

110TH CONGRESS
1ST SESSION

H. R. 3355

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2007

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To ensure the availability and affordability of homeowners'
insurance coverage for catastrophic events.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Homeowners’ Defense Act of 2007”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

TITLE I—NATIONAL CATASTROPHE RISK CONSORTIUM

Sec. 101. Establishment; status; principal office; membership.

Sec. 102. Functions.

Sec. 103. Powers.

Sec. 104. Nonprofit entity; conflicts of interest; audits.

Sec. 105. Management.

Sec. 106. Staff; experts and consultants.

Sec. 107. Federal liability.

Sec. 108. Authorization of appropriations.

**TITLE II—NATIONAL HOMEOWNERS’ INSURANCE STABILIZATION
PROGRAM**

Sec. 201. Establishment.

Sec. 202. Liquidity loans and catastrophic loans for qualified reinsurance pro-
grams.

Sec. 203. Reports and audits.

Sec. 204. Funding.

**TITLE III—REINSURANCE COVERAGE FOR QUALIFIED
REINSURANCE PROGRAMS**

Sec. 301. Program authority.

Sec. 302. Contract principles.

Sec. 303. Terms of reinsurance contracts.

Sec. 304. Maximum Federal liability.

Sec. 305. Federal Natural Catastrophe Reinsurance Fund.

Sec. 306. Regulations.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Qualified reinsurance programs.

Sec. 402. Study and conditional coverage of commercial residential lines of in-
surance.

Sec. 403. Definitions.

Sec. 404. Regulations.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) **FINDINGS.**—The Congress finds that—

1 (1) the United States has a history of cata-
2 strophic natural disasters, including hurricanes, tor-
3 nadoes, flood, fire, earthquakes, and volcanic erup-
4 tions;

5 (2) although catastrophic natural disasters
6 occur infrequently, they will continue to occur and
7 are predictable;

8 (3) such disasters generate large economic
9 losses and a major component of those losses comes
10 from damage and destruction to homes;

11 (4) for the majority of Americans, their invest-
12 ment in their home represents their single biggest
13 asset and the protection of that investment is para-
14 mount to economic and social stability;

15 (5) historically, when a natural disaster eclipses
16 the ability of the private industry and a State to
17 manage the loss, the Federal Government has
18 stepped in to provide the funding and services need-
19 ed for recovery;

20 (6) the cost of such Federal “bail-outs” are
21 borne by all taxpayers equally, as there is no provi-
22 sion to repay the money and resources provided,
23 which thereby unfairly burdens citizens who live in
24 lower risk communities;

1 (7) as the risk of catastrophic losses grows, so
2 do the risks that any premiums collected by private
3 insurers for extending coverage will be insufficient to
4 cover future catastrophes, and private insurers, in
5 an effort to protect their shareholders and policy-
6 holders (in the case of mutually-owned companies),
7 have thus significantly raised premiums and cur-
8 tailed insurance coverage in States exposed to major
9 catastrophes;

10 (8) such effects on the insurance industry have
11 been harmful to economic activity in States exposed
12 to major catastrophes and have placed significant
13 burdens on residents of such States;

14 (9) Hurricanes Katrina, Rita, and Wilma
15 struck the United States in 2005, causing over
16 \$200,000,000,000 in total economic losses, and in-
17 sured losses to homeowners in excess of
18 \$50,000,000,000;

19 (10) since 2004, the Congress has appropriated
20 more than \$58,000,000,000 in disaster relief to the
21 States affected by natural catastrophes;

22 (11) the Federal Government has provided and
23 will continue to provide resources to pay for losses
24 from future catastrophes;

1 (12) when Federal assistance is provided to the
2 States, accountability for Federal funds disbursed is
3 paramount;

4 (13) the Government Accountability Office or
5 other appropriate agencies must have the means in
6 place to confirm that Federal funds for catastrophe
7 relief have reached the appropriate victims and have
8 contributed to the recovery effort as efficiently as
9 possible so that taxpayer funds are not wasted and
10 citizens are enabled to rebuild and resume produc-
11 tive activities as quickly as possible;

12 (14) States that are recipients of Federal funds
13 must be responsible to account for and provide an
14 efficient means for distribution of funds to home-
15 owners to enable the rapid rebuilding of local econo-
16 mies after a catastrophic event without unduly bur-
17 dening taxpayers who live in areas seldom affected
18 by natural disasters;

19 (15) State insurance and reinsurance programs
20 can provide a mechanism for States to exercise that
21 responsibility if they appropriately underwrite and
22 price risk, and if they pay claims quickly and within
23 established contractual terms; and

24 (16) State catastrophe reinsurance programs, if
25 appropriately structured and regulated, assume cata-

1 strophic risk borne by private insurers without in-
2 curring many of the additional costs imposed on pri-
3 vate insurers, and thus enable all insurers within the
4 State to underwrite and price coverage at rates de-
5 signed to encourage property owners to acquire lev-
6 els of insurance appropriate to their individual risks.

7 (b) PURPOSES.—The purposes of this Act are to es-
8 tablish a program to provide Federal support for State-
9 sponsored insurance programs to help homeowners pre-
10 pare for and recover from the damages caused by natural
11 catastrophes, to encourage mitigation and prevention for
12 such catastrophes, to promote the use of private market
13 capital as a means to insure against such catastrophes,
14 to expedite the payment of claims and better assist in the
15 financial recovery from such catastrophes.

16 **TITLE I—NATIONAL CATAS-**
17 **TROPHE RISK CONSORTIUM**

18 **SEC. 101. ESTABLISHMENT; STATUS; PRINCIPAL OFFICE;**
19 **MEMBERSHIP.**

20 (a) ESTABLISHMENT.—There is established an entity
21 to be known as the “National Catastrophe Risk Consor-
22 tium” (in this title referred to as the “Consortium”).

23 (b) STATUS.—The Consortium is not a department,
24 agency, or instrumentality of the United States Govern-
25 ment.

1 (c) **PRINCIPAL OFFICE.**—The principal office and
2 place of business of the Consortium shall be such location
3 within the United States determined by the Board of Di-
4 rectors to be the most advantageous for carrying out the
5 purpose and functions of the Consortium.

6 (d) **MEMBERSHIP.**—Any State that has established a
7 reinsurance fund or has authorized the operation of a
8 State residual insurance market entity, or State-sponsored
9 provider of natural catastrophe insurance, shall be eligible
10 to participate in the Consortium.

11 **SEC. 102. FUNCTIONS.**

12 The Consortium shall—

13 (1) work with all States, particularly those par-
14 ticipating in the Consortium, to gather and maintain
15 an inventory of catastrophe risk obligations held by
16 State reinsurance funds, State residual insurance
17 market entities, and State-sponsored providers of
18 natural catastrophe insurance;

19 (2) at the discretion of the affected members
20 and on a conduit basis, issue securities and other fi-
21 nancial instruments linked to the catastrophe risks
22 insured or reinsured through members of the Con-
23 sortium in the capital markets;

1 (3) coordinate reinsurance contracts between
2 participating, qualified reinsurance funds and pri-
3 vate parties;

4 (4) act as a centralized repository of State risk
5 information that can be accessed by private-market
6 participants seeking to participate in the trans-
7 actions described in paragraphs (2) and (3) of this
8 section;

9 (5) use a catastrophe risk database to perform
10 research and analysis that encourages standardiza-
11 tion of the risk-linked securities market;

12 (6) perform any other functions, other than as-
13 suming risk or incurring debt, that are deemed nec-
14 essary to aid in the transfer of catastrophe risk from
15 participating States to private parties; and

16 (7) submit annual reports to Congress describ-
17 ing the activities of the Consortium for the pre-
18 ceding year, and the first such annual report shall
19 include an assessment of the costs to States and re-
20 gions associated with catastrophe risk and an anal-
21 ysis of the costs and benefits, for States not partici-
22 pating in the Consortium, of such nonparticipation.

23 **SEC. 103. POWERS.**

24 The Consortium—

1 (1) may make and perform such contracts and
2 other agreements with any individual or other pri-
3 vate or public entity however designated and wher-
4 ever situated, as may be necessary for carrying out
5 the functions of the Consortium; and

6 (2) shall have such other powers, other than the
7 power to assume risk or incur debt, as may be nec-
8 essary and incident to carrying out this Act.

9 **SEC. 104. NONPROFIT ENTITY; CONFLICTS OF INTEREST;**
10 **AUDITS.**

11 (a) NONPROFIT ENTITY.—The Consortium shall be
12 a nonprofit entity and no part of the net earnings of the
13 Consortium shall inure to the benefit of any member,
14 founder, contributor, or individual.

15 (b) CONFLICTS OF INTEREST.—No director, officer,
16 or employee of the Consortium shall in any manner, di-
17 rectly or indirectly, participate in the deliberation upon or
18 the determination of any question affecting his or her per-
19 sonal interests or the interests of any Consortium, part-
20 nership, or organization in which he or she is directly or
21 indirectly interested.

22 (c) AUDITS.—

23 (1) ANNUAL AUDIT.—The financial statements
24 of the Consortium shall be audited annually in ac-

1 cordance with generally accepted auditing standards
2 by independent certified public accountants.

3 (2) REPORTS.—The report of each annual audit
4 pursuant to paragraph (1) shall be included in the
5 annual report submitted in accordance with section
6 102(7).

7 **SEC. 105. MANAGEMENT.**

8 (a) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNA-
9 TION OF CHAIRPERSON.—

10 (1) BOARD OF DIRECTORS.—The management
11 of the Consortium shall be vested in a board of di-
12 rectors (referred to in this title as the “Board”)
13 composed of not less than 3 members.

14 (2) CHAIRPERSON.—The Secretary of Treasury,
15 or the designee of the Secretary, shall serve as the
16 chairperson of the Board.

17 (3) MEMBERSHIP.—The members of the Board
18 shall include—

19 (A) the Secretary of Homeland Security
20 and the Secretary of Commerce, or the des-
21 ignees of such Secretaries, respectively, but only
22 during such times as there are fewer than two
23 States participating in the Consortium; and

1 (B) a member from each State partici-
2 pating in the Consortium, who shall be ap-
3 pointed by such State.

4 (b) BYLAWS.—The Board may prescribe, amend, and
5 repeal such bylaws as may be necessary for carrying out
6 the functions of the Consortium.

7 (c) COMPENSATION, ACTUAL, NECESSARY, AND
8 TRANSPORTATION EXPENSES.—

9 (1) NON-FEDERAL EMPLOYEES.—A member of
10 the Board who is not otherwise employed by the
11 Federal Government shall be entitled to receive the
12 daily equivalent of the annual rate of basic pay pay-
13 able for level IV of the Executive Schedule under
14 section 5315 of title 5, United States Code, as in ef-
15 fect from time to time, for each day (including travel
16 time) during which such member is engaged in the
17 actual performance of duties of the Consortium.

18 (2) FEDERAL EMPLOYEES.—A member of the
19 Board who is an officer or employee of the Federal
20 Government shall serve without additional pay (or
21 benefits in the nature of compensation) for service
22 as a member of the Consortium.

23 (3) TRAVEL EXPENSES.—Members of the Con-
24 sortium shall be entitled to receive travel expenses,
25 including per diem in lieu of subsistence, equivalent

1 to those set forth in subchapter I of chapter 57 of
2 title 5, United States Code.

3 (d) QUORUM.—A majority of the Board shall con-
4 stitute a quorum.

5 (e) EXECUTIVE DIRECTOR.—The Board shall ap-
6 point an executive director of the Consortium on such
7 terms as the Board may determine.

8 **SEC. 106. STAFF; EXPERTS AND CONSULTANTS.**

9 (a) STAFF.—

10 (1) APPOINTMENT.—The Board of the Consor-
11 tium may appoint and terminate such other staff as
12 are necessary to enable the Consortium to perform
13 its duties.

14 (2) COMPENSATION.—The Board of the Con-
15 sortium may fix the compensation of the executive
16 director and other staff.

17 (b) EXPERTS AND CONSULTANTS.—The Board shall
18 procure the services of experts and consultants as the
19 Board considers appropriate.

20 **SEC. 107. FEDERAL LIABILITY.**

21 The Federal Government and the Consortium shall
22 not bear any liabilities arising from the actions of the Con-
23 sortium. Participating States shall retain all catastrophe
24 risk until the completion of a transaction described in
25 paragraphs (2) and (3) of section 102.

1 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to carry out
3 this title \$20,000,000 for each of fiscal years 2008
4 through 2013.

5 **TITLE II—NATIONAL HOME-**
6 **OWNERS’ INSURANCE STA-**
7 **BILIZATION PROGRAM**

8 **SEC. 201. ESTABLISHMENT.**

9 The Secretary of the Treasury shall carry out a pro-
10 gram under this title to make liquidity loans and cata-
11 strophic loans under section 202 to qualified reinsurance
12 programs to ensure the solvency of such programs, to im-
13 prove the availability and affordability of homeowners’ in-
14 surance, to incent risk transfer to the private capital and
15 reinsurance markets, and to spread the risk of cata-
16 strophic financial loss resulting from natural disasters and
17 catastrophic events.

18 **SEC. 202. LIQUIDITY LOANS AND CATASTROPHIC LOANS**
19 **FOR QUALIFIED REINSURANCE PROGRAMS.**

20 (a) **CONTRACTS.**—The Secretary may enter into a
21 contract with a qualified reinsurance program to carry out
22 the purposes of this Act as the Secretary may deem appro-
23 priate. The contract shall include, at a minimum, the con-
24 ditions for loan eligibility set forth in this section.

1 (b) CONDITIONS FOR LOAN ELIGIBILITY.—A loan
2 under this section may be made only to a qualified reinsur-
3 ance program and only if—

4 (1) before the loan is made—

5 (A) the qualified reinsurance program sub-
6 mits to the Secretary a report setting forth, in
7 such form and including such information as
8 the Secretary shall require, how the program
9 plans to repay the loan;

10 (B) based upon the report of the program,
11 the Secretary determines that the program can
12 meet its repayment obligation under the loan
13 and certifies that the program can meet such
14 obligation; and

15 (C) the State or regional reinsurance pro-
16 gram enters into an agreement with the Sec-
17 retary, as the Secretary shall require, that the
18 State will not use Federal funds of any kind or
19 from any Federal source (including any disaster
20 or other financial assistance, loan proceeds, and
21 any other assistance or subsidy) to repay the
22 loan;

23 (2) the program cannot access capital in the
24 private market at a commercially reasonable rate, in-
25 cluding through catastrophe bonds and other securi-

1 ties sold through the facility created in title I of this
2 Act, as determined by the Secretary, and a loan may
3 be made to such a qualified reinsurance program
4 only to the extent that such program cannot access
5 capital in the private market at a commercially rea-
6 sonable rate;

7 (3) the Secretary determines that an event has
8 resulted in insured losses in a State with a qualified
9 reinsurance program;

10 (4) the loan complies with the requirements
11 under subsection (d) or (e), as applicable; and

12 (5) the State demonstrates to the Secretary
13 that it has the ability to repay the loans.

14 (c) MANDATORY ASSISTANCE FOR QUALIFIED REIN-
15 SURANCE PROGRAMS.—The Secretary shall upon the re-
16 quest of a qualified reinsurance program and subject to
17 subsection (b), make a loan under subsection (d) or (e)
18 for such program in the amount requested by such pro-
19 gram (subject to the limitations under subsections (d)(2)
20 and (e)(2), respectively).

21 (d) LIQUIDITY LOANS.—A loan under this subsection
22 for a qualified reinsurance program shall be subject to the
23 following requirements:

24 (1) PRECONDITIONS.—The Secretary shall have
25 determined that the qualified reinsurance program—

1 (A) has a capital liquidity shortage, in ac-
2 cordance with regulations that the Secretary
3 shall establish; and

4 (B) cannot access capital in the private
5 markets at a commercially reasonable rate.

6 (2) AMOUNT.—The principal amount of the
7 loan may not exceed the ceiling coverage level for the
8 qualified reinsurance program.

9 (3) RATE OF INTEREST.—The loan shall bear
10 interest at an annual rate 3 percentage points high-
11 er than marketable obligations of the Treasury hav-
12 ing the same term to maturity as the loan and
13 issued during the most recently completed month, as
14 determined by the Secretary, or such higher rate as
15 may be necessary to ensure that the amounts of in-
16 terest paid under such loans exceed the sum of the
17 costs (as such term is defined in section 502 of the
18 Federal Credit Reform Act of 1990 (2 U.S.C.
19 661a)) of such loans, the administrative costs in-
20 volved in carrying out a program under this title for
21 such loans, and any incidental effects on govern-
22 mental receipts and outlays.

23 (4) TERM.—The loan shall have a term to ma-
24 turity of not less than 5 years and not more than
25 10 years.

1 (e) CATASTROPHIC LOANS.—A loan under this sub-
2 section for a qualified reinsurance program shall be sub-
3 ject to the following requirements:

4 (1) PRECONDITIONS.—The Secretary shall have
5 determined that an event has resulted in insured
6 losses in a State with a qualified reinsurance pro-
7 gram and that such insured losses in such State are
8 in excess of 150 percent of the aggregate amount of
9 direct written premium for property and casualty in-
10 surance, for risks located in that State, over the cal-
11 endar year preceding such event, in accordance with
12 regulations that the Secretary shall establish.

13 (2) AMOUNT.—The principal amount of the
14 loan made pursuant to an event referred to in para-
15 graph (1) may not exceed the amount by which the
16 insured losses sustained as a result of such event ex-
17 ceed the ceiling coverage level for the qualified rein-
18 surance program.

19 (3) RATE OF INTEREST.—The loan shall bear
20 interest at an annual rate 0.20 percentage points
21 higher than marketable obligations of the Treasury
22 having a term to maturity of not less than 10 years
23 and issued during the most recently completed
24 month, as determined by the Secretary, or such
25 higher rate as may be necessary to ensure that the

1 amounts of interest paid under such loans exceed
2 the sum of the costs (as such term is defined in sec-
3 tion 502 of the Federal Credit Reform Act of 1990
4 (2 U.S.C. 661a)) of such loans, the administrative
5 costs involved in carrying out a program under this
6 title for such loans, and any incidental effects on
7 governmental receipts and outlays.

8 (4) TERM.—The loan shall have a term to ma-
9 turity of not less than 10 years.

10 (f) USE OF FUNDS.—Amounts from a loan under this
11 section shall only be used to provide reinsurance or
12 retrocessional coverage to underlying primary insurers or
13 reinsurers for losses arising from all personal residential
14 lines of insurance, as defined in the Uniform Property &
15 Casualty Product Coding Matrix published and main-
16 tained by the National Association of Insurance Commis-
17 sioners. Such amounts shall not be used for any other pur-
18 pose.

19 **SEC. 203. REPORTS AND AUDITS.**

20 The Secretary shall submit a report to the President
21 and the Congress annually that identifies and describes
22 any loans made under this title during such year and any
23 repayments during such year of loans made under this
24 title, and describes actions taken to ensure accountability
25 of loan funds. The Secretary shall provide for regular au-

1 dits to be conducted for each loan made under this title
2 and shall make the results of such audits publicly avail-
3 able.

4 **SEC. 204. FUNDING.**

5 (a) PROGRAM FEE.—

6 (1) IN GENERAL.—The Secretary may establish
7 and collect, from qualified reinsurance programs
8 that are precertified pursuant to section 401(d), a
9 reasonable fee, as may be necessary to offset the ex-
10 penses of the Secretary in connection with carrying
11 out the responsibilities of the Secretary under this
12 title, including—

13 (A) costs of developing, implementing, and
14 carrying out the program under this title; and

15 (B) costs of providing for precertification
16 pursuant to section 401(d) of State and re-
17 gional reinsurance programs as qualified rein-
18 surance programs.

19 (2) ADJUSTMENT.—The Secretary may, from
20 time to time, adjust the fee under paragraph (1) as
21 appropriate based on expenses of the Secretary re-
22 ferred to in such paragraph.

23 (3) USE.—Any fees collected pursuant to this
24 subsection shall be credited as offsetting collections
25 of the Department of the Treasury and shall be

1 available to the Secretary only for expenses referred
2 to in paragraph (1).

3 (b) COSTS OF LOANS; ADMINISTRATIVE COSTS.—To
4 the extent that amounts of negative credit subsidy are re-
5 ceived by the Secretary in any fiscal year pursuant to
6 loans made under this title, such amounts shall be avail-
7 able for costs (as such term is defined in section 502 of
8 the Federal Credit Reform Act of 1990 (2 U.S.C. 661a))
9 of such loans and for costs of carrying out the program
10 under this title for such loans.

11 (c) FULL TAXPAYER REPAYMENT.—The Secretary
12 shall require the full repayment of all loans made under
13 this title. If the Secretary determines at any time that
14 such full repayment will not be made, or is likely not to
15 be made, the Secretary shall promptly submit a report to
16 the Congress explaining why such full repayment will not
17 be made or is likely not to be made. The Secretary may
18 not accept any repayment of any loan made under this
19 title that does not comply with the agreement for such
20 loan entered into in accordance with section 202(b)(1)(C).

1 **TITLE III—REINSURANCE COV-**
2 **ERAGE FOR QUALIFIED REIN-**
3 **SURANCE PROGRAMS**

4 **SEC. 301. PROGRAM AUTHORITY.**

5 Subject to section 304(c), the Secretary of the Treas-
6 ury, shall make available for purchase, only by qualified
7 reinsurance programs (as such term is defined in section
8 401), contracts for reinsurance coverage under this title.

9 **SEC. 302. CONTRACT PRINCIPLES.**

10 Contracts for reinsurance coverage made available
11 under this title—

12 (1) shall not displace or compete with the pri-
13 vate insurance or reinsurance markets or the capital
14 market;

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

17 (3) shall provide coverage based solely on in-
18 sured losses covered by the qualified reinsurance
19 program purchasing the contract.

20 **SEC. 303. TERMS OF REINSURANCE CONTRACTS.**

21 (a) **MINIMUM ATTACHMENT POINT.**—Notwith-
22 standing any other provision of this title, a contract for
23 reinsurance coverage under this title for a qualified rein-
24 surance program may not be made available or sold unless
25 the contract requires that the qualified reinsurance pro-

1 gram sustain an amount of retained losses from events
2 in an amount, as determined by the Secretary, that is
3 equal to the amount of losses projected to be incurred
4 from a single event of such magnitude that it has a 0.5
5 percent chance of being equaled or exceeded in any year.

6 (b) NINETY PERCENT COVERAGE OF INSURED
7 LOSSES IN EXCESS OF RETAINED LOSSES.—Each con-
8 tract for reinsurance coverage under this title shall provide
9 that the amount paid out under the contract shall, subject
10 to section 304, be equal to 90 percent of the amount of
11 insured losses of the qualified reinsurance program in ex-
12 cess of the amount of retained losses that the contract
13 requires, pursuant to subsection (a), to be incurred by
14 such program.

15 (c) MATURITY.—The term of each contract for rein-
16 surance coverage under this title shall not exceed 1 year
17 or such other term as the Secretary may determine.

18 (d) PAYMENT CONDITION.—Each contract for rein-
19 surance coverage under this title shall authorize claims
20 payments to the qualified reinsurance program purchasing
21 the coverage only for insured losses provided under the
22 contract.

23 (e) MULTIPLE EVENTS.—The contract shall cover
24 any insured losses from one or more events that may occur
25 during the term of the contract and shall provide that if

1 multiple events occur, the retained losses requirement
2 under subsection (a) shall apply on a calendar year basis,
3 in the aggregate and not separately to each individual
4 event.

5 (f) TIMING OF CLAIMS.—Claims under a contract for
6 reinsurance coverage under this title shall include only in-
7 surance claims that are reported to the qualified reinsur-
8 ance program within the 3-year period beginning upon the
9 event or events for which payment under the contract is
10 provided.

11 (g) ACTUARIAL PRICING.—The price of coverage
12 under a reinsurance contract under this title shall be an
13 amount, established by the Secretary at a level that annu-
14 ally produces expected premiums that shall be sufficient
15 to pay the reasonably anticipated cost of all claims, loss
16 adjustment expenses, all administrative costs of reinsur-
17 ance coverage offered under this title, and any such out-
18 wards reinsurance, as described in section 305(c)(3), as
19 the Secretary considers prudent taking into consideration
20 the demand for reinsurance coverage under this title and
21 the limits specified in section 304.

22 (h) INFORMATION.—Each contract for reinsurance
23 coverage under this title shall contain a condition pro-
24 viding that the Secretary may require the qualified rein-
25 surance program that is covered under the contract to

1 submit to the Secretary all information on the qualified
2 reinsurance program relevant to the duties of the Sec-
3 retary under this title.

4 (i) OTHERS.—Contracts for reinsurance coverage
5 under this title shall contain such other terms as the Sec-
6 retary considers necessary to carry out this title and to
7 ensure the long-term financial integrity of the program
8 under this title.

9 **SEC. 304. MAXIMUM FEDERAL LIABILITY.**

10 (a) IN GENERAL.—Subject to subsection (b) and not-
11 withstanding any other provision of law, the aggregate po-
12 tential liability for payment of claims under all contracts
13 for reinsurance coverage under this title sold in any single
14 year by the Secretary shall not exceed \$200,000,000,000
15 or such lesser amount as is determined by the Secretary
16 based on review of the market for reinsurance coverage
17 under this title.

18 (b) LIMITATION.—The authority of the Secretary to
19 enter into contracts for reinsurance coverage under this
20 title shall be effective for any fiscal year only to such ex-
21 tent or in such amounts as are or have been provided in
22 appropriation Acts for such fiscal year for the aggregate
23 potential liability for payment of claims under all contracts
24 for reinsurance coverage under this title.

1 **SEC. 305. FEDERAL NATURAL CATASTROPHE REINSUR-**
2 **ANCE FUND.**

3 (a) **ESTABLISHMENT.**—There is established within
4 the Treasury of the United States a fund to be known
5 as the Federal Natural Catastrophe Reinsurance Fund (in
6 this section referred to as the “Fund”).

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

8 (1) amounts received annually from the sale of
9 contracts for reinsurance coverage under this title;

10 (2) any amounts appropriated under section
11 304; and

12 (3) any amounts earned on investments of the
13 Fund pursuant to subsection (d).

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

16 (1) **CONTRACT PAYMENTS.**—For payments to
17 purchasers covered under contracts for reinsurance
18 coverage for eligible losses under such contracts.

19 (2) **ADMINISTRATIVE EXPENSES.**—To pay for
20 the administrative expenses incurred by the Sec-
21 retary in carrying out the reinsurance program
22 under this title.

23 (3) **OUTWARDS REINSURANCE.**—To obtain
24 retrocessional or other reinsurance coverage of any
25 kind to cover risk reinsured under contracts for rein-
26 surance coverage made available under this title.

1 (d) INVESTMENT.—If the Secretary determines that
2 the amounts in the Fund are in excess of current needs,
3 the Secretary may invest such amounts as the Secretary
4 considers advisable in obligations issued or guaranteed by
5 the United States.

6 **SEC. 306. REGULATIONS.**

7 The Secretary shall issue any regulations necessary
8 to carry out the program for reinsurance coverage under
9 this title.

10 **TITLE IV—GENERAL**
11 **PROVISIONS**

12 **SEC. 401. QUALIFIED REINSURANCE PROGRAMS.**

13 (a) IN GENERAL.—For purposes of this Act only, a
14 program shall be considered to be a qualified reinsurance
15 program if the program—

16 (1) is authorized by State law for the purposes
17 described in this section;

18 (2) is an entity in which the authorizing State
19 maintains a material, financial interest;

20 (3) provides reinsurance or retrocessional cov-
21 erage to underlying primary insurers or reinsurers
22 for losses arising from all personal residential lines
23 of insurance, as defined in the Uniform Property &
24 Casualty Product Coding Matrix published and

1 maintained by the National Association of Insurance
2 Commissioners;

3 (4) has a governing body, a majority of whose
4 members are public officials;

5 (5) provides reinsurance or retrocessional cov-
6 erage to underlying primary insurers or reinsurers
7 for losses in excess of such amount that the Sec-
8 retary has determined represents a catastrophic
9 event in that particular State;

10 (6) is authorized by a State that has in effect
11 such laws, regulations, or other requirements, as the
12 Secretary shall by regulation provide, that—

13 (A) ensure, to the extent that reinsurance
14 coverage made available under the qualified re-
15 insurance program results in any cost savings
16 in providing insurance coverage for risks in
17 such State, such cost savings are reflected in
18 premium rates charged to consumers for such
19 coverage;

20 (B) require that an appropriate public
21 body within the State shall have adopted ade-
22 quate mitigation measures (with effective en-
23 forcement provisions) which the Secretary finds
24 are consistent with the criteria for construction

1 described in the International Code Council
2 building codes;

3 (C) require State authorized insurance en-
4 tities within that State to establish an insur-
5 ance rate structure that takes into account
6 measures to mitigate insurance losses;

7 (D) require State authorized insurance and
8 reinsurance entities within that State to estab-
9 lish rates at a level that annually produces ex-
10 pected premiums that shall be sufficient to pay
11 the reasonably anticipated cost of all claims,
12 loss adjustment expenses, and all administrative
13 costs of the insurance or reinsurance coverage
14 offered by such entities, and any such outwards
15 reinsurance as the program administrator
16 deems prudent; and

17 (E) discourage price gouging in any dis-
18 aster area located within the State;

19 (7) to the extent possible, seeks to encourage
20 appropriate State and local government units to de-
21 velop comprehensive land use and zoning plans that
22 include natural hazard mitigation;

23 (8) to the extent possible, seeks to avoid cross-
24 subsidization between any separate property and

1 casualty lines covered under the State authorized in-
2 surance or reinsurance entity;

3 (9) complies with the risk-based capital require-
4 ments under subsection (b);

5 (10) complies with such additional organiza-
6 tional, underwriting, and financial requirements as
7 the Secretary shall, by regulation, provide to carry
8 out the purposes of this Act; and

9 (11) has been certified by the Secretary, for
10 such year, in accordance with an annual certification
11 process established by the Secretary for such pur-
12 pose, as being in compliance with the requirements
13 under paragraphs (1) through (10).

14 (b) RISK-BASED CAPITAL REQUIREMENTS.—

15 (1) IN GENERAL.—Except for programs deemed
16 to be qualified reinsurance programs pursuant to
17 subsection (c), each qualified reinsurance program
18 shall maintain risk-based capital in accordance with
19 requirements established by the Secretary, in con-
20 sultation with the National Association of Insurance
21 Commissioners and consistent with the Risk-Based
22 Capital Model Act of the National Association of In-
23 surance Commissioners, and take into consideration
24 asset risk, credit risk, underwriting risk, and such
25 other relevant risk as determined by the Secretary.

1 (2) TREATMENT OF ACCESS TO LIQUIDITY
2 LOANS.—

3 (A) IN GENERAL.—To the extent that a
4 qualified reinsurance program is deficient in
5 complying with any aspect of the risk-based
6 capital requirements established pursuant to
7 this subsection, the Secretary shall recognize
8 and give credit for the ability of such qualified
9 reinsurance program to access capital through
10 the liquidity loan program established under
11 section 202(d).

12 (B) ANNUAL DIMINUTION.—The extent of
13 credit recognized and given for a qualified rein-
14 surance program pursuant to subparagraph (A)
15 shall diminish annually in a proportion equal to
16 the earned premium for the program for the
17 prior calendar year.

18 (C) RESET UPON OCCURRENCE OF CATAS-
19 TROPHE.—To the extent that a qualified rein-
20 surance program is obligated to pay losses as a
21 result of the occurrence of a catastrophe, the
22 Secretary shall increase the credit recognized
23 and given for the program pursuant to subpara-
24 graph (A) by an amount equal to the losses

1 paid by the program as a result of the catas-
2 trophe.

3 (D) RESUMPTION AFTER CATASTROPHE.—

4 After a reset occurs pursuant to subparagraph
5 (C) for a qualified reinsurance program, the
6 diminution described in subparagraph (B) shall
7 resume and continue until the program has ac-
8 cumulated capital sufficient to satisfy the risk-
9 based capital requirement determined by the
10 Secretary to be appropriate given the ceiling
11 coverage level of that particular qualified rein-
12 surance program.

13 (3) REPORT.—For each calendar year, each
14 qualified reinsurance program shall prepare and sub-
15 mit to the Secretary a report identifying its risk
16 based capital, at such time after the conclusion of
17 such year, and containing such information and in
18 such form, as the Secretary shall require.

19 (c) TRANSITIONAL MECHANISMS.—For the five-year
20 period beginning on the date of the enactment of this Act,
21 in the case of a State that does not have a qualified rein-
22 surance program for the State, a State residual insurance
23 market entity, or State-sponsored provider of natural ca-
24 tastrophe insurance, for such State shall be considered to
25 be a qualified reinsurance program, but only if such State

1 residual insurance market entity, or State-sponsored pro-
2 vider of natural catastrophe insurance, was in existence
3 before such date of enactment.

4 (d) **PRECERTIFICATION.**—The Secretary shall estab-
5 lish procedures and standards for State and regional rein-
6 surance programs and the State residual insurance market
7 entities described in section (b) to apply to the Secretary
8 at any time for certification (and recertification) as quali-
9 fied reinsurance programs.

10 (e) **REINSURANCE TO COVER EXPOSURE.**—This sec-
11 tion may not be construed to limit or prevent any insurer
12 from obtaining reinsurance coverage for insured losses re-
13 tained by insurers pursuant to this section, nor shall the
14 obtaining of such coverage affect the calculation of the
15 amount of any loan under this title.

16 **SEC. 402. STUDY AND CONDITIONAL COVERAGE OF COM-**
17 **MERCIAL RESIDENTIAL LINES OF INSUR-**
18 **ANCE.**

19 (a) **STUDY.**—The Secretary shall study, on an expe-
20 dited basis, the need for and impact of expanding the pro-
21 grams established by this Act to apply to insured losses
22 of qualified reinsurance programs for losses arising from
23 all commercial insurance policies which provide coverage
24 for properties that are composed predominantly of residen-
25 tial rental units. The Secretary shall consider the cata-

1 strophic insurance and reinsurance market for commercial
2 residential properties, and specifically the availability of
3 adequate private insurance coverage when an insured
4 event occurs, the impact any such capacity restrictions has
5 on housing affordability for renters, and the likelihood
6 that such an expansion of the program would increase in-
7 surance capacity for this market segment.

8 (b) **CONDITIONAL COVERAGE.**—To the extent that
9 the Secretary determines that there is such a need to ex-
10 pand such programs and such expansion will be effective
11 in increasing insurance capacity for the commercial resi-
12 dential insurance market, the Secretary shall, in consulta-
13 tion with the National Association of Insurance Commis-
14 sioners—

15 (1) apply the provisions of this Act, as appro-
16 priate, to insured losses of a qualified reinsurance
17 program for losses arising from commercial insur-
18 ance policies which provide coverage for properties
19 that are composed predominantly of residential rent-
20 al units, as described in paragraph (a); and

21 (2) provide such restrictions, limitations, or
22 conditions with respect to the programs under this
23 Act that the Secretary deems appropriate, based on
24 the study under subsection (a).

1 **SEC. 403. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) **CEILING COVERAGE LEVEL.**—The term
5 “ceiling coverage level” means, with respect to a
6 qualified reinsurance program, the maximum liability
7 that could be incurred at any time by the quali-
8 fied reinsurance program.

9 (2) **INSURED LOSS.**—The term “insured loss”
10 means any loss insured by a qualified reinsurance
11 program.

12 (3) **PRICE GOUGING.**—The term “price
13 gouging” means the providing of any consumer good
14 or service by a supplier related to repair or restora-
15 tion of property damaged from a catastrophe for a
16 price that the supplier knows or has reason to know
17 is greater, by at least the percentage set forth in a
18 State law or regulation prohibiting such act (not
19 withstanding any real cost increase due to any at-
20 tendant business risk and other reasonable expenses
21 that result from the major catastrophe involved),
22 than the price charged by the supplier for such con-
23 sumer good or service immediately before the dis-
24 aster.

25 (4) **QUALIFIED REINSURANCE PROGRAM.**—The
26 term “qualified reinsurance program” means a State

1 or regional program that meets the requirements
2 under section 401.

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of the Treasury.

5 (6) STATE.—The term “State” includes the
6 several States, the District of Columbia, the Com-
7 monwealth of Puerto Rico, Guam, the Common-
8 wealth of the Northern Mariana Islands, the United
9 States Virgin Islands, and American Samoa.

10 **SEC. 404. REGULATIONS.**

11 The Secretary shall issue such regulations as may be
12 necessary to carry out this Act.

Passed the House of Representatives November 8,
2007.

Attest: LORRAINE C. MILLER,
Clerk.