

105TH CONGRESS
1ST SESSION

H. R. 230

To ensure that insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, is available and affordable, and to provide for expanded hazard mitigation and relief, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. MCCOLLUM (for himself, Mr. SHAW, Mr. LAZIO of New York, Mrs. EMERSON, Mr. BILIRAKIS, Mr. CANADY of Florida, Mr. DIAZ-BALART, Mr. DEUTSCH, Mrs. FOWLER, Mr. HASTINGS of Florida, Mrs. MEEK of Florida, Mr. MICA, Ms. ROS-LEHTINEN, Mr. SCARBOROUGH, and Mr. STEARNS) introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, is available and affordable, and to provide for expanded hazard mitigation and relief, 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Natural Disaster Protection and Insurance Act of 1997”.

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

- Sec. 1. Short title.
- Sec. 2. Findings.
- Sec. 3. Purpose.
- Sec. 4. Definitions.
- Sec. 5. Severability.

TITLE I—NATURAL DISASTER INSURANCE

- Sec. 101. National Commission on Catastrophe Risk and Insurance Loss Costs.
- Sec. 102. Catastrophic excess-of-loss contracts.
- Sec. 103. Private disaster insurance corporation.
- Sec. 104. Study on tax treatment of insurer catastrophic reserves.
- Sec. 105. Flood insurance.
- Sec. 106. Insurance pricing incentives.
- Sec. 107. Study of availability and affordability of catastrophe insurance.

TITLE II—MULTIHAZARD MITIGATION PROGRAM

- Sec. 201. Development of State mitigation plans.
- Sec. 202. Natural Disaster Hazard Mitigation Fund.
- Sec. 203. Public infrastructure retrofitting.
- Sec. 204. Wildland fires.
- Sec. 205. Authorization of appropriations.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) in addition to earthquakes, other cata-
9 strophic natural disasters, such as major hurricanes
10 and volcanic eruptions, will—

11 (A) continue to strike the United States;

12 and

1 (B) inflict substantial long-term adverse
2 consequences in terms of deaths, injuries, dam-
3 age to property and other economic losses, as
4 well as social problems;

5 (2) the Federal Government and the govern-
6 ments of States and local communities are often not
7 adequately equipped to respond to catastrophic natu-
8 ral disasters;

9 (3) billions of dollars in taxpayer-supported gov-
10 ernment assistance will be paid to rebuild following
11 catastrophic natural disasters;

12 (4) millions of persons in the United States do
13 not have adequate insurance coverage to protect
14 their property from catastrophic natural disasters;

15 (5) the unique risks posed by catastrophic natu-
16 ral disasters make it difficult to provide adequate in-
17 surance coverage through existing insurance mecha-
18 nisms, including—

19 (A) a low frequency of occurrence;

20 (B) a high severity of losses;

21 (C) a high concentration of losses in par-
22 ticular geographic areas; and

23 (D) a considerable degree of uncertainty
24 associated with estimating expected losses over
25 a projected time period;

1 (6) in the early 1990's, catastrophic disasters
2 (including Hurricane Andrew and Hurricane Iniki
3 and the Northridge earthquake) have inflicted sub-
4 stantial losses on private insurance companies and
5 those losses have affected the ability to write new
6 coverages in the affected regions and other parts of
7 the United States;

8 (7) the natural disasters referred to in para-
9 graph (6)—

10 (A) inflicted substantial losses on State
11 governments and local communities; and

12 (B) caused severe strains on the budgets of
13 the governments referred to in subparagraph
14 (A);

15 (8) hazard mitigation can reduce the long-term
16 consequences of natural disasters, especially with re-
17 spect to those persons who are least capable of help-
18 ing themselves;

19 (9) hazard mitigation measures, including the
20 adoption and implementation of appropriate building
21 and fire safety codes, retrofitting of structures, and
22 providing for public and community awareness, have
23 proven effective in reducing deaths, injuries, and
24 property damage caused by catastrophic natural dis-
25 asters;

1 (10) hazard mitigation measures are not—

2 (A) in place in many high-hazard areas;

3 and

4 (B) adequately enforced where the meas-
5 ures are in place; and

6 (11) emergency response capability, including
7 fire fighting, emergency medical assistance, and
8 search and rescue personnel, is as important as haz-
9 ard mitigation in lessening the impact of natural dis-
10 asters.

11 **SEC. 3. PURPOSE.**

12 The purpose of this Act is—

13 (1) to enhance access to disaster insurance cov-
14 erage by improving the capacity of the private insur-
15 ance industry through—

16 (A) the expanded availability of private in-
17 surance and reinsurance coverage for natural
18 disaster perils;

19 (B) the establishment of premium rates
20 based on expected losses and risk;

21 (C) an increased likelihood that the insur-
22 ance industry continues to provide affordable
23 coverage following a catastrophic natural disas-
24 ter; and

1 (D) more effective employment of the in-
2 surance industry through the provision of more
3 coverage, that should—

4 (i) speed rebuilding following a cata-
5 strophic natural disaster;

6 (ii) finance losses from natural disas-
7 ters, and consequently save funds derived
8 from tax revenues by reducing reliance on
9 disaster assistance from governments; and

10 (iii) encourage cost-effective hazard
11 mitigation efforts; and

12 (2) to reduce deaths, injuries, property damage,
13 and business interruptions from natural disasters
14 through a hazard mitigation program that provides
15 for—

16 (A) the building of safer structures and
17 the upgrading of existing buildings and lifelines;

18 (B) the enhancement of State and local
19 community emergency management;

20 (C) the improvement of State and local
21 emergency response capability, including the de-
22 velopment of standards and guidelines for staff-
23 ing, operations, and training;

24 (D) the forging of a partnership between
25 the Federal Government and the States and

1 local communities that makes the States and
2 local communities ultimately responsible for im-
3 plementing and enforcing multihazard mitiga-
4 tion measures and emergency management; and
5 (E) the creation of a self-sustaining fund-
6 ing mechanism to assist States in paying for
7 hazard mitigation efforts.

8 **SEC. 4. DEFINITIONS.**

9 For purposes of this Act, the following definitions
10 shall apply:

11 (1) BUILDING.—The term “building” means
12 any structure that is—

13 (A) fully or partially enclosed; and

14 (B) used or intended for housing persons
15 or sheltering property.

16 (2) CATASTROPHE LOSS COSTS.—The term “ca-
17 tastrophe loss costs” means loss costs for the perils
18 listed in section 101(e)(1).

19 (3) COMMERCIAL LOSSES.—

20 (A) The term “commercial losses” means
21 physical damage losses to insured commercial
22 property (other than residential property) and
23 other losses that are the result of earthquakes,
24 volcanic eruptions, tsunamis, or hurricanes for

1 the lines of insurance described in subpara-
2 graph (B).

3 (B) The lines of insurance described in
4 this subparagraph are listed in the most recent
5 fire and casualty annual statement of the Na-
6 tional Association of Insurance Commissioners
7 as—

- 8 (i) commercial multiple peril;
- 9 (ii) workers' compensation;
- 10 (iii) allied lines;
- 11 (iv) farm owners;
- 12 (v) fire;
- 13 (vi) reinsurance;
- 14 (vii) liability;
- 15 (viii) earthquake;
- 16 (ix) inland marine; or
- 17 (x) ocean marine.

18 (4) COMMERCIAL PROPERTY.—The term “com-
19 mercial property” means—

20 (A) nonresidential property that is subject
21 to commercial losses; and

22 (B) includes any building that is occupied
23 as a condominium, apartment, or cooperative.

1 (5) CRITICAL FACILITY.—The term “critical fa-
2 cility” means any school or structure that is essen-
3 tial to emergency services necessary for recovery
4 after a natural disaster, including a hospital, fire, or
5 police facility, temporary shelter, or emergency oper-
6 ating and preparedness center.

7 (6) DIRECTOR.—The terms “Director of the
8 Agency” and “Director” mean the Director of the
9 Federal Emergency Management Agency.

10 (7) EARTHQUAKE.—The term “earthquake”
11 means any shaking or trembling of the crust of the
12 earth that is caused by underground seismic forces.

13 (8) EMERGENCY RESPONDER.—The term
14 “emergency responder” means any fire fighting, po-
15 lice, or other emergency medical personnel who has
16 the authority under applicable law to engage in and
17 provide immediate emergency response services.

18 (9) FLOOD.—The terms “flood” and “flooding”
19 mean a general and temporary condition of partial
20 or complete inundation of a normally dry land area
21 that results from—

22 (A) the overflow of inland or tidal waters;

23 or

24 (B) the unusual and rapid accumulation of
25 runoff or surface waters from any source.

1 (10) HAZARD MITIGATION.—The term “hazard
2 mitigation” means sustained action to reduce or
3 eliminate long-term risk to people and property from
4 natural disaster hazards and the effects of those
5 hazards.

6 (11) HURRICANE.—The term “hurricane”—

7 (A) means a nonfrontal, warm core, low
8 pressure atmospheric system that is officially
9 declared to be—

10 (i) a hurricane by the National Hurri-
11 cane Center or the Central Pacific Hurri-
12 cane Center; or

13 (ii) a typhoon by the Joint Typhoon
14 Warning Center; and

15 (B) includes any associated windstorm
16 events.

17 (12) LIFELINE.—The term “lifelines” means
18 public works and utilities, including transportation
19 facilities and infrastructure, oil and gas pipelines,
20 electrical power and communication facilities, and
21 water supply and sewage treatment facilities.

22 (13) LOCAL COMMUNITY.—The term “local
23 community” means a political subdivision of a State
24 that has a department or similar entity that oversees
25 local zoning and building code compliance.

1 (14) LOSS COSTS.—The term “loss costs”—

2 (A) means the actuarially based mean an-
3 nual amount or appropriate range that is suffi-
4 cient to pay expected insured losses resulting
5 from a particular peril; and

6 (B) does not include loss adjustment ex-
7 pense, administrative expense, taxes, commis-
8 sions, risk charge, profits, and contingencies.

9 (15) MITIGATION FUND.—The term “Mitiga-
10 tion Fund” means the Natural Disaster Hazard
11 Mitigation Fund established under section 202.

12 (16) PRIVATE INSURER.—The term “private in-
13 surer” means any private insurer or private rein-
14 surer, including all related affiliates or subsidiaries
15 under the same ownership or management in a man-
16 ner consistent with the definition of the term “affili-
17 ated group” under section 1504(a) of the Internal
18 Revenue Code of 1986, that is licensed or admitted
19 to write property and casualty insurance or reinsur-
20 ance within a State.

21 (17) PUBLIC FACILITY.—The term “public fa-
22 cility” has the meaning given the term in section
23 102 of the Robert T. Stafford Disaster Relief and
24 Emergency Assistance Act (42 U.S.C. 5122(8)).

1 (18) RATING VARIABLE.—The term “rating
2 variable” means the characteristics of individual
3 risks that affect loss costs, including—

4 (A) geographic territory;

5 (B) type of construction;

6 (C) amount of insurance coverage;

7 (D) insurance policy deductibles; and

8 (E) hazard mitigation measures.

9 (19) RESIDENTIAL PROPERTY.—The term “res-
10 idential property” means—

11 (A) any family residential building that
12 houses not less than 1 and not more than 4
13 families (including mobile or manufactured
14 homes); and

15 (B) personal property of the occupants of
16 a residential building (including any condomin-
17 ium, cooperative, or apartment building).

18 (20) RESIDENTIAL PROPERTY LOSSES.—The
19 term “residential property losses” means physical
20 damage losses to insured residential property.

21 (21) RISK CHARGE.—The term “risk charge”
22 means the component of an insurance rate that re-
23 flects the degree of variability of losses around the
24 mean value of the subject of the insurance.

1 (22) STATE.—The term “State” means each of
2 the States of the United States, the District of Co-
3 lumbia, the Commonwealth of Puerto Rico, the Vir-
4 gin Islands, Guam, American Samoa, the Common-
5 wealth of the Northern Mariana Islands, and any
6 other territory or possession of the United States.

7 (23) STATE DEPARTMENT OF INSURANCE.—
8 The term “State department of insurance” means
9 the office of the chief insurance regulatory official of
10 a State (or the equivalent State entity).

11 (24) STATE INSURANCE POOL.—The term
12 “State insurance pool” means any State-authorized
13 joint underwriting or joint reinsurance association,
14 risk pool, or residual market mechanism that pro-
15 vides insurance or reinsurance coverage against hur-
16 ricanes, earthquakes, volcanic eruptions, or
17 tsunamis.

18 (25) TSUNAMI.—The term “tsunami” means an
19 ocean wave generated by underwater disturbances in
20 the earth’s crust (that consist primarily of earth-
21 quakes and submarine volcanic eruptions).

22 (26) UNITED STATES.—The term “United
23 States” means, when used in a geographical sense,
24 all of the States (as such term is defined in para-
25 graph (21)).

1 (27) VOLCANIC ERUPTION.—The term “volcanic
2 eruption” means the expulsion, as a result of natural
3 causes, of molten rock, rock fragments, gases, ashes,
4 mud, lava flows, and other natural substances
5 through an opening in the crust of the earth.

6 (28) WINDSTORM.—The term “windstorm”
7 means an atmospheric disturbance that—

8 (A) is marked by high velocity movements
9 of air, including a tornado; and

10 (B) is not officially declared to be a hurri-
11 cane (including a typhoon, as defined in para-
12 graph (10)).

13 **SEC. 5. SEVERABILITY.**

14 If any provision of this Act, or the application of that
15 provision to any person, circumstance, or venue, is held
16 invalid, the remainder of this Act, or the application of
17 that provision to persons, circumstances, or venues other
18 than those as to which it is held invalid, shall not be af-
19 fected.

1 **TITLE I—NATURAL DISASTER**
2 **INSURANCE**

3 **SEC. 101. NATIONAL COMMISSION ON CATASTROPHE RISK**
4 **AND INSURANCE LOSS COSTS.**

5 (a) ESTABLISHMENT.—The Secretary of the Treas-
6 ury (in this title referred to as the “Secretary”) shall es-
7 tablish within the Department of the Treasury a National
8 Commission on Catastrophe Risk and Insurance Loss
9 Costs (in this section referred to as the “Commission”)
10 to estimate loss costs from catastrophic natural disasters.

11 (b) DUTIES.—

12 (1) IN GENERAL.—The Commission shall meet
13 periodically to participate in public hearings, esti-
14 mate proposed loss costs, and approve and file loss
15 costs under subsection (e).

16 (2) PLAN OF OPERATION.—Not later than 180
17 days after the date on which the Commission is es-
18 tablished, the Commission shall develop, and submit
19 to the Secretary for review, a plan of operation that
20 sets forth the specific policies and details of the op-
21 eration of the Commission that includes all guide-
22 lines, criteria, definitions and procedures that the
23 Commission determines to be necessary to carry out
24 the functions of the Commission under this section.

1 (c) STAFFING.—The Chairperson of the Commission
2 may appoint and terminate such full-time professional and
3 clerical staff, attorneys, examiners, and other experts as
4 may be necessary to enable the Commission to carry out
5 its duties. The staff shall be Federal employees who are
6 subject to the civil service laws under title 5, United States
7 Code.

8 (d) MEMBERS.—

9 (1) APPOINTMENT.—

10 (A) INITIAL APPOINTMENT.—The Commis-
11 sion shall be composed of 13 members ap-
12 pointed by the Secretary not later than 90 days
13 after the date of enactment of this Act.

14 (B) VACANCIES.—A vacancy on the Com-
15 mission shall be filled in the manner in which
16 the original appointment was made and shall be
17 subject to any conditions which applied with re-
18 spect to the original appointment. The Sec-
19 retary shall ensure that the composition of the
20 Commission meets at all times the qualifica-
21 tions described in paragraph (2).

22 (2) QUALIFICATIONS.—

23 (A) IN GENERAL.—

1 (i) CITIZENSHIP AND EXPERTISE.—
2 Each member appointed to the Commis-
3 sion shall be—

4 (I) a citizen of the United States;
5 and

6 (II) recognized as qualified in a
7 field related to natural disaster haz-
8 ard mitigation and insurance.

9 (ii) TREATMENT OF NON-FEDERAL
10 MEMBERS.—Each member who is not oth-
11 erwise employed by the Federal Govern-
12 ment shall be deemed to be special govern-
13 ment employees, as defined in section 202
14 of title 18, United States Code, for pur-
15 poses of sections 201, 202, 203, 205, and
16 208 of such title.

17 (B) SPECIFIC DISCIPLINES.—The members
18 appointed to the Commission described in para-
19 graph (1) shall consist of the following:

20 (i) 1 structural engineer, who shall
21 not otherwise be an employee of the Fed-
22 eral Government, or an employee of a
23 State government or a private insurer.

1 (ii) 1 meteorologist, who shall not oth-
2 erwise be an employee of the Federal Gov-
3 ernment, or an employee of a State govern-
4 ment or a private insurer.

5 (iii) 1 seismologist, who shall not oth-
6 erwise be an employee of the Federal Gov-
7 ernment or an employee of a State govern-
8 ment or a private insurer.

9 (iv) 2 professional actuaries who have
10 previous experience in developing or setting
11 actuarially sound property and casualty
12 rates who shall not otherwise be employed
13 by the Federal Government, or employed
14 by a State government or private insurer.

15 (v) 2 members who each serve as an
16 elected regulator of a department of insur-
17 ance of a State.

18 (vi) 1 member who is otherwise em-
19 ployed by the Department of the Treasury.

20 (vii) 1 member who is an employee of
21 the Federal Emergency Management
22 Agency.

23 (viii) 1 member who is a private in-
24 surer.

1 (ix) 1 representative from the consum-
2 ers of property and casualty insurance.

3 (x) 1 representative who is a real es-
4 tate agent.

5 (x) 1 representative who is a profes-
6 sional builder.

7 (C) EFFECTS OF LOSS OF QUALIFICA-
8 TION.—If any member appointed under para-
9 graph (1) ceases to meet the applicable quali-
10 fications under this paragraph, the term of that
11 member shall terminate, and the Secretary shall
12 fill the vacancy immediately upon that termi-
13 nation.

14 (3) CHAIRPERSON.—The Secretary shall des-
15 ignate a chairperson of the Commission from among
16 members appointed to the Commission.

17 (4) TERMS OF SERVICE.—

18 (A) IN GENERAL.—The members ap-
19 pointed under paragraph (1) shall serve stag-
20 gered 6-year terms, as determined by the Sec-
21 retary at the time of appointment.

22 (B) REAPPOINTMENT.—

23 (i) IN GENERAL.—Subject to para-
24 graph (2), upon the termination of the

1 term of a member, the Secretary may ap-
2 point that member to serve for an addi-
3 tional term.

4 (ii) LIMITATION.—No member may
5 serve as a member of the Commission for
6 an aggregate period longer than 12 years.

7 (5) COMPENSATION OF MEMBERS.—Each mem-
8 ber of the Commission who is not an officer or em-
9 ployee of the Federal Government shall be com-
10 pensated at a rate equal to the daily equivalent of
11 the annual rate of basic pay prescribed for level V
12 of the Executive Schedule under section 5316 of title
13 5, United States Code, for each day (including travel
14 time) during which such member is engaged in the
15 performance of the duties of the Commission. All
16 members of the Commission who are officers or em-
17 ployees of the United States shall serve without com-
18 pensation in addition to that received for their serv-
19 ices as officers or employees of the United States.

20 (6) TRAVEL EXPENSES.—The members of the
21 Commission shall be allowed travel expenses, includ-
22 ing per diem in lieu of subsistence, at rates author-
23 ized for employees of agencies under subchapter I of
24 chapter 57 of title 5, United States Code, while

1 away from their homes or regular places of business
2 in the performance of services for the Commission.

3 (e) FUNCTIONS.—

4 (1) CATASTROPHE LOSS COST ESTIMATES.—

5 (A) IN GENERAL.—In accordance with the
6 process described under subsection (f), the
7 Commission shall make an initial estimate of
8 catastrophe loss costs, and update that estimate
9 at not less frequently than once every 3 years
10 (or more frequently as appropriate).

11 (B) RATING VARIABLES.—In making an
12 estimate under this paragraph, the Commission
13 shall use appropriate rating variables for the
14 base insurance policy commonly used in each
15 State or relevant jurisdiction, as determined by
16 the Commission, for the perils of earthquakes,
17 hurricanes, tsunamis, and volcanic eruptions
18 for—

19 (i) insured residential property expo-
20 sures; and

21 (ii) all class-rated insured commercial
22 property exposures and, if practical, other
23 insured commercial property exposures.

24 (2) FILE LOSS COSTS.—As soon as is prac-
25 ticable, but not later than 26 months after the date

1 of enactment of this Act, and at least every 3 years
2 thereafter, the Commission shall file the estimates of
3 catastrophe loss costs developed under this sub-
4 section for the perils described in paragraph (1)
5 with—

6 (A) each State department of insurance;

7 and

8 (B) the Secretary.

9 (3) DATA COLLECTION.—

10 (A) SOURCES OF DATA.—

11 (i) IN GENERAL.—The Commission
12 may request from the entities under clause
13 (ii) such data or information as may be
14 necessary to carry out the purposes of this
15 section.

16 (ii) ENTITIES.—An entity from which
17 the Commission may procure information
18 under this subparagraph is—

19 (I) a statistical agent or organi-
20 zation designated by a State depart-
21 ment of insurance or a designated sta-
22 tistical agent of a State department of
23 insurance to gather and compile in-
24 surance statistical experience; or

1 (II) a private insurer if the pri-
2 vate insurer provides the data or in-
3 formation on a voluntary basis.

4 (B) CONFIDENTIAL.—Any data that is
5 company-specific for a private insurer and that
6 is reported to the Commission, either directly
7 through a State department of insurance or
8 through a designated statistical agent of a
9 State department of insurance—

10 (i) shall be presumed to be confiden-
11 tial, trade secret information; and

12 (ii) may not be disclosed to any other
13 party.

14 (C) RESTRICTIONS ON USE.—The Commis-
15 sion may only use the data and information ob-
16 tained under this paragraph to carry out the
17 duties of the Commission under this section.
18 The Commission may not—

19 (i) make confidential information de-
20 scribed in subparagraph (B) available to
21 any Federal agency or State department or
22 agency for any purpose; and

1 (ii) use confidential information de-
2 scribed in subparagraph (B) for any pur-
3 pose other than a purpose specified in this
4 paragraph.

5 (4) CONDUCT OF SPECIAL STUDIES.—The Com-
6 mission shall conduct special studies of catastrophe
7 insurance issues in order to develop estimates of ca-
8 tastrophe loss costs in accordance with paragraph
9 (1). The studies conducted under this paragraph
10 shall include an investigation of the following issues:

11 (A) The potential variability in mean loss
12 costs and probable maximum losses in each
13 State.

14 (B) The potential effect of various hazard
15 mitigation strategies on loss costs.

16 (C) The potential effect of demographic
17 changes, such as population trends, on loss
18 costs.

19 (D) The potential effect of climatic cycles
20 on loss costs.

21 (E) The uninsured catastrophe losses that
22 are likely to occur, including losses to public fa-
23 cilities and lifelines.

1 (f) PROCESS FOR DEVELOPMENT OF ESTIMATES OF
2 CATASTROPHE LOSS COSTS.—The Commission shall de-
3 velop the estimates of catastrophe loss costs under sub-
4 section (e)(1) in accordance with the following process:

5 (1) INVESTIGATION.—In consultation with the
6 experts referred to in subsection (g), the Commis-
7 sion shall conduct an investigation to determine the
8 appropriate range of loss costs estimates. In con-
9 ducting that investigation the Commission shall hold
10 public hearings.

11 (2) PROPOSED LOSS COSTS.—Based on the in-
12 vestigation under paragraph (1), the Commission
13 shall propose initial estimates of catastrophe loss
14 costs not later than 18 months after the date of en-
15 actment of this Act. In developing proposed esti-
16 mates of catastrophe loss costs and any updates of
17 such estimates under this section, the Commission
18 shall be subject to the public comment and hearings
19 requirements under subchapter II of chapter 5 and
20 chapter 7 of title 5, United States Code.

21 (3) MODIFICATION OF PROPOSED LOSS
22 COSTS.—Upon receipt of public comments solicited
23 by the Commission in accordance with this section,

1 the Commission may modify a proposed estimate re-
2 ferred to in paragraph (2) to take into account those
3 comments.

4 (4) FINALIZATION OF INITIAL ESTIMATES.—

5 The initial estimates of catastrophe loss costs devel-
6 oped by the Commission under this subsection shall
7 become final not later than 22 months after the date
8 of enactment of this Act. Any updates of catastrophe
9 loss costs estimates shall become final upon the com-
10 pletion of the process described in paragraphs (1)
11 through (3) for such updates.

12 (5) APPEAL.—

13 (A) RIGHT.—Not later than 30 days after
14 the finalization of an estimate of catastrophe
15 loss costs under paragraph (4), any individual,
16 organization, private insurer, State insurance
17 pool, or State department of insurance ad-
18 versely affected or aggrieved by such estimate
19 may appeal the estimate in writing to the Com-
20 mission.

21 (B) PROCESS.—

22 (i) IN GENERAL.—The Commission
23 shall hear any appeal brought under sub-
24 paragraph (A) on the record or in a public

1 proceeding not later than 30 days after the
2 appeal is submitted.

3 (ii) DETERMINATION BY COMMISS-
4 SION.—Not later than 90 days after the
5 date on which an appeal is submitted
6 under subparagraph (A), the Commission
7 shall make a determination on the appeal,
8 and make any necessary changes to the es-
9 timate of catastrophe loss costs involved.

10 (6) METHODOLOGIES.—At the same time as
11 the Commission issues proposed estimates of catas-
12 trophe loss costs under paragraph (2) and the final
13 estimates of catastrophe loss costs under paragraph
14 (4) the Commission shall issue a report prepared by
15 the Commission concerning the methodologies and
16 assumptions used in developing the estimates of ca-
17 tastrophe loss costs.

18 (7) JUDICIAL REVIEW.—Except as provided in
19 subsection (j), any action taken, or determination
20 made, by the Commission in connection with devel-
21 oping or filing catastrophe loss costs estimates under
22 this section shall not be subject to judicial review.

1 (g) CONSULTATION.—The Commission shall consult
2 experts in the following fields, or employed by the follow-
3 ing entities, to assist in the investigation of natural disas-
4 ter catastrophe loss costs estimates:

5 (1) The property and casualty industry.

6 (2) Natural disaster catastrophe modeling orga-
7 nizations.

8 (3) Consumers of property and casualty insur-
9 ance.

10 (4)(A) Scientific agencies of the Federal Gov-
11 ernment, such as the United States Geological Sur-
12 vey of the Department of the Interior and the Na-
13 tional Oceanic and Atmospheric Administration, the
14 National Hurricane Center, and the Bureau of the
15 Census of the Department of Commerce; and

16 (B) The National Academy of Sciences.

17 (5) State departments of insurance.

18 (6) Other appropriate experts in the area of
19 natural disaster catastrophe loss costs.

20 (h) USE OF ESTIMATES OF CATASTROPHE LOSS
21 COSTS.—

22 (1) PRIVATE INSURERS.—

1 (A) ELECTION.—For the natural disaster
2 perils listed in subsection (e)(1), a private in-
3 surer may elect to cite the final estimates of ca-
4 tastrophe loss costs determined under sub-
5 section (f) in the rate filings of the private in-
6 surer to the appropriate State department of
7 insurance.

8 (B) DISAPPROVAL.—If a private insurer
9 chooses to cite the loss costs estimates under
10 subparagraph (A), the appropriate State de-
11 partment of insurance—

12 (i) shall consider those loss costs esti-
13 mates as authoritative; and

14 (ii) may not disapprove the catas-
15 trophe loss costs component of the prop-
16 erty insurance rate filing submitted by the
17 private insurer for the perils described in
18 subsection (e)(1) unless the chief insurance
19 regulatory official of the State finds, not
20 later than 30 days after the date the rate
21 filing is submitted by the private insurer,
22 that the estimates of catastrophe loss costs
23 are excessive, inadequate, or unfairly dis-
24 criminatory.

1 (C) DEVIATIONS.—Nothing in this para-
2 graph shall preclude a State department of in-
3 surance from evaluating, in a manner consistent
4 with applicable State law, rate filings submitted
5 by a private insurer electing to cite the loss
6 costs estimates under subparagraph (A) if the
7 private insurer deviates from the rating vari-
8 ables or base insurance policy used under sub-
9 section (e)(1) by the Commission in estimating
10 the loss costs.

11 (2) CONSIDERATION OF ESTIMATES OF CATAS-
12 TROPHE LOSS COSTS BY SECRETARY OF THE TREAS-
13 URY.—The Secretary of the Treasury shall, to the
14 maximum extent practicable, consider estimates of
15 catastrophe loss costs filed with the Secretary under
16 subsection (e)(2) in developing the reserve prices for
17 the Federal excess-of-loss reinsurance contracts
18 under section 102.

19 (3) STATE INSURANCE POOLS.—In order to be
20 eligible to purchase the Federal excess-of-loss rein-
21 surance contracts under section 102 directly from
22 the Treasury Department or through a private cor-
23 poration described in section 103, a State insurance
24 pool that provides direct insurance shall, to the max-
25 imum extent practicable, consider the estimates of

1 catastrophe loss costs as the minimum loss costs to
2 be filed with the State departments of insurance
3 under subsection (e)(2) in developing the rates for
4 property insurance coverage they provide.

5 (i) STANDARDS.—The estimates of catastrophe loss
6 costs developed under this section shall—

7 (1) reflect actuarial principles of basing rates
8 on the risk to insured property from natural disaster
9 perils by—

10 (A) minimizing cost-subsidization of the
11 loss costs between geographic risk territories
12 and different construction types for buildings;
13 and

14 (B) ensuring that the estimated catas-
15 trophe loss costs are sufficient to cover expected
16 losses; and

17 (2) produce insurance rates that are not exces-
18 sive, inadequate, or unfairly discriminatory.

19 (j) JUDICIAL REVIEW.—If the chief insurance regu-
20 latory official of a State disapproves final estimates for
21 catastrophe loss costs under subsection (h)(1)(B), the par-
22 ties described in subsection (f)(5)(A) may seek judicial re-
23 view in the district court of the United States with appro-
24 priate jurisdiction. The scope of review shall be determined

1 in accordance with chapter 7 of title 5, United States
2 Code.

3 (k) CATASTROPHE LOSS COSTS MODELS.—

4 (1) CERTIFICATION.—If after following the
5 processes of subsections (f)(1) and (g), the Commis-
6 sion concludes that developing estimates of catas-
7 trophe loss costs according to subsection (e)(1) is
8 impractical, the Commission may review and certify,
9 if appropriate, private commercial natural disaster
10 hazard models intended to be used to make esti-
11 mates of catastrophe loss costs.

12 (2) USE.—

13 (A) ELECTION.—Subject to the applicable
14 conditions under subsection (h)(1), a private in-
15 surer may elect to cite the catastrophe loss
16 costs models certified by the Commission under
17 paragraph (1) in rate filings to the State de-
18 partment of insurance for the natural disaster
19 perils described in subsection (e)(1).

20 (B) RATES.—In any case in which a pri-
21 vate insurer chooses to cite the catastrophe loss
22 costs models under subparagraph (A), the chief
23 insurance regulatory official of the State shall

1 approve or disapprove the rate filing in accord-
2 ance with subparagraphs (B) and (C) of sub-
3 section (h)(1).

4 (3) APPEAL.—

5 (A) IN GENERAL.—A certification of mod-
6 els for estimating catastrophe loss costs under
7 paragraph (1) shall be subject to appeal in the
8 same manner as is provided for an appeal of es-
9 timates of catastrophe loss costs under sub-
10 section (f)(5).

11 (B) JUDICIAL REVIEW.—A certification of
12 catastrophe loss cost models under paragraph
13 (1) shall be subject to judicial review in the
14 same manner as is provided for a review of esti-
15 mates of loss costs under subsection (j).

16 (4) REVIEW.—The Commission shall make
17 available for public review the models for estimating
18 catastrophe loss costs certified under paragraph (1).

19 (l) OVERSIGHT.—The Secretary shall oversee, and
20 may audit the activities of the Commission to ensure the
21 Commission carries out its duties in a manner consistent
22 with this section. The Secretary shall periodically submit
23 to the Congress a written report on the performance of
24 the Commission in carrying out this section.

1 (m) EXEMPTION.—The Federal Advisory Committee
2 Act (5 U.S.C. App.) shall not apply to the Commission.

3 (n) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—There are authorized to be
5 appropriated to the Department of the Treasury—

6 (A) \$5,000,000 for the initial expenses in
7 establishing the Commission, and the initial ac-
8 tivities of the Commission, as determined by the
9 Secretary of the Treasury; and

10 (B) such additional sums as may be nec-
11 essary to carry out subsequent activities of the
12 Commission.

13 (2) OFFSET.—Sums authorized to be appro-
14 priated under paragraph (1)(B) shall be offset, to
15 the maximum extent practicable, through a sur-
16 charge assessed by the Secretary on the catastrophic
17 excess-of-loss contracts described in section 102.

18 (3) TREATMENT OF SPENDING AUTHORITY.—
19 Any spending authority authorized by this section
20 shall be effective only to such extent, and in such
21 amounts, as are provided in appropriation Acts.

22 (o) INTENT OF CONGRESS.—It is the intent of Con-
23 gress that—

24 (1) the provisions of this section relate specifi-
25 cally to the business of insurance; and

1 (2) except as provided in subsection (h)(1)(B),
2 all activities prescribed by this section applicable to
3 the business of insurance shall be regulated by State
4 law.

5 **SEC. 102. CATASTROPHIC EXCESS-OF-LOSS CONTRACTS.**

6 (a) GENERAL AUTHORITY.—

7 (1) CONTRACTS DEFINED.—As used in this sec-
8 tion, the term “contract” means a Federal excess-of-
9 loss reinsurance contract issued pursuant to this sec-
10 tion.

11 (2) AUCTIONING OF CONTRACTS.—The Sec-
12 retary shall carry out a program to auction Federal
13 excess-of-loss reinsurance contracts to eligible pur-
14 chasers for the purpose of increasing the capacity of
15 insurance coverage against the catastrophic natural
16 disaster perils listed in subsection (d).

17 (b) QUALIFIED PURCHASERS.—Any of the following
18 entities shall be qualified to purchase contracts under this
19 section, if the entity provides insurance or reinsurance for
20 property located within a State:

21 (1) A private insurer.

22 (2) A State insurance pool.

23 (c) QUALIFIED LINES OF COVERAGE.—

1 (1) MANDATORY LINES.—The contracts auc-
2 tioned by the Secretary under this section shall pro-
3 vide insurance coverage against the following losses:

4 (A) Residential property losses.

5 (B) Commercial losses, except for workers'
6 compensation and liability.

7 (2) DISCRETIONARY INCLUSION.—The Sec-
8 retary is authorized to include additional lines of in-
9 surance that are not listed under paragraph (1) as
10 qualified property and casualty lines of coverage for
11 the contracts auctioned by the Secretary under this
12 section.

13 (d) COVERED PERILS.—The contracts auctioned by
14 the Secretary under this section shall cover losses that are
15 proximately caused by the following natural disaster perils
16 (as defined by the Secretary):

17 (1) Earthquakes.

18 (2) Volcanic eruptions.

19 (3) Tsunamis.

20 (4) Hurricanes.

21 (e) CONTRACT TERMS AND CONDITIONS.—The Sec-
22 retary shall include the following terms and conditions in
23 the contracts auctioned under this section:

24 (1) MATURITY.—The maturity period for each
25 such contract shall not exceed 1 year.

1 (2) MULTIPLE EVENTS.—The Secretary may
2 offer contracts that cover more than 1 natural disas-
3 ter occurring during a 12-month period, on the con-
4 dition that disasters occurring after the first event
5 may be subject to a different threshold than the
6 threshold under paragraph (5).

7 (3) TRANSFERABILITY.—Each such contract
8 shall at all times be fully transferable and divisible.

9 (4) PAYMENT CONDITION.—Each such contract
10 shall only authorize payments to a qualified pur-
11 chaser described in subsection (b) that actually sus-
12 tains natural disaster losses. No qualified purchaser
13 may exercise a cumulated total of contracts that ex-
14 ceed actual losses sustained by such entity.

15 (5) THRESHOLD OF COVERAGE.—The holder of
16 a contract auctioned by the Secretary under this sec-
17 tion may receive a payment for losses covered under
18 the contract if, under a process specified in the con-
19 tract, the Secretary determines that the insurance
20 industry within the United States will, as a result of
21 a hurricane, earthquake, volcanic eruption, or tsu-
22 nami event involved, incur losses covered by one or
23 more lines of insurance under subsection (c) in an
24 aggregate amount greater than \$10,000,000,000.

1 (6) PAYOUT PERIOD.—Each contract auctioned
2 by the Secretary under this subsection shall limit
3 payments for natural disaster claims paid by the
4 holder of the contract for a 3-year period, beginning
5 on the date of the natural disaster event that meets
6 the threshold specified in paragraph (5).

7 (7) PAYOUT FUNCTION.—If the Secretary de-
8 termines that the threshold specified in paragraph
9 (5) will be met, the Secretary shall pay out claims
10 to contract holders at a ratio determined by the Sec-
11 retary.

12 (f) SALE OF CONTRACTS.—

13 (1) ANNUAL AUCTION.—The Secretary shall
14 auction contracts under this section not less fre-
15 quently than annually.

16 (2) TYPES OF CONTRACTS.—

17 (A) CATEGORIES OF PERILS.—The Sec-
18 retary shall offer contracts for sale that cover
19 the following categories of perils:

20 (i) Earthquakes, volcanic eruptions,
21 and tsunamis.

22 (ii) Hurricanes.

23 (iii) A combination of the categories
24 under clauses (i) and (ii).

1 (B) MULTISTATE CONTRACTS.—The Sec-
2 retary may offer contracts for sale covering
3 losses sustained in one or more States or all
4 States.

5 (3) RESERVE PRICE.—In auctioning a contract
6 under this section, the Secretary shall set a reserve
7 price as the lowest base price for that contract. The
8 reserve price shall be determined on the basis of the
9 following:

10 (A) A risk-based price, that shall—
11 (i) reflect the anticipated payouts of
12 the contract; and
13 (ii) be consistent, to the maximum ex-
14 tent practicable, with the loss costs esti-
15 mates as provided in section 101(h)(2).

16 (B) A cost-of-capital adjustment that shall
17 reflect the marginal difference in the cost to the
18 Federal Government for borrowing money, as
19 compared to the cost to private insurers for
20 borrowing money in the private marketplace.

21 (C) Adjustments for—
22 (i) a surcharge for the operation of
23 the National Commission on Catastrophe
24 Risk and Insurance Loss Costs to offset
25 costs of the operation of the Commission

1 after the initial funds authorized to be ap-
2 propriated under section 101(n)(1) have
3 been expended;

4 (ii) the anticipated contribution to the
5 Mitigation Fund as provided in section
6 202(b); and

7 (iii) the administrative expenses in-
8 curred by the Secretary in carrying out
9 this section.

10 (4) LIMITS ON NUMBER OF CONTRACTS.—

11 (A) MINIMUM NUMBER OF CONTRACTS.—

12 (i) IN GENERAL.—Except as provided
13 under clause (ii), the Secretary shall auc-
14 tion annually not less than 25 percent of
15 the maximum number of contracts that the
16 Secretary may make available under this
17 section.

18 (ii) EXCEPTION.—Clause (i) shall
19 apply subject to the availability of qualified
20 purchasers that are prepared to pay not
21 less than the price described in paragraph
22 (3) for a contract.

23 (B) ADDITIONAL CONTRACTS.—In addition
24 to auctioning the minimum amount of contracts
25 under subparagraph (A), the Secretary shall

1 auction additional contracts in relation to, as
2 determined by the Secretary, any bids received
3 during the auction for the immediately preced-
4 ing fiscal year for the contracts that exceed the
5 reserve price described in paragraph (3).

6 (C) MAXIMUM NUMBER OF CONTRACTS.—
7 The total payout for all contracts auctioned on
8 the basis of the payout function determined by
9 the Secretary under subsection (e)(7) shall not
10 exceed \$25,000,000,000.

11 (g) INFLATION ADJUSTMENT.—Beginning with cal-
12 endar year 1998, the Secretary may adjust the dollar
13 amounts specified in subsections (e)(5) and (f)(4)(C) by
14 the applicable percentage change in the value of property
15 exposed to the natural disaster perils described in sub-
16 section (d).

17 (h) TRUST FUND.—

18 (1) ESTABLISHMENT.—There is established
19 within the Treasury of the United States a trust
20 fund to be known as the Federal Excess-of-Loss Re-
21 insurance Fund (hereafter in this section referred to
22 as the “Trust Fund”) consisting of such amounts as
23 are transferred to this fund under paragraph (2)
24 and any interest earned on investment accounts in
25 the fund under paragraph (3)(A).

1 (2) TRANSFER OF PROCEEDS OF AUCTION.—
2 The Secretary of the Treasury shall transfer to the
3 Trust Fund an amount equal to the amounts re-
4 ceived from an auction conducted under section 102.

5 (3) INVESTMENT OF TRUST FUND.—

6 (A) IN GENERAL.—It shall be the duty of
7 the Secretary of the Treasury to invest such
8 portion of the Trust Fund as is not, in the Sec-
9 retary’s judgment, required to meet current
10 withdrawals. Such investments may be made
11 only in interest-bearing obligations of the Unit-
12 ed States or in obligations guaranteed as to
13 both principal and interest by the United
14 States. For such purpose, such obligations may
15 be acquired—

16 (i) on original issue at the issue price,

17 or

18 (ii) by purchase of outstanding obliga-
19 tions at the market price.

20 (B) SALE OF OBLIGATIONS.—Any obliga-
21 tion acquired by the Trust Fund may be sold
22 by the Secretary of the Treasury at the market
23 price.

1 (C) CREDITS TO TRUST FUND.—The inter-
2 est on, and the proceeds from the sale or re-
3 demption of, any obligations held in the Trust
4 Fund shall be credited to and form a part of
5 the Trust Fund.

6 (4) OBLIGATIONS FROM TRUST FUND.—The
7 Secretary is hereafter authorized to obligate such
8 sums as are available in the Trust Fund (including
9 any amounts not obligated in previous fiscal years)
10 for—

11 (A) payments of claims to qualified holders
12 of contracts issued under this section that sub-
13 mit claims pursuant to this section (as the sole
14 source of those payments);

15 (B) making payments for the surcharge on
16 the operation of the National Commission on
17 Catastrophe Risk and Insurance Loss Costs as
18 described in section 101(n)(2);

19 (C) making payments for the anticipated
20 contribution of the Federal Government to the
21 Mitigation Fund under section 202(b); and

22 (D) making payments for administrative
23 expenses incurred by this section.

24 (i) AUTHORITY TO BORROW FUNDS.—

1 (1) IN GENERAL.—The Secretary of the Treas-
2 ury may borrow from the Treasury of the United
3 States such funds as may be necessary to cover any
4 shortfall sustained by the Trust Fund in making
5 payments described in subsection (h)(4).

6 (2) RATE.—The rate of interest charged in con-
7 nection with any loan made pursuant to this sub-
8 section shall be determined by the Secretary, taking
9 into account the then current market yields on out-
10 standing marketable obligations of the United States
11 of comparable maturities.

12 (3) PUBLIC DEBT.—All loans and repayments
13 made under this subsection shall be treated as public
14 debt transactions of the United States in a manner
15 consistent with chapter 31 of title 31, United States
16 Code.

17 **SEC. 103. PRIVATE DISASTER INSURANCE CORPORATION.**

18 (a) QUALIFICATIONS.—In order to qualify for the
19 special status provision described in subsection (c), a cor-
20 poration shall—

21 (1) be a private corporation;

22 (2) operate for the sole purpose of providing ex-
23 cess reinsurance coverage for catastrophic natural
24 disasters in accordance with the requirements speci-
25 fied in subsection (b); and

1 (3) be licensed by a State as an insurer to pro-
2 vide excess reinsurance coverage as described in sub-
3 section (b).

4 (b) EXCESS REINSURANCE COVERAGE.—In order to
5 qualify for the special status provision of subsection (c),
6 the excess reinsurance coverage provided by a corporation
7 shall—

8 (1) be provided to—

9 (A) private insurers; and

10 (B) State insurance pools,

11 that meet minimum criteria and financial viability
12 standards established by the corporation;

13 (2) only provide reinsurance for any amounts
14 that exceed the amount of reinsurance available in
15 the private market for—

16 (A) residential property losses; and

17 (B) commercial losses;

18 (3) cover losses proximately caused by—

19 (A) earthquakes;

20 (B) volcanic eruptions;

21 (C) tsunamis; and

22 (D) hurricanes;

23 (4) be provided at rates established, and ad-
24 justed if necessary, by the corporation, based on—

1 (A) generally accepted actuarial principles;
2 and

3 (B) the catastrophe loss costs estimates
4 submitted to the States under section
5 101(e)(2);

6 (5) include, at a minimum—

7 (A) eligibility requirements; and

8 (B) limits on the amount of coverage avail-
9 able; and

10 (6) include terms for the payment of claims
11 based on the losses sustained by the purchaser of
12 the excess reinsurance coverage.

13 (c) SPECIAL STATUS PROVISION.—The operations
14 under this section of a corporation that meets the quali-
15 fications of subsection (a) shall not be subject to liability
16 under Federal antitrust laws or State antitrust laws, if
17 the actions of the corporation and the board of directors
18 or similar governing body of the corporation in providing
19 excess reinsurance coverage are consistent with the re-
20 quirements under subsection (b).

21 (d) INTENT OF CONGRESS.—It is the intent of Con-
22 gress that the provisions of this section relate specifically
23 to the business of insurance.

1 **SEC. 104. STUDY ON TAX TREATMENT OF INSURER CATA-**
2 **STROPHIC RESERVES.**

3 (a) **JOINT STUDY.**—The Comptroller General of the
4 United States, in cooperation with the Secretary of the
5 Treasury, and the Secretary of Commerce shall conduct
6 a study to evaluate the public policy issues described in
7 subsection (b) associated with conferring favorable Fed-
8 eral tax treatment to insurance reserves set aside by pri-
9 vate insurers for future catastrophic natural disasters.

10 (b) **FACTORS TO BE STUDIED.**—The study con-
11 ducted under this section shall evaluate the likelihood and
12 magnitude of the following public policy objectives with re-
13 spect to the implementation of the tax treatment proposed
14 under subsection (a):

15 (1) The increased financial capacity of private
16 insurers to respond to future natural disasters.

17 (2) The enhanced financial ability of private in-
18 surers to continue providing property coverage fol-
19 lowing catastrophic natural disasters.

20 (3) The overall benefit to the competitiveness of
21 United States business and private insurers in the
22 worldwide economy.

23 (4) The short- and long-term revenue impact to
24 the United States Treasury.

1 (c) CONSULTATION.—The Comptroller General of the
2 United States, the Secretary of the Treasury, and the Sec-
3 retary of Commerce shall consult with recognized experts
4 in carrying out the study under this section. The experts
5 shall include representatives from State departments of in-
6 surance, private insurers, insurance agents, economists,
7 natural disaster risk modeling experts, consumers of prop-
8 erty and casualty insurance, and other experts that the
9 Comptroller General of the United States, in cooperation
10 with the Secretary of the Treasury, and the Secretary of
11 Commerce, determine to be appropriate.

12 (d) REPORT TO CONGRESS.—Not later than 9
13 months after the date of this Act, the Comptroller General
14 of the United States, in cooperation with the Secretary
15 of the Treasury and the Secretary of Commerce, shall sub-
16 mit to the Congress a report that contains—

17 (1) the findings of the study conducted under
18 this section; and

19 (2) any recommendations that the Comptroller
20 General, in consultation with the Secretary of the
21 Treasury and the Secretary of Commerce, consider
22 to be appropriate.

23 **SEC. 105. FLOOD INSURANCE.**

24 (a) STUDY.—The Director shall enter into an ar-
25 rangement with the National Academy of Sciences (or if

1 the National Academy of Sciences is not available, a simi-
2 lar entity) to conduct a study on the operation of the na-
3 tional flood insurance program managed by the Director
4 pursuant to the National Flood Insurance Act of 1968 (42
5 U.S.C. 4001 et seq.). The study shall evaluate and provide
6 specific recommendations concerning—

7 (1) necessary and appropriate measures, includ-
8 ing additional sanctions, to increase the purchase of
9 Federal flood insurance; and

10 (2) the advisability and feasibility of privatizing
11 the entire national flood insurance program man-
12 aged by the Director.

13 (b) CONTENT OF STUDY.—

14 (1) IN GENERAL.—The study described in sub-
15 section (a) shall be performed by a panel of recog-
16 nized experts appointed by the head of the National
17 Academy of Sciences (or similar entity).

18 (2) EXPERTS.—The experts appointed to the
19 panel under paragraph (1) shall include representa-
20 tives of—

21 (A) building constructors;

22 (B) real estate interests;

23 (C) lending institutions;

24 (D) private insurers;

1 (E) the organizations that establish model
2 building codes;

3 (F) local government zoning and land use
4 planning entities; and

5 (G) other experts that the head of the Na-
6 tional Academy of Sciences (or similar entity)
7 determines to be relevant.

8 (c) REPORT.—Not later than 18 months after the
9 date of enactment of this Act, the head of the National
10 Academy of Sciences (or similar entity) shall submit to
11 the Director a report that contains the results of the study
12 conducted under this section, including the recommenda-
13 tions described in paragraphs (1) and (2) of subsection
14 (a). The Director shall submit the report to Congress.

15 **SEC. 106. INSURANCE PRICING INCENTIVES.**

16 Each State department of insurance shall take into
17 account natural disaster hazard mitigation measures, such
18 as the strategic mitigation plan processes described in sec-
19 tion 201(b)(2), in setting rates and deductibles for prop-
20 erty insurance provided in that State.

21 **SEC. 107. STUDY OF AVAILABILITY AND AFFORDABILITY OF**
22 **CATASTROPHE INSURANCE.**

23 (a) JOINT STUDY.—The Director, the Secretary of
24 the Treasury, and the Secretary of Commerce shall con-
25 duct a study to evaluate—

1 (1) the availability and affordability of catas-
2 trophe insurance for natural hazards to private indi-
3 viduals and businesses and State and local govern-
4 ments; and

5 (2) the effect that this Act has on the availabil-
6 ity and affordability of such insurance to such per-
7 sons and entities.

8 (b) FACTORS TO BE STUDIED.—The study described
9 in subsection (a) shall include—

10 (1) an examination of the extent to which pri-
11 vate insurers have maintained, increased, or de-
12 creased the marketing of catastrophe insurance for
13 individuals and businesses;

14 (2) an examination of the extent to which
15 States have responded to market availability prob-
16 lems by the creation of State pools or other mecha-
17 nisms; and

18 (3) recommended legislation that includes
19 amendments to this Act to encourage private insur-
20 ers to expand voluntary marketing of catastrophe
21 insurance.

22 (c) REPORT TO CONGRESS.—Not later than 36
23 months after the date of enactment of this Act, the Comp-
24 troller General of the United States shall submit to the

1 Congress a report containing the results of the study con-
2 ducted under subsection (a), including any recommenda-
3 tions that the Director, the Secretary of the Treasury, and
4 the Secretary of Commerce consider to be appropriate.

5 **TITLE II—MULTIHAZARD**
6 **MITIGATION PROGRAM**

7 **SEC. 201. DEVELOPMENT OF STATE MITIGATION PLANS.**

8 (a) GENERAL AUTHORITY.—Not later than the date
9 specified in subsection (d)(1), each State shall either—

10 (1) develop, in consultation with responsible
11 elected local officials with appropriate jurisdiction,
12 or the official designated representatives of appro-
13 priate State associations of those responsible elected
14 local officials, and the public, a statewide strategic
15 mitigation plan to reduce hazards of future natural
16 disasters, such as hurricanes, windstorms, earth-
17 quakes, volcanic eruptions, and tsunamis; or

18 (2) designate, in consultation with responsible
19 elected local officials with appropriate jurisdiction,
20 or the official designated representatives of appro-
21 priate State associations of those responsible elected
22 local officials, and the public, a mitigation plan that
23 is in effect at the time of the designation that in-
24 cludes the elements described in subsection (b) as

1 the applicable natural hazards statewide strategic
2 mitigation plan.

3 (b) ELEMENTS OF STATE MITIGATION PLANS.—

4 (1) IN GENERAL.—Each statewide strategic
5 mitigation plan of a State under subsection (a) shall
6 be based on broad national criteria and priorities es-
7 tablished by the Director.

8 (2) SPECIFIC PROCESSES.—Each statewide
9 strategic mitigation plan under subsection (a) shall
10 include, at a minimum, a process for—

11 (A) ensuring that structures in hazard-
12 prone areas are built with hazard-mitigation
13 techniques, by—

14 (i) working with appropriate govern-
15 mental jurisdictions to promote adoption
16 and enforcement of the hazard-mitigation
17 portions of technical construction stand-
18 ards and building and safety codes that
19 are in effect; and

20 (ii) making available the necessary
21 funding, personnel, and professional train-
22 ing to provide for the adequate enforce-
23 ment of the construction standards and
24 codes referred to in clause (i);

1 (B) improving the capabilities for emer-
2 gency response to natural disasters, including
3 capabilities for firefighting, search and rescue,
4 and the provision of shelters, communications,
5 and medical relief;

6 (C) developing standards and guidelines
7 for the regular training of emergency respond-
8 ers to minimize the effects of natural disasters;

9 (D) achieving enforcement of local commu-
10 nity land use ordinances;

11 (E) addressing further development in
12 high-risk, disaster-prone areas and the impact
13 of such development on public safety and the
14 environment; and

15 (F) identifying and prioritizing essential
16 critical facilities, lifelines, and public facilities
17 for cost-effective retrofitting that is based on
18 the availability of resources.

19 (3) DEADLINE FOR IMPLEMENTATION.—Each
20 State shall implement the processes described in
21 paragraph (2) by not later than the date specified in
22 subsection (d)(2).

23 (c) APPROVAL OF PLAN.—The Director shall review
24 each statewide strategic mitigation plan submitted under
25 subsection (d)(1). Upon the completion of the review of

1 a plan under this subsection, the Director shall approve
2 the plan if the Director determines that the plan meets
3 the requirements of subsection (b).

4 (d) DEADLINES.—

5 (1) SUBMISSION OF MITIGATION PLANS TO
6 FEMA.—

7 (A) IN GENERAL.—Not later than 2 years
8 after the date of enactment of this Act, the
9 chief executive officer of each State shall submit
10 to the Director a statewide strategic mitigation
11 plan for that State developed pursuant to this
12 section.

13 (B) NONCOMPLIANCE.—If, under this
14 paragraph, a chief executive officer—

15 (i) submits a statewide strategic miti-
16 gation plan that does not meet the require-
17 ments of this section; or

18 (ii) fails to submit the plan by the
19 date specified in this paragraph,

20 the State of that chief executive officer shall be
21 considered to be in noncompliance with the re-
22 quirements of this paragraph.

23 (2) IMPLEMENTATION OF MITIGATION PLANS.—

1 (A) IN GENERAL.—Not later than 2 years
2 after the Director approves a statewide strate-
3 gic mitigation plan pursuant to subsection (c),
4 the chief executive officer of the State involved
5 shall certify to the Director whether the State
6 is implementing the plan, including each ele-
7 ment of the plan described in subsection (b) in
8 accordance with the requirements of this sec-
9 tion.

10 (B) NONCOMPLIANCE.—If the chief execu-
11 tive officer of a State—

12 (i) certifies under this paragraph that
13 the State has not implemented an element
14 of the statewide strategic management
15 plan under subsection (b); or

16 (ii) fails to make a certification by the
17 date specified in this paragraph,
18 the State shall be considered to be in non-
19 compliance with the requirements of this para-
20 graph.

21 (3) UPDATING OF MITIGATION PLANS.—

22 (A) IN GENERAL.—Not later than 3 years
23 after the Director approves a statewide strate-
24 gic mitigation plan pursuant to subsection (c),
25 and not less frequently than every 3 years

1 thereafter, the chief executive officer of each
2 State shall submit a certification to the Direc-
3 tor that indicates whether the State has re-
4 viewed and updated, as appropriate, the state-
5 wide strategic mitigation plan to reflect the
6 most recent developments in the processes re-
7 quired to be included in the plan under sub-
8 section (b).

9 (B) NONCOMPLIANCE.—If the chief execu-
10 tive officer of a State—

11 (i) certifies under this paragraph that
12 the statewide strategic mitigation plan has
13 not been updated in accordance with sub-
14 paragraph (A); or

15 (ii) fails to make a certification by the
16 applicable date specified in this paragraph,
17 the State shall be considered to be in non-
18 compliance with the requirements of this para-
19 graph.

20 (e) NOTIFICATION AND OPPORTUNITY TO CURE.—

21 (1) IN GENERAL.—Upon making a determina-
22 tion under subsection (d) that a State is in non-
23 compliance, the Director shall notify the State in
24 writing of the noncompliance.

1 (2) REDUCTION IN CERTAIN ASSISTANCE.—If a
2 State does not take corrective action within the 180-
3 day period beginning on the date that the State re-
4 ceives notification under paragraph (1), the State
5 shall be denied hazard mitigation funds as specified
6 in subsection (f) until such date as the Director de-
7 termines that the State has taken the necessary cor-
8 rective action.

9 (f) DENIAL OF MITIGATION FUNDS.—During the ap-
10 plicable period specified in subsection (e)(2), a State that
11 fails to meet an applicable deadline described in subsection
12 (d) shall not be eligible to receive funds from the Natural
13 Disaster Hazard Mitigation Fund established under sec-
14 tion 202.

15 **SEC. 202. NATURAL DISASTER HAZARD MITIGATION FUND.**

16 (a) ESTABLISHMENT.—There is established within
17 the Treasury of the United States a trust fund to be
18 known as the Natural Disaster Hazard Mitigation Fund,
19 consisting of such amounts as may be transferred or cred-
20 ited to the Mitigation Fund, as provided in subsection (c).

21 (b) MITIGATION SET-ASIDE.—The Secretary of the
22 Treasury shall reserve a portion, not to exceed 5 percent,
23 of the proceeds of the sale of the Federal excess-of-loss
24 reinsurance contracts as described in section 102 for
25 transfer to the Mitigation Fund.

1 (c) DEPOSITS.—

2 (1) IN GENERAL.—The Secretary of the Treas-
3 ury shall credit on an annual basis to the Mitigation
4 Fund amounts—

5 (A) reserved under subsection (b);

6 (B) transferred to the Secretary under
7 paragraph (2); or

8 (C) appropriated under the authorization
9 under section 205(b).

10 (2) TRANSFER OF CERTAIN UNEXPENDED AND
11 UNOBLIGATED FUNDS.—The Director shall transfer
12 to the Secretary of the Treasury any funds made
13 available by appropriations to the Director under
14 section 404 of the Robert T. Stafford Disaster Relief
15 and Emergency Assistance Act (42 U.S.C. 5170c)
16 that have not been obligated or expended by the Di-
17 rector during a 2-year period beginning on the date
18 on which the funds are initially made available to
19 the Director.

20 (d) FUNDS TO STATES.—

21 (1) AUTHORITY.—On the first day of the first
22 full fiscal year beginning after the date of enactment
23 of this Act, and on the first day of every fiscal year
24 thereafter, the Director shall allocate, to the extent

1 provided in appropriations Acts, to the States (ex-
2 cept for any State that is denied funds under section
3 201(f)) all available amounts in the Mitigation
4 Fund.

5 (2) FORMULA.—

6 (A) IN GENERAL.—The Director of the
7 Agency shall allocate amounts from the Mitiga-
8 tion Fund to a State based on a pro rata for-
9 mula of the catastrophe loss costs filed for that
10 State under section 101(e)(2).

11 (B) REGULATIONS.—Not later than 1 year
12 after the date of enactment of this Act, the Di-
13 rector shall issue final Federal regulations de-
14 scribing the pro rata formula described in sub-
15 paragraph (A).

16 (e) USE.—

17 (1) IN GENERAL.—The amounts received by
18 States from the Mitigation Fund shall be used to as-
19 sist natural disaster hazard mitigation activities.
20 The assistance provided under this paragraph may
21 include assistance for—

22 (A) training of emergency responders and
23 building code enforcers;

24 (B) State revolving loan funds, if estab-
25 lished, to undertake financing, including the

1 leveraging of funds for various hazard mitiga-
2 tion activities;

3 (C) the adoption and enforcement of those
4 portions of established technical construction
5 standards and building and safety codes that
6 relate to hazard mitigation;

7 (D) low-income individuals and families to
8 assist in paying for the undertaking of hazard
9 mitigation measures;

10 (E) the dissemination of cost-effective
11 technologies—

12 (i) to prevent or substantially reduce
13 damage caused by natural disasters; and

14 (ii) for the establishment of geo-
15 graphically dispersed and duly-incor-
16 porated natural disaster damage preven-
17 tion and mitigation Centers for Protection
18 Against Natural Disasters to carry out the
19 dissemination of those technologies;

20 (F) addressing further development in
21 high-risk, disaster-prone areas and the impact
22 of such development; and

23 (G) prenatural disaster hazard mitigation,
24 including retrofitting critical facilities, lifelines,
25 and public facilities.

1 (2) PRIORITY.—Each State that receives an al-
2 lotment under subsection (d) shall give priority in
3 using the amounts received from the Mitigation
4 Fund to fund hazard mitigation activities necessary
5 to bring the State into compliance with the statewide
6 strategic mitigation plan developed by the State
7 under section 201, including the elements under sec-
8 tion 201(b).

9 (f) LOCAL COMMUNITIES.—As a condition to receiv-
10 ing an initial allotment under subsection (d), each state-
11 wide strategic mitigation plan shall be—

12 (1) developed or designated in consultation with
13 the parties described in section 201(a); and

14 (2) based on the criteria and priorities de-
15 scribed in section 201(b)(1).

16 (g) STATE PERFORMANCE.—

17 (1) EVALUATION.—The Director shall evaluate
18 not later than 3 years after approving a statewide
19 strategic management plan under section 201 and
20 not less frequently than every 3 years thereafter, the
21 progress of each State with respect to the implemen-
22 tation of a statewide strategic mitigation plan under
23 section 201, including the implementation of the
24 processes under section 201(b).

1 (2) ALLOTMENTS.—Allotments made under
2 subsection (d) from the Mitigation Fund shall be
3 conditioned on a satisfactory evaluation under para-
4 graph (1).

5 (h) AUDITS.—The Director shall periodically conduct
6 audits to ensure that States and local communities are
7 using the funds from the allocations made under sub-
8 section (d) to support the hazard mitigation activities de-
9 scribed in this section and section 101.

10 **SEC. 203. PUBLIC INFRASTRUCTURE RETROFITTING.**

11 (a) STUDY.—The Comptroller General of the United
12 States shall conduct a study to identify all Federal pro-
13 grams that provide assistance for public facilities and life-
14 lines. The study shall determine which of such programs
15 include or could include as an eligible use of Federal as-
16 sistance the retrofitting or strengthening of the public fa-
17 cilities and lifelines to minimize damage from future natu-
18 ral disasters.

19 (b) REPORT TO CONGRESS.—Not later than 1 year
20 after the date of enactment of this Act, the results of the
21 study described in subsection (a), including the determina-
22 tions on retrofitting, shall be transmitted by the Director
23 of the Agency to Congress.

1 **SEC. 204. WILDLAND FIRES.**

2 (a) STUDY.—The Secretary of Agriculture, in co-
3 operation with the Secretary of the Interior, shall enter
4 into an agreement with the interagency National Wildfire
5 Coordinating Group to—

6 (1) conduct a study of the threat posed by
7 wildfires; and

8 (2) issue a report on the findings of the study
9 that includes recommendations on controlling that
10 threat.

11 (b) SCOPE OF STUDY.—In conducting the study
12 under this section, the National Wildfire Coordinating
13 Group shall evaluate, and make recommendations on, the
14 following issues:

15 (1) The critical wildfire concerns in the United
16 States, including wildfires in urban areas that ex-
17 pand into wildland.

18 (2) Suggested approaches to achieve more effec-
19 tive and efficient responses to catastrophic wildfires.

20 (3) The effects of downsizing of Federal agen-
21 cies on fire emergency capabilities and experience.

22 (4) Funding mechanisms to address cata-
23 strophic wildfires.

24 (5) Suggested approaches to reduce hazardous
25 fuel loading and other mitigation measures in
26 wildland and urban areas that abut wildlands.

1 (6) Suggested approaches to improve the co-
2 ordination of fire prevention and suppression efforts
3 in wildland and urban areas that abut wildland be-
4 tween the Federal Government and States and local
5 communities.

6 (7) Suggested approaches to improve the orga-
7 nization and training assistance provided to non-
8 Federal governmental entities concerning the preven-
9 tion and suppression of wildfires.

10 (8) Suggested approaches for the integration of
11 all rural fire and emergency response activities
12 under a common incident management system.

13 (9) Suggested approaches for improving the
14 education of homeowners who reside near wildland
15 that is susceptible to wildfires and private insurers
16 concerning fire prevention and fire suppression, and
17 the responsibilities of those homeowners and private
18 insurers concerning those activities.

19 (c) REPORT.—

20 (1) IN GENERAL.—On completion of the study
21 conducted under this section, but not later than 1
22 year after the date of enactment of this Act, the Na-
23 tional Wildfire Coordinating Group shall prepare a
24 report on the results of the study that includes any

1 recommendations that the National Wildfire Coordi-
2 nating Group determines to be appropriate and sub-
3 mit a copy of that report to the Secretary of Agri-
4 culture and the Secretary of the Interior.

5 (2) SUBMISSION TO CONGRESS.—On receiving a
6 copy of the report under paragraph (1), the Sec-
7 retary of Agriculture shall transmit to the Congress
8 a copy of the report.

9 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

10 (a) OPERATIONS.—There are authorized to be appro-
11 priated to the Agency such sums as may be necessary for
12 the Director of the Agency to carry out this title.

13 (b) MITIGATION FUND.—In addition to the funds au-
14 thorized to be appropriated under subsection (a), there are
15 authorized to be appropriated to the Mitigation Fund es-
16 tablished under section 202 such sums as may be nec-
17 essary to support hazard mitigation.

18 (c) TREATMENT OF SPENDING AUTHORITY.—Any
19 spending authority authorized by this section shall be ef-
20 fective only to such extent and in such amounts as are
21 provided in appropriation Acts.

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