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H. R. 935

To provide for a Federal program of insurance against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 1993

Mrs. MINK introduced the following bill; which was referred jointly to the Committees on Banking, Finance and Urban Affairs and Science, Space, and Technology

MAY 13, 1993

Additional sponsors: Mr. HASTINGS, Mr. RANGEL, Mr. MCCOLLUM, Mr. McDERMOTT, Mr. MILLER Of California, and Mr. JEFFERSON

A BILL

To provide for a Federal program of insurance against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes, and for other purposes.

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 shall be cited as the
5 “Earthquake, Volcanic Eruption, and Hurricane Hazards
6 Insurance Act of 1993”.

7 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—PARTICIPATION BY STATES IN ADOPTION OF HAZARD
REDUCTION MEASURES

- Sec. 101. Identification of earthquake-prone, volcanic eruption-prone, and hurricane-prone States.
- Sec. 102. Earthquake, Volcanic Eruption, and Hurricane Loss Mitigation Advisory Committee.
- Sec. 103. Establishment of criteria for loss-reduction measures.
- Sec. 104. Self-Sustaining Mitigation Fund.
- Sec. 105. State implementation of loss-reduction measures.
- Sec. 106. Requirement to purchase primary insurance.
- Sec. 107. Effect of noncompliance with State mitigation program.
- Sec. 108. Coordination with other programs.
- Sec. 109. Report to Congress.
- Sec. 110. Regulations.

TITLE II—PRIMARY INSURANCE PROGRAM

- Sec. 201. Basic authority and program organization.
- Sec. 202. Scope of program.
- Sec. 203. Terms and limitations of insurance coverage.
- Sec. 204. Establishment of actuarial premium rates.
- Sec. 205. Chargeable premium rates.
- Sec. 206. Insurance mitigation incentives.
- Sec. 207. Earthquake, Volcanic Eruption, and Hurricane Insurance and Reinsurance Advisory Committee.
- Sec. 208. Residential Property Insurance Fund.
- Sec. 209. Borrowing from Treasury.

TITLE III—NATIONAL EARTHQUAKE, VOLCANIC ERUPTION, AND
HURRICANE EXCESS LOSS REINSURANCE PROGRAM

- Sec. 301. Reinsurance program.
- Sec. 302. Lines of insurance.
- Sec. 303. Rates.
- Sec. 304. Reinsurance contracts.
- Sec. 305. Reinsurance Fund.
- Sec. 306. Borrowing from Treasury.

1 SEC. 2. FINDINGS.

2 The Congress finds that—

- 3 (1) the catastrophic and unpredictable nature
- 4 of earthquakes, volcanic eruptions, and hurricanes
- 5 prevent individual private insurers from offering the

1 necessary insurance against these perils without the
2 participation of the Federal Government;

3 (2) in the absence of an adequate system for in-
4 suring against losses from earthquakes, volcanic
5 eruptions, and hurricanes, the Federal Government
6 and State governments will bear excessive and avoid-
7 able costs of disaster relief and the commerce and
8 economy of the Nation would be seriously desta-
9 bilized;

10 (3) the existing systems of private insurance,
11 reinsurance, and government disaster relief are inad-
12 equate and should be improved and better coordi-
13 nated;

14 (4) a reasonable method of providing insurance
15 against such losses is to create a Federal earth-
16 quake, volcanic eruption, and hurricane insurance
17 and reinsurance program, to assist in making insur-
18 ance against such disasters widely available and af-
19 fordable to the general public; and

20 (5) in providing such insurance, the Federal
21 Government should work constructively with the
22 States and localities to assist and require, if appro-
23 priate, the development, adoption, and enforcement
24 of hazard reduction measures, including building

1 codes, land-use planning, and strengthening of new
2 and existing structures.

3 **SEC. 3. DEFINITIONS.**

4 For purposes of this Act:

5 (1) The term “additional losses” means claim
6 and loss adjustment expense payments for earth-
7 quake, volcanic eruption, and hurricane coverage is-
8 sued pursuant to title II that exceed the accumu-
9 lated amounts in the Residential Property Insurance
10 Fund.

11 (2) The term “alien insurer” means an insurer
12 or reinsurer organized or incorporated in a country
13 other than the United States.

14 (3) The term “critical facilities vulnerable to
15 hurricanes” means schools and structures essential
16 to emergency services necessary for post hurricane
17 recovery (including hospitals, fire and police facili-
18 ties, temporary shelters, and emergency operating
19 and preparedness centers) that—

20 (A) have unreinforced masonry bearing
21 walls, tilt-up construction, nonductile concrete
22 frame construction, or other construction, as
23 determined by the Director, that makes them
24 susceptible to damage from hurricanes; and

1 (B) are located in hurricane zones within
2 hurricane-prone States.

3 (4) The term “Director” means the Director of
4 the Federal Emergency Management Agency.

5 (5) The term “earthquake” means any shaking
6 or trembling of the crust of the earth caused by un-
7 derground seismic forces or by breaking and shifting
8 of rock beneath the surface.

9 (6) The term “earthquake, volcanic eruption,
10 and hurricane coverage” means insurance issued
11 pursuant to title II.

12 (7) The term “earthquake-prone State” means
13 a State determined by the Director pursuant to sec-
14 tion 101 to have an exposure to the earthquake
15 peril.

16 (8) The term “Federal agency” means any de-
17 partment, agency, corporation, or other instrumen-
18 tality of the executive branch of the Federal Govern-
19 ment, and includes the Federal National Mortgage
20 Association and the Federal Home Loan Mortgage
21 Corporation.

22 (9) The term “federally related mortgage loan”
23 has the meaning given the term in section 3(1) of
24 the Real Estate Settlement Procedures Act of 1974,

1 except that the term does not include any loan de-
2 scribed in subparagraph (B)(iv) of such section.

3 (10) The term “fires associated with an earth-
4 quake” means any fire proximately caused by an
5 earthquake.

6 (11) The term “fires associated with a volcanic
7 eruption” means any fire proximately caused by a
8 volcanic eruption.

9 (12) The term “hurricane-prone State” means
10 a State determined by the Director pursuant to sec-
11 tion 101 to have an exposure to hurricane peril.

12 (13) The term “hurricane zone” means an area
13 within a State identified and classified by the Direc-
14 tor under section 101(a) as subject to major hurri-
15 cane risk.

16 (14) The term “Insurance and Reinsurance Ad-
17 visory Committee” means the Earthquake, Volcanic
18 Eruption, and Hurricane Insurance and Reinsurance
19 Advisory Committee established under section 207.

20 (15) The term “Insurance Fund” means the
21 Residential Property Insurance Fund established
22 under section 208.

23 (16) The term “insurance industry” means all
24 private insurers and private reinsurers.

1 (17) The term “large building” means any
2 nonresidential structure that has more than 1 story
3 or more than 5,000 square feet per story.

4 (18) The term “Loss Mitigation Advisory Com-
5 mittee” means the Earthquake, Volcanic Eruption,
6 and Hurricane Loss Mitigation Advisory Committee
7 established under section 102.

8 (19) The term “loss-reduction criteria” means
9 the criteria for earthquake, volcanic eruption, and
10 hurricane loss mitigation established by the Director
11 under section 103.

12 (20) the term “Primary Insurance Program”
13 means the national earthquake, volcanic eruption,
14 and hurricane insurance program under title II.

15 (21) The terms “private insurer” and “private
16 reinsurer” mean any insurer or reinsurer that is (A)
17 licensed or admitted to write property and casualty
18 insurance or reinsurance within a State, or (B) is a
19 branch of an alien insurer or reinsurer that is en-
20 tered through and licensed by a State to conduct in-
21 surance or reinsurance business. In the case of an
22 insurance exchange or group of unincorporated un-
23 derwriters, the term means an underwriting syn-
24 dicate, notwithstanding the licensed or admitted sta-

1 tus of the insurance exchange or group of unincor-
2 porated underwriters.

3 (22) The term “Reinsurance Fund” means the
4 Reinsurance Fund established under section 305.

5 (23) The term “Reinsurance Program” means
6 the national earthquake, volcanic eruption, and hur-
7 ricane excess loss reinsurance program under title
8 III.

9 (24) The term “residential property” means
10 any (A) 1- to 4-family residential structure (includ-
11 ing mobile or manufactured homes) and the personal
12 property therein, and (B) personal property of occu-
13 pants of residential structures (including condomin-
14 iums, cooperatives, and apartment structures).

15 (25) The term “residential property insurance
16 coverage” means policies, riders, or endorsements of
17 insurance that provide indemnity, in whole or in
18 part, for the loss, destruction, or damage of residen-
19 tial property and other eligible property as deter-
20 mined by the Director.

21 (26) The term “seismically hazardous critical
22 facilities” means schools and structures essential to
23 emergency services necessary for post earthquake re-
24 covery (including hospitals, fire and police facilities,

1 temporary shelters, and emergency operating and
2 preparedness centers) that—

3 (A) have unreinforced masonry bearing
4 walls, tilt-up construction, or nonductile con-
5 crete frame construction; and

6 (B) are located in seismic zones within
7 earthquake-prone States.

8 (27) The term “Self-Sustaining Mitigation
9 Fund” means the Fund established under section
10 104.

11 (28) The term “seismic zone” means an area
12 within a State identified and classified by the Direc-
13 tor under section 101(a) as subject to major seismic
14 risk.

15 (29) The term “tsunami” means an ocean wave
16 generated by underwater disturbances in the earth’s
17 crust, primarily earthquakes and submarine volcanic
18 eruptions.

19 (30) The term “volcanic eruption” means the
20 expulsion, as a result of natural causes, of molten
21 rock, rock fragments, gases, ashes, mud, lava flows,
22 and other natural substances through an opening in
23 the crust of the Earth.

24 (31) The term “volcanic eruption-prone State”
25 means a State determined by the Director pursuant

1 to section 101 to have an exposure to the volcanic
2 eruption peril.

3 (32) The term “volcanic zone” means an area
4 within a State identified and classified by the Direc-
5 tor under section 101(a) as subject to major volcanic
6 eruption risk.

7 **TITLE I—PARTICIPATION BY**
8 **STATES IN ADOPTION OF HAZ-**
9 **ARD REDUCTION MEASURES**

10 **SEC. 101. IDENTIFICATION OF EARTHQUAKE-PRONE, VOL-**
11 **CANIC ERUPTION-PRONE, AND HURRICANE-**
12 **PRONE STATES.**

13 (a) INITIAL IDENTIFICATION OF STATES.—The Di-
14 rector, in consultation with the United States Geological
15 Survey, other relevant Federal entities, and seismic, vol-
16 canic, and meteorological experts in the private sector,
17 shall identify States having an exposure to earthquake
18 perils, States having an exposure to volcanic eruption
19 peril, and States having an exposure to hurricane peril,
20 which shall include any State subject to major or moderate
21 seismic, volcanic eruption, or hurricane risk, as appro-
22 priate. The Director shall also identify and establish any
23 areas, within such States, that are subject to major seis-
24 mic, volcanic eruption, or hurricane risk as seismic zones,
25 volcanic zones, or hurricane zones, as appropriate. The Di-

1 rector shall identify such States and zones before the expi-
2 ration of the 1-year period beginning on the date of the
3 enactment of the Earthquake, Volcanic Eruption, and
4 Hurricane Hazards Insurance Act of 1993, and shall
5 cause a listing of such States and zones to be published
6 in the Federal Register and in widely circulated local
7 newspapers in the applicable States before the expiration
8 of such 1-year period.

9 (b) FINAL NOTIFICATION.—Each State identified
10 under subsection (a) shall be considered for purposes of
11 this Act to be an earthquake-prone, volcanic eruption-
12 prone, or hurricane-prone State, as appropriate, upon the
13 expiration of the 6-month period beginning upon the expi-
14 ration of the period under subsection (a). The Director
15 shall notify the chief executive officer of each State identi-
16 fied under subsection (a) in writing, before the expiration
17 of such 6-month period, that the State is an earthquake-
18 prone, volcanic eruption-prone, or hurricane-prone State,
19 as appropriate, for purposes of this Act.

20 (c) ONGOING IDENTIFICATION AND NOTIFICATION.—
21 Based upon any additional seismic, volcanic, and meteoro-
22 logical information that from time to time becomes avail-
23 able, the Director may identify States (not identified
24 under subsection (a)) having an exposure to earthquake,
25 volcanic eruption, or hurricane perils. Any such States

1 shall be considered to be an earthquake-prone, volcanic
2 eruption-prone, or hurricane-prone State, as appropriate,
3 for purposes of this Act upon the notification of the chief
4 executive officer of the State, in writing, of the identifica-
5 tion of the State as such a State.

6 (d) APPEAL.—Any State aggrieved by a final deter-
7 mination as an earthquake-prone, volcanic eruption-prone,
8 or hurricane-prone State pursuant to subsection (b) or (c),
9 may, after exhausting administrative remedies, appeal
10 such determination to any United States district court for
11 a district located within the State, not more than 60 days
12 after receipt of notice of such determination. The scope
13 of review by the court shall be as provided under chapter
14 7 of title 5, United States Code. During the pendency of
15 any such litigation, all determinations of the Director shall
16 be effective and final for the purposes of this title unless
17 stayed by the court for good cause shown.

18 **SEC. 102. EARTHQUAKE, VOLCANIC ERUPTION, AND HURRI-**
19 **CANE LOSS MITIGATION ADVISORY COMMIT-**
20 **TEE.**

21 (a) ESTABLISHMENT.—There is established an inde-
22 pendent advisory committee within the executive branch
23 to be known as the Earthquake, Volcanic Eruption, and
24 Hurricane Loss Mitigation Advisory Committee (in this
25 section referred to as the “Committee”). The Committee,

1 its members, and its functions shall be separate from the
2 Insurance and Reinsurance Advisory Committee estab-
3 lished under section 207. To the extent not contradicted
4 by the provisions of this section, the Committee shall be
5 subject to the provisions of the Federal Advisory Commit-
6 tee Act.

7 (b) MEMBERSHIP.—

8 (1) APPOINTED MEMBERS.—The Committee
9 shall be composed of 7 members appointed by the
10 President, by and with the advice and consent of the
11 Senate. The members shall be chosen from among
12 citizens of the United States who are respected ex-
13 perts in the fields of earthquake, volcanic eruption,
14 and hurricane loss mitigation, who shall include—

15 (A) 1 individual who is employed by a
16 State government as an emergency planner;

17 (B) 1 individual who is knowledgeable re-
18 garding local community building codes;

19 (C) 1 individual who is employed as a seis-
20 mic engineer;

21 (D) 1 individual who is employed as an ex-
22 pert in the field of volcanic eruptions; and

23 (E) 1 individual who is employed as an ex-
24 pert in the field of hurricanes.

1 (2) EX OFFICIO MEMBER.—Notwithstanding
2 paragraph (1), the Chairman of the Insurance and
3 Reinsurance Advisory Committee under section 207
4 shall serve as an ex officio member of the Committee
5 under this section.

6 (c) VACANCIES.—A vacancy in the Committee shall
7 be filled in the manner in which the original appointment
8 was made.

9 (d) CHAIRPERSON.—The President shall designate a
10 chairperson of the Committee from among members se-
11 lected for appointment to the Committee.

12 (e) SELECTION.—Not later than 180 days after the
13 date of the enactment of the Earthquake, Volcanic Erup-
14 tion, and Hurricane Hazards Insurance Act of 1993, the
15 President shall submit to the Senate nominations for ap-
16 pointment to the Committee.

17 (f) FUNCTIONS OF THE COMMITTEE.—The Commit-
18 tee shall review the loss reduction criteria (including the
19 specific loss-reduction measures) established under section
20 103. Not later than 180 days after receiving the draft of
21 the loss-reduction criteria under section 103(a)(3), the
22 Committee shall submit to the Director written comments
23 and recommendations for any changes to the criteria.

24 (g) RESPONSIBILITIES OF DIRECTOR.—The Director
25 shall fully cooperate with the Committee and provide the

1 Committee with access to personnel and information and
2 may request assistance from relevant Federal agencies (in-
3 cluding the National Institute of Standards and Tech-
4 nology) as the Committee considers necessary to carry out
5 its functions.

6 **SEC. 103. ESTABLISHMENT OF CRITERIA FOR LOSS-REDUC-**
7 **TION MEASURES.**

8 (a) DEVELOPMENT OF CRITERIA.—

9 (1) IN GENERAL.—On the basis of research car-
10 ried out under this title, the Director shall develop
11 comprehensive loss-reduction criteria for State and
12 local land use and management ordinances, building
13 codes, and other loss-reduction measures consistent
14 with the requirements under subsection (b). The Di-
15 rector shall periodically update such criteria to re-
16 flect technical advances designed to reduce losses
17 from earthquakes, volcanic eruptions, and hurri-
18 canes.

19 (2) COORDINATION.—The Director shall de-
20 velop the loss-reduction criteria in coordination and
21 consistent with the earthquake hazards reduction
22 program under title I of this Act and the Robert T.
23 Stafford Disaster Relief and Emergency Assistance
24 Act (and Executive Order 12699 of January 5,
25 1990). In developing the loss reduction criteria, the

1 Director shall consult other affected Federal entities
2 (including the National Institute of Standards and
3 Technology), the Building Seismic Safety Council,
4 the Interagency Committee on Seismic Safety in
5 Construction, the National Oceanic and Atmospheric
6 Administration, representatives of State and local
7 governments, regional earthquake, volcanic eruption,
8 and hurricane preparedness organizations, model
9 building code organizations, and insurance industry
10 groups.

11 (3) SUBMISSION OF DRAFT TO ADVISORY COM-
12 MITTEE.—Not later than the expiration of the 9-
13 month period beginning on the date of the enact-
14 ment of the Earthquake, Volcanic Eruption, and
15 Hurricane Hazards Insurance Act of 1993, the Di-
16 rector shall submit a draft of the loss-reduction cri-
17 teria to the Loss Mitigation Advisory Committee es-
18 tablished under section 102. Before issuing any final
19 regulations under paragraph (4), the Director shall
20 consider any recommendations made by such Advi-
21 sory Committee regarding the draft criteria.

22 (4) REGULATIONS.—Not later than the expira-
23 tion of the 18-month period beginning on the date
24 of the enactment of the Earthquake, Volcanic Erup-
25 tion, and Hurricane Hazards Insurance Act of 1993,

1 the Director shall issue regulations establishing the
2 loss-reduction criteria under this section, subject to
3 the provisions of subchapter II of chapter 5 of title
4 5, United States Code. In issuing final regulations
5 under this paragraph, the Director shall cause to be
6 published in the Federal Register a description of
7 any differences between the recommendations of the
8 Loss Mitigation Advisory Committee and the final
9 regulations (including the applicability of loss-reduc-
10 tion measures to States and localities) developed by
11 the Director. The description shall contain, for each
12 such difference, an explanation of why the rec-
13 ommendations of the Advisory Committee were not
14 included in the final regulations.

15 (b) CONTENT OF CRITERIA.—The Federal loss-re-
16 duction criteria established under this section shall include
17 measures for the reduction of losses from future earth-
18 quakes, volcanic eruptions, and hurricanes, as follows:

19 (1) MANDATORY INCLUSION.—The Director
20 shall include in the loss-reduction criteria the follow-
21 ing loss-reduction measures:

22 (A) Minimum seismic and hurricane build-
23 ing standards applicable to new residential
24 property and other buildings located in earth-
25 quake-prone States and hurricane-prone States.

1 (B) Community-based building codes appli-
2 cable to new residential property, which shall
3 meet or exceed any minimum provisions relat-
4 ing to seismic or hurricane hazards contained in
5 (i) the most recent edition of the National
6 Building Code, (ii) the most recent edition of
7 the Standard Building Code, or (iii) the most
8 recent edition of the Uniform Building Code.

9 (2) DISCRETIONARY INCLUSION.—Consistent
10 with reports submitted to Congress pursuant to sec-
11 tion 104(a)(2) of the Earthquake Hazards Reduc-
12 tion Act of 1977 and section 947 of the Cranston-
13 Gonzalez National Affordable Housing Act, the Di-
14 rector shall consider and may include in the loss-re-
15 duction criteria established under this section, any of
16 the following additional loss-reduction measures:

17 (A) Community-based building codes which
18 contain minimum seismic or hurricane provi-
19 sions (including restrictions on new
20 unreinforced masonry construction) for new res-
21 idential property that is located in a seismic or
22 hurricane zone, as appropriate, not currently
23 covered by any of the building codes referred to
24 in paragraph (1)(B) but identified by the Direc-

1 tor as being located in earthquake-prone or hur-
2 ricane-prone States, as appropriate.

3 (B) Geotechnical techniques to minimize
4 the effects of ground failures for new large
5 buildings in high-risk fault, landslide, site am-
6 plification, and liquefaction zones identified in
7 earthquake-prone States and, to the extent
8 practicable and cost-effective, application of the
9 same geotechnical techniques to existing large
10 buildings in the same zones.

11 (C) Measures to control construction of
12 buildings in high-risk fault, landslide, site am-
13 plification, liquefaction zones, and volcanic
14 zones identified in earthquake-prone or volcanic
15 eruption-prone States.

16 (D) To the extent practicable, retrofiting
17 of seismically hazardous critical facilities and
18 critical facilities vulnerable to hurricanes.

19 (E) Securing of building parapets and ex-
20 ternal ornamentations of existing buildings lo-
21 cated in earthquake-prone States or hurricane-
22 prone States.

23 (F) Bracing of gas water heaters and other
24 measures to reduce the risk of earthquake-in-

1 duced fires in residential property located in
2 earthquake-prone States.

3 (G) Inspections before transfer of residen-
4 tial property in earthquake-prone States and
5 hurricane-prone States (and provision to buyers
6 of inspection reports) regarding the adequacy of
7 the anchoring of the residential structure to the
8 foundation, the presence of unbraced or braced
9 cripple walls for woodframe structures, and the
10 bracing of gas water heaters to the walls for all
11 structures, as appropriate based on risk of
12 damage by earthquakes or hurricanes.

13 (3) RECOMMENDED MEASURES.—The Director
14 may recommend, in the loss-reduction criteria, any
15 of the following earthquake and hurricane prepared-
16 ness and planning measures:

17 (A) Expanded research and development
18 by the National Institute of Standards and
19 Technology and other government and private
20 sector entities of new cost-effective building
21 technologies for new construction and retro-
22 fitting of existing buildings.

23 (B) Educational and promotional cam-
24 paigns to encourage additional voluntary miti-
25 gation.

1 (C) Reward-based fiscal incentives, such as
2 lower property tax assessments, no reassess-
3 ments for retrofitting which results in increased
4 property values, or other tax incentives to en-
5 courage use of state-of-the-art mitigation tech-
6 nology.

7 (D) State or community-based efforts to
8 assist low- and moderate-income households to
9 purchase needed earthquake, volcanic eruption,
10 or hurricane insurance and to adopt cost-effec-
11 tive loss-reduction measures.

12 (E) Improvements in long-term earthquake
13 and hurricane construction practices, including
14 the training and licensing of earthquake and
15 hurricane design professionals as well as public
16 and private building inspectors.

17 (F) Institutional support, training in
18 earthquake and hurricane engineering tech-
19 nology and other disciplines, and staffing to en-
20 sure compliance with the community-based
21 building codes.

22 (G) Minimizing damage to public utilities,
23 including sewer, gas, electrical and water sys-
24 tems, and other lifelines.

1 (c) STANDARD.—Any mitigation measures included
2 in the loss-reduction criteria established under this section
3 shall be practical, cost-effective, workable, and directly re-
4 lated to the risk of loss from earthquakes, volcanic erup-
5 tions, or hurricanes in areas where residential property is
6 located.

7 (d) TECHNICAL ASSISTANCE.—The Director, in con-
8 sultation with the National Institute of Standards and
9 Technology, shall coordinate with and provide technical
10 assistance to States, interstate, and local officials and
11 agencies to encourage adoption and enforcement of State
12 and local actions that incorporate and support the loss-
13 reduction measures and preparedness goals developed by
14 the Director under this section.

15 **SEC. 104. SELF-SUSTAINING MITIGATION FUND.**

16 (a) IN GENERAL.—A percentage of the annual earth-
17 quake, volcanic eruption, and hurricane insurance and ex-
18 cess reinsurance premiums collected under the Primary
19 Insurance program under title II, as the Director shall
20 designate, shall be deposited in a separate fund to be
21 known as the Self-Sustaining Mitigation Fund. The per-
22 centage may not exceed 5 percent, unless the Director de-
23 termines that the amounts in the Insurance Fund are suf-
24 ficient to provide for any probable expected losses from
25 future earthquakes, volcanic eruptions, or hurricanes. In-

1 terest on amounts in the Fund shall be credited to the
2 Fund.

3 (b) USE.—Amounts in the Self-Sustaining Mitigation
4 Fund shall be available, to the extent provided in appro-
5 priations Acts, to the Director to provide assistance to
6 support the earthquake, volcanic eruption, and hurricane
7 hazard reduction activities, as follows:

8 (1) Assistance to States under section 105(c).

9 (2) Assistance to provide earthquake, volcanic
10 eruption, and hurricane education pursuant to sub-
11 section (c).

12 (3) Assistance for research and development
13 supported by the National Institute of Standards
14 and Technology on construction techniques to reduce
15 costs of new construction and retrofitting of existing
16 buildings.

17 (4) Low-interest loans or grants for the retro-
18 fitting of seismically hazardous critical facilities and
19 critical facilities vulnerable to hurricanes.

20 (c) EDUCATION PROGRAM.—In coordination with the
21 educational programs authorized under title I, the Direc-
22 tor shall provide assistance under this section to support
23 programs educating the general public on the national di-
24 mensions of the seismic, volcanic eruption, and hurricane

1 risk and on methods for homeowners to reduce the haz-
2 ards resulting from future earthquakes and hurricanes.

3 **SEC. 105. STATE IMPLEMENTATION OF LOSS-REDUCTION**
4 **MEASURES.**

5 (a) DEFINITION OF COMPLIANCE STATE.—An earth-
6 quake-prone, volcanic eruption-prone, or hurricane-prone
7 State shall be considered a compliance State for purposes
8 of this title if—

9 (1) before the expiration of the 2-year period
10 beginning upon the promulgation of final regulations
11 under section 103 establishing loss-reduction cri-
12 teria—

13 (A) the counties and municipalities located
14 in all seismic, volcanic, and hurricane zones
15 within the State have adopted and are enforcing
16 minimum applicable mitigation measures re-
17 quired under the loss-reduction criteria; and

18 (B) the chief executive officer of the State
19 has designated an administrative authority to
20 coordinate the development and enforcement of
21 earthquake, volcanic eruption, and hurricane
22 implementation plans for the State, which plans
23 are equivalent to or exceed the loss-reduction
24 criteria; and

1 (2) the State is certified under section 105(b)
2 as a compliance State.

3 (b) DETERMINATION OF COMPLIANCE.—

4 (1) STATE SUBMISSION OF CERTIFICATION.—

5 Before the expiration of the 2-year period referred
6 to in subsection (a)(1), each earthquake-prone, vol-
7 canic eruption-prone, or hurricane-prone State shall
8 submit a certification to the Director stating wheth-
9 er the State has substantially adopted and is sub-
10 stantially enforcing the applicable mitigation meas-
11 ures under the loss-reduction criteria. In providing
12 such certification, each State may consult with rel-
13 evant private-sector accreditation and rating organi-
14 zations approved by the Director. The Director shall
15 issue regulations not later than 18 months after the
16 date of the enactment of the Earthquake, Volcanic
17 Eruption, and Hurricane Hazards Insurance Act of
18 1993 describing the criteria to be used in making
19 and reviewing such State certifications.

20 (2) REVIEW BY DIRECTOR.—The Director shall
21 review each certification submitted under paragraph
22 (1) to determine whether it is an accurate mani-
23 festation of the submitting State's substantial com-
24 pliance with, and enforcement of, the applicable
25 mitigation measures under the loss-reduction cri-

1 teria. If the Director determines that the State cer-
2 tification is substantially accurate and the State has
3 adopted and is enforcing the applicable mitigation
4 measures, the Director shall certify the State for
5 purposes of subsection (a). Using the criteria estab-
6 lished under paragraph (1), the Director shall review
7 the compliance with, and enforcement of, the appli-
8 cable mitigation measures by each compliance State
9 meeting the requirements of subsection (a) not less
10 than once every 2 years and shall renew compliance
11 certificates as appropriate.

12 (3) NONCOMPLIANCE STATES.—If an earth-
13 quake-prone, volcanic eruption-prone, or hurricane-
14 prone State fails to submit a certification under
15 paragraph (1) or the Director determines under
16 paragraph (1) or (2) that the State has submitted
17 an inaccurate certification, has not adopted or en-
18 forced minimum applicable mitigation measures, or
19 has failed to have its compliance certification re-
20 newed, the Director shall certify the State as a non-
21 compliance State for purposes of this title and shall
22 promptly prepare and publish proposed regulations
23 setting forth the minimum mitigation measures ap-
24 plicable to the State.

1 (4) REVIEW OF NONCOMPLIANCE.—A State cer-
2 tified as a noncompliance State pursuant to para-
3 graph (3) may at any time after such certification
4 request the Director to revoke its noncompliance cer-
5 tification and to certify the State pursuant to para-
6 graph (2).

7 (c) ASSISTANCE TO PROMOTE COMPLIANCE.—The
8 Director shall provide assistance to each compliance State
9 from amounts in the Self-Sustaining Mitigation Fund
10 under section 104, to the extent that amounts for such
11 assistance are made available under appropriations Acts.
12 The amount of such assistance provided to each State
13 shall be based on the State’s need for hazard reduction
14 as measured by the State’s lack of preparedness efforts,
15 the amount of earthquake, volcanic eruption, and hurri-
16 cane insurance premiums collected in that State under the
17 Primary Insurance Program, and the State’s risk of fu-
18 ture earthquakes, volcanic eruptions, and hurricanes. Such
19 financial assistance shall be used to support the State’s
20 development and implementation of its mitigation plan, in-
21 cluding education, enforcement, and mitigation economic
22 incentives, such as low-interest loans for seismic retro-
23 fitting.

1 **SEC. 106. REQUIREMENT TO PURCHASE PRIMARY**
2 **INSURANCE.**

3 (a) CONNECTION TO FEDERALLY RELATED MORT-
4 GAGE LOANS.—After the expiration of the 2-year period
5 beginning upon the promulgation of final regulations
6 under section 103 establishing loss-reduction criteria, no
7 federally related mortgage loan secured by residential
8 property located in an earthquake-prone, volcanic erup-
9 tion-prone, or hurricane-prone State may be made, in-
10 creased, extended, or renewed unless the property securing
11 the loan is covered by earthquake, volcanic eruption, and
12 hurricane insurance coverage available under title II or
13 equivalent insurance from a private insurer, in the amount
14 required under section 203(a)(6). The Director shall de-
15 termine, in cooperation with the appropriate Federal agen-
16 cies, the methods by which such mortgagors shall be re-
17 quired to present proof that they have obtained an insur-
18 ance policy consistent with the provisions of this title.

19 (b) EXEMPTION FOR STATE PROPERTIES.—Notwith-
20 standing the other provisions of this section, earthquake,
21 volcanic eruption, and hurricane insurance coverage shall
22 not be required on any State-owned property that is cov-
23 ered under a State policy of self-insurance adequate in the
24 determination of the Director. The Director shall publish
25 and periodically revise a list of States to which this sub-
26 section applies.

1 **SEC. 107. EFFECT OF NONCOMPLIANCE WITH STATE MITI-**
2 **GATION PROGRAM.**

3 Each Federal agency or instrumentality responsible
4 for the supervision, approval, regulation, or insuring any
5 banks, savings and loans associations, or similar institu-
6 tions shall, by regulation, prohibit such institutions from
7 making, increasing, extending, or renewing a federally re-
8 lated mortgage loan secured by improved real estate or
9 a mobile home located or to be located in an earthquake-
10 prone, volcanic eruption-prone, or hurricane-prone State,
11 if—

12 (1) the State has been determined to be a non-
13 compliance State pursuant to section 105; and

14 (2) a presale inspection of the property securing
15 the loan—

16 (A) indicates that the property does not
17 meet the minimum mitigation measures applica-
18 ble to the property under the loss-reduction cri-
19 teria; or

20 (B) has not been conducted.

21 **SEC. 108. COORDINATION WITH OTHER PROGRAMS.**

22 In carrying out this Act, the Director shall consult
23 with other departments and agencies of the Federal Gov-
24 ernment, and with interstate, State, and local agencies
25 having responsibilities regarding earthquakes, volcanic
26 eruptions, and hurricanes to ensure that the programs of

1 such agencies and the Primary Insurance Program under
2 title II are mutually consistent.

3 **SEC. 109. REPORT TO CONGRESS.**

4 The Director shall submit an annual report under
5 this section to the Congress, within 90 days after the end
6 of each fiscal year. The report shall describe the activities
7 carried out under this title and evaluate any progress
8 achieved in such activities during the preceding fiscal year.

9 **SEC. 110. REGULATIONS.**

10 (a) DIRECTOR.—The Director may issue any regula-
11 tions necessary to carry out this Act, pursuant to the pro-
12 visions of subchapter II of chapter 5 of title 5, United
13 States Code.

14 (b) FEDERAL AGENCIES.—Each Federal agency or
15 instrumentality responsible for the supervision, approval,
16 regulation, or insuring of banks, savings and loan associa-
17 tions, or similar institutions, shall, in cooperation with the
18 Director, issue any regulations necessary to implement the
19 responsibilities of such agency under this Act, pursuant
20 to the provisions of subchapter II of chapter 5 of title 5,
21 United States Code.

1 **TITLE II—PRIMARY INSURANCE**
2 **PROGRAM**

3 **SEC. 201. BASIC AUTHORITY AND PROGRAM ORGANIZA-**
4 **TION.**

5 (a) ESTABLISHMENT.—To carry out the purposes of
6 this Act, the Director shall establish and carry out a na-
7 tional earthquake, volcanic eruption, and hurricane insur-
8 ance program to provide insurance against loss resulting
9 from physical damage to or loss of real property or per-
10 sonal property related thereto, in the United States, aris-
11 ing from any earthquake, volcanic eruption, or hurricane,
12 including any fire associated with a volcanic eruption.

13 (b) IMPLEMENTATION.—In carrying out the Primary
14 Insurance Program under this title, the Director shall ar-
15 range for participation, on other than a risk-sharing basis,
16 by private insurers, insurance agents and brokers, insur-
17 ance adjustment organizations, and other persons. The
18 Director may take any actions reasonably necessary and
19 appropriate to carry out this title, including the making
20 of contracts, the employment and compensation of per-
21 sons, and the acquisition of real and personal property.

22 (c) INSURANCE PRACTICES.—Any actions of the Di-
23 rector under this title shall be consistent with standard
24 insurance practices and generally accepted accounting, ac-
25 tuarial, and underwriting principles.

1 (d) SUITS.—Any lawsuits by or against the Director
2 (or employees of the Federal Emergency Management
3 Agency) in connection with activities under this title shall
4 be brought in the district court of the United States with
5 jurisdiction over the action, except that any action by an
6 insurer or reinsurer against the Director (or employees of
7 the Federal Emergency Management Agency) shall be
8 brought in the United States District Court for the
9 District of Columbia.

10 (e) PLAN OF OPERATION.—

11 (1) DEVELOPMENT.—The Director shall de-
12 velop a plan of operation under this subsection to
13 ensure the fair, reasonable, and equitable adminis-
14 tration of the Insurance Fund, the Reinsurance
15 Fund, and other activities under this title and title
16 III.

17 (2) CONTENTS.—The plan of operation shall set
18 forth the specific policy and programmatic details
19 for operating the Primary Insurance Program and
20 the Reinsurance Program, and shall include—

21 (A) all guidelines, criteria, definitions,
22 clarifications, and procedures necessary to carry
23 out this title;

24 (B) procedures for implementing the miti-
25 gation incentives under section 206; and

1 (C) standards for insurers to retain ex-
2 pense allowances from premiums collected
3 under this title.

4 (3) STUDY OF LOW-INCOME RATES.—In devel-
5 oping the plan of operation, the Director shall con-
6 sider options for charging less than actuarial rates
7 for residential property occupied by low-income pol-
8 icyholders and may include in the plan any such op-
9 tion the Director considers necessary, appropriate,
10 and practicable, subject to the requirements under
11 section 205(c).

12 (4) ESTABLISHMENT.—

13 (A) SUBMISSION OF DRAFT TO ADVISORY
14 COMMITTEE.—Not later than the expiration of
15 the 12-month period beginning on the date of
16 the enactment of the Earthquake, Volcanic
17 Eruption, and Hurricane Hazards Insurance
18 Act of 1993, the Director shall submit a draft
19 of the plan of operation to the Insurance and
20 Reinsurance Advisory Committee established
21 under section 207. Before issuing any proposed
22 regulations under subparagraph (B), the Direc-
23 tor shall consider any recommendations made
24 by such Advisory Committee regarding the
25 draft plan of operation.

1 (B) PROPOSED REGULATIONS.—Not later
2 than the expiration of the 18-month period be-
3 ginning on the date of the enactment of the
4 Earthquake, Volcanic Eruption, and Hurricane
5 Hazards Insurance Act of 1993, the Director
6 shall issue proposed regulations establishing the
7 plan of operation under this section, subject to
8 the provisions of subchapter II of chapter 5 of
9 title 5, United States Code. In issuing proposed
10 regulations under this paragraph, the Director
11 shall cause to be published in the Federal Reg-
12 ister a description of any differences between
13 the recommendations of the Insurance and Re-
14 insurance Advisory Committee and the final
15 regulations (including the guidelines, criteria,
16 definitions, clarifications, and procedures under
17 the plan) developed by the Director. The de-
18 scription shall contain, for each such difference,
19 an explanation of why the recommendations of
20 the Advisory Committee were not included in
21 the proposed regulations.

22 (C) COMMENTS.—After the regulations
23 have been issued under subparagraph (B), the
24 Director shall request comments from the In-

1 surance and Reinsurance Advisory Committee
2 regarding any changes to the regulations.

3 (D) SUBSEQUENT CHANGES.—Any
4 changes to the plan of operation contained in
5 final regulations shall be made pursuant to reg-
6 ulations issued in the manner provided in sub-
7 paragraphs (B) and (C).

8 **SEC. 202. SCOPE OF PROGRAM.**

9 (a) RESIDENTIAL PROPERTIES.—In carrying out the
10 Primary Insurance Program, the Director shall make
11 earthquake, volcanic eruption, and hurricane coverage
12 available only for residential property. The Director shall
13 make such coverage available in earthquake-prone States,
14 volcanic eruption-prone States, and hurricane-prone
15 States.

16 (b) ADDITIONAL TYPES OF PROPERTIES.—If, on the
17 basis of studies and investigations undertaken and carried
18 out and information received or exchanged under section
19 204, and such other information as may be necessary, the
20 Director determines that it would be feasible to extend the
21 Primary Insurance Program to cover other properties, the
22 Director may recommend to Congress that earthquake,
23 volcanic eruption, and hurricane coverage under this title
24 be made available to cover any types and classes of—

25 (1) other properties in residential areas;

1 (2) small business properties that are owned or
2 leased and operated by small business concerns;

3 (3) religious properties;

4 (4) agricultural properties;

5 (5) properties occupied by primary nonprofit or-
6 ganizations; and

7 (6) properties owned by State and local govern-
8 ments and agencies thereof.

9 **SEC. 203. TERMS AND LIMITATIONS OF INSURANCE COV-**
10 **ERAGE.**

11 (a) **TERMS.**—Pursuant to the plan of operation es-
12 tablished under section 201 and after consultation with
13 the Insurance and Reinsurance Advisory Committee, the
14 Director shall establish, by regulation, the general terms
15 and conditions of insurability for properties eligible for
16 residential property insurance coverage under section 202.
17 Such regulations shall meet the requirements of this sec-
18 tion and may include—

19 (1) the type and locational classification of such
20 eligible properties;

21 (2) the nature of damage that may be covered
22 by such insurance;

23 (3) appropriate minimum premiums;

1 (4) appropriate loss-deductibles including vari-
2 able deductibles based on the existence of loss-reduc-
3 ing measures that affect the risk of loss;

4 (5) appropriate limits on coverage for each clas-
5 sification of eligible properties;

6 (6) appropriate minimum coverage amounts
7 pursuant to section 106(a) for each classification of
8 eligible properties, which may not be less than the
9 outstanding principal balance of the mortgage loan
10 securing the property or the maximum coverage
11 limit for the property under paragraph (5), which-
12 ever is less; and

13 (7) any other terms and limitations relating to
14 such residential property insurance coverage that
15 may be necessary to carry out the purposes of this
16 title.

17 (b) LIMITATIONS.—Earthquake, volcanic eruption,
18 and hurricane coverage under this title shall cover—

19 (1) any damage to covered eligible property
20 proximately caused by—

21 (A) an earthquake, volcanic eruption, or
22 hurricane;

23 (B) a tsunami associated with an earth-
24 quake, volcanic eruption, or hurricane;

1 (C) a fire associated with a volcanic erup-
2 tion; and

3 (2) coverage for debris removal and additional
4 living expenses incurred as a result of direct damage
5 to the premises by—

6 (A) earthquake, volcanic eruption, or hur-
7 ricane;

8 (B) a tsunami associated with an earth-
9 quake, volcanic eruption, or hurricane; and

10 (C) a fire associated with a volcanic erup-
11 tion.

12 The coverage shall not include coverage for any fires asso-
13 ciated with an earthquake.

14 (c) ELIGIBILITY OF COVERAGE.—Any private insurer
15 issuing residential property insurance coverage in any
16 earthquake-prone, volcanic eruption-prone, or hurricane-
17 prone State may provide the coverage under this title, on
18 behalf of the Federal Government, to residential property
19 policyholders of the insurer. Any private insurer electing
20 to participate in the Primary Insurance Program shall
21 make coverage available to all residential property policy-
22 holders of the insurer in earthquake-prone, volcanic erup-
23 tion-prone, or hurricane-prone States. Any private insurer
24 electing to purchase the excess reinsurance coverage pur-
25 suant to title III shall make the coverage available, on be-

1 half of the Federal Government, or at equivalent coverage
2 and rates on their own behalf, to all residential property
3 policyholders of the insurer.

4 **SEC. 204. ESTABLISHMENT OF ACTUARIAL PREMIUM**
5 **RATES.**

6 (a) STUDIES AND ESTABLISHMENT OF RATES.—The
7 Director may undertake and carry out such studies and
8 investigations and receive and exchange such information
9 as may be necessary to establish, and shall from time to
10 time establish and prescribe, by regulation, on a State,
11 territorial, or other appropriate basis, actuarial premium
12 rates for types of classes of property eligible for residential
13 property insurance coverage and the terms and conditions
14 under which such rates apply.

15 (b) ARRANGEMENTS FOR SERVICES.—In carrying out
16 such studies, the Director shall consult with the Loss Miti-
17 gation Advisory Committee and the Insurance and Rein-
18 surance Advisory Committee and may enter into contracts,
19 agreements, or other arrangements to utilize the services
20 of the United States Geological Survey and other relevant
21 Federal, State, and local governmental agencies, and other
22 persons.

23 (c) CONSIDERATIONS.—The Director shall establish
24 actuarial rates under this section based on—

1 (1) considerations of the risks involved, includ-
2 ing—

3 (A) the severity and frequency of earth-
4 quakes by seismic zone and States in which the
5 insured property is located, including known
6 differences in risks from active faults and
7 known susceptibility to landslide, site amplifi-
8 cation, and liquefaction;

9 (B) the risk of damage associated with a
10 volcanic eruption by volcanic zone and States in
11 which the insured property is located, including
12 proximity to known lava flows;

13 (C) the severity and frequency of hurri-
14 canes by hurricane zone and States in which
15 the insured property is located;

16 (D) the value of the insured property;

17 (E) the age of the structures located on
18 the insured property;

19 (F) the construction type of the structures
20 located on the insured property, including
21 woodframe, masonry, and masonry veneer;

22 (G) the architectural type of the structures
23 located on the insured property, including soft
24 first floor, box construction, and split level;

1 (H) earthquake or hurricane loss-reduction
2 measures, including measures described in sec-
3 tion 103, followed in the construction or subse-
4 quent retrofitting of residential property struc-
5 tures; and

6 (I) any other relevant criteria; and

7 (2) application of accepted actuarial and rate-
8 making principles that reflect the risks involved, an-
9 ticipated insurance related administrative and oper-
10 ating costs and loss and loss-adjustment expense
11 payments, and provide for adequate reserves.

12 (d) LIMITATION.—Any rate classification system
13 used by the Director to establish actuarial rates under this
14 section shall be cost-effective and shall not impose costs
15 for the initial establishment or the subsequent administra-
16 tion of the rate plan that are disproportionate to the size
17 of the insurance premiums.

18 **SEC. 205. CHARGEABLE PREMIUM RATES.**

19 (a) ESTABLISHMENT.—On the basis of actuarial
20 rates established under section 204 and such other infor-
21 mation as may be necessary, the Director shall from time
22 to time, and after consultation with the Loss Mitigation
23 Advisory Committee and the Insurance and Reinsurance
24 Advisory Committee, establish and prescribe, by regula-
25 tion—

1 (1) chargeable premium rates for any types and
2 classes of properties eligible for earthquake, volcanic
3 eruption, and hurricane coverage; and

4 (2) the terms and conditions under which such
5 rates shall apply.

6 (b) MINIMIZATION OF CROSS-SUBSIDIZATION.—To
7 the maximum extent practicable, such chargeable rates
8 shall be actuarial rates over an extended period of time
9 and shall result in a minimum of cross-subsidization by
10 reasonably reflecting the risk of damaging earthquakes,
11 volcanic eruptions, and hurricanes in total and for each
12 subclassification of policyholders. In setting and adjusting
13 chargeable rates under this section, the Director shall pro-
14 vide that, over an extended period of time, expected ex-
15 penditures from the Insurance Fund under section 208(c)
16 do not exceed expected receipts of the Fund under section
17 208(b).

18 (c) LOW-INCOME RATES AND MITIGATION INCEN-
19 TIVES.—The Director may, pursuant to the plan of oper-
20 ation under section 201, establish chargeable rates under
21 this section for (1) residential property occupied by low-
22 income residents, and (2) residential properties described
23 in section 206(4), that are less than the actuarial rates
24 established under section 204, but only to the extent that

1 such rates do not prevent compliance with the last sen-
2 tence of subsection (b).

3 **SEC. 206. INSURANCE MITIGATION INCENTIVES.**

4 In carrying out the Primary Insurance Program
5 under this title pursuant to the plan of operation, the Di-
6 rector shall provide for the following insurance mitigation
7 incentives:

8 (1) Charging lower deductible amounts for any
9 residential property meeting the seismic and hurri-
10 cane building standards under the loss-reduction cri-
11 teria.

12 (2) Requiring under earthquake, volcanic erup-
13 tion, and hurricane coverage that repairs to residen-
14 tial property sustaining earthquake damage in ex-
15 cess of the deductible include, at a minimum, an-
16 choring the dwelling to the foundation and the addi-
17 tion of bracing to cripple walls.

18 (3) Requiring under earthquake, volcanic erup-
19 tion, and hurricane coverage that repairs to residen-
20 tial property sustaining hurricane damage in excess
21 of the deductible include such structural or other re-
22 pairs as the Director considers appropriate to miti-
23 gate against future hurricane damage.

24 (4) Requiring under earthquake, volcanic erup-
25 tion, and hurricane coverage that residential prop-

1 erty suffering damage in an amount greater than 50
2 percent of the replacement value of the property
3 shall be rebuilt to at least the minimum standards
4 under the loss-reduction criteria under section 103
5 and applicable to the State.

6 (5) Charging lower premiums or deductible
7 amounts for any residential property located in a
8 seismic zone in an earthquake-prone State, or in a
9 hurricane zone in a hurricane-prone State that
10 passes an earthquake or hurricane inspection that is
11 required as a condition of sale, paid for by the seller,
12 and meets the requirements of section 103(b)(2)(G).

13 (6) Charging lower premiums or deductible
14 amounts for new residential property not con-
15 structed in volcanic zones in a volcanic eruption-
16 prone State.

17 **SEC. 207. EARTHQUAKE, VOLCANIC ERUPTION, AND HURRI-**
18 **CANE INSURANCE AND REINSURANCE ADVI-**
19 **SORY COMMITTEE.**

20 (a) ESTABLISHMENT.—There is established an inde-
21 pendent advisory committee within the executive branch
22 to be known as the Earthquake, Volcanic Eruption, and
23 Hurricane Insurance and Reinsurance Advisory Commit-
24 tee (in this section referred to as the “Committee”). The
25 Committee, its members, and its functions shall be sepa-

1 rate from the Loss Mitigation Advisory Committee estab-
2 lished under section 102. To the extent not contradicted
3 by the provisions of this section, the Committee shall be
4 subject to the provisions of the Federal Advisory Commit-
5 tee Act.

6 (b) MEMBERSHIP.—

7 (1) APPOINTED MEMBERS.—The Committee
8 shall be composed of 5 members appointed by the
9 President, by and with the advice and consent of the
10 Senate. The members shall be chosen from among
11 citizens of the United States and shall include—

12 (A) 2 individuals who represent the inter-
13 ests of private insurers;

14 (B) 1 individual who represents the inter-
15 ests of private reinsurers;

16 (C) 1 individual who represents the inter-
17 ests of insurance agents; and

18 (D) 1 individual who is a State insurance
19 regulator.

20 (2) EX OFFICIO MEMBER.—Notwithstanding
21 paragraph (1), the Chairman of the Loss Mitigation
22 Advisory Committee under section 102 shall serve as
23 an ex officio member of the Committee under this
24 section.

1 (c) VACANCIES.—A vacancy in the Commission shall
2 be filled in the manner in which the original appointment
3 was made.

4 (d) CHAIRMAN.—The President shall designate a
5 chairman of the Committee from among members selected
6 for appointment to the Committee.

7 (e) SELECTION.—Not later than 180 days after the
8 date of the enactment of the Earthquake, Volcanic Erup-
9 tion, and Hurricane Hazards Insurance Act of 1993, the
10 President shall submit to the Senate nominations for
11 appointment to the Committee.

12 (f) FUNCTIONS OF THE COMMITTEE.—The Commit-
13 tee shall review the draft plan of operation established
14 under section 201. Within 120 days after receiving the
15 draft plan of operation, the Committee shall submit to the
16 Director written comments and recommendations for any
17 changes to the plan. After final regulations establishing
18 the plan of operation have been issued, the Committee
19 shall submit a written report not less than once every 180
20 days to the Director and the Congress evaluating the oper-
21 ation of the Federal earthquake, volcanic eruption, and
22 hurricane insurance and reinsurance programs under this
23 title and making recommendations for any actions relating
24 to such programs. The Committee shall respond as soon

1 as practicable to all requests of the Director made pursu-
2 ant to subsection (g) or section 201(e)(4)(C).

3 (g) RESPONSIBILITIES OF THE DIRECTOR.—The Di-
4 rector shall fully cooperate with the Committee and pro-
5 vide the Committee with access to personnel and informa-
6 tion as the Committee considers necessary to carry out
7 its functions. The Director shall request comments from
8 the Committee on any questions regarding operation of
9 the Federal earthquake, volcanic eruption, and hurricane
10 insurance and reinsurance programs established under
11 this title.

12 **SEC. 208. RESIDENTIAL PROPERTY INSURANCE FUND.**

13 (a) ESTABLISHMENT.—There is established in the
14 Treasury of the United States the Residential Property
15 Insurance Fund for the purpose of carrying out the
16 Primary Insurance Program under this title.

17 (b) CREDITS OF FUND.—The Insurance Fund shall
18 be credited with—

19 (1) insurance premiums received by the Direc-
20 tor under the Primary Insurance Program (less any
21 amounts credited to the Self-Sustaining Mitigation
22 Fund under section 104) and interest earned on pre-
23 miums, as provided in subsection (e) of this section;

24 (2) any amounts borrowed under section 209;

1 (3) any amounts appropriated to the Insurance
2 Fund; and

3 (4) any interest earned on amounts invested
4 under subsection (d).

5 (c) USES OF FUND.—Amounts in the Insurance
6 Fund shall be available for—

7 (1) payments for losses and loss adjustment ex-
8 penses under subsection (f);

9 (2) payments for insurance company expense
10 allowances paid (including agents' commissions,
11 State premium taxes, and companies' administration
12 expenses);

13 (3) administrative expenses of the Primary In-
14 surance Program; and

15 (4) interest payments on amounts borrowed
16 under section 209 for additional losses, if any.

17 (d) INVESTMENT OF AMOUNTS.—The Director may
18 request the Secretary of Treasury to invest any amount
19 in the Residential Property Insurance Fund in obligations
20 issued or guaranteed by the United States, as the Director
21 considers appropriate.

22 (e) INSURANCE PAYMENTS TO FUND.—Private insur-
23 ers issuing earthquake, volcanic eruption, and hurricane
24 insurance coverage shall remit the premiums collected, less
25 the insurers' expense allowances (as provided for in the

1 plan of operation), to the Director on a quarterly basis
2 30 days after the end of the quarter, according to the pro-
3 cedures prescribed in the plan of operation. Such private
4 insurers shall maintain a separate, interest-bearing ac-
5 count for the premiums to be submitted to the Director.
6 The interest collected on this account shall be forwarded
7 to the Residential Property Insurance Fund with the
8 premiums on a quarterly basis.

9 (f) REIMBURSEMENT OF INSURERS.—

10 (1) REQUIREMENT AND PROCEDURE.—The Di-
11 rector shall reimburse private insurers providing
12 earthquake, volcanic eruption, and hurricane insur-
13 ance coverage pursuant to this title from amounts
14 made available from the Insurance Fund. Reim-
15 bursement for all claim payments up to and includ-
16 ing the policy limits of coverage and for all loss ad-
17 justment expenses paid as a result of earthquake,
18 volcanic eruption, and hurricane shall be made as
19 follows:

20 (A) The Director shall reimburse insurers
21 for all claim payments and loss adjustment ex-
22 pense payments made pursuant to the Federal
23 Government's obligations. To the extent that
24 reimbursement is obtained by private insurers
25 for losses also covered under the Reinsurance

1 Program, the insurer shall reimburse the Resi-
2 dential Property Insurance Fund accordingly.

3 (B) If the gross reimbursements exceed
4 amounts available in the Residential Property
5 Insurance Fund, a combination of amounts bor-
6 rowed from the industry under subparagraph
7 (C) and amounts borrowed from the Treasury
8 of the United States under section 209 shall
9 cover the additional losses.

10 (C) The industry share under subpara-
11 graph (B) shall be equivalent to 10 percent of
12 the additional losses. Private insurers issuing
13 earthquake, volcanic eruption, and hurricane
14 coverage shall be assessed for the industry par-
15 ticipation in the additional losses based upon
16 the proportion that each insurer's written pre-
17 miums for this coverage in each State in which
18 the earthquake, volcanic eruption, or hurricane
19 events occurred bear to the total written pre-
20 miums for such coverage from all insurers in
21 each State in which the same events occurred,
22 based on the most recently published annual re-
23 port of the Federal Emergency Management
24 Agency. Assessments under this subparagraph
25 may be reinsured under title III.

1 (2) REGULATIONS.—The Director may issue
2 regulations establishing the general method or meth-
3 ods by which proved and approved claims for losses
4 may be adjusted and paid for damages covered by
5 the earthquake, volcanic eruption, and hurricane
6 coverage issued under this title. The claim practices
7 of the Insurance Fund shall be subject to and con-
8 form with any applicable State insurance unfair
9 trade practices statutes. Judicial review of a decision
10 of the Director regarding reimbursement of a private
11 insurer shall be available pursuant to section 201(d).

12 (g) OBLIGATIONS.—All earthquake, volcanic erup-
13 tion, and hurricane insurance coverage provided through
14 the Primary Insurance Program under this title shall con-
15 stitute obligations, in accordance with the provisions of
16 this title, of the United States. The full faith and credit
17 of the United States is pledged for the full payment and
18 performance of such obligations, subject to the provisions
19 of subsection (f)(1)(C). The private insurers participating
20 in the program shall bear no risk and shall assume no
21 liability for the earthquake, volcanic eruption, and hurri-
22 cane coverage provided through the program except as
23 provided in subsection (f)(1)(C).

24 (h) STATUS OF FUND.—Any premiums collected for
25 deposit in the Insurance Fund shall be exempt from all

1 taxation now or hereafter imposed by the United States,
2 by any territory, dependency or possession thereof, or by
3 the State, county, municipality, or local taxing authority,
4 except that the insurance policies issued by or in conjunc-
5 tion with the Federal Government pursuant to this title
6 shall be subject, where applicable, to State insurance pre-
7 mium taxes.

8 **SEC. 209. BORROWING FROM TREASURY.**

9 (a) **AUTHORITY.**—To the extent that the accumulated
10 assets, including any return on investments, in the Resi-
11 dential Property Insurance Fund are insufficient to pay
12 claims and expenses, the Director shall issue, from time
13 to time, to the Secretary of the Treasury, notes and other
14 obligations to cover the insufficiency; except that the
15 amounts of such obligations outstanding at any one time
16 shall not exceed—

17 (1) \$25,000,000,000 (or such greater amount
18 as may be approved by the President); and

19 (2) such sums as the Congress may provide act-
20 ing upon the recommendation of the Director.

21 (b) **INTEREST RATE.**—Obligations under subsection
22 (a) shall bear interest at a rate determined by the Sec-
23 retary of the Treasury, taking into consideration the cur-
24 rent average market yield on outstanding marketable obli-
25 gations of the United States of comparable maturities.

1 (c) DEPOSITS.—Any amounts borrowed by the Direc-
2 tor under this section shall be deposited in the Residential
3 Property Insurance Fund.

4 (d) REPAYMENT.—Any amounts borrowed under this
5 section shall be recouped, including interest on the bor-
6 rowed funds, in future chargeable rates for earthquake,
7 volcanic eruption, and hurricane coverage pursuant to the
8 plan of operation. The Secretary of the Treasury shall lib-
9 erally grant extensions in repayment schedules that the
10 Director advises the Secretary are necessary.

11 **TITLE III—NATIONAL EARTH-**
12 **QUAKE, VOLCANIC ERUP-**
13 **TION, AND HURRICANE EX-**
14 **CESS LOSS REINSURANCE**
15 **PROGRAM**

16 **SEC. 301. REINSURANCE PROGRAM.**

17 (a) AVAILABILITY.—

18 (1) INITIAL.—Upon the issuance of final regu-
19 lations establishing the plan of operation under sec-
20 tion 201, the Director shall make available, to any
21 private insurer participating in the Primary Insur-
22 ance Program under title II or any private reinsurer
23 which reinsures any such private insurer, excess re-
24 insurance coverage for direct and indirect losses that
25 are not eligible for insurance coverage under title II

1 and arise from an earthquake, a volcanic eruption,
2 or a hurricane.

3 (2) EXPANDED.—Upon the expiration of the 2-
4 year period beginning upon issuance of the regula-
5 tions referred to in paragraph (1), the Director shall
6 make available, to any private insurer or private re-
7 insurer, excess reinsurance coverage for direct and
8 indirect losses that are not eligible for insurance cov-
9 erage under title II and arise from an earthquake,
10 a volcanic eruption, or a hurricane. Each private in-
11 surer or reinsurer participating in the Primary In-
12 surance Program under title II shall purchase the
13 excess reinsurance coverage under this title.

14 (b) LIABILITY.—Excess reinsurance under this title
15 shall be offered as follows:

16 (1) INDUSTRY.—The Reinsurance Fund shall
17 be liable with respect to such reinsurance in the
18 event of an earthquake, a volcanic eruption, or a
19 hurricane after the insurance industry has incurred
20 losses and loss adjustment expenses from the single
21 event that are covered under the lines set forth in
22 section 302(a) and that exceed 8 percent of the in-
23 dustry countrywide subject net written premium, as
24 determined by the Director.

1 (2) FEDERAL GOVERNMENT.—After the insur-
2 ance industry has sustained losses described in para-
3 graph (1), the Federal Government shall be liable to
4 an individual private insurer or private reinsurer for
5 95 percent of qualifying losses in excess of 8 percent
6 of the private insurer’s or private reinsurer’s coun-
7 trywide subject net written premium.

8 (c) QUALIFYING LOSSES.—For the purposes of sub-
9 section (b), the term “qualifying losses” means losses and
10 loss adjustment expenses incurred by a private insurer or
11 private reinsurer from an earthquake (including losses and
12 loss adjustment expenses from foreshocks and aftershocks
13 attributable to the same event and including separate
14 earthquakes occurring within a 12-month period encom-
15 passing the event described in subsection (b)(1) whose in-
16 curred losses and loss adjustment expenses exceed 2 per-
17 cent of the private insurer’s or private reinsurer’s country-
18 wide subject net written premium), a volcanic eruption,
19 or a hurricane, reduced—

20 (1) by any collectible reinsurance recoverable;
21 and

22 (2) if the percentage of uncollectible reinsur-
23 ance arising from the event, as compared to total re-
24 insurance (other than earthquake, volcanic eruption,
25 or hurricane excess catastrophe reinsurance pur-

1 chased from the Federal Government) with respect
2 to the event is—

3 (A) more than 0 but not more than 5 per-
4 cent, by 0 percent of such uncollectible reinsur-
5 ance amount;

6 (B) more than 5 percent, but not more
7 than 15 percent, by 33.33 percent of the
8 uncollectible reinsurance amount above 5 per-
9 cent;

10 (C) more than 15 percent, but not more
11 than 25 percent, by—

12 (i) the amount determined under sub-
13 paragraph (B); and

14 (ii) 66.66 percent of the uncollectible
15 reinsurance amount above 15 percent; and

16 (D) more than 25 percent, by—

17 (i) the amount determined under sub-
18 paragraph (C); and

19 (ii) 100 percent of the uncollectible re-
20 insurance amount above 25 percent.

21 (d) OTHER ELIGIBILITY.—

22 (1) IN GENERAL.—Notwithstanding the re-
23 quirements of subsections (b) and (c), a private in-
24 surer or private reinsurer shall be eligible for excess
25 reinsurance coverage and reimbursement from the

1 Federal Government if the insurer or reinsurer has
2 incurred losses, prior to any reinsurance coverage,
3 from a single event that are included in the lines
4 covered in section 302(a) and that exceed 50 percent
5 of their countrywide subject direct written premium
6 or their countrywide subject net written premium,
7 whichever is greater.

8 (2) LIABILITY.—After the private insurer or
9 private reinsurer has sustained losses described in
10 paragraph (1), the Federal Government shall be lia-
11 ble for 95 percent of qualifying losses, as defined in
12 subsection (c), in excess of 20 percent of the private
13 insurer's or the private reinsurer's countrywide sub-
14 ject net written premium.

15 (3) LIMITATION ON LIABILITY.—The liability of
16 the Federal Government under this subsection shall
17 be limited to 200 percent of the private insurer's
18 countrywide subject direct net written premium and
19 600 percent of the private reinsurer's countrywide
20 subject assumed net written premium. In the event
21 a company is both a private insurer and a private
22 reinsurer, the liability limits shall be 200 percent of
23 their subject direct net written premium and 600
24 percent of their subject assumed net written pre-
25 mium. Intracompany or intragroup reinsurance ar-

1 rangements or contracts shall not be considered as
2 reinsurance in the calculation of insurance and rein-
3 surance subject direct or subject assumed net writ-
4 ten premium under this subsection.

5 (e) DEFINITIONS.—For purposes of this title:

6 (1) The term “subject assumed net written pre-
7 mium” means premiums received from other insur-
8 ance companies for reinsurance less ceded reinsur-
9 ance, for all lines of coverage listed in section 302.

10 (2) The term “subject direct net written pre-
11 mium” means the aggregate amount of recorded
12 originated premiums, other than reinsurance, issued
13 during the year whether collected or not at the close
14 of the year (plus retrospective audit premium collec-
15 tions) after deducting all return premiums and ceded
16 reinsurance premiums, for all lines of coverage listed
17 in section 302.

18 (3) The term “subject net written premium”
19 means direct and reinsurance premiums received by
20 private insurers and private reinsurers, less pre-
21 miums paid for ceded reinsurance, for all lines of
22 coverage listed in section 302.

23 (4) The term “uncollectible reinsurance” means
24 reinsurance proceeds due and payable in accordance

1 with the terms of the reinsurance contract which are
2 not paid within 12 months of the due date.

3 **SEC. 302. LINES OF INSURANCE.**

4 (a) COVERED LINES.—The Director shall provide re-
5 insurance coverage to private insurers for all of the follow-
6 ing lines of insurance appearing in the National Associa-
7 tion of Insurance Commissioners Fire and Casualty An-
8 nual Statement filed with the applicable State department
9 of insurance:

- 10 (1) Fire.
- 11 (2) Allied Lines.
- 12 (3) Farmowner's Multiple Peril.
- 13 (4) Homeowner's Multiple Peril.
- 14 (5) Commercial Multiple Peril.
- 15 (6) Ocean Marine.
- 16 (7) Inland Marine.
- 17 (8) Earthquake.
- 18 (9) Workers Compensation.
- 19 (10) Other Liability.
- 20 (11) Aircraft (All Perils).
- 21 (12) Glass.
- 22 (13) Burglary and Theft.
- 23 (14) Boiler and Machinery.
- 24 (15) Reinsurance.

1 Reinsurance coverage must be purchased for all covered
2 lines of insurance and in all affected seismic, volcanic, and
3 hurricane rating zones in earthquake-prone, volcanic erup-
4 tion-prone, or hurricane-prone States with the rates for
5 such coverage set by the Director, pursuant to section
6 303.

7 (b) OTHER LINES.—The Federal Government shall
8 provide reinsurance coverage to private reinsurers for all
9 of the lines of insurance referred to in subsection (a) as
10 well as other lines of insurance appearing in the National
11 Association of Insurance Commissioners Fire and Cas-
12 ualty Annual Statement, as determined by the Director
13 in the plan of operation and in consultation with the
14 Insurance and Reinsurance Advisory Committee.

15 **SEC. 303. RATES.**

16 (a) ESTABLISHMENT.—The Director shall establish
17 the rates for the excess reinsurance coverage and adjust
18 the rates when necessary using generally accepted actuar-
19 ial principles. To the maximum extent practicable, such
20 rates shall be actuarial rates which produce a minimum
21 degree of cross-subsidization over an extended period of
22 time consistent with the infrequency of catastrophic earth-
23 quakes, volcanic eruptions, and hurricanes. In setting and
24 adjusting the rates, the Director shall provide that, over
25 an extended period of time, expected expenditures from

1 the Reinsurance Fund under section 305(c) do not exceed
2 expected receipts of the Reinsurance Fund under section
3 305(b).

4 (b) CONSIDERATIONS.—In setting or adjusting such
5 rates, the Director shall also provide for a minimum de-
6 gree of cross-subsidization among classes of reinsureds by
7 reasonably reflecting the differences in risk of and vulner-
8 ability to loss from earthquakes, volcanic eruptions, and
9 hurricanes that would be subject to payment from the
10 Reinsurance Fund, by giving due consideration to the
11 following:

12 (1) The premium volume of the reinsured by
13 line of insurance under section 302(a) by seismic,
14 volcanic, and hurricane zone or State in which the
15 risks insured or reinsured by the reinsurer are lo-
16 cated.

17 (2) The proportion of the total expected amount
18 of payments for qualifying losses and loss adjust-
19 ment expenses by line of insurance under section
20 302(a) by seismic, volcanic, and hurricane zone or
21 State expected for each reinsured.

22 (c) LIMITATION.—Any rate classification system used
23 by the Director under this section shall be cost-effective
24 and shall not impose costs for the initial establishment or

1 the subsequent administration of the rating plan that are
2 disproportionate to the size of the premiums.

3 (d) QUARTERLY PAYMENT.—Premiums paid to the
4 Reinsurance Fund for reinsurance coverage under this
5 title shall be paid on a quarterly basis and shall be accu-
6 mulated in the Reinsurance Fund, to be managed pursu-
7 ant to section 305.

8 **SEC. 304. REINSURANCE CONTRACTS.**

9 (a) TERMS.—The reinsurance contracts issued by the
10 Federal Government pursuant to this title shall contain
11 terms and conditions similar to those generally used in
12 private catastrophic reinsurance contracts.

13 (b) JUDICIAL REVIEW.—Judicial review of a decision
14 of the Director regarding payment of claims shall be made
15 available pursuant to section 201(d).

16 (c) OBLIGATIONS.—All reinsurance contracts issued
17 under this title shall constitute obligations, in accordance
18 with the terms of such reinsurance, of the United States.
19 The full faith and credit of the United States is pledged
20 for the full payment and performance of such obligations.

21 (d) SINGLE ENTITIES.—Any private insurance and
22 reinsurance companies under the same ownership or man-
23 agement, as determined under the plan of operation, shall
24 be considered a single entity for purposes of this title.

1 **SEC. 305. REINSURANCE FUND.**

2 (a) ESTABLISHMENT.—There is established in the
3 Treasury of the United States the Reinsurance Fund for
4 the purposes of carrying out the excess loss reinsurance
5 program under this title.

6 (b) CREDITS OF FUND.—The Reinsurance Fund
7 shall be credited with—

8 (1) any reinsurance premiums received by the
9 Director under the excess loss reinsurance program;

10 (2) any amounts borrowed under section 306;
11 and

12 (3) any amounts earned under subsection (d).

13 (c) USE OF FUND.—The Reinsurance Fund shall be
14 available to the Director for—

15 (1) payments for qualifying losses and loss ad-
16 justment expenses under the excess loss reinsurance
17 program under this title;

18 (2) administrative expenses of carrying out the
19 program; and

20 (3) interest payments on amounts borrowed
21 from the Treasury under section 306, if any.

22 (d) INVESTMENT.—The Director shall request the
23 Secretary of the Treasury to invest any amounts in the
24 Reinsurance Fund in obligations issued or guaranteed by
25 the United States, as the Director considers appropriate.

1 (e) STATUS OF FUNDS.—Any reinsurance premiums
2 collected for deposit in the Reinsurance Fund shall be ex-
3 empt from all taxation now or hereafter imposed by the
4 United States, by any territory, dependency or possession
5 thereof, or by any State, county, municipality, or local tax-
6 ing authority, except that the insurance policies issued by
7 or in conjunction with the Federal Government pursuant
8 to this title shall be subject, where applicable, to State
9 insurance premium taxes.

10 **SEC. 306. BORROWING FROM TREASURY.**

11 (a) AUTHORITY.—To the extent that the accumulated
12 assets, including any return on investments, in the Rein-
13 surance Fund are insufficient to pay claims and expenses,
14 the Director shall issue, from time to time, to the Sec-
15 retary of the Treasury, notes and other obligations to
16 cover the insufficiency; except that the amounts of such
17 obligations outstanding at any one time shall not exceed—

18 (1) \$25,000,000,000 (or such greater amount
19 as may be approved by the President); and

20 (2) such sums as the Congress may provide act-
21 ing upon the recommendation of the Director.

22 (b) INTEREST RATE.—Obligations under subsection
23 (a) shall bear interest at a rate determined by the Sec-
24 retary of the Treasury, taking into consideration the cur-

1 rent average market yield on outstanding marketable obli-
2 gations of the United States of comparable maturities.

3 (c) DEPOSITS.—Any amounts borrowed by the Direc-
4 tor under this section shall be deposited in the Reinsur-
5 ance Fund.

6 (d) REPAYMENT.—Any amounts borrowed pursuant
7 to this section shall be recouped, including interest on the
8 borrowed funds, in future rates for excess reinsurance cov-
9 erage pursuant to the plan of operation. The Secretary
10 of the Treasury shall liberally grant extensions in repay-
11 ment schedules that the Director advises the Secretary are
12 necessary.

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HR 935 SC—2

HR 935 SC—3

HR 935 SC—4

HR 935 SC—5