish such other requirements for the auc-  
12          tion program as the Secretary considers necessary to  
13          carry out this Act.

14          (b) CONTRACT TERMS AND CONDITIONS.—Each con-  
15          tract for reinsurance coverage under this Act shall include  
16          the following terms and conditions:

17               (1) MATURITY.—The term of each such con-  
18               tract shall not exceed 1 year or such other term as  
19               the Secretary may determine.

20               (2) TRANSFERABILITY.—The contract shall at  
21               all times be fully transferable, assignable, and divis-  
22               ible.

23               (3) THRESHOLD OF COVERAGE.—The contract  
24               shall provide that the covered purchaser may receive  
25               a payment for losses covered under the contract if,



1 under a process specified in the contract, the Sec-  
2 retary determines that the insurance industry will,  
3 as a result of a single event of a covered peril, incur  
4 losses within the coverage area for the region estab-  
5 lished under subsection (a)(2) for which the contract  
6 was auctioned that are covered by one or more lines  
7 of insurance under section 4 in an aggregate  
8 amount, for such event, greater than the level of re-  
9 tained losses specified in section 6.

10 (4) MULTIPLE EVENTS.—The contract shall  
11 cover any eligible losses from one or more covered  
12 events that may occur during the term of the con-  
13 tract and shall provide that if multiple events occur,  
14 the retained losses requirement under paragraph (3)  
15 shall apply to each event.

16 (5) ADDITIONAL CONTRACT OPTION.—The con-  
17 tract shall provide that the purchaser of the contract  
18 may, during the term of such original contract, pur-  
19 chase additional contracts from among those offered  
20 by the Secretary at the beginning of the term, sub-  
21 ject to the limitations under section 6, at the prices  
22 at which such contracts were offered at the begin-  
23 ning of the term, prorated based upon the remaining  
24 term as determined by the Secretary. Such addi-  
25 tional contracts shall provide coverage beginning on

1 a date 15 days after the date of purchase but shall  
2 not provide coverage for losses for an event that has  
3 already occurred.

4 (6) SUBMISSION OF INFORMATION.—The con-  
5 tract shall include terms that—

6 (A) require the purchaser to notify the  
7 Secretary of any sale, transfer, assignment, or  
8 division of the contract or any interest in the  
9 contract, identify the interest involved, and  
10 identify the price paid or compensation pro-  
11 vided; and

12 (B) authorize the disclosures required  
13 under subsection (c)(2).

14 (7) OTHER TERMS.—The contract shall contain  
15 such other terms as the Secretary considers nec-  
16 essary to carry out this Act and to ensure the long-  
17 term financial integrity of the program under this  
18 Act.

19 (c) GAO AUDIT.—

20 (1) IN GENERAL.—For each fiscal year, the  
21 Comptroller General of the United States shall con-  
22 duct an audit of prices for contracts made available  
23 under the auction program under this section during  
24 such fiscal year that determines—

1 (A) the reserve prices established for such  
2 contracts;

3 (B) the prices paid for such contracts that  
4 are purchased;

5 (C) the prices paid, or compensation pro-  
6 vided, in any sales, transfers, assignments, or  
7 divisions of any such contracts (or any interests  
8 in such contracts) in the secondary market or  
9 to any third party; and

10 (D) pursuant to the information obtained  
11 under subparagraphs (A) through (C), the ap-  
12 propriate reserve prices for such contracts that  
13 are to be made available in the succeeding fiscal  
14 year.

15 (2) USE OF INFORMATION.—The Secretary  
16 shall provide any information referred to in sub-  
17 section (b)(6) that is obtained by the Secretary to  
18 the Comptroller General, the Director of the Con-  
19 gressional Budget Office, and the Director of the Of-  
20 fice of Management and Budget, and shall make  
21 such information publicly available. The Secretary,  
22 the Director of the Congressional Budget Office, the  
23 Director of the Office of Management and Budget  
24 shall each take such information into consideration  
25 in preparing any budget, report, estimate, or rec-

1 commendation to the extent it relates to the auction  
2 program under this section, and in any determina-  
3 tions relating to the Budget of the United States or  
4 the concurrent resolution on the budget (as such  
5 term is defined in section 3 of the Congressional  
6 Budget Act of 1974). The Secretary shall take such  
7 information into consideration in establishing reserve  
8 prices for contracts made available under this sec-  
9 tion.

10 (d) PRIVATE SECTOR RIGHT TO PARTICIPATE.—

11 (1) ESTABLISHMENT OF COMPETITIVE PROCE-  
12 DURE.—The Secretary shall establish, by regulation,  
13 a competitive procedure under this subsection that  
14 provides qualified entities an opportunity, on a basis  
15 consistent with the regional auction procedure and  
16 contract cycle established under this section by the  
17 Secretary, to offer to provide, in lieu of reinsurance  
18 coverage under this Act made available by the Sec-  
19 retary, reinsurance coverage that is substantially  
20 similar to such coverage.

21 (2) COMPETITIVE PROCEDURE.—Under the  
22 procedure established under this subsection—

23 (A) the Secretary shall establish criteria  
24 for private insurers, reinsurers, and capital  
25 market companies, and consortia of such enti-

1           ties to be treated as qualified entities for pur-  
2           poses of this subsection, which criteria shall re-  
3           quire such an entity to have at all times capital  
4           sufficient to satisfy the terms of the reinsurance  
5           contracts and shall include such other industry  
6           and credit rating standards as the Secretary  
7           considers appropriate;

8           (B) not less than 30 days before the begin-  
9           ning of each regional auction during which any  
10          reinsurance coverage under this Act is to be  
11          made available, the Secretary shall publish in  
12          the Federal Register the reserve prices and  
13          terms for contracts for such reinsurance cov-  
14          erage that are to be made available during the  
15          auction;

16          (C) the Secretary shall provide qualified  
17          entities a period of not less than 10 days (which  
18          shall terminate not less than 20 days before the  
19          beginning of the auction) to submit to the Sec-  
20          retary a written expression of interest in pro-  
21          viding reinsurance coverage in lieu of the cov-  
22          erage otherwise to be made available under this  
23          Act by the Secretary;

24          (D) the Secretary shall provide any quali-  
25          fied entity submitting an expression of interest

1 during the period referred to in subparagraph  
2 (C) a period of not less than 20 days (which  
3 shall terminate before the commencement of the  
4 auction) to submit to the Secretary an offer to  
5 provide, in lieu of the reinsurance coverage  
6 under this Act otherwise to be made available  
7 under an auction under this section, coverage  
8 that is substantially similar to such coverage;

9 (E) if the Secretary determines that an  
10 offer submitted during the period referred to in  
11 subparagraph (D) is a bona fide offer to pro-  
12 vide reinsurance coverage to be made available  
13 during the auction for the same contract cycle  
14 and at a reserve price and terms that are sub-  
15 stantially similar to the reserve price and terms  
16 for reinsurance coverage otherwise to be made  
17 available at the auction under this section by  
18 the Secretary, the Secretary shall accept the  
19 offer (if still outstanding) and, notwithstanding  
20 any other provision of this Act, provide that the  
21 reinsurance coverage provided by such entity in  
22 accordance with the offer shall be made avail-  
23 able at the auction; and

24 (F) if the Secretary accepts an offer pur-  
25 suant to subparagraph (E) to make reinsurance

1 coverage available at the auction, notwith-  
2 standing any other provision of this Act, the  
3 Secretary shall reduce, to an equivalent extent,  
4 the amount of reinsurance coverage otherwise  
5 to be made available under this Act by the Sec-  
6 retary at the auction, unless and until the Sec-  
7 retary determines that the entity is not com-  
8 plying with the terms of the accepted offer.

9 **SEC. 6. MINIMUM LEVEL OF RETAINED LOSSES AND MAX-**  
10 **IMUM FEDERAL LIABILITY.**

11 (a) AVAILABLE LEVELS OF RETAINED LOSSES.—In  
12 making reinsurance coverage available under this Act, the  
13 Secretary shall make available for purchase contracts for  
14 such coverage that require the sustainment of retained  
15 losses from a single event of a covered peril (as required  
16 under section 5(b)(3) for payment of eligible losses) in var-  
17 ious amounts, as the Secretary, in consultation with the  
18 Commission, determines appropriate and subject to the re-  
19 quirements under subsection (b) of this section.

20 (b) MINIMUM LEVEL OF RETAINED LOSSES.—

21 (1) CUMULATIVE AMOUNT.—Subject to para-  
22 graphs (2), (3), and (4) and notwithstanding any  
23 other provision of this Act, a contract for reinsur-  
24 ance coverage may not be made available or sold  
25 under section 5 through a regional auction unless

1 the contract requires that the insurance industry in  
2 the region for which the auction was conducted sus-  
3 tains a cumulative amount of retained losses (in cov-  
4 ered lines resulting from covered perils) of not less  
5 than an amount, determined by the Secretary in  
6 consultation with the Commission, that is in the  
7 range between the amount equal to the eligible loss  
8 projected to be incurred once every 100 years from  
9 a single event in the region and the amount equal  
10 to the eligible loss projected to be incurred once  
11 every 250 years from such an event.

12 (2) INITIAL ADJUSTMENT BASED ON PRIVATE  
13 MARKET.—The Secretary may, before making con-  
14 tracts for reinsurance coverage under this Act ini-  
15 tially available under section 5, raise the minimum  
16 level of retained losses from the amount required  
17 under paragraph (1) for a region to ensure, as de-  
18 termined by the Secretary, that such contracts com-  
19 ply with the principle under section 2(c)(1).

20 (3) ANNUAL ADJUSTMENT.—The Secretary  
21 may annually raise the minimum level of retained  
22 losses established under paragraph (1) for a region  
23 to reflect, as determined by the Secretary—



1 (A) changes in the capacity of public rein-  
2 surance programs or the private insurance and  
3 reinsurance market;

4 (B) increases in the market value of prop-  
5 erties; or

6 (C) such other situations as the Secretary  
7 considers appropriate.

8 The Secretary shall consider the minimum level of  
9 retained losses requirement in paragraph (1) as a  
10 minimum requirement only and shall have full au-  
11 thority, effective on the date of the enactment of this  
12 Act, to establish levels of required minimum retained  
13 losses in any amount greater than the amounts spec-  
14 ified in such paragraph. In making any determina-  
15 tion under this paragraph in the minimum level of  
16 retained losses, the Secretary shall establish such  
17 level at an amount such that the program under this  
18 Act for making reinsurance coverage available does  
19 not displace or compete with the private insurance  
20 or reinsurance markets or capital markets, as deter-  
21 mined by the Secretary after the Secretary has pro-  
22 vided interested parties an opportunity to submit to  
23 the Commission market information relevant to such  
24 determination and has provided the Commission

1 with an opportunity to advise the Secretary regard-  
2 ing such information and determination.

3 (4) OPTIONAL ANNUAL INFLATIONARY OR EX-  
4 POSURE ADJUSTMENT.—The Secretary may, on an  
5 annual basis, raise the minimum level of retained  
6 losses established under paragraph (1) for each re-  
7 gion to reflect the annual rate of inflation or growth  
8 in exposures, whichever is greater. Any such raise  
9 shall be made in accordance with an inflation index  
10 or exposure index, as appropriate, that the Secretary  
11 determines to be appropriate. The first such raise  
12 may be made one year after contracts for reinsur-  
13 ance coverage under this Act are first made avail-  
14 able for purchase.

15 (c) MAXIMUM FEDERAL LIABILITY.—

16 (1) IN GENERAL.—Notwithstanding any other  
17 provision of law, the Secretary may sell only con-  
18 tracts for reinsurance coverage under this Act in  
19 various amounts which comply with the following re-  
20 quirements:

21 (A) ESTIMATE OF AGGREGATE LIABIL-  
22 ITY.—The aggregate liability for payment of  
23 claims under all such contracts in any single  
24 year is unlikely to exceed \$25,000,000,000 (as  
25 such amount is adjusted under paragraph (2)).

1 (B) ELIGIBLE LOSS COVERAGE SOLD.—El-  
2 igitible losses covered by all contracts sold within  
3 a State or region during a 12-month period do  
4 not exceed the difference between the following  
5 amounts (each of which shall be determined by  
6 the Secretary in consultation with the Commis-  
7 sion):

8 (i) The amount equal to the eligible  
9 loss projected to be incurred once every  
10 500 years from a single event in the State  
11 or region.

12 (ii) The amount equal to the eligible  
13 loss projected to be incurred once every  
14 100 years from a single event in the State  
15 or region.

16 (2) ANNUAL ADJUSTMENTS.—The Secretary  
17 shall annually adjust the amount under paragraph  
18 (1)(A) (as it may have been previously adjusted) to  
19 provide for inflation in accordance with an inflation  
20 index that the Secretary determines to be appro-  
21 priate.

22 (d) LIMITATION ON PERCENTAGE OF RISK IN EX-  
23 CESS OF RETAINED LOSSES.—

24 (1) IN GENERAL.—The Secretary may not  
25 make available for purchase contracts for reinsur-

1       ance coverage under this Act that would pay out  
2       more than 50 percent of eligible losses in excess of  
3       retained losses for the region for which the contract  
4       was made available.

5           (2) PAYOUT.—For purposes of this subsection,  
6       the amount of payout from a reinsurance contract  
7       shall be the amount of eligible losses in excess of re-  
8       tained losses multiplied by the percentage under  
9       paragraph (1).

10 **SEC. 7. DISASTER REINSURANCE FUND.**

11       (a) ESTABLISHMENT.—There is established within  
12       the Treasury of the United States a fund to be known  
13       as the Disaster Reinsurance Fund (in this section referred  
14       to as the “Fund”).

15       (b) CREDITS.—The Fund shall be credited with—

16           (1) amounts received annually from the sale of  
17       contracts for reinsurance coverage under this Act;

18           (2) any amounts borrowed under subsection  
19       (d);

20           (3) any amounts earned on investments of the  
21       Fund pursuant to subsection (e); and

22           (4) such other amounts as may be credited to  
23       the Fund.

24       (c) USES.—Amounts in the Fund shall be available  
25       to the Secretary only for the following purposes:

1           (1) CONTRACT PAYMENTS.—For payments to  
2 covered purchasers under contracts for reinsurance  
3 coverage under this Act for eligible losses under such  
4 contracts.

5           (2) COMMISSION COSTS.—To pay for the oper-  
6 ating costs of the Commission.

7           (3) ADMINISTRATIVE EXPENSES.—To pay for  
8 the administrative expenses incurred by the Sec-  
9 retary in carrying out the reinsurance program  
10 under this Act.

11          (4) TERMINATION.—Upon termination under  
12 section 11, as provided in such section.

13 (d) BORROWING.—

14          (1) AUTHORITY.—To the extent that the  
15 amounts in the Fund are insufficient to pay claims  
16 and expenses under subsection (c), the Secretary  
17 may issue such obligations of the Fund as may be  
18 necessary to cover the insufficiency and shall pur-  
19 chase any such obligations issued.

20          (2) PUBLIC DEBT TRANSACTION.—For the pur-  
21 pose of purchasing any such obligations, the Sec-  
22 retary may use as a public debt transaction the pro-  
23 ceeds from the sale of any securities issued under  
24 chapter 31 of title 31, United States Code, and the  
25 purposes for which securities are issued under such

1 chapter are hereby extended to include any purchase  
2 by the Secretary of such obligations under this sub-  
3 section.

4 (3) CHARACTERISTICS OF OBLIGATIONS.—Obli-  
5 gations issued under this subsection shall be in such  
6 forms and denominations, bear such maturities, bear  
7 interest at such rate, and be subject to such other  
8 terms and conditions, as the Secretary shall deter-  
9 mine.

10 (4) TREATMENT.—All redemptions, purchases,  
11 and sales by the Secretary of obligations under this  
12 subsection shall be treated as public debt trans-  
13 actions of the United States.

14 (5) REPAYMENT.—Any obligations issued under  
15 this subsection shall be repaid, including interest,  
16 from the Fund and shall be recouped from pre-  
17 miums charged for reinsurance coverage provided  
18 under this Act.

19 (e) INVESTMENT.—If the Secretary determines that  
20 the amounts in the Fund are in excess of current needs,  
21 the Secretary may invest such amounts as the Secretary  
22 considers advisable in obligations issued or guaranteed by  
23 the United States.

24 (f) PROHIBITION OF FEDERAL FUNDS.—Except for  
25 amounts made available pursuant to subsection (d) of this

1 section and section 8(h), no Federal funds shall be author-  
2 ized or appropriated for the Fund or for carrying out the  
3 reinsurance program under this Act.

4 **SEC. 8. NATIONAL COMMISSION ON CATASTROPHE RISKS**  
5 **AND INSURANCE LOSS COSTS.**

6 (a) **ESTABLISHMENT.**—The Secretary shall establish  
7 a commission to be known as the National Commission  
8 on Catastrophe Risks and Insurance Loss Costs.

9 (b) **DUTIES.**—The Commission shall meet for the sole  
10 purpose of advising the Secretary regarding the estimated  
11 loss costs associated with the contracts for reinsurance  
12 coverage under this Act and carrying out the functions  
13 specified in this Act.

14 (c) **MEMBERS.**—The Commission shall consist of not  
15 more than 5 members, who shall be appointed by the Sec-  
16 retary and shall be broadly representative of the public  
17 interest. Members shall have no personal, professional, or  
18 financial interest at stake in the deliberations of the Com-  
19 mission. The membership of the Commission shall at all  
20 times include at least 1 representative of a nationally rec-  
21 ognized consumer organization.

22 (d) **TREATMENT OF NON-FEDERAL MEMBERS.**—  
23 Each member of the Commission who is not otherwise em-  
24 ployed by the Federal Government shall be considered a

1 special Government employee for purposes of sections 202  
2 and 208 of title 18, United States Code.

3 (e) EXPERTS AND CONSULTANTS.—The Commission  
4 may procure temporary and intermittent services under  
5 section 3109(b) of title 5, United States Code, but at a  
6 rate not in excess of the daily equivalent of the annual  
7 rate of basic pay payable for level V of the Executive  
8 Schedule, for each day during which the individual pro-  
9 cured is performing such services for the Commission.

10 (f) COMPENSATION.—Each member of the Commis-  
11 sion who is not an officer or employee of the Federal Gov-  
12 ernment shall be compensated at a rate of basic pay pay-  
13 able for level V of the Executive Schedule, for each day  
14 (including travel time) during which such member is en-  
15 gaged in the performance of the duties of the Commission.  
16 All members of the Commission who are officers or em-  
17 ployees of the United States shall serve without compensa-  
18 tion in addition to that received for their services as offi-  
19 cers or employees of the United States.

20 (g) OBTAINING DATA.—The Commission and the  
21 Secretary may solicit loss exposure data and such other  
22 information either deems necessary to carry out its re-  
23 sponsibilities from governmental agencies and bodies and  
24 organizations that act as statistical agents for the insur-  
25 ance industry. The Commission and the Secretary shall



1 take such actions as are necessary to ensure that informa-  
2 tion that either deems is confidential or proprietary is dis-  
3 closed only to authorized individuals working for the Com-  
4 mission or the Secretary. No company which refuses to  
5 provide information requested by the Commission or the  
6 Secretary may participate in the program for reinsurance  
7 coverage authorized under this Act, nor may any State  
8 insurance or reinsurance program participate if any gov-  
9 ernmental agency within that State has refused to provide  
10 information requested by the Commission or the Sec-  
11 retary.

12 (h) FUNDING.—

13 (1) AUTHORIZATION OF APPROPRIATIONS.—

14 There are authorized to be appropriated—

15 (A) \$1,000,000 for fiscal year 2006 for the  
16 initial expenses in establishing the Commission  
17 and the initial activities of the Commission that  
18 cannot timely be covered by amounts obtained  
19 pursuant to section 5(a)(3)(C), as determined  
20 by the Secretary;

21 (B) such additional sums as may be nec-  
22 essary to carry out subsequent activities of the  
23 Commission;

1 (C) \$1,000,000 for fiscal year 2006 for the  
2 initial expenses of the Secretary in carrying out  
3 the program authorized under section 2; and

4 (D) such additional sums as may be nec-  
5 essary to carry out subsequent activities of the  
6 Secretary under this Act.

7 (2) OFFSET.—The Secretary shall provide, to  
8 the maximum extent practicable, that an amount  
9 equal to any amount appropriated under paragraph  
10 (1) is obtained from purchasers of reinsurance cov-  
11 erage under this Act and deposited in the Fund es-  
12 tablished under section 7. Such amounts shall be ob-  
13 tained by inclusion of a provision for the Secretary’s  
14 and the Commission’s expenses incorporated into the  
15 pricing of the contracts for such reinsurance cov-  
16 erage, pursuant to section 5(a)(3)(C).

17 (i) TERMINATION.—The Commission shall terminate  
18 upon the effective date of the repeal under section 11(e).

19 **SEC. 9. DEFINITIONS.**

20 For purposes of this Act, the following definitions  
21 shall apply:

22 (1) COMMISSION.—The term “Commission”  
23 means the National Commission on Catastrophe  
24 Risks and Insurance Loss Costs established under  
25 section 8.

1           (2) COVERED PERILS.—The term “covered per-  
2           ils” means the disaster perils under section 4.

3           (3) COVERED PURCHASER.—The term “covered  
4           purchaser” means, with respect to reinsurance cov-  
5           erage made available under a contract under section  
6           5, the purchaser of the contract auctioned under  
7           such section or any subsequent holder or holders of  
8           the contract.

9           (4) DISASTER AREA.—The term “disaster area”  
10          means a geographical area, with respect to which—

11                   (A) a covered peril has occurred; and

12                   (B) a declaration that a major disaster ex-  
13                   ists, as a result of the occurrence of such  
14                   peril—

15                           (i) has been made by the President of  
16                           the United States; and

17                           (ii) is in effect.

18          (5) ELIGIBLE LOSSES.—The term “eligible  
19          losses” means losses in excess of the sustained and  
20          retained losses, as defined by the Secretary after  
21          consultation with the Commission.

22          (6) PRICE GOUGING.—The term “price  
23          gouging” means the providing of any consumer good  
24          or service by a supplier for a price that the supplier  
25          knows or has reason to know is greater, by at least

1 the percentage set forth in a State law or regulation  
2 prohibiting such act (notwithstanding any real cost  
3 increase due to any attendant business risk and  
4 other reasonable expenses that result from the major  
5 disaster involved), than the price charged by the  
6 supplier for such consumer good or service imme-  
7 diately before the disaster.

8 (7) QUALIFIED LINES.—The term “qualified  
9 lines” means lines of insurance coverage for which  
10 losses are covered under section 3 by reinsurance  
11 coverage under this Act.

12 (8) REINSURANCE COVERAGE.—The term “re-  
13 insurance coverage under this Act” means coverage  
14 under contracts made available under section 5 by  
15 the Secretary.

16 (9) SECRETARY.—The term “Secretary” means  
17 the Secretary of the Treasury.

18 (10) STATE.—The term “State” means the  
19 States of the United States, the District of Colum-  
20 bia, the Commonwealth of Puerto Rico, the Com-  
21 monwealth of the Northern Mariana Islands, Guam,  
22 the Virgin Islands, American Samoa, and any other  
23 territory or possession of the United States.

1 **SEC. 10. REGULATIONS.**

2 The Secretary shall issue any regulations necessary  
3 to carry out the program for reinsurance coverage under  
4 this Act.

5 **SEC. 11. TERMINATION.**

6 (a) IN GENERAL.—Except as provided in subsection  
7 (b), the Secretary may not provide any reinsurance cov-  
8 erage under this Act covering any period after the expira-  
9 tion of the 10-year period beginning on the date of the  
10 enactment of this Act.

11 (b) EXTENSION.—If upon the expiration of the period  
12 under subsection (a) the Secretary, in consultation with  
13 the Commission, determines that continuation of the pro-  
14 gram for reinsurance coverage under this Act is necessary  
15 to carry out the purpose of this Act under section 2(b)  
16 because of insufficient growth of capacity in the private  
17 homeowners' insurance market, the Secretary shall con-  
18 tinue to provide reinsurance coverage under this Act until  
19 the expiration of the 5-year period beginning upon the ex-  
20 piration of the period under subsection (a).

21 (c) REPEAL.—Effective upon the date that reinsur-  
22 ance coverage under this Act is no longer available or in  
23 force pursuant to subsection (a) or (b), this Act (except  
24 for this section) is repealed.

25 (d) DEFICIT REDUCTION.—The Secretary shall cover  
26 into the General Fund of the Treasury any amounts re-

1 maining in the Fund under section 7 upon the repeal of  
2 this Act.

3 **SEC. 12. ANNUAL STUDY OF COST AND AVAILABILITY OF**  
4 **DISASTER INSURANCE AND PROGRAM NEED.**

5 (a) IN GENERAL.—The Secretary shall, on an annual  
6 basis, conduct a study and submit to the Congress a report  
7 on the cost and availability of homeowners' insurance for  
8 losses resulting from catastrophic disasters covered by the  
9 reinsurance program under this Act.

10 (b) CONTENTS.—Each annual study under this sec-  
11 tion shall determine and identify, on an aggregate basis—

12 (1) for each State or region, the capacity of the  
13 private homeowners' insurance market with respect  
14 to coverage for losses from catastrophic disasters;

15 (2) for each State or region, the percentage of  
16 homeowners who have such coverage, the disasters  
17 covered, and the average cost of such coverage;

18 (3) for each State or region, the progress that  
19 private reinsurers and capital markets have made in  
20 providing reinsurance for such homeowners' insur-  
21 ance;

22 (4) for each State or region, the effects of the  
23 Federal reinsurance program under this Act on the  
24 availability and affordability of such insurance; and

1           (5) the appropriate time for termination of the  
2       Federal reinsurance program under this Act.

3       (c) TIMING.—Each annual report under this section  
4 shall be submitted not later than March 30 of the year  
5 after the year for which the study was conducted.

6       (d) COMMENCEMENT OF REPORTING REQUIRE-  
7 MENT.—The Secretary shall first submit an annual report  
8 under this section not later than 2 years after the date  
9 of the enactment of this Act.

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