

103^D CONGRESS
1ST SESSION

H. R. 1257

To reconstitute the Federal Insurance Administration as an independent agency within the executive branch, provide for minimum standards applicable to foreign insurers and reinsurers providing insurance in the United States, make liquidity assistance available to well-capitalized insurance companies, and provide for public access to information regarding the availability of insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1993

Mr. KENNEDY (for himself and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

A BILL

To reconstitute the Federal Insurance Administration as an independent agency within the executive branch, provide for minimum standards applicable to foreign insurers and reinsurers providing insurance in the United States, make liquidity assistance available to well-capitalized insurance companies, and provide for public access to information regarding the availability of insurance, 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 “Federal Insurance Administration Act”.

4 (b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—FEDERAL INSURANCE ADMINISTRATION

- Sec. 101. Reestablishment of Federal Insurance Administration as independent establishment in executive branch.
- Sec. 102. Administrator.
- Sec. 103. Transfer of functions.
- Sec. 104. Personnel.
- Sec. 105. Property and records.
- Sec. 106. Administrative provisions.
- Sec. 107. Continuation of service of Administrator.
- Sec. 108. Report.
- Sec. 109. References.
- Sec. 110. Savings provisions.
- Sec. 111. Definitions.
- Sec. 112. Conforming amendments.
- Sec. 113. Effective date.

TITLE II—REGULATION OF FOREIGN INSURERS

- Sec. 201. Purpose.
- Sec. 202. Certification of direct insurers.
- Sec. 203. Standards for certification of direct insurers.
- Sec. 204. Certification of reinsurers.
- Sec. 205. Standards for certification of reinsurers.
- Sec. 206. Financial statements and examinations.
- Sec. 207. Decertification.
- Sec. 208. GAO audits.
- Sec. 209. National insurance intelligence database.
- Sec. 210. Penalties.
- Sec. 211. Definitions.
- Sec. 212. Limitation on preemption.
- Sec. 213. Effective date.

TITLE III—LIQUIDITY ASSISTANCE BY FEDERAL RESERVE
BANKS TO WELL-CAPITALIZED INSURANCE COMPANIES

- Sec. 301. Short title.
- Sec. 302. Certification of eligibility for liquidity assistance.
- Sec. 303. Requests for liquidity assistance.
- Sec. 304. Report.
- Sec. 305. Provision of liquidity assistance to insurance companies by Federal Reserve banks.
- Sec. 306. Regulations.

TITLE IV—DISCLOSURE OF INSURANCE AVAILABILITY
INFORMATION

- Sec. 401. Short title.
- Sec. 402. Findings and construction.
- Sec. 403. Maintenance of information and public disclosure.
- Sec. 404. Requirements.
- Sec. 405. Access system.
- Sec. 406. Submission to Administrator.
- Sec. 407. Designations.
- Sec. 408. Disclosures to rejected applicants.
- Sec. 409. Termination of agents.
- Sec. 410. Implementation.
- Sec. 411. Improved methods.
- Sec. 412. Compilation of aggregate data.
- Sec. 413. Testers.
- Sec. 414. Report.
- Sec. 415. Enforcement.
- Sec. 416. Relation to State laws.
- Sec. 417. Definitions.
- Sec. 418. Effective date.

1 **TITLE I—FEDERAL INSURANCE**
2 **ADMINISTRATION**

3 **SEC. 101. REESTABLISHMENT OF FEDERAL INSURANCE AD-**
4 **MINISTRATION AS INDEPENDENT ESTABLISH-**
5 **MENT IN EXECUTIVE BRANCH.**

6 The Federal Insurance Administration of the Federal
7 Emergency Management Agency is hereby established as
8 an independent establishment in the executive branch of
9 the Government to be known as the Federal Insurance Ad-
10 ministration.

11 **SEC. 102. ADMINISTRATOR.**

12 There shall be at the head of the Federal Insurance
13 Administration a Federal Insurance Administrator, who
14 shall be appointed by the President, by and with the advice
15 and consent of the Senate. The Administration shall be
16 administered under the supervision and direction of the
17 Administrator.

1 **SEC. 103. TRANSFER OF FUNCTIONS.**

2 (a) IN GENERAL.—There are transferred to the Ad-
3 ministrator all functions of—

4 (1) the Director of the Federal Emergency
5 Management Agency under—

6 (A) the Flood Disaster Protection Act of
7 1973 (42 U.S.C. 4001 et seq.);

8 (B) the National Flood Insurance Act of
9 1968 (42 U.S.C. 4011 et seq.), including bor-
10 rowing under section 1309 of such Act pursu-
11 ant to the authority under section 15(e) of the
12 Federal Flood Insurance Act of 1956 (42
13 U.S.C. 2414(e));

14 (C) title XII of the National Housing Act
15 (12 U.S.C. 1749bbb et seq.);

16 (D) the Coastal Barrier Resources Act (16
17 U.S.C. 3501 et seq.); and

18 (E) section 2(d) of Executive Order 11988
19 (42 U.S.C. 4321 note; relating to floodplain
20 management); and

21 (2) the Federal Insurance Administrator and
22 Federal Insurance Administration, of the Federal
23 Emergency Management Agency.

24 (b) EFFECT OF TRANSFERS.—The transfer of each
25 function from an officer or office under subsection (a)

1 shall include any aspects of such function vested in a sub-
2 ordinate of such officer or in a component of such office.

3 **SEC. 104. PERSONNEL.**

4 (a) APPOINTMENT.—The Administrator may select,
5 appoint, employ, and fix the compensation of any officers
6 and employees necessary to carry out the functions of the
7 Administrator.

8 (b) TRANSFER.—

9 (1) IN GENERAL.—The personnel employed in
10 connection with the functions and office transferred
11 by this title are hereby transferred to the Adminis-
12 trator.

13 (2) EFFECT.—Any full-time or part-time per-
14 sonnel employed in permanent positions shall not be
15 separated or reduced in grade or compensation be-
16 cause of the transfer under this subsection during
17 the 1-year period beginning upon the date of the ef-
18 fectiveness of this title.

19 (c) TREATMENT OF REQUIREMENTS UNDER TITLE
20 5, UNITED STATES CODE.—

21 (1) APPOINTMENTS ABOVE GS-15.—The Direc-
22 tor of the Office of Personnel Management shall,
23 under section 5108 of title 5, United States Code,
24 provide for the establishment, upon the transfer of
25 personnel by this section, in each of the grade levels

1 above GS-15 of a number of positions in the Admin-
2 istration equal to the number of positions in such
3 grade level that were filled by personnel transferred
4 by this section.

5 (2) INAPPLICABILITY OF APPROVAL PROVI-
6 SION.—Personnel referred to in paragraph (1) may
7 be appointed to positions established under such
8 paragraph without regard to the provisions of sec-
9 tion 3324 of title 5, United States Code, if the indi-
10 vidual appointed in such position is an individual
11 who is transferred by this section and, on the day
12 preceding the date of the effectiveness of this title,
13 holds a position and has duties comparable to those
14 of the position to which appointed hereunder.

15 (3) TERMINATION OF AUTHORITY.—The au-
16 thority under this subsection with respect to any po-
17 sition shall terminate when the person first ap-
18 pointed to fill such position ceases to hold such posi-
19 tion.

20 **SEC. 105. PROPERTY AND RECORDS.**

21 The contracts, liabilities, records, property, and other
22 assets and interests of, or made available in connection
23 with, the functions and office transferred by this title are
24 hereby transferred to the Administrator for appropriate
25 allocation.

1 **SEC. 106. ADMINISTRATIVE PROVISIONS.**

2 The Administrator may—

3 (1) issue any regulations the Administrator con-
4 siders necessary to carry out the functions of the
5 Administrator;

6 (2) organize the Administration as the Adminis-
7 trator determines necessary or appropriate, subject
8 to the provisions of this title;

9 (3) except as otherwise provided by law, dele-
10 gate any function of the Administrator to the offi-
11 cers and employees of the Administration as the Ad-
12 ministrator may designate, and may authorize suc-
13 cessive redelegations of such functions as the Ad-
14 ministrator considers necessary or appropriate; ex-
15 cept that the delegation of functions under this
16 paragraph shall not relieve the Administrator of re-
17 sponsibility for the administration of such functions;

18 (4) procure the services of experts and consult-
19 ants in accordance with section 3109 of title 5,
20 United States Code;

21 (5) accept and use gifts, bequests, and dona-
22 tions of property;

23 (6) use the United States mails in the same
24 manner and under the same conditions as other de-
25 partments and agencies of the United States;

1 (7) subject to the provisions of the Federal
2 Property and Administrative Services Act of 1949,
3 make, enter into, and perform such contracts,
4 grants, leases, cooperative agreements, or other simi-
5 lar transactions and make such payments as the Ad-
6 ministrator determines necessary or appropriate to
7 carry out the functions of the Administrator; except
8 that the authority to enter into contracts and to
9 make payments shall be effective only to such extent
10 or in such amounts as are provided in appropriation
11 Acts; and

12 (8) cause a seal of office to be made for the Ad-
13 ministration of such design as the Administrator
14 shall approve, and judicial notice shall be taken of
15 the seal.

16 **SEC. 107. CONTINUATION OF SERVICE OF ADMINISTRATOR.**

17 The individual serving as the Federal Insurance Ad-
18 ministrator of the Federal Emergency Management Agen-
19 cy on the date of the effectiveness of this title may act
20 as Administrator until the date an individual is appointed
21 under this Act to the position of Administrator, or until
22 the end of the 120-day period provided for in section 3348
23 of title 5, United States Code (relating to limitations on
24 the period of time a vacancy may be filled temporarily),

1 whichever is earlier, and while so acting shall be com-
2 pensated at the rate provided for the Administrator.

3 **SEC. 108. REPORT.**

4 Not later than 3 months after the conclusion of each
5 fiscal year, the Administrator shall submit to the Commit-
6 tee on Banking, Finance and Urban Affairs of the House
7 of Representatives and the Committee on Banking, Hous-
8 ing, and Urban Affairs of the Senate, a report regarding
9 the activities of the Administration during the fiscal year.
10 The report shall include a statement of the goals, prior-
11 ities, and plans for the Administration, an assessment of
12 the progress made toward attainment of such goals, prior-
13 ities, and plans, and a financial statement of the Adminis-
14 tration describing the operations of the Administration
15 and the financial operating plans and forecasts for the Ad-
16 ministration for the ensuing year.

17 **SEC. 109. REFERENCES.**

18 Any reference in any other Federal law, Executive
19 order, rule, regulation, or delegation of authority, or any
20 document of or pertaining to the Federal Emergency Man-
21 agement Agency—

22 (1) to the Federal Insurance Administrator of
23 the Federal Emergency Management Agency is
24 deemed to refer to the Federal Insurance Adminis-

1 trator of the Federal Insurance Administration es-
2 tablished under this title; and

3 (2) to the Federal Insurance Administration
4 under the Federal Emergency Management Agency
5 is deemed to refer to the Federal Insurance Admin-
6 istration established under this title.

7 **SEC. 110. SAVINGS PROVISIONS.**

8 (a) LEGAL DOCUMENTS.—All orders, determinations,
9 rules, regulations, permits, grants, contracts, certificates,
10 licenses, and privileges—

11 (1) that have been issued, made, granted, or al-
12 lowed to become effective by the President, by the
13 Director of the Federal Emergency Management
14 Agency, by the Federal Insurance Administrator of
15 the Federal Emergency Management Agency, or by
16 a court of competent jurisdiction, in the performance
17 of functions of the Director under the provisions re-
18 ferred to in section 103(a) or the Federal Insurance
19 Administrator of the Federal Emergency Manage-
20 ment Agency, and

21 (2) that are in effect on the date of the effec-
22 tiveness of this title (or become effective after such
23 date pursuant to their terms as in effect on such
24 date),

1 shall continue in effect according to their terms until
2 modified, terminated, superseded, set aside, or revoked in
3 accordance with law by the President, the Administrator
4 or other authorized official, by a court of competent juris-
5 diction, or by operation of law.

6 (b) PROCEEDINGS.—The provisions of this title shall
7 not affect any proceedings or any application for any bene-
8 fits, service, license, permit, certificate, or financial assist-
9 ance pending before the Federal Emergency Management
10 Agency on the date of the effectiveness of this title, but
11 such proceedings and applications shall be continued. Or-
12 ders shall be issued in such proceedings, appeals shall be
13 taken therefrom, and payments shall be made pursuant
14 to such orders, as if this Act had not been enacted, and
15 orders issued in any such proceeding shall continue in ef-
16 fect until modified, terminated, superseded, or revoked by
17 a duly authorized official, by a court of competent jurisdic-
18 tion, or by operation of law. Nothing in this subsection
19 shall be deemed to prohibit the discontinuance or modi-
20 fication of any such proceeding under the same terms and
21 conditions and to the same extent that such proceeding
22 could have been discontinued or modified if this title had
23 not been enacted.

24 (c) SUITS.—The provisions of this title shall not af-
25 fect suits commenced before the date of the effectiveness

1 of this title, and in all such suits, proceeding shall be had,
2 appeals taken, and judgments rendered in the same man-
3 ner and with the same effect as if this title had not been
4 enacted.

5 (d) NONABATEMENT OF ACTIONS.—No suit, action,
6 or other proceeding commenced by or against the Director
7 of the Federal Emergency Management Agency or the
8 Federal Insurance Administration of such Agency, or by
9 or against any individual in the official capacity of such
10 individual as an officer of such Agency or Administration,
11 shall abate by reason of the enactment of this title.

12 (e) CONTINUANCE OF SUITS.—If, before the date of
13 the effectiveness of this Act, any agency or officer thereof
14 in the official capacity of such officer, is party to a suit,
15 and under this title any function of such agency or officer
16 is transferred to the Administrator or any other official
17 of the Administration, then such suit shall be continued
18 with the Administrator or other appropriate official of the
19 Administration substituted or added as a party.

20 **SEC. 111. DEFINITIONS.**

21 For purposes of this Act:

22 (1) The term “Administration” means the Fed-
23 eral Insurance Administration, as established under
24 section 101.

1 (2) The term “Administrator” means the Fed-
2 eral Insurance Administrator, as such position is es-
3 tablished under section 102.

4 (3) The term “function” includes any duty, ob-
5 ligation, power, authority, responsibility, right, privi-
6 lege, activity, or program.

7 **SEC. 112. CONFORMING AMENDMENTS.**

8 (a) FLOOD DISASTER PROTECTION ACT OF 1973.—
9 The Flood Disaster Protection Act of 1973 (42 U.S.C.
10 4001 et seq.) is amended—

11 (1) in section 3(a), by striking paragraph (6)
12 and inserting the following new paragraph:

13 “(6) ‘Administrator’ means the Federal Insur-
14 ance Administrator.”;

15 (2) in section 201(b), by striking “Director’s”
16 and inserting “Administrator’s”; and

17 (3) by striking “Director” each place it appears
18 and inserting “Administrator”.

19 (b) NATIONAL FLOOD INSURANCE ACT OF 1968.—
20 The National Flood Insurance Act of 1968 (42 U.S.C.
21 4011 et seq.) is amended—

22 (1) in section 1304(a), by striking “Director of
23 the Federal Emergency Management Agency” and
24 inserting “Federal Insurance Administrator”;

25 (2) in section 1307(f)—

1 (A) by striking “Director of the Federal
2 Emergency Management Agency” each place it
3 appears and inserting “Administrator”; and

4 (B) by striking “and the Federal Emer-
5 gency Management Agency” and inserting “and
6 the Federal Insurance Administration”;

7 (3) in section 1345(c)—

8 (A) by striking “Director of the Federal
9 Emergency Management Agency” each place it
10 appears and inserting “Administrator”; and

11 (B) by striking “part of the Federal Emer-
12 gency Management Agency” each place it ap-
13 pears and inserting “part of the Federal Insur-
14 ance Administration”;

15 (4) in section 1363, by striking “Director’s”
16 each place it appears and inserting “Administra-
17 tor’s”;

18 (5) in section 1370(a), by striking paragraph
19 (6) and inserting the following new paragraph:

20 “(6) the term ‘Administrator’ means the Fed-
21 eral Insurance Administrator.”; and

22 (6) by striking “Director” each place it appears
23 and inserting “Administrator”.

24 (c) FEDERAL FLOOD INSURANCE ACT OF 1956.—
25 Section 15(e) of the Federal Flood Insurance Act of 1956

1 (42 U.S.C. 2414(e)) is amended by striking “Director of
2 the Federal Emergency Management Agency” each place
3 it appears and inserting “Federal Insurance Adminis-
4 trator”.

5 (d) NATIONAL HOUSING ACT.—Title XII of the Na-
6 tional Housing Act (12 U.S.C. 1749bbb et seq.) is amend-
7 ed—

8 (1) in section 1203(a), by striking paragraph
9 (17) and inserting the following new paragraph:

10 “(17) ‘Administrator’ means the Federal Insur-
11 ance Administrator.”;

12 (2) in section 1231(c), by striking “Director’s”
13 and inserting “Administrator’s”; and

14 (3) by striking “Director” each place it appears
15 and inserting “Administrator”.

16 (e) COMPENSATION AT LEVEL IV OF EXECUTIVE
17 SCHEDULE.—Section 5315 of title 5, United States Code,
18 is amended by striking “Federal Insurance Administrator,
19 Federal Emergency Management Agency.” and inserting
20 the following new item:

21 “Federal Insurance Administrator, Federal In-
22 surance Administration.”.

23 (f) HOUSING AND URBAN DEVELOPMENT ACT OF
24 1968.—Section 1105 of the Housing and Urban Develop-

1 ment Act of 1968 (42 U.S.C. 4129) is amended by strik-
2 ing subsection (a).

3 **SEC. 113. EFFECTIVE DATE.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (b), this title shall take effect upon the expiration of the
6 180-day period beginning on the date of the enactment
7 of this Act.

8 (b) APPOINTMENT OF ADMINISTRATOR.—Notwith-
9 standing any other provision of law or of this title, the
10 President may, any time after the date of the enactment
11 of this Act, appoint an individual to serve as Federal In-
12 surance Administrator, as such position is established
13 under section 102. An appointment under this section may
14 not be construed to affect the position of Federal Insur-
15 ance Administrator under the Federal Emergency Man-
16 agement Agency or the authority of such official during
17 the period under subsection (a).

18 **TITLE II—REGULATION OF**
19 **FOREIGN INSURERS**

20 **SEC. 201. PURPOSE.**

21 The purposes of this title are—

22 (1) to establish minimum solvency, registration,
23 and other business requirements for foreign insurers
24 who provide insurance to residents of the United

1 States covering property or risks located in the Unit-
2 ed States on a direct written basis; and

3 (2) to establish minimum requirements for rein-
4 surance ceded to foreign insurers and reinsurers by
5 insurers formed and licensed within the United
6 States that may be claimed as an asset or deduction
7 from liability.

8 **SEC. 202. CERTIFICATION OF DIRECT INSURERS.**

9 (a) REQUIREMENT FOR CONDUCTING BUSINESS.—
10 Notwithstanding any other State or Federal law, no for-
11 eign insurer may act as a direct insurer unless the foreign
12 insurer is certified under this title by the Federal Insur-
13 ance Administrator as a certified direct insurer and no
14 person may assist or facilitate the placement of insurance
15 with a foreign insurer acting as a direct insurer unless
16 the foreign insurer is so certified.

17 (b) APPLICATION.—The Administrator shall provide
18 for foreign insurers to apply, in the form and manner de-
19 termined by the Administrator, for certification under this
20 title. The Administrator may establish and charge a rea-
21 sonable application fee to cover any costs of the applica-
22 tion procedure and reviewing applications.

23 (c) CERTIFICATION.—The Administrator may certify
24 a foreign insurer as a certified direct insurer for purposes
25 of this title only if the foreign insurer submits an applica-

1 tion under this section containing the information de-
2 scribed in section 203 and the Administrator determines
3 that the foreign insurer complies with the standards estab-
4 lished under section 203.

5 **SEC. 203. STANDARDS FOR CERTIFICATION OF DIRECT IN-**
6 **SURERS.**

7 The Administrator shall establish standards for cer-
8 tifying, and renewing certification, of foreign insurers as
9 certified direct insurers, which shall include the following
10 requirements:

11 (1) EXAMINATIONS, AUDITS, AND FINANCIAL
12 STATEMENTS.—The foreign insurer shall—

13 (A) maintain any books and records in ac-
14 cordance with any requirements established by
15 the Administrator;

16 (B) provide the Administrator access to
17 such books and records for purpose of examina-
18 tions under section 206(b); and

19 (C) submit to the Administrator financial
20 information in accordance with section 206(a).

21 (2) REGULATORY FEE.—The foreign insurer
22 shall pay to the Administrator a fee not exceeding
23 the amount determined by the Administrator that,
24 together with other such fees, is sufficient to cover

1 the costs of administering any activities under this
2 title relating to foreign insurers.

3 (3) MINIMUM NET WORTH.—The foreign in-
4 surer shall have a net worth in an amount not less
5 than the amount established by the Administrator.
6 The net worth of an insurer and the value of any
7 assets and liabilities of an insurer shall be deter-
8 mined, for purposes of this paragraph, in accordance
9 with generally accepted accounting practices and as
10 provided by the Administrator.

11 (4) RESERVE.—The foreign insurer shall estab-
12 lish and maintain a capital reserve with the Admin-
13 istrator, which shall be in the form determined by
14 the Administrator and shall meet the following re-
15 quirements:

16 (A) AVAILABILITY OF PROCEEDS.—The
17 proceeds of the reserve shall be available only
18 for the purpose of securing the payment of valid
19 claims of the United States policyholders of the
20 insurer and other claimants under such policies.

21 (B) BALANCE.—Except as provided in sub-
22 paragraph (C), the reserve shall have a balance,
23 at all times, of cash, readily marketable securi-
24 ties, and letters of credit, acceptable in the de-
25 termination of the Administrator, in an amount

1 not less than the amount equal to the percent-
2 age of the aggregate amount of the United
3 States direct written obligations of the insurer
4 that is established by the Administrator under
5 this subparagraph. The Administrator shall es-
6 tablish such percentage based on the percentage
7 of reserves necessary to be held to protect the
8 interests of United States policyholders of the
9 insurer and other claimants under such policies.

10 (C) UNSAFE FINANCIAL CONDITIONS.—

11 The Administrator may increase the percentage
12 under subparagraph (B) for an insurer if the
13 Administrator determines that such insurer is
14 operating in a manner likely to result in an un-
15 safe or unsound financial condition.

16 (5) AGENT FOR SERVICE OF PROCESS.—The

17 foreign insurer shall appoint and maintain an agent
18 in the United States upon whom process may be
19 served in any action, suit, or proceeding.

20 (6) JURISDICTION OF COURTS.—The foreign in-

21 surer shall agree to submit to the jurisdiction of any
22 court of the United States or of any State, of com-
23 petent jurisdiction, to be fully bound by its decision.

24 (7) REGULATION BY DOMICILE.—The foreign

25 insurer shall annually submit to the Administrator a

1 certificate of compliance, certificate of good stand-
2 ing, or equivalent documentation (as determined by
3 the Administrator) properly attested by the body re-
4 sponsible for regulation of the insurer in the domi-
5 cile of the insurer, evidencing authority under the
6 laws of the domicile of the insurer to engage in the
7 business of insurance.

8 (8) BIOGRAPHICAL INFORMATION.—The foreign
9 insurer shall annually submit to the Administrator,
10 in the form and manner determined by the Adminis-
11 trator—

12 (A) biographical information on all senior
13 officers and directors of the insurer that dem-
14 onstrates a level of competency, experience, and
15 integrity sufficient to indicate that permitting
16 the insurer to conduct business in the United
17 States would not be hazardous to United States
18 policyholders and creditors of the insurer or to
19 the general public; and

20 (B) financial, management, and oper-
21 ational information on any entities that directly
22 or indirectly control the insurer, as the Admin-
23 istrator shall provide.

24 (9) INSURANCE EXPERIENCE.—The foreign in-
25 surer shall—

1 (A) have been actively and continuously
2 engaged in the business of insurance for a pe-
3 riod of not less than 3 years ending upon the
4 submission of an application under section 202;

5 (B) be a wholly owned subsidiary of an in-
6 surer and have been actively and continuously
7 engaged in the business of insurance for a pe-
8 riod of not less than 3 years ending upon the
9 submission of an application under section 202;
10 or

11 (C) be the continuing corporation resulting
12 from a merger or consolidation of insurers, at
13 least one of which has been actively and con-
14 tinuously engaged in the business of insurance
15 for a period of not less than 3 years ending
16 upon the submission of an application under
17 section 202.

18 (10) OTHER.—The foreign insurer shall meet
19 any other requirements as the Administrator may
20 provide.

21 **SEC. 204. CERTIFICATION OF REINSURERS.**

22 (a) REQUIREMENT FOR CONDUCTING BUSINESS.—
23 Notwithstanding any other State or Federal law, no in-
24 surer licensed by any State nor any certified direct insurer
25 under this title may claim reinsurance from a foreign rein-

1 surer as an asset or deduction from liability for purposes
2 of any financial statement (including financial statements
3 required under this title) unless the foreign reinsurer is
4 certified under this title by the Administrator as a cer-
5 tified reinsurer.

6 (b) APPLICATION.—The Administrator shall provide
7 for foreign reinsurers to apply, in the form and manner
8 determined by the Administrator, for certification under
9 this title. The Administrator may establish and charge a
10 reasonable application fee to cover any costs of the appli-
11 cation procedure and reviewing applications.

12 (c) CERTIFICATION.—The Administrator may certify
13 a foreign reinsurer as a certified reinsurer for purposes
14 of this title only if the foreign reinsurer submits an appli-
15 cation under this section containing any information de-
16 scribed in section 205 and the Administrator determines
17 that the foreign reinsurer complies with the standards es-
18 tablished under section 205.

19 **SEC. 205. STANDARDS FOR CERTIFICATION OF REINSUR-**
20 **ERS.**

21 The Administrator shall establish standards for cer-
22 tifying, and renewing certification, of foreign reinsurers as
23 certified reinsurers, which shall include the following re-
24 quirements:

1 (1) EXAMINATIONS, AUDITS, AND FINANCIAL
2 STATEMENTS.—The foreign reinsurer shall—

3 (A) maintain any books and records in ac-
4 cordance with any requirements established by
5 the Administrator;

6 (B) provide the Administrator access to
7 such books and records for purpose of examina-
8 tions under section 206(b); and

9 (C) submit to the Administrator financial
10 information in accordance with section 206(a).

11 (2) REGULATORY FEE.—The foreign reinsurer
12 shall pay to the Administrator a fee not exceeding
13 the amount determined by the Administrator that,
14 together with other such fees, is sufficient to cover
15 the costs of administering any activities under this
16 title relating to foreign reinsurers.

17 (3) MINIMUM NET WORTH.—The foreign rein-
18 surer shall have a net worth in an amount not less
19 than the amount established by the Administrator.
20 The net worth of a reinsurer and the value of any
21 assets and liabilities of a reinsurer shall be deter-
22 mined, for purposes of this paragraph, in accordance
23 with generally accepted accounting practices and as
24 provided by the Administrator.

1 (4) TRUST FUND.—The foreign reinsurer shall
2 establish and maintain a capital reserve with the Ad-
3 ministrator, which shall be in the form determined
4 by the Administrator and shall meet the following
5 requirements:

6 (A) AVAILABILITY OF PROCEEDS.—The
7 proceeds of the reserve shall be available only
8 for the purpose of securing the payment of valid
9 claims of the United States policyholders of the
10 reinsurer and other claimants under such poli-
11 cies.

12 (B) BALANCE.—Except as provided in sub-
13 paragraph (C), the reserve shall have a balance,
14 at all times, of cash, readily marketable securi-
15 ties, and letters of credit, acceptable in the de-
16 termination of the Administrator, in an amount
17 not less than the amount equal to the percent-
18 age of the aggregate amount of the United
19 States reinsurance obligations of the reinsurer
20 that is established by the Administrator under
21 this subparagraph. The Administrator shall es-
22 tablish such percentage based on the percentage
23 of reserves necessary to be held to protect the
24 interests of United States policyholders of the

1 reinsurer and other claimants under such poli-
2 cies.

3 (C) UNSAFE FINANCIAL CONDITIONS.—

4 The Administrator may increase the percentage
5 under subparagraph (B) for a reinsurer if the
6 Administrator determines that such reinsurer is
7 operating in a manner likely to result in an un-
8 safe or unsound financial condition.

9 (5) AGENT FOR SERVICE OF PROCESS.—The
10 foreign reinsurer shall appoint and maintain an
11 agent in the United States upon whom process may
12 be served in any action, suit, or proceeding.

13 (6) JURISDICTION OF COURTS.—

14 (A) IN GENERAL.—The foreign reinsurer
15 shall agree to submit to the jurisdiction of any
16 court of the United States or of any State, of
17 competent jurisdiction, to be fully bound by its
18 decision.

19 (B) ARBITRATION.—The provisions of sub-
20 paragraph (A) may not be construed to annul,
21 alter, or effect any obligation of the parties to
22 a reinsurance agreement to arbitrate or other-
23 wise resolve their disputes that is established by
24 such an agreement; except that the title to or
25 the right to be paid out of any trust fund estab-

1 lished or maintained pursuant to paragraph (4)
2 shall not be subject to arbitration or other reso-
3 lution.

4 (7) REGULATION BY DOMICILE.—The foreign
5 reinsurer shall annually submit to the Administrator
6 a certificate of compliance, certificate of good stand-
7 ing, or equivalent documentation (as determined by
8 the Administrator) properly attested by the body re-
9 sponsible for regulation of the reinsurer in the domi-
10 cile of the reinsurer, evidencing authority under the
11 laws of the domicile of the reinsurer to engage in the
12 business of reinsurance.

13 (8) BIOGRAPHICAL INFORMATION.—The foreign
14 reinsurer shall annually submit to the Adminis-
15 trator, in the form and manner determined by the
16 Administrator—

17 (A) biographical information on all senior
18 officers and directors of the reinsurer that dem-
19 onstrates a level of competency, experience, and
20 integrity sufficient to indicate that permitting
21 the reinsurer to conduct business in the United
22 States would not be hazardous to United States
23 cedants and creditors of the reinsurer or to the
24 general public; and

1 (B) financial, management, and oper-
2 ational information on all entities that directly
3 or indirectly control the reinsurer, as the Ad-
4 ministrators shall provide.

5 (9) INSURANCE EXPERIENCE.—The foreign re-
6 insurer shall—

7 (A) have been actively and continuously
8 engaged in the business of insurance for a pe-
9 riod of not less than 3 years ending upon the
10 submission of an application under section 204;

11 (B) be a wholly owned subsidiary of an in-
12 surer and have been actively and continuously
13 engaged in the business of insurance for a pe-
14 riod of not less than 3 years ending upon the
15 submission of an application under section 204;

16 or

17 (C) be the continuing corporation resulting
18 from a merger or consolidation of insurers, at
19 least one of which has been actively and con-
20 tinuously engaged in the business of insurance
21 for a period of not less than 3 years ending
22 upon the submission of an application under
23 section 204.

1 (10) OTHER.—The foreign reinsurer shall meet
2 any other requirements as the Administrator may
3 provide.

4 **SEC. 206. FINANCIAL STATEMENTS AND EXAMINATIONS.**

5 (a) FINANCIAL STATEMENTS.—

6 (1) IN GENERAL.—The Administrator shall es-
7 tablish standards under this subsection requiring
8 foreign insurers and foreign reinsurers to submit fi-
9 nancial statements to the Administrator.

10 (2) GAAP PRINCIPLES.—The standards shall
11 require that each financial statement comply with
12 generally accepted accounting principles and be de-
13 veloped in accordance with such principles.

14 (3) INDEPENDENT AUDIT.—Each financial
15 statement shall include an audit conducted by a
16 independent certified public accountant or other
17 qualified independent auditor in accordance with
18 generally accepted accounting principles.

19 (4) TIMING.—The Administrator shall require
20 submission of a financial statement under this sub-
21 section by—

22 (A) each insurer and each reinsurer apply-
23 ing for certification under section 202 or 204,
24 as applicable; and

1 (B) each certified direct insurer and each
2 certified reinsurer, on an annual basis.

3 (5) ADDITIONAL INFORMATION.—The Adminis-
4 trator may at any time require any foreign insurer
5 or foreign reinsurer to submit to the Administrator,
6 in addition to the information contained in a finan-
7 cial statement under this subsection, financial infor-
8 mation that the Administrator considers reasonable
9 and necessary to determine the financial condition of
10 the insurer or reinsurer.

11 (b) EXAMINATIONS.—

12 (1) IN GENERAL.—The Administrator shall es-
13 tablish standards under this subsection for examina-
14 tions of foreign insurers and foreign reinsurers to
15 determine their financial condition.

16 (2) TIMING.—The Administrator—

17 (A) shall conduct an examination under
18 this subsection of each insurer and each rein-
19 surer applying for certification under section
20 202 or 204; and

21 (B) may conduct an examination of an in-
22 surer or a reinsurer at any time the Director
23 considers an examination reasonable and nec-
24 essary to determine the financial condition of
25 the insurer or reinsurer.

1 (3) EXPENSE.—The Administrator shall assess
2 any costs of an examination under this section
3 against the foreign insurer or foreign reinsurer ex-
4 amined and shall collect such amounts.

5 **SEC. 207. DECERTIFICATION.**

6 The Administrator may suspend or revoke the certifi-
7 cation of certified foreign insurers and reinsurers if the
8 Administrator determines that such an insurer or a rein-
9 surer fails to comply with the requirements of this title
10 and the standards established pursuant to this title. The
11 Administrator shall establish standards for suspending
12 and revoking such certifications under this section.

13 **SEC. 208. GAO AUDITS.**

14 The Comptroller General of the United States shall
15 audit the operations of the Administrator carried out
16 under this title in accordance with generally accepted Gov-
17 ernment auditing standards. All books, records, accounts,
18 reports, files, and property belonging to, or used by, the
19 Administrator shall be made available to the Comptroller
20 General. Audits under this section shall be conducted upon
21 the expiration of the 1-year period beginning upon the
22 date of the effectiveness of this title and biennially there-
23 after. Upon the conclusion of each audit under this sec-
24 tion, the Comptroller General shall submit a report de-
25 scribing the audit to the Committee on Banking, Finance

1 and Urban Affairs of the House of Representatives and
2 the Committee on Banking, Housing, and Urban Affairs
3 of the Senate.

4 **SEC. 209. NATIONAL INSURANCE INTELLIGENCE**
5 **DATABASE.**

6 (a) **IN GENERAL.**—The Administrator shall collect
7 information regarding individuals and other persons that
8 have engaged in, or that the Administrator has reason to
9 believe to have engaged in, illegal activity relating to insur-
10 ance or reinsurance activities. The Administrator shall es-
11 tablish a computer-based database of such information
12 and shall regularly update the database.

13 (b) **LAW ENFORCEMENT ACCESS.**—The Adminis-
14 trator shall make information from the database under
15 this section available to appropriate Federal and State law
16 enforcement and regulatory agencies upon request.

17 (c) **CONFIDENTIALITY.**—Except as provided in sub-
18 section (b), notwithstanding any other law, regulation, or-
19 dinance, any agreement, any judgment or order of any
20 court, tribunal, or other officer, or any other legal process,
21 the Administrator may not disclose any information from
22 the database under this section.

23 **SEC. 210. PENALTIES.**

24 (a) **CIVIL MONEY PENALTY.**—Any person or insurer
25 who knowingly fails to comply with any provision of this

1 title shall be subject to a civil penalty, imposed by the Ad-
2 ministrator, in an amount not to exceed \$1,000,000.

3 (b) CRIMINAL OFFENSE.—Whoever knowingly sub-
4 mits information required under this title to the Adminis-
5 trator that is false and misleading shall be fined under
6 title 18, United States Code, or imprisoned not more than
7 30 years, or both.

8 **SEC. 211. DEFINITIONS.**

9 For purposes of this title:

10 (1) ADMINISTRATOR.—The term “Adminis-
11 trator” means the Administrator of the Federal In-
12 surance Administration, as established under section
13 101.

14 (2) CERTIFIED DIRECT INSURER AND CER-
15 TIFIED REINSURER.—The terms “certified direct in-
16 surer” and “certified reinsurer” mean a foreign in-
17 surer certified under section 202 and a foreign rein-
18 surer certified under section 204, respectively.

19 (3) CONTROL.—The term “control” means di-
20 rect or indirect possession of the power to direct or
21 cause the direction of the management and policies
22 of a person, including through the ownership of vot-
23 ing securities, by contract other than a commercial
24 contract for goods or nonmanagerial services, or oth-

1 erwise, unless the power is the result of an official
2 position with or corporate office held by the person.

3 (4) DIRECT INSURER.—The term “direct in-
4 surer” means a foreign insurer that accepts United
5 States direct risk pursuant to a State surplus or ex-
6 cess lines law. The term does not include foreign in-
7 surers accepting United States direct risks by other
8 lawful means.

9 (5) FOREIGN INSURER.—The term “foreign in-
10 surer” means an insurer or reinsurer other than—

11 (A) an insurer or reinsurer organized
12 under the laws of any State or Canada; and

13 (B) the United States branch of a foreign
14 insurer.

15 The term includes insurers and reinsurers doing
16 business as single insurers, groups of individual un-
17 incorporated underwriters, and groups of incor-
18 porated insurers under common administration.

19 (6) FOREIGN REINSURER.—The term “foreign
20 reinsurer” means a foreign insurer that assumes,
21 from an insurer or reinsurer licensed by any State,
22 all or any portion of risks undertaken by the licensed
23 insurer. The term does not include a foreign insurer
24 that—

1 (A) assumes only risks arising out of the
2 insuring of the company or other person that
3 owns the insurer or of which the insurer is a
4 subsidiary or affiliate; and

5 (B) does not undertake any other business
6 that is not related to the company or other per-
7 son that owns the insurer or of which the in-
8 surer is a subsidiary or affiliate.

9 (7) LETTER OF CREDIT.—The term “letter of
10 credit” means a clean irrevocable letter of credit is-
11 sued or confirmed by a qualified financial institu-
12 tion, in a form prescribed by the Administrator.

13 (8) READILY MARKETABLE SECURITIES.—The
14 term “readily marketable securities” means securi-
15 ties registered for trading on a national securities
16 exchange in accordance with section 12 of the Secu-
17 rities Exchange Act of 1934 and any other securities
18 approved by the Administrator.

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

1 (10) UNITED STATES BRANCH OF FOREIGN IN-
2 SURER.—The term “United States branch of foreign
3 Insurer” means the business unit through which in-
4 surance business is transacted within the United
5 States by a foreign insurer and whose assets and li-
6 abilities pertaining to such business are within the
7 United States.

8 (11) UNITED STATES DIRECT WRITTEN INSUR-
9 ANCE OBLIGATIONS.—The term “United States di-
10 rect written insurance obligations” means obliga-
11 tions of a direct insurer for unearned premium and
12 unpaid claims, including incurred but not reported
13 claims.

14 (12) UNITED STATES REINSURANCE OBLIGA-
15 TIONS.—The term “United States reinsurance obli-
16 gations” means obligations to insurers licensed by
17 any State for reported claims, incurred but not re-
18 ported claims, unearned premium, losses and loss
19 adjustment expense, aggregate life reserves, and ag-
20 gregate reserves for accident and health risks.

21 **SEC. 212. LIMITATION ON PREEMPTION.**

22 This title may not be construed to preempt the law
23 of any State, except to the extent that such laws are incon-
24 sistent with the provisions of this title, and then only to

1 the extent of such inconsistency. The Administrator is au-
2 thorized to determine whether such inconsistencies exist.

3 **SEC. 213. EFFECTIVE DATE.**

4 The provisions of this title shall take effect upon the
5 expiration of the 12-month period beginning on the date
6 of the enactment of this Act.

7 **TITLE III—LIQUIDITY ASSIST-**
8 **ANCE BY FEDERAL RESERVE**
9 **BANKS TO WELL-CAPITAL-**
10 **IZED INSURANCE COMPANIES**

11 **SEC. 301. SHORT TITLE.**

12 This title may be cited as the “Insurance Liquidity
13 and Solvency Act of 1993”.

14 **SEC. 302. CERTIFICATION OF ELIGIBILITY FOR LIQUIDITY**
15 **ASSISTANCE.**

16 (a) IN GENERAL.—The Federal Insurance Adminis-
17 trator shall establish standards under this section for de-
18 termining the eligibility of, and certifying, insurance com-
19 panies for liquidity assistance pursuant to section 13B of
20 the Federal Reserve Act.

21 (b) CONTENTS.—The standards under this section
22 shall—

23 (1) establish guidelines for the types and man-
24 ners of organization of companies that may be cer-
25 tified under this section;

1 (2) establish minimum financial resource and
2 solvency requirements for insurance companies that,
3 in the determination of the Administrator, ensure
4 that any company complying with such requirements
5 is sufficiently capitalized for purposes of obtaining
6 liquidity assistance pursuant to section 13B of the
7 Federal Reserve Act; and

8 (3) provide that only insurance companies meet-
9 ing or exceeding the minimum financial require-
10 ments established under paragraph (2) may be cer-
11 tified under this section.

12 (c) COMPLIANCE REPORTS FROM STATES.—No in-
13 surance company may be certified under this section as
14 eligible for liquidity assistance pursuant to section 13B
15 of the Federal Reserve Act until the Administrator has
16 reviewed any examinations and enforcement and compli-
17 ance reports received or requested from any State insur-
18 ance regulatory authority which has jurisdiction over such
19 company, or any activities conducted by such company.

20 (d) EXAMINATIONS AND FINANCIAL STATEMENTS.—
21 In determining whether insurance companies are eligible
22 for certification under this section, the Administrator may
23 require insurance companies to submit financial state-
24 ments and may conduct examinations of insurance compa-

1 nies in the same manner required and conducted with re-
2 spect to foreign insurers and reinsurers under section 206.

3 (e) PROCEDURES FOR CERTIFICATION OF ELIGIBLE
4 COMPANIES.—

5 (1) IN GENERAL.—The Administrator shall es-
6 tablish procedures for certifying insurance compa-
7 nies as eligible for liquidity assistance pursuant to
8 section 13B of the Federal Reserve Act.

9 (2) AVAILABILITY OF LIST.—The Administrator
10 shall make publicly available a list of the insurance
11 companies certified under this section as eligible for
12 liquidity assistance pursuant to such Act.

13 (f) FINANCIAL RESOURCE AND SOLVENCY REQUIRE-
14 MENTS.—Before the end of the 180-day period beginning
15 on the date of the enactment of this Act, the Adminis-
16 trator, in consultation with State insurance regulatory au-
17 thorities, shall establish the minimum financial resource
18 and solvency requirements for insurance companies under
19 subsection (b)(2).

20 (g) DECERTIFICATION.—The Administrator may sus-
21 pend or revoke the certification of an insurance company
22 previously certified under this section if the Administrator
23 determines that the insurance company fails to comply
24 with the provisions of this section or the requirements es-
25 tablished under this section. The Administrator shall es-

1 tablish standards for suspending and revoking such certifi-
2 cations under this section.

3 **SEC. 303. REQUESTS FOR LIQUIDITY ASSISTANCE.**

4 (a) IN GENERAL.—The Administrator shall establish
5 standards and procedures under this section for insurance
6 companies certified under section 302 to apply for the ap-
7 proval of the Administrator for a request for liquidity as-
8 sistance pursuant to section 13B of the Federal Reserve
9 Act and for the Administrator to approve such applica-
10 tions.

11 (b) CONTENTS.—The standards established under
12 this section shall provide that the Administrator may ap-
13 prove an application for a request for liquidity assistance
14 pursuant to section 13B of the Federal Reserve Act only
15 if—

16 (1) the application is submitted by an insurance
17 company certified under section 302;

18 (2) the Administrator determines that the in-
19 surance company submitting the request is threat-
20 ened by a liquidity crisis resulting from policyholder
21 withdrawals;

22 (3) the Administrator determines that short-
23 term credit is not otherwise available to the insur-
24 ance company; and

1 (4) the Administrator determines that such li-
2 quidity assistance is appropriate for the company
3 considering the circumstances of the company and is
4 likely to assist the company in withstanding the li-
5 quidity crisis.

6 (c) COPIES TO BOARD AND STATE INSURANCE REG-
7 ULATORY AUTHORITY.—Any insurance company submit-
8 ting an application under this section to the Administrator
9 for approval of a request for liquidity assistance shall sub-
10 mit a copy of the application to the Board of Governors
11 of the Federal Reserve System and any appropriate State
12 insurance regulatory authority.

13 (d) CONTENTS OF APPLICATION.—Any application
14 under this section shall contain—

15 (1) evidence of the certification of the insurance
16 company under section 302; and

17 (2) a certification by the insurance company
18 that, as of the date of such application, the company
19 is and, during the 12-month period ending on such
20 date, has been in compliance with the minimum fi-
21 nancial resource and solvency requirements of the
22 Administrator established under section 302(b)(2)
23 and any appropriate State insurance regulatory au-
24 thority.

1 **SEC. 304. REPORT.**

2 The Administrator shall submit an annual report to
3 the Committee on Banking, Finance and Urban Affairs
4 of the House of Representatives and the Committee on
5 Banking, Housing, and Urban Affairs of the Senate on—

6 (1) any insurance companies certified under
7 section 302 or denied certification under such sec-
8 tion, during the year covered by the report; and

9 (2) any insurance companies for which applica-
10 tions for requests for liquidity assistance were ap-
11 proved or for which such applications were denied,
12 during the year covered by the report.

13 **SEC. 305. PROVISION OF LIQUIDITY ASSISTANCE TO INSUR-**
14 **ANCE COMPANIES BY FEDERAL RESERVE**
15 **BANKS.**

16 The Federal Reserve Act (12 U.S.C. 221 et seq.) is
17 amended by inserting after section 13A the following new
18 section:

19 **“SEC. 13B. PROCEDURES APPLICABLE TO LIQUIDITY AS-**
20 **SISTANCE TO INSURANCE COMPANIES.**

21 “(a) IN GENERAL.—For the purpose of ensuring that
22 liquidity assistance is available on an objective basis to any
23 well-capitalized insurance company that is threatened by
24 a liquidity crisis resulting from policyholder withdrawals
25 and the unavailability of short-term credit, and in addition
26 to any other procedure or condition established under this

1 Act, the procedures and conditions established under this
2 section shall apply to liquidity assistance provided by any
3 Federal Reserve bank under this Act to any insurance
4 company certified and approved under title III of the Fed-
5 eral Insurance Administration Act.

6 “(b) ELIGIBILITY.—An insurance company may ob-
7 tain liquidity assistance under this Act under the same
8 terms and conditions as a member bank, but only if the
9 company is certified by the Federal Insurance Adminis-
10 trator to be eligible for such assistance in accordance with
11 the procedures established under section 302 of the Fed-
12 eral Insurance Administration Act and an application for
13 a request for such liquidity assistance has been approved
14 by the Administrator in accordance with the procedures
15 established under section 303 of such Act.

16 “(c) TERMS AND CONDITIONS OF ASSISTANCE.—

17 “(1) IN GENERAL.—Liquidity assistance may
18 be provided under this Act by a Federal Reserve
19 bank only in the amount, and to the extent, that
20 such assistance is requested in an application ap-
21 proved by the Federal Insurance Administrator
22 under section 303 of the Federal Insurance Admin-
23 istration Act.

24 “(2) COMPARABLE TERMS.—Any liquidity as-
25 sistance provided under this Act by any Federal Re-

1 serve bank to any insurance company shall be made
2 for such period of time and at such financing costs
3 as are generally applicable to advances to depository
4 institutions (as defined in section 19(b)(1)(A))
5 under sections 10, 10A, and 10B.

6 “(3) NOTIFICATION OF LIQUIDITY ASSISTANCE
7 AND DENIAL OF ASSISTANCE TO FIA.—Any Federal
8 Reserve bank which provides or denies liquidity as-
9 sistance under this Act to any insurance company
10 shall provide prompt notice of such assistance or de-
11 nial to the Federal Insurance Administrator any ap-
12 propriate State insurance regulatory authority,
13 which shall include the amount of assistance pro-
14 vided or denied and the reason for any such denial.

15 “(d) LIQUIDITY ASSISTANCE DEFINED.—For pur-
16 poses of this section, the term ‘liquidity assistance’ means,
17 with respect to any insurance company—

18 “(1) any advance made by any Federal Reserve
19 bank under this Act to the insurance company; or

20 “(2) the discounting by any such bank under
21 this Act of any note, draft, bill, or other obligation
22 issued, drawn, or endorsed by the insurance com-
23 pany.

1 “(e) REGULATIONS.—The Board shall prescribe such
2 regulations as the Board may determine to be appropriate
3 to carry out the purposes of this section.

4 “(f) ANNUAL REPORT TO BANKING COMMITTEES.—
5 The Board shall submit an annual report to the Commit-
6 tee on Banking, Finance and Urban Affairs of the House
7 of Representatives and the Committee on Banking, Hous-
8 ing, and Urban Affairs of the Senate on any liquidity as-
9 sistance provided by any Federal Reserve bank to any in-
10 surance company during the year covered by the report.”.

11 **SEC. 306. REGULATIONS.**

12 The Administrator may issue any regulations the Ad-
13 ministrator considers appropriate to carry out the duties
14 of the Administrator under this title.

15 **TITLE IV—DISCLOSURE OF IN-**
16 **SURANCE AVAILABILITY IN-**
17 **FORMATION**

18 **SEC. 401. SHORT TITLE.**

19 This title may be cited as the “Insurance Disclosure
20 Act”.

21 **SEC. 402. FINDINGS AND CONSTRUCTION.**

22 (a) FINDINGS.—The Congress finds that—

23 (1) there are disparities in property and cas-
24 ualty insurance coverage provided by some insurers

1 between areas of different incomes and racial com-
2 position;

3 (2) such disparities adversely affect the afford-
4 ability and availability of insurance for consumers;

5 (3) the lack of affordable and adequate insur-
6 ance for qualified consumers severely limits the abil-
7 ity of such consumers to obtain credit for home,
8 business, and automobile purchases; and

9 (4) disclosures of insurance activities of insur-
10 ers would benefit consumers and insurance regu-
11 lators without imposing any undue burden on insur-
12 ers.

13 (b) CONSTRUCTION.—Nothing in this title is intended
14 to, nor shall it be construed to, encourage unsound under-
15 writing practices.

16 **SEC. 403. MAINTENANCE OF INFORMATION AND PUBLIC**
17 **DISCLOSURE.**

18 (a) DESIGNATED INSURERS.—Except as provided in
19 section 404(e), each insurer designated under section
20 407(a), which sells a line of insurance designated under
21 section 407(b) in a Metropolitan Statistical Area or Con-
22 solidated Metropolitan Statistical Area (both hereafter in
23 this title referred to as an “MSA”) designated by the Di-
24 rector of the Office of Management and Budget, shall
25 compile and make available for each calendar year to the

1 Federal Insurance Administrator (in accordance with sec-
2 tion 406 and regulations of the Administrator) and to the
3 public for inspection and copying at the home office or
4 at a central depository established under section 405 and
5 at least one branch office (if there is one) within such
6 MSA—

7 (1) the number and total coverage amount of
8 insurance policies by designated line which were is-
9 sued in such MSA;

10 (2) the number and total coverage amount of
11 insurance policies by designated line for which the
12 insurer received a completed application in such
13 MSA;

14 (3) the number and total coverage amount of
15 insurance policies by designated line for which the
16 insurer received a completed application and which
17 were not issued, in such MSA;

18 (4) the number and total coverage amount of
19 insurance policies by designated line which were re-
20 newed in such MSA;

21 (5) the number and total coverage amount of
22 insurance policies by designated line for which the
23 insurer received a completed application for renewal
24 in such MSA;

1 (6) the number and total coverage amount of
2 insurance policies by designated line for which the
3 insurer received a completed application for renewal
4 and which were not renewed, in such MSA;

5 (7) the number and total coverage amount of
6 insurance policies by designated line which were can-
7 celed by the insurer, in such MSA;

8 (8) the number of agents of such insurer whose
9 principal place of business is located in such MSA
10 and the number within each census tract or county,
11 as applicable, in such MSA and with respect to each
12 such agent, whether such agent is an employee,
13 independent contractor working exclusively for such
14 insurer, or an independent contractor appointed to
15 represent such insurer on a nonexclusive basis;

16 (9) the number of agents of such insurer whose
17 principal place of business was located in such MSA
18 but which was relocated outside such MSA or whose
19 agency was terminated, and the number of such
20 agents for each census tract or county, as applicable,
21 in such MSA; and

22 (10) the number of agents of such insurer
23 whose principal place of business was established at
24 a location in such MSA and the number of such

1 agents for each census tract or county, as applicable,
2 in such MSA.

3 (b) NONDESIGNATED INSURERS.—Except as pro-
4 vided in section 404(e), every insurer which sells an insur-
5 ance policy in a designated line of insurance in an MSA
6 and which is not a designated insurer in such MSA shall
7 report for each calendar year to the Administrator (in ac-
8 cordance with section 406 and regulations of the Adminis-
9 trator) the number of insurance policies in a designated
10 line sold in such MSA on an annualized basis which ad-
11 justs for varying durations of insurance policies sold—

12 (1) itemized by census tract for policies sold
13 within any county with a population of more than
14 30,000 within the MSA; or

15 (2) by county for insurance policies sold within
16 any other county in such MSA.

17 Such information shall be made available to the public on
18 a timetable determined by the Administrator but not later
19 than September 1 of the calendar year following the cal-
20 endar year for which the information is required to be re-
21 ported.

22 **SEC. 404. REQUIREMENTS.**

23 (a) CONTENT.—The information required to be main-
24 tained and made available under section 403(a) shall—

1 (1) be itemized in order to clearly and conspicu-
2 ously disclose the number and coverage amount for
3 each line of insurance for which information is re-
4 quired by—

5 (A) census tracts for insurance policies
6 within any county with a population of more
7 than 30,000 within the MSA; or

8 (B) county for insurance policies within
9 any other county within such MSA;

10 (2) disclose for each designated line of insur-
11 ance in an MSA and, with respect to each such line,
12 for each census tract or county, as applicable, in the
13 MSA—

14 (A) the total number of claims made which
15 with respect to property insurance shall be
16 disaggregated by the type and use of the prop-
17 erty insured, which types and uses shall in-
18 clude—

19 (i) properties consisting of 1 to 4
20 dwelling units;

21 (ii) properties consisting of more than
22 4 dwelling units;

23 (iii) owner-occupied properties;

24 (iv) rental properties; and

25 (v) vacant properties; and

1 (B) the total amount paid in claims which
2 with respect to property insurance shall be
3 disaggregated by the type and use of the prop-
4 erty insured, which types and uses shall include
5 the types and uses described in clauses (i)
6 through (v) of subparagraph (A);

7 (3) disclose the standards and criteria used in
8 underwriting each designated line of insurance; and

9 (4) be made available to the public on a time-
10 table determined by the Administrator but not later
11 than September 1 of the calendar year following the
12 calendar year for which the information is required
13 to be made available.

14 (b) ITEMIZATION OF DATA.—With respect to insur-
15 ance and applications for which information is required
16 to be maintained and made available under section 403(a),
17 the following information shall be maintained and made
18 available for each policy and each completed application:

19 (1) The MSA for which such insurance is is-
20 sued or applied and within such MSA the census
21 tract or county, as applicable, for which such insur-
22 ance is issued or requested.

23 (2) The designated insurer who issued such in-
24 surance or to whom the application was made.

25 (3) The date of the issuance of such insurance.

1 (4) The line of the insurance which is des-
2 ignated and any subline or class of such insurance.

3 (5) The type of insurance or policy form for
4 which applications are made and the types of insur-
5 ance and policy forms which are issued.

6 (6) The amount of coverage provided under
7 such insurance and any applicable deductibles.

8 (7) The amount of the premiums for such in-
9 surance.

10 (8) The durations of such insurance.

11 (9) The gender and racial characteristics of the
12 applicants for such insurance.

13 (10) A notation if such insurance was issued in
14 a voluntary or residual market.

15 (11) The date of, and reason for, any declina-
16 tion, cancellation, or nonrenewal made for such in-
17 surance.

18 (12) With respect to property insurance, the
19 market value of the property insured and the type
20 and use of property insured.

21 (c) PERIOD OF MAINTENANCE.—Any information re-
22 quired to be compiled and made available under section
23 403 shall be maintained and made available for a period
24 of 5 years after the close of the first year during which

1 such information is required to be maintained and made
2 available.

3 (d) FORMAT FOR DISCLOSURES.—Subject to section
4 405, the Administrator shall prescribe a standard format
5 for making information available as required by section
6 403. Such format shall encourage the submission of infor-
7 mation in a form readable by a computer.

8 (e) EXEMPTIONS.—

9 (1) SECRETARIAL ACTION.—The Administrator
10 may by regulation exempt from the requirements of
11 section 403 any insurer within any State if the Ad-
12 ministrator determines that under the laws of such
13 State that such insurer is subject to disclosure re-
14 quirements on a census tract basis substantially
15 similar to those of section 403 and that such law
16 contains adequate provisions for enforcement.

17 (2) UNITED STATES PROGRAM.—Reporting
18 shall not be required under section 403 with respect
19 to insurance provided by a program underwritten or
20 administered by the United States, including the na-
21 tional flood insurance program under the National
22 Flood Insurance Act of 1968, the program for insur-
23 ance against burglary and theft under title XII of
24 the National Housing Act, and mortgage insurance
25 under the National Housing Act.

1 (f) COMPLETED APPLICATION.—For purposes of sec-
2 tion 403 and this section, the Administrator shall define
3 “completed applications” to—

4 (1) ensure that the disclosure required by such
5 sections appropriately reflects the characteristics of
6 the applicants interested in purchasing insurance in
7 an MSA; and

8 (2) prevent insurers from evading the intent of
9 such sections through practices designed to discour-
10 age applicants from completing applications.

11 **SEC. 405. ACCESS SYSTEM.**

12 (a) IN GENERAL.—The Administrator shall imple-
13 ment a system to facilitate access to information required
14 to be maintained and made available under section 403.
15 Such system shall also include arrangements for a publicly
16 accessible central depository of information in each MSA,
17 as provided under subsection (b), and for a telephone
18 number which can be used by the public, at cost, to re-
19 quest such information. Written statements containing
20 such information shall be made available to the public for
21 inspection and copying at such central depository of infor-
22 mation for all designated insurers within such MSA. The
23 Administrator shall make copies of such statements avail-
24 able in forms readable by widely used personal computers.
25 The Administrator may charge a fee for such information,

1 which may not exceed the amount, determined by the Ad-
2 ministrator, that is equal to the cost of producing the com-
3 puter statements.

4 (b) USE OF HOME MORTGAGE DISCLOSURE ACT DE-
5 POSITORIES.—To the extent practicable, the central de-
6 positories referred to in subsection (a) shall be the central
7 depositories established under section 304(f) of the Home
8 Mortgage Disclosure Act of 1975. The Federal Financial
9 Institutions Examination Council shall consult with the
10 Administrator regarding the use of such depositories and
11 shall provide for the use of such depositories to the extent
12 agreed to by such Council and the Administrator.

13 **SEC. 406. SUBMISSION TO ADMINISTRATOR.**

14 The information referred to in section 403 shall be
15 submitted to the Administrator. The Administrator shall
16 develop regulations prescribing—

17 (1) the format for making such information
18 available;

19 (2) the method for submission of such informa-
20 tion; and

21 (3) the procedures for making the information
22 available to the public.

23 Any reporting insurer may submit in writing to the Ad-
24 ministrator such additional data or explanations as it

1 deems relevant to the decision by such insurer to sell in-
2 surance.

3 **SEC. 407. DESIGNATIONS.**

4 (a) DESIGNATION OF INSURERS.—For each MSA,
5 the Administrator shall take the following actions:

6 (1) The Administrator shall annually designate
7 the insurers transacting insurance business in such
8 MSA for which reporting is required under section
9 403. At a minimum, the Administrator shall annu-
10 ally designate the 25 insurers in such MSA having
11 the largest premium volume in the designated lines
12 of insurance.

13 (2) The Administrator shall also annually des-
14 ignate any entity providing insurance in a des-
15 ignated line of insurance as part of a residual mar-
16 ket established by State law.

17 (3) The Administrator may designate additional
18 insurers on the basis of such criteria as the Admin-
19 istrator may by regulation develop. Such a regula-
20 tion shall be issued in accordance with section 553
21 of title 5, United States Code. In considering wheth-
22 er to designate additional insurers, the Adminis-
23 trator shall ensure that—

24 (A) insurers who specialize in selling insur-
25 ance in urban areas, including surplus lines in-

1 surers, are specifically considered for designa-
2 tion notwithstanding their premium volume;
3 and

4 (B) insurers representing at least 90 per-
5 cent of the premium volume in the designated
6 lines of insurance are designated in such MSA.

7 (b) DESIGNATION OF LINES OF INSURANCE.—For
8 each MSA, the Administrator shall designate the lines of
9 insurance sold in such MSA for which reporting is re-
10 quired under section 403. At a minimum, the Adminis-
11 trator shall annually designate private mortgage insurance
12 and the following lines of property and casualty insurance:

13 (1) Private passenger automobile insurance (in-
14 cluding appropriate sublines and classes).

15 (2) Property insurance which does not cover
16 commercial property (including homeowners, fire,
17 burglary and theft, and other lines, and appropriate
18 sublines and classes and related coverages such as
19 coverage of property contents and property insured
20 at full replacement value or market value).

21 (3) Commercial insurance for small business.

22 The Administrator may designate additional lines of insur-
23 ance on the basis of such criteria as the Administrator
24 may by regulation develop. Such a regulation shall be is-
25 sued in accordance with section 553 of title 5, United

1 States Code. For purposes of this title, the designation
2 of a line of insurance includes a designation of a subline
3 or class of insurance.

4 (c) TIMING OF DESIGNATIONS.—The Administrator
5 shall make the annual designations required by sub-
6 sections (a) and (b) no later than September 1 of the year
7 preceding the year for which reporting is required under
8 section 403. The Administrator shall notify persons in-
9 volved in the designations no later than the October 1
10 which follows the designation.

11 (d) OBTAINING INFORMATION.—The Administrator
12 may obtain from insurers such information as the Admin-
13 istrator may require to make designations under this sec-
14 tion.

15 **SEC. 408. DISCLOSURES TO REJECTED APPLICANTS.**

16 (a) IN GENERAL.—Except as provided in subsection
17 (e), the Administrator shall, by regulations issued under
18 section 553 of title 5, United States Code—

19 (1) require insurers to provide to each applicant
20 for insurance in a designated line—

21 (A) reasons for denying an application for
22 such insurance or for canceling or not renewing
23 a policy in force; and

24 (B) actions the applicant may take to qual-
25 ify for such insurance; and

1 (2) restrict the use insurers may make of infor-
2 mation relating to—

3 (A) adverse underwriting decisions; or

4 (B) insurance coverage in a residual mar-
5 ket.

6 (b) MODEL ACTS.—In issuing regulations under sub-
7 section (a), the Administrator shall consider relevant por-
8 tions of model acts developed by the National Association
9 of Insurance Commissioners.

10 (c) ENFORCEMENT.—The Administrator may dele-
11 gate to the States the authority to enforce the require-
12 ments of regulations issued under subsection (a).

13 (d) PREEMPTION.—Subsection (a) is not to be con-
14 strued to preempt any State from imposing on insurers
15 requirements of the type stated in such subsection, includ-
16 ing requirements which are more stringent or more com-
17 prehensive.

18 (e) EXEMPTION.—A regulation issued under sub-
19 section (a) may not apply to insurance provided under a
20 program underwritten or administered by the United
21 States, including the national flood insurance program
22 under the National Flood Insurance Act of 1968, the pro-
23 gram for insurance against burglary and theft under title
24 XII of the National Housing Act, and mortgage insurance
25 under the National Housing Act.

1 (f) DEFINITION.—For purposes of subsection
2 (a)(2)(A), an adverse underwriting decision means any of
3 the following actions with respect to insurance trans-
4 actions involving insurance coverage which is individually
5 underwritten:

6 (1) A declination of insurance coverage.

7 (2) A termination of insurance coverage.

8 (3) Failure of an agent to apply for insurance
9 coverage with a specific insurance entity which the
10 agent represents and which is requested by the ap-
11 plicant.

12 (4) In the case of property or casualty insur-
13 ance coverage—

14 (A) placement by an insurance entity or
15 agent of a risk with a residual market mecha-
16 nism, an unauthorized insurer, or an insurance
17 entity which specializes in substandard risks; or

18 (B) the charging of higher rates on the
19 basis of information which differs from that
20 which the applicant or policyholder furnished.

21 **SEC. 409. TERMINATION OF AGENTS.**

22 (a) REGULATIONS.—Except as provided in subsection
23 (d), the Administrator shall, by regulation issued under
24 section 553 of title 5, United States Code, ensure that
25 the practices of insurers in terminating agents who handle

1 private mortgage insurance or property or casualty insur-
2 ance do not result in an inappropriate effect on the avail-
3 ability or affordability of insurance from such insurers.
4 Such regulations shall specifically ensure that such prac-
5 tices do not result in unfair discrimination against agents
6 as a result of their geographic locations or of the geo-
7 graphic locations of their clients. Regulations under this
8 subsection shall be stated in terms of minimum standards.

9 (b) PREEMPTION.—Subsection (a) may not be con-
10 strued to preempt any State from imposing on insurers
11 requirements of the type stated in such subsection, includ-
12 ing requirements which are more stringent or more com-
13 prehensive.

14 (c) ENFORCEMENT.—The Administrator may dele-
15 gate to the States the enforcement of such regulations.

16 (d) EXEMPTION.—A regulation issued under sub-
17 section (a) may not apply to insurance provided under a
18 program underwritten or administered by the United
19 States, including the national flood insurance program
20 under the National Flood Insurance Act of 1968, the pro-
21 gram for insurance against burglary and theft under title
22 XII of the National Housing Act, and mortgage insurance
23 under the National Housing Act.

1 **SEC. 410. IMPLEMENTATION.**

2 (a) IN GENERAL.—The Administrator shall prescribe
3 such regulations as may be necessary to carry out sections
4 403 through 406. Such regulations may contain such clas-
5 sifications, differentiations, or other provisions, and may
6 provide for such adjustments and exceptions for any class
7 of transactions, as in the judgment of the Administrator
8 are necessary and proper to effectuate the purposes of
9 such section and to prevent circumvention or evasion
10 thereof or to facilitate compliance therewith.

11 (b) BURDENS.—In prescribing regulations under sub-
12 section (a), the Administrator shall take into consideration
13 the administrative, paperwork, and other burdens on in-
14 surance agents, including independent insurance agents,
15 involved in complying with the requirements of sections
16 403 through 406 and shall minimize the burdens imposed
17 by such requirements with respect to such agents.

18 **SEC. 411. IMPROVED METHODS.**

19 The Administrator shall develop, or assist in the im-
20 provement of, methods of matching addresses and census
21 tracts to facilitate compliance by insurers, in as economi-
22 cal a manner as possible, with the requirements of this
23 title.

24 **SEC. 412. COMPILATION OF AGGREGATE DATA.**

25 (a) SCOPE OF DATA AND TABLES.—The Adminis-
26 trator shall compile each year, for each MSA, aggregate

1 data by census tract for all insurers who are subject to
2 section 403 or who are exempt from section 403 under
3 the provisions of section 404(e)(1) of such section. The
4 Administrator shall also produce tables indicating, for
5 each MSA, aggregate insurance underwriting patterns for
6 various categories of census tracts grouped according to
7 location, age of property, income level, and racial charac-
8 teristics.

9 (b) AVAILABILITY TO PUBLIC.—The data compiled
10 and the tables produced pursuant to subsection (a) shall
11 be made available to the public on a timetable determined
12 by the Administrator but not later than December 1 of
13 the year following the calendar year on which the data
14 and tables are based. The data shall be made available
15 using the system implemented under section 405, in the
16 forms required under such section, and subject to the pro-
17 visions of such section.

18 **SEC. 413. TESTERS.**

19 The Administrator may utilize employees and officers
20 of the Federal Insurance Administration and may provide
21 advice and technical assistance to State and local govern-
22 ment agencies and public and private entities (including
23 nonprofit organizations), to develop, implement, carry out,
24 or coordinate programs or activities designed to—

1 (1) prevent or eliminate discriminatory insur-
2 ance practices; or

3 (2) obtain enforcement of Federal and State
4 laws prohibiting discriminatory insurance practices.

5 **SEC. 414. REPORT.**

6 The Administrator shall report to the Committee on
7 Banking, Finance and Urban Affairs of the House of Rep-
8 resentatives and the Committee on Banking, Housing, and
9 Urban Affairs of the Senate on the implementation of this
10 title, any activities carried out pursuant to section 413,
11 and shall make recommendations to such committees on
12 such additional legislation as the Administrator deems ap-
13 propriate to carry out this title.

14 **SEC. 415. ENFORCEMENT.**

15 (a) CIVIL PENALTIES.—An insurer who does not
16 comply with the requirements of sections 403 through
17 406, or a regulation issued under section 408 or 409, shall
18 be subject to a civil penalty of not to exceed \$5,000 for
19 each day during which such violation continues.

20 (b) INJUNCTION.—The district courts of the United
21 States shall have jurisdiction over a petition of the Admin-
22 istrator to enjoin an insurer from actions which are in vio-
23 lation of the requirements of sections 403 through 406
24 or of a regulation issued under section 408 or 409.

1 **SEC. 416. RELATION TO STATE LAWS.**

2 This title does not annul, alter, affect, or exempt the
3 obligation of any insurer subject to this title to comply
4 with the laws of any State or subdivision thereof with re-
5 spect to public disclosure and recordkeeping.

6 **SEC. 417. DEFINITIONS.**

7 For purposes of this title:

8 (1) The term “Administrator” means the Fed-
9 eral Insurance Administrator.

10 (2) The term “commercial insurance” means
11 any line of property and casualty insurance, except
12 private passenger automobile and homeowner’s in-
13 surance.

14 (3) The term “designated insurer” means an
15 insured designated by the Administrator under sec-
16 tion 407(a).

17 (4) The term “designated line” means a line of
18 insurance designated by the Administrator under
19 section 407(b).

20 (5) The term “insurer” means any corporation,
21 association, society, order, firm, company, partner-
22 ship, individual, or aggregation of individuals which
23 is subject to examination or supervision by any State
24 insurance regulator, or which is doing or represents
25 an insurance business.

1 (6) The term “private mortgage insurance”
2 means insurance against the nonpayment of, or de-
3 fault on, a mortgage or loan for residential or com-
4 mercial property, except that such term does not in-
5 clude mortgage insurance made available under the
6 National Housing Act.

7 (7) The term “property and casualty insur-
8 ance” means insurance against loss of or damage to
9 property, insurance against loss of income or extra
10 expense incurred because of loss of, or damage to,
11 property, and insurance against third party liability
12 claims caused by negligence or imposed by statute or
13 contract.

14 (8) The term “residual market” means an as-
15 signed risk plan, joint underwriting association, or
16 any similar mechanism designed to make insurance
17 available to those unable to obtain it in the vol-
18 untary market.

19 (9) The term “State” means any State, the
20 District of Columbia, the Commonwealth of Puerto
21 Rico, the Northern Mariana Islands, the Virgin Is-
22 lands, American Samoa, and the Trust Territory of
23 the Pacific Islands.

1 **SEC. 418. EFFECTIVE DATE.**

2 The requirements of this title shall take effect with
3 respect to calendar year 1994.

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