

Union Calendar No. 166

103D CONGRESS
1ST SESSION

H. R. 1257

[Report No. 103-302, Parts I and II]

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.

OCTOBER 28, 1993

Reported from the Committee on Energy and Commerce with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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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

OCTOBER 19, 1993

Reported with amendments, referred to the Committee on Energy and Commerce for a period ending not later than November 19, 1993, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of the committee pursuant to clause 1(h), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

OCTOBER 28, 1993

Additional sponsors: Mr. HINCHEY, Ms. VELÁZQUEZ, Mr. DIXON, Mr. FIELDS of Louisiana, Mr. MFUME, Mr. GUTIERREZ, Ms. ESHOO, and Mr. DE LUGO

OCTOBER 28, 1993

Reported from the Committee on Energy and Commerce with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part in italic black brackets and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on March 9, 1993]

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,*

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

4 **【(a) SHORT TITLE.**—*This Act may be cited as the*
 5 *“Insurance Consumer Protection Act”.*

6 **【(b) TABLE OF CONTENTS.**—

【Sec. 1. *Short title and table of contents.*

【TITLE I—CERTIFICATION OF FOREIGN INSURERS

【Subtitle A—Certification of Foreign Direct Insurers

【Sec. 101. *Requirement for conducting direct insurance business.*

【Sec. 102. *Application.*

【Sec. 103. *Certification procedure.*

【Sec. 104. *Requirements for foreign direct insurers.*

【Sec. 105. *Financial statements.*

【Sec. 106. *Authority to establish risk-based capital standards.*

【Subtitle B—Certification of Foreign Reinsurers

【Sec. 121. *Requirement for claiming credit for reinsurance.*

【Sec. 122. *Application.*

【Sec. 123. *Certification procedure.*

【Sec. 124. *Requirements for foreign reinsurers.*

【Sec. 125. *Financial statements.*

【Sec. 126. *Authority to establish risk-based capital standards.*

【Subtitle C—Enforcement

【Sec. 141. *Examinations of foreign insurers.*

【Sec. 142. *Termination and suspension of certification.*

【Sec. 143. *Cease-and-desist orders.*

- 【Sec. 144. *Actions by State insurance regulators to enforce requirements applicable to foreign insurers.*
- 【Sec. 145. *Criminal penalties.*
- 【Sec. 146. *Notification to State insurance regulators and coordination with foreign insurance regulators.*
- 【Sec. 147. *National insurance intelligence database.*

【Subtitle D—General Provisions

- 【Sec. 161. *Transfer of information with State insurance regulators.*
- 【Sec. 162. *National Advisory Council of State Insurance Regulators.*
- 【Sec. 163. *GAO study of accounting principles.*
- 【Sec. 164. *Fees.*
- 【Sec. 165. *Forms.*
- 【Sec. 166. *Determination of qualified financial institutions and control.*
- 【Sec. 167. *Definitions.*
- 【Sec. 168. *Relation to State laws.*
- 【Sec. 169. *Effective dates.*

【TITLE II—DISCLOSURE OF INSURANCE AVAILABILITY AND
INSURER INVESTMENT INFORMATION

- 【Sec. 201. *Short title.*
- 【Sec. 202. *Findings and purposes.*
- 【Sec. 203. *Establishment of general requirements to submit information.*
- 【Sec. 204. *Reporting of noncommercial insurance information.*
- 【Sec. 205. *Study of commercial insurance for residential properties and small businesses.*
- 【Sec. 206. *Reporting of bid, performance, and payment bonds for small businesses.*
- 【Sec. 207. *Reporting of rural insurance information.*
- 【Sec. 208. *Waiver of reporting requirements.*
- 【Sec. 209. *Reporting by private mortgage insurers.*
- 【Sec. 210. *Use of data contractor and statistical agents.*
- 【Sec. 211. *Reporting of information regarding investments by insurers.*
- 【Sec. 212. *Submission of information to Secretary and maintenance of information.*
- 【Sec. 213. *Compilation of aggregate information.*
- 【Sec. 214. *Availability and access system.*
- 【Sec. 215. *Designations.*
- 【Sec. 216. *Improved methods and reporting on basis of other areas.*
- 【Sec. 217. *Annual reporting period.*
- 【Sec. 218. *Disclosures by insurers to applicants and policyholders.*
- 【Sec. 219. *Enforcement.*
- 【Sec. 220. *Reports.*
- 【Sec. 221. *Task force on agency appointments.*
- 【Sec. 222. *Studies.*
- 【Sec. 223. *Exemption and relation to State laws.*
- 【Sec. 224. *Regulations.*
- 【Sec. 225. *Definitions.*
- 【Sec. 226. *Effective date.*

1 **[TITLE I—CERTIFICATION OF**
2 **FOREIGN INSURERS**

3 **[Subtitle A—Certification of**
4 **Foreign Direct Insurers**

5 **[SEC. 101. REQUIREMENT FOR CONDUCTING DIRECT IN-**
6 **SURANCE BUSINESS.**

7 *[No foreign insurer may engage in the business of in-*
8 *surance in any State by accepting or renewing United*
9 *States direct written insurance obligations after the date*
10 *provided in section 169(c) unless the foreign insurer is cer-*
11 *tified under this subtitle by the Secretary of the Treasury*
12 *as a certified foreign direct insurer. No person may assist*
13 *or facilitate, in any State, the acceptance or renewal of*
14 *United States direct written insurance obligations with a*
15 *foreign insurer unless the foreign insurer is so certified.*

16 **[SEC. 102. APPLICATION.**

17 *[The Secretary shall provide for a foreign insurer to*
18 *apply, in the form and manner determined by the Sec-*
19 *retary, for certification under this subtitle as a certified for-*
20 *eign direct insurer.*

21 **[SEC. 103. CERTIFICATION PROCEDURE.**

22 *[(a) IN GENERAL.—The Secretary may certify a for-*
23 *eign insurer as a certified foreign direct insurer for pur-*
24 *poses of this title only if—*

1 **[(1)** *the foreign insurer submits an application*
2 *under section 102 containing such information as the*
3 *Secretary may require to determine whether the for-*
4 *foreign insurer complies with the standards established*
5 *under section 104, together with an application fee in*
6 *the amount determined under section 164(a);*

7 **[(2)** *the Secretary determines that the foreign*
8 *insurer complies with the requirements under section*
9 *104; and*

10 **[(3)** *the Secretary determines that the foreign*
11 *insurer has complied with the requirements under sec-*
12 *tion 105.*

13 **[(b)** *REQUIREMENTS FOR FOREIGN DIRECT INSURERS*
14 *NOT SEEKING CERTIFICATION.—The Secretary may reduce*
15 *or waive the requirements under sections 104 and 105 as*
16 *the Secretary determines appropriate, with respect to any*
17 *foreign direct insurer that submits to the Secretary, before*
18 *the date provided in section 169(c), written notice that the*
19 *foreign insurer does not intend to apply for certification*
20 *under this subtitle, will not violate the prohibitions under*
21 *section 101, and will comply with any requirements pursu-*
22 *ant to this subsection. In making any such determinations,*
23 *the Secretary shall consider the adequacy of insurance regu-*
24 *lation in the country of domicile of the foreign insurer and*

1 *the needs and protections of United States policyholders,*
2 *creditors, and the general public.*

3 **[SEC. 104. REQUIREMENTS FOR FOREIGN DIRECT INSUR-**
4 **ERS.**

5 **[(a) IN GENERAL.—***Each foreign direct insurer shall*
6 *comply with the following requirements:*

7 **[(1) MINIMUM NET WORTH AND RISK-BASED**
8 **CAPITAL STANDARDS.—***The foreign insurer shall have*
9 *a net worth in an amount not less than \$15,000,000*
10 *(or an aggregate amount of not less than*
11 *\$10,000,000,000, in the case of a group of incor-*
12 *porated insurers under common administration), or*
13 *such higher amount as the Secretary may require*
14 *based on the amount of business transacted by the for-*
15 *foreign insurer and the aggregate amount of the United*
16 *States direct written insurance obligations of the for-*
17 *foreign insurer and shall comply with any risk-based*
18 *capital standards established by the Secretary under*
19 *section 106. The Secretary shall determine the net*
20 *worth of a foreign insurer and may adjust the value*
21 *of any assets and liabilities of an insurer, for pur-*
22 *poses of this paragraph, in accordance with the ac-*
23 *counting standards established by the Secretary pur-*
24 *suant to section 105(d).*

1 **[(2) TRUST FUND.**—*The foreign insurer shall es-*
2 *tablish and, at all times, maintain at a qualified fi-*
3 *nancial institution in the United States an irrev-*
4 *ocable trust, which shall meet the following require-*
5 *ments:*

6 **[(A) AVAILABILITY OF PROCEEDS.**—*The*
7 *trust instrument shall provide that contested*
8 *claims shall be valid and enforceable upon the*
9 *final order of any court of competent jurisdiction*
10 *in the United States. Legal title to assets of the*
11 *trust shall be vested in the trustees of the trust*
12 *and all assets shall be available to meet the Unit-*
13 *ed States direct written insurance obligations of*
14 *the insurer, notwithstanding any other specified*
15 *use of the trust. The trust shall remain in effect*
16 *for such time as the insurer has outstanding ob-*
17 *ligations due under policies subject to the trust.*

18 **[(B) BALANCE.**—*Except as provided in*
19 *subparagraph (C), the trust fund shall have a*
20 *balance, at all times, of cash, readily marketable*
21 *securities, and letters of credit, acceptable in the*
22 *determination of the Secretary, in an amount*
23 *not less than—*

24 **[(i)** *for a single insurer, the greater*
25 *of—*

1 **[(I)** \$2,500,000; or

2 **[(II)** the lesser of (a) the aggregate
3 amount of the United States direct
4 written insurance obligations of
5 the insurer, or (b) \$10,000,000;

6 **[(ii)** for an insurer that is a group including
7 incorporated and individual unincorporated
8 underwriters, the sum of—

9 **[(I)** \$50,000,000; and

10 **[(II)** the aggregate amount of the
11 United States direct written insurance
12 obligations of the insurer plus an
13 amount equal to all other liabilities secured
14 by the trust; and

15 **[(iii)** for an insurer that is a group of
16 incorporated insurers under common administration,
17 the sum of—

18 **[(I)** \$50,000,000; and

19 **[(II)** the aggregate amount of the
20 United States direct written insurance
21 obligations pursuant to insurance contracts
22 subscribed to by members of the
23 group and issued by or through each
24 member of the group.

1 **[(C) UNSAFE FINANCIAL CONDITIONS.**—*The*
2 *Secretary may increase the minimum balance*
3 *required to be maintained under subparagraph*
4 *(B) by an insurer, on a case-by-case basis, if the*
5 *Secretary determines that such insurer is operat-*
6 *ing in a manner likely to result in an unsafe or*
7 *unsound financial condition.*

8 *The Secretary may develop and require the use of*
9 *standard forms, agreements, and contracts for use in*
10 *establishing trusts under this paragraph. The trust*
11 *agreement shall require the qualified financial insti-*
12 *tution to serve at all times as trustee and shall pro-*
13 *vide that the Secretary shall have access to such books*
14 *and records regarding the trust fund as may be nec-*
15 *essary to conduct audits required under section*
16 *141(c). Notwithstanding any Federal or State law, if*
17 *the insurer is placed in supervision, rehabilitation, or*
18 *liquidation, or any equivalent status by the State or*
19 *country of its domicile, or the Secretary determines*
20 *pursuant to regulations issued by the Secretary that*
21 *the condition of the insurer is such that the further*
22 *transaction of business by the insurer will be hazard-*
23 *ous to United States policyholders or creditors, or to*
24 *the public, then the Secretary shall have the sole au-*
25 *thority for distributing the proceeds of any trust fund*

1 *under this paragraph for payment of the valid claims*
2 *of the United States policyholders of the insurer and*
3 *other claimants under such policies. The trustees of*
4 *the trust shall submit a report in writing to the Sec-*
5 *retary annually, not later than the date established by*
6 *the Secretary by regulation. The report shall state the*
7 *balance of the trust, list the investments of the trust*
8 *for the 12-month period for which the report is made,*
9 *and certify the date of the termination of the trust*
10 *with respect to new business (if planned) or certify*
11 *that the trust will not expire before the date occurring*
12 *12 months after the expiration of the 12-month period*
13 *for which the report is made.*

14 **[(3) AGENT FOR SERVICE OF PROCESS.**—*The*
15 *foreign insurer shall appoint and maintain, in the*
16 *form and manner required by the Secretary, an agent*
17 *in the United States upon whom process may be*
18 *served in any action, suit, or proceeding.*

19 **[(4) JURISDICTION OF COURTS.**—*The foreign in-*
20 *surer shall agree to submit to the jurisdiction of any*
21 *court of the United States or of any State, of com-*
22 *petent jurisdiction, and to be fully bound by its deci-*
23 *sion.*

24 **[(5) REGULATION BY DOMICILE.**—*The foreign*
25 *insurer shall annually submit to the Secretary a cer-*

1 *tificate of compliance, certificate of good standing, or*
2 *equivalent documentation (as determined by the Sec-*
3 *retary) properly attested by the foreign insurance reg-*
4 *ulator for the domicile of the insurer, evidencing au-*
5 *thority under the laws of the domicile of the insurer*
6 *to engage in the business of insurance in such domi-*
7 *cile.*

8 **[(6) BIOGRAPHICAL INFORMATION.**—*The foreign*
9 *insurer shall annually submit to the Secretary, in the*
10 *form and manner determined by the Secretary—*

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

19 **[(B)** *biographical, management, and oper-*
20 *ational information, as the Secretary shall pro-*
21 *vide, on any persons that control the insurer.*

22 **[(7) INSURANCE EXPERIENCE.**—*The foreign in-*
23 *surer shall—*

24 **[(A)** *have been actively and continuously*
25 *engaged in the business of insurance as a direct*

1 insurer for a period of not less than 3 years end-
2 ing upon the submission of an application under
3 section 102;

4 **[(B)** be a wholly owned subsidiary of an
5 insurer actively and continuously engaged in the
6 business of insurance as a direct insurer for a
7 period of not less than 3 years ending upon the
8 submission of an application under section 102;
9 or

10 **[(C)** be the continuing corporation result-
11 ing from a merger or consolidation of insurers,
12 at least one of which has been actively and con-
13 tinuously engaged in the business of insurance as
14 a direct insurer for a period of not less than 3
15 years ending upon the submission of an applica-
16 tion under section 102.

17 **[(8) OTHER.**—The foreign insurer shall meet
18 any other requirements relating to the solvency or ca-
19 pacity, or safety and soundness of the business prac-
20 tices of the insurer, that are established by the Sec-
21 retary as the Secretary may determine are reasonably
22 necessary to protect the interests of United States pol-
23 icyholders, creditors, or the general public.

24 **[(b) WAIVER.**—The Secretary may reduce or waive
25 any of the requirements under paragraphs (3) through (8)

1 *of subsection (a) with respect to a foreign insurer if the*
2 *Secretary determines on a case-by-case basis that the for-*
3 *foreign insurer has demonstrated, to the satisfaction of the Sec-*
4 *retary, experience, competence, and capacity to safely and*
5 *soundly engage in the business of insurance in the United*
6 *States.*

7 ***[SEC. 105. FINANCIAL STATEMENTS.***

8 ***[(a) REQUIREMENT.—***

9 ***[(1) FINANCIAL STATEMENTS SUBMITTED TO***
10 ***FOREIGN REGULATORS.—Each foreign direct insurer***
11 ***shall—***

12 ***[(A) upon application under section 102***
13 ***for certification as a certified foreign direct in-***
14 ***surer, and***

15 ***[(B) in the case of a certified foreign direct***
16 ***insurer, on an annual basis, for purposes of re-***
17 ***newing certification,***

18 ***submit to the Secretary the financial statements of the***
19 ***insurer, and of any persons that control the insurer,***
20 ***that are required to be submitted to the foreign insur-***
21 ***ance regulators for the insurer.***

22 ***[(2) INDEPENDENT AUDIT.—Each financial***
23 ***statement submitted to the Secretary under para-***
24 ***graph (1) shall include an audit conducted by a inde-***
25 ***pendent certified public accountant or other qualified***

1 *independent auditor in accordance with generally ac-*
2 *cepted auditing standards or the auditing standards*
3 *of the applicable country (if the Secretary determines*
4 *such standards are comparable). The audit shall in-*
5 *clude a certification by the accountant or auditor of*
6 *the amount of all loss reserves of the foreign direct in-*
7 *surer.*

8 **[(b) ADDITIONAL INFORMATION.—***The Secretary may*
9 *at any time require any certified foreign direct insurer or*
10 *foreign direct insurer applying for certification, to submit*
11 *to the Secretary, in addition to the information submitted*
12 *under subsection (a), any information that the Secretary*
13 *considers reasonable and necessary to determine the finan-*
14 *cial condition of the insurer.*

15 **[(c) ACCOUNTING STANDARDS.—***The Secretary shall*
16 *evaluate and adjust any financial statements and informa-*
17 *tion submitted under this section that are not prepared in*
18 *accordance with the accounting standards established under*
19 *subsection (d) as may be necessary to conform to such ac-*
20 *counting standards.*

21 **[(d) ESTABLISHMENT OF STANDARDS.—**

22 **[(1) IN GENERAL.—***The Secretary shall establish*
23 *accounting standards for determining the net worth of*
24 *foreign direct insurers and the compliance of such in-*

1 *surers with any risk-based capital standards estab-*
2 *lished under section 106.*

3 **[(2) CONSIDERATION OF ESTABLISHED AC-**
4 *COUNTING PRINCIPLES.—In establishing the account-*
5 *ing standards, the Secretary shall take into consider-*
6 *ation (A) generally accepted accounting principles,*
7 *(B) United States statutory accounting principles,*
8 *(C) the results of the study under section 163 and the*
9 *recommendations of the Comptroller General con-*
10 *tained in the report under such section, and (D) the*
11 *specific characteristics of the insurance business and*
12 *reinsurers.*

13 **[SEC. 106. AUTHORITY TO ESTABLISH RISK-BASED CAPITAL**
14 **STANDARDS.**

15 **[(a) AUTHORITY.—***The Secretary may, by regulation,*
16 *establish risk-based capital standards under this section re-*
17 *quiring a foreign direct insurer to have a net worth appro-*
18 *priate to the underwriting, financial, investment, and other*
19 *risk assumed by the insurer (as provided under subsection*
20 *(b)(1)), and may require, for certification as a certified for-*
21 *eign direct insurer, that a foreign direct insurer comply*
22 *with such standards.*

23 **[(b) CONTENT.—**

24 **[(1) IN GENERAL.—***Any risk-based capital*
25 *standards established under this section shall require*

1 *a foreign direct insurer to maintain an amount of*
2 *capital that is sufficient, as determined by the Sec-*
3 *retary, for the foreign insurer to maintain minimum*
4 *capital amounts taking into account the nature and*
5 *type of risks underwritten by the insurer, the pre-*
6 *mium volume of risks underwritten by the insurer,*
7 *the composition, quality, duration, and liquidity of*
8 *the insurer's investment portfolio, and the adequacy*
9 *of the capital reserves of the insurer, and such other*
10 *risks as the Secretary considers appropriate.*

11 **[(2) CAPITAL LEVELS.**—*Any risk-based capital*
12 *standards established under this section may include*
13 *various capital levels designed to identify the serious-*
14 *ness of any capital inadequacies of a foreign insurer.*

15 **[(3) ENFORCEMENT.**—*The Secretary may pro-*
16 *vide that if the amount of capital maintained by a*
17 *foreign insurer does not meet or exceed the amount re-*
18 *quired to be maintained under the various risk-based*
19 *capital standards, the Secretary may take actions*
20 *under subtitle C to enforce such requirements and*
21 *may take other actions as the Secretary considers ap-*
22 *propriate to facilitate compliance with such require-*
23 *ments.*

1 **[Subtitle B—Certification of**
2 **Foreign Reinsurers**

3 **[SEC. 121. REQUIREMENT FOR CLAIMING CREDIT FOR RE-**
4 **INSURANCE.**

5 *[No United States insurer may claim reinsurance ob-*
6 *tained from a foreign reinsurer after the date provided in*
7 *section 169(c) as an asset or deduction from liability for*
8 *purposes of any financial statement (including financial*
9 *statements required under this title) unless the foreign rein-*
10 *surer is certified under this subtitle by the Secretary as a*
11 *certified foreign reinsurer.*

12 **[SEC. 122. APPLICATION.**

13 *[The Secretary shall provide for a foreign reinsurer*
14 *to apply, in the form and manner determined by the Sec-*
15 *retary, for certification under this subtitle as a certified for-*
16 *eign reinsurer.*

17 **[SEC. 123. CERTIFICATION PROCEDURE.**

18 *[(a) IN GENERAL.—The Secretary may certify a for-*
19 *eign reinsurer as a certified foreign reinsurer for purposes*
20 *of this title only if—*

21 *[(1) the foreign reinsurer submits an applica-*
22 *tion under section 122 containing such information*
23 *as the Secretary may require to determine whether the*
24 *foreign insurer complies with the standards estab-*

1 *lished under section 124, together with an application*
2 *fee in the amount determined under section 164(a);*

3 **[(2)** *the Secretary determines that the foreign*
4 *insurer complies with the requirements under section*
5 *124; and*

6 **[(3)** *the Secretary determines that the foreign*
7 *insurer has complied with the requirements under sec-*
8 *tion 125.*

9 **[(b)** *REQUIREMENTS FOR FOREIGN REINSURERS NOT*
10 *SEEKING CERTIFICATION.—The Secretary may reduce or*
11 *waive the requirements under sections 124 and 125 as the*
12 *Secretary determines appropriate, with respect to any for-*
13 *foreign reinsurer that submits to the Secretary, before the date*
14 *provided in section 169(c), written notice that the foreign*
15 *reinsurer does not intend to apply for certification under*
16 *this subtitle and will comply with any requirements pursu-*
17 *ant to this subsection. In making any such determinations,*
18 *the Secretary shall consider the United States reinsurance*
19 *obligations of the foreign reinsurer, the adequacy of insur-*
20 *ance regulation in the country of domicile of the foreign*
21 *reinsurer, and the needs and protections of United States*
22 *policyholders, creditors, and the general public.*

23 **[SEC. 124. REQUIREMENTS FOR FOREIGN REINSURERS.**

24 **[(a)** *IN GENERAL.—Each foreign reinsurer shall com-*
25 *ply with the following requirements:*

1 **[(1) MINIMUM NET WORTH AND RISK-BASED**
2 *CAPITAL STANDARDS.—The foreign reinsurer shall*
3 *have a net worth in an amount not less than*
4 *\$20,000,000 (or an aggregate amount of not less than*
5 *\$10,000,000,000, in the case of a group of incor-*
6 *porated reinsurers under common administration), or*
7 *such higher amount as the Secretary may require*
8 *based on the amount of business transacted by the for-*
9 *foreign reinsurer and the value of the insurance ceded to*
10 *the foreign reinsurer and shall comply with any risk-*
11 *based capital standards established by the Secretary*
12 *under section 126. The Secretary shall determine the*
13 *net worth of a foreign reinsurer and may adjust the*
14 *value of any assets and liabilities of a reinsurer, for*
15 *purposes of this paragraph, in accordance with the*
16 *accounting standards established by the Secretary*
17 *pursuant to section 125(d).*

18 **[(2) POLICYHOLDER SECURITY.—The foreign re-**
19 *insurer shall secure the interests of United States pol-*
20 *icyholders by compliance with at least 1 of the follow-*
21 *ing subparagraphs:*

22 **[(A) TRUST FUND.—The foreign reinsurer**
23 *shall establish and, at all times, maintain at a*
24 *qualified financial institution in the United*

1 *States an irrevocable trust, which shall meet the*
2 *following requirements:*

3 **[(i) AVAILABILITY OF PROCEEDS.—**

4 *The trust instrument shall provide that con-*
5 *tested claims shall be valid and enforceable*
6 *upon the final order of any court of com-*
7 *petent jurisdiction in the United States.*
8 *Legal title to assets of the trust shall be vest-*
9 *ed in the trustees of the trust and all assets*
10 *shall be available to meet the United States*
11 *reinsurance obligations of the reinsurer,*
12 *notwithstanding any other specified use of*
13 *the trust. The trust shall remain in effect*
14 *for such time as the insurer has outstanding*
15 *obligations due under reinsurance obliga-*
16 *tions subject to the trust.*

17 **[(ii) BALANCE.—***Except as provided*
18 *in subparagraph (C), the trust fund shall*
19 *have a balance, at all times, of cash, readily*
20 *marketable securities, and letters of credit,*
21 *acceptable in the determination of the Sec-*
22 *retary, in an amount not less than—*

23 **[(I) for a single assuming in-**
24 *surer, \$5,000,000;*

1 **[(II)** *for an insurer that is a*
2 *group including incorporated and in-*
3 *dividual unincorporated underwriters,*
4 *the sum of \$100,000,000 and the aggre-*
5 *gate amount of the United States rein-*
6 *surance obligations of the insurer, plus*
7 *an amount equal to all other liabilities*
8 *secured by the trust; and*

9 **[(III)** *for an insurer that is a*
10 *group of incorporated insurers under*
11 *common administration, the sum of*
12 *\$100,000,000 and the aggregate*
13 *amount of the United States reinsur-*
14 *ance obligations pursuant to reinsur-*
15 *ance contracts subscribed to by mem-*
16 *bers of the group and issued by or*
17 *through each member of the group.*

18 **[(iii)** *UNSAFE FINANCIAL CONDI-*
19 *TIONS.—The Secretary may increase the*
20 *minimum balance required to be main-*
21 *tained under subparagraph (B) by a rein-*
22 *surer, on a case-by-case basis, if the Sec-*
23 *retary determines that the reinsurer is oper-*
24 *ating in a manner likely to result in an un-*
25 *safe or unsound financial condition.*

1 *The Secretary may develop and require the use*
2 *of standard forms, agreements, and contracts for*
3 *use in establishing trusts under this paragraph.*
4 *The trust agreement shall require the qualified*
5 *financial institution to serve at all times as*
6 *trustee and shall provide that the Secretary shall*
7 *have access to such books and records regarding*
8 *the trust fund as may be necessary to conduct*
9 *audits required under section 141(c). Notwith-*
10 *standing any Federal or State law, if the rein-*
11 *surer is placed in supervision, rehabilitation, or*
12 *liquidation, or any equivalent status by the*
13 *State or country of its domicile, or the Secretary*
14 *determines pursuant to regulations issued by the*
15 *Secretary that the condition of the reinsurer is*
16 *such that the further transaction of business by*
17 *the reinsurer will be hazardous to the interests of*
18 *United States policyholders or creditors, or to the*
19 *public, then the Secretary shall have the sole au-*
20 *thority for distributing the proceeds of any trust*
21 *fund under this subparagraph for payment of*
22 *valid claims of the United States reinsurance ob-*
23 *ligations of the reinsurer and other claimants*
24 *under such policies. The trustees of the trust*
25 *shall submit a report in writing to the Secretary*

1 *annually, not later than the date established by*
2 *the Secretary by regulation. The report shall*
3 *state the balance of the trust, list the investments*
4 *of the trust for the 12-month period for which the*
5 *report is made, and certify the date of the termi-*
6 *nation of the trust with respect to new business*
7 *(if planned) or certify that the trust will not ex-*
8 *pire before the date occurring 12 months after*
9 *the expiration of the 12-month period for which*
10 *the report is made.*

11 **[(B) OTHER SECURITY.**—*The foreign rein-*
12 *surer shall fund all United States reinsurance*
13 *obligations of the reinsurer in the form of—*

14 **[(i)** *cash under the control of the*
15 *ceding United States insurer;*

16 **[(ii)** *a clean, irrevocable, uncondi-*
17 *tional, and automatically renewable letter*
18 *of credit issued by a qualified financial in-*
19 *stitution and held by the ceding insurer; or*

20 **[(iii)** *any other form of funding that*
21 *the Secretary determines is appropriate.*

22 **[(3) AGENT FOR SERVICE OF PROCESS.**—*The*
23 *foreign reinsurer shall appoint and maintain, in the*
24 *form and manner required by the Secretary, an agent*

1 *in the United States upon whom process may be*
2 *served in any action, suit, or proceeding.*

3 **[(4) JURISDICTION OF COURTS.—**

4 **[(A) IN GENERAL.—***The foreign reinsurer*
5 *shall agree to submit to the jurisdiction of any*
6 *court of the United States or of any State, of*
7 *competent jurisdiction, and to be fully bound by*
8 *its decision.*

9 **[(B) ARBITRATION.—***The provisions of sub-*
10 *paragraph (A) may not be construed to annul,*
11 *alter, or affect any obligation of the parties to a*
12 *reinsurance agreement to arbitrate or otherwise*
13 *resolve their disputes that is established by such*
14 *an agreement.*

15 **[(5) REGULATION BY DOMICILE.—***The foreign*
16 *reinsurer shall annually submit to the Secretary a*
17 *certificate of compliance, certificate of good standing,*
18 *or equivalent documentation (as determined by the*
19 *Secretary) properly attested by the foreign insurance*
20 *regulator for the domicile of the reinsurer, evidencing*
21 *authority under the laws of the domicile of the rein-*
22 *surer to engage in the business of reinsurance in such*
23 *domicile.*

1 **[(6) BIOGRAPHICAL INFORMATION.**—*The foreign*
2 *reinsurer shall annually submit to the Secretary, in*
3 *the form and manner determined by the Secretary—*

4 **[(A)** *biographical information on all senior*
5 *officers and directors of the reinsurer that dem-*
6 *onstrates a level of competency, experience, and*
7 *integrity sufficient to indicate that permitting*
8 *the reinsurer to conduct business in the United*
9 *States would not be contrary to the interests of*
10 *United States cedants, policyholders, creditors,*
11 *or the general public; and*

12 **[(B)** *biographical, management, and oper-*
13 *ational information, as the Secretary shall pro-*
14 *vide, on any persons that control the reinsurer.*

15 **[(7) INSURANCE EXPERIENCE.**—*The foreign re-*
16 *insurer shall—*

17 **[(A)** *have been actively and continuously*
18 *engaged in the business of insurance as a rein-*
19 *surer for a period of not less than 3 years ending*
20 *upon the submission of an application under sec-*
21 *tion 122;*

22 **[(B)** *be a wholly owned subsidiary of an*
23 *insurer and continuously engaged in the business*
24 *of insurance as a reinsurer for a period of not*

1 *less than 3 years ending upon the submission of*
2 *an application under section 122; or*

3 **[(C)** *be the continuing corporation result-*
4 *ing from a merger or consolidation of insurers,*
5 *at least one of which has been actively and con-*
6 *tinuously engaged in the business of insurance as*
7 *a reinsurer for a period of not less than 3 years*
8 *ending upon the submission of an application*
9 *under section 122.*

10 **[(8) OTHER.—***The foreign reinsurer shall meet*
11 *any other requirements relating to the solvency or ca-*
12 *capacity, or safety and soundness of the business prac-*
13 *tices of the reinsurer, that are established by the Sec-*
14 *retary as the Secretary may determine are reasonably*
15 *necessary to protect the interest of United States pol-*
16 *icyholders, creditors, and the general public.*

17 **[(b) WAIVER.—***The Secretary may reduce or waive*
18 *any of the requirements under paragraphs (3) through (8)*
19 *of subsection (a) with respect to a foreign reinsurer if the*
20 *Secretary determines on a case-by-case basis that the for-*
21 *eign reinsurer has demonstrated, to the satisfaction of the*
22 *Secretary, experience, competence, and capacity to safely*
23 *and soundly engage in the business of reinsurance in the*
24 *United States.*

1 **[SEC. 125. FINANCIAL STATEMENTS.**

2 **[**(a) *REQUIREMENT.—*

3 **[**(1) *FINANCIAL STATEMENTS SUBMITTED TO*
4 *FOREIGN REGULATORS.—Each foreign reinsurer*
5 *shall—*

6 **[**(A) *upon application under section 122*
7 *for certification as a certified foreign reinsurer,*
8 *and*

9 **[**(B) *in the case of a certified foreign rein-*
10 *surer, on an annual basis, for purposes of renew-*
11 *ing certification,*

12 *submit to the Secretary the financial statements of the*
13 *reinsurer, and of any persons that control the rein-*
14 *surer, that are required to be submitted to the foreign*
15 *insurance regulators for the reinsurer.*

16 **[**(2) *INDEPENDENT AUDIT.—Each financial*
17 *statement submitted to the Secretary under para-*
18 *graph (1) shall include an audit conducted by a inde-*
19 *pendent certified public accountant or other qualified*
20 *independent auditor in accordance with generally ac-*
21 *cepted auditing standards or the auditing standards*
22 *of the applicable country (if the Secretary determines*
23 *such standards are comparable). The audit shall in-*
24 *clude a certification by the accountant or auditor of*
25 *the amount of all loss reserves of the foreign reinsurer.*

1 **[(b) ADDITIONAL INFORMATION.**—*The Secretary may*
2 *at any time require any certified foreign reinsurer or for-*
3 *foreign reinsurer applying for certification, to submit to the*
4 *Secretary, in addition to the information submitted under*
5 *subsection (a), any information that the Secretary considers*
6 *reasonable and necessary to determine the financial condi-*
7 *tion of the reinsurer.*

8 **[(c) ACCOUNTING STANDARDS.**—*The Secretary shall*
9 *evaluate and adjust any financial statements and informa-*
10 *tion submitted under this section that are not prepared in*
11 *accordance with the accounting standards established under*
12 *subsection (d) as may be necessary to conform to such ac-*
13 *counting standards.*

14 **[(d) ESTABLISHMENT OF STANDARDS.**—

15 **[(1) IN GENERAL.**—*The Secretary shall establish*
16 *accounting standards for determining the net worth of*
17 *foreign reinsurers and the compliance of such reinsur-*
18 *ers with any risk-based capital standards established*
19 *under section 126.*

20 **[(2) CONSIDERATION OF ESTABLISHED AC-**
21 **COUNTING PRINCIPLES.**—*In establishing the account-*
22 *ing standards, the Secretary shall take into consider-*
23 *ation (A) generally accepted accounting principles,*
24 *(B) United States statutory accounting principles,*
25 *(C) the results of the study under section 163 and the*

1 *recommendations of the Comptroller General con-*
2 *tained in the report under such section, and (D) the*
3 *specific characteristics of the insurance business and*
4 *reinsurers.*

5 ***[SEC. 126. AUTHORITY TO ESTABLISH RISK-BASED CAPITAL***
6 ***STANDARDS.***

7 ***[(a) AUTHORITY.—****The Secretary may, by regulation,*
8 *establish risk-based capital standards under this section re-*
9 *quiring a foreign reinsurer to have a net worth appropriate*
10 *to the underwriting, financial, investment, and other risk*
11 *assumed by the insurer (as provided under subsection*
12 *(b)(1)), and may require, for certification as a certified for-*
13 *eign reinsurer, that a foreign reinsurer comply with such*
14 *standards.*

15 ***[(b) CONTENT.—***

16 ***[(1) IN GENERAL.—****Any risk-based capital*
17 *standards established under this section shall require*
18 *a foreign reinsurer to maintain an amount of capital*
19 *that is sufficient, as determined by the Secretary, for*
20 *the foreign reinsurer to maintain minimum capital*
21 *amounts taking into account the nature and type of*
22 *risks assumed by the insurer, the premium volume of*
23 *risks assumed by the reinsurer, the composition, qual-*
24 *ity, duration, and liquidity of the reinsurer's invest-*
25 *ment portfolio, and the adequacy of the capital re-*

1 *serves of the reinsurer, and such other risks as the*
2 *Secretary considers appropriate.*

3 **[(2) CAPITAL LEVELS.**—*Any risk-based capital*
4 *standards established under this section may include*
5 *various capital levels designed to identify the serious-*
6 *ness of any capital inadequacies of a foreign rein-*
7 *surer.*

8 **[(3) ENFORCEMENT.**—*The Secretary may pro-*
9 *vide that if the amount of capital maintained by a*
10 *foreign reinsurer does not meet or exceed the amount*
11 *required to be maintained under the various risk-*
12 *based capital standards, the Secretary may take ac-*
13 *tions under subtitle C to enforce such requirements*
14 *and may take other actions as the Secretary considers*
15 *appropriate to facilitate compliance with such re-*
16 *quirements.*

17 ***[Subtitle C—Enforcement***

18 ***[SEC. 141. EXAMINATIONS OF FOREIGN INSURERS.***

19 **[(a) IN GENERAL.**—*The Secretary shall establish*
20 *standards under this section for examinations of foreign in-*
21 *surers to determine their financial condition.*

22 **[(b) TIMING.**—*The Secretary—*

23 **[(1)** *shall conduct an examination under this*
24 *section of each foreign insurer applying for certifi-*
25 *cation under section 102 or 122; and*

1 **[(2)** *may conduct an examination of a foreign*
2 *insurer at any time the Secretary considers an exam-*
3 *ination reasonable and necessary to determine the fi-*
4 *ancial condition of the insurer.*

5 **[(c) AUDITS OF TRUST FUNDS.—***At any time the Sec-*
6 *retary considers an audit reasonable and necessary to deter-*
7 *mine the financial condition of the trust fund established*
8 *pursuant to section 104(2) or 124(2) by a foreign insurer,*
9 *the Secretary may—*

10 **[(1)** *conduct an audit of the trust fund; or*

11 **[(2)** *require the insurer to provide for an audit*
12 *of the trust fund, conducted by a independent certified*
13 *public accountant or other qualified independent*
14 *auditor in accordance with the accounting standards*
15 *established under section 105(d) or 125(d), as appli-*
16 *cable, and to submit the results of the audit to the*
17 *Secretary.*

18 **[(d) ACCESS.—***Each foreign insurer examined pursu-*
19 *ant to this section shall provide the Secretary access to any*
20 *books and records of the insurer for purpose of conducting*
21 *any examination or audit under this section.*

22 **[SEC. 142. TERMINATION AND SUSPENSION OF CERTIFI-**
23 **CATION.**

24 **[(a) TERMINATION OF CERTIFICATION.—**

25 **[(1) VOLUNTARY TERMINATION.—**

1 **[(A) NOTICE.**—*Any foreign insurer may*
2 *terminate the insurer’s status as a certified for-*
3 *foreign insurer if such foreign insurer provides*
4 *written notice to the Secretary of the insurer’s*
5 *intent to terminate such status not less than 90*
6 *days before the effective date of such termination.*

7 **[(B) CESSATION OF BUSINESS.**—*With re-*
8 *spect to foreign insurers that terminate their cer-*
9 *tified status pursuant to this paragraph, the Sec-*
10 *retary shall issue regulations providing for—*

11 **[(i)** *the termination, in an orderly*
12 *and appropriate manner, of the activities of*
13 *such insurers relating to the conducting of*
14 *the business of foreign direct insurance or*
15 *foreign reinsurance; and*

16 **[(ii)** *the manner and timing for such*
17 *insurers to obtain access to the proceeds of*
18 *the trust fund of the insurer under section*
19 *104(2) or section 124(2), as applicable.*

20 **[(2) INVOLUNTARY TERMINATION.**—

21 **[(A) GROUNDS.**—*The Secretary may take*
22 *action under this paragraph to terminate the*
23 *status of a foreign insurer if the Secretary deter-*
24 *mines that—*

1 **[(i)** *a certified foreign insurer or the*
2 *directors, officers, managers, or trustees of a*
3 *certified foreign insurer have engaged or are*
4 *engaging in unsafe or unsound practices in*
5 *conducting the business of the foreign in-*
6 *surer;*

7 **[(ii)** *a certified foreign insurer is in*
8 *an unsafe or unsound condition to continue*
9 *operations as a certified foreign insurer; or*

10 **[(iii)** *a certified foreign insurer or the*
11 *directors or trustees of a certified foreign in-*
12 *surer have violated any applicable law, reg-*
13 *ulation, order, condition imposed in writing*
14 *by the Secretary in connection with the cer-*
15 *tification of the foreign insurer as a cer-*
16 *tified foreign insurer, or any written agree-*
17 *ment entered into between the certified for-*
18 *ign insurer and the Secretary.*

19 **[(B)** *NOTICE TO APPROPRIATE STATE IN-*
20 *SURANCE REGULATORS.—Upon any determina-*
21 *tion by the Secretary that the grounds exist to*
22 *take action under this paragraph, the Secretary*
23 *shall notify each appropriate State insurance*
24 *regulator of the determination and the facts and*
25 *circumstances on which such determination is*

1 *based, and consult with the regulator regarding*
2 *the action proposed to be taken.*

3 **[(C) NOTICE TO FOREIGN INSURER.**—*Upon*
4 *any determination by the Secretary to take ac-*
5 *tion under this paragraph, the Secretary shall—*

6 **[(i)** *serve written notice to the foreign*
7 *insurer of the Secretary’s intention to ter-*
8 *minate the certified status of the foreign in-*
9 *surer;*

10 **[(ii)** *provide the foreign insurer with*
11 *a statement of the charges on the basis of*
12 *which the determination to terminate such*
13 *insurer’s certified status was made; and*

14 **[(iii)** *notify the foreign insurer of the*
15 *date (not less than 30 days after notice*
16 *under this subparagraph) and place for a*
17 *hearing before the Secretary (or any person*
18 *designated by the Secretary) with respect to*
19 *the termination of the foreign insurer’s cer-*
20 *tified status.*

21 **[(D) ISSUANCE OF ORDER.**—*If, on the basis*
22 *of the evidence presented at a hearing before the*
23 *Secretary (or any person designated by the Sec-*
24 *retary for such purpose) and the written findings*
25 *of the Secretary (or such person) with respect to*

1 *such evidence (which shall be conclusive), the*
2 *Secretary finds that any unsafe or unsound*
3 *practice or condition or any violation specified*
4 *in the notice to an foreign insurer under sub-*
5 *paragraph (C) has been established, the Sec-*
6 *retary may issue an order terminating the cer-*
7 *tified status of such foreign insurer effective as of*
8 *a date subsequent to such finding. In any such*
9 *hearing, all issues shall be determined on the*
10 *record subject to the requirements of section 554*
11 *of title 5, United States Code.*

12 **[(E) APPEARANCE AND CONSENT TO TER-**
13 **MINATION.—***Unless the foreign insurer appears*
14 *at the hearing by a duly authorized representa-*
15 *tive, the insurer shall be deemed to have con-*
16 *sent to the termination of its status as a cer-*
17 *tified foreign insurer and the Secretary may*
18 *issue an order terminating such status.*

19 **[(F) JUDICIAL REVIEW.—***Any foreign in-*
20 *surer whose certified status has been terminated*
21 *by order of the Secretary under this paragraph*
22 *shall have the right of judicial review of such*
23 *order only to the same extent as provided for the*
24 *review of orders under section 143(f).*

1 **[(G) PUBLICATION OF NOTICE OF TERMI-**
2 *NATION.—The Secretary may publish notice of*
3 *termination under this paragraph and the for-*
4 *foreign insurer shall give notice of such termination*
5 *to each of its policyholders and cedants at the*
6 *last address of record on the books of the foreign*
7 *insurer, in such manner and at such time as the*
8 *Secretary may consider to be necessary and may*
9 *order for the protection of policyholders and*
10 *cedants.*

11 **[(b) TEMPORARY SUSPENSION OF CERTIFICATION.—**

12 **[(1) IN GENERAL.—***The Secretary may issue a*
13 *temporary order suspending the certified status of the*
14 *foreign insurer if, after consultation with the appro-*
15 *priate State insurance regulators, the Secretary initi-*
16 *ates a termination proceeding under subsection (a)(2)*
17 *and finds with respect to a certified foreign insurer*
18 *that—*

19 **[(A) such foreign insurer (or any of its di-**
20 *rectors, officers, managers, or trustees) is engag-*
21 *ing in an unsafe or unsound practice in con-*
22 *ducting the business of the foreign insurer;*

23 **[(B) such foreign insurer is in an unsafe or**
24 *unsound condition to continue operating as a*
25 *certified foreign insurer; or*

1 **[(C)** *such foreign insurer (or any of its di-*
2 *rectors, officers, managers, or trustees) has vio-*
3 *lated any applicable law, rule, regulation, or*
4 *order, or any condition imposed in writing by*
5 *the Secretary, or any written agreement entered*
6 *into with the Secretary,*

7 **[(2)** *EFFECTIVE PERIOD.—Any order issued*
8 *under paragraph (1) shall become effective not earlier*
9 *than 10 days from the date of service upon the foreign*
10 *insurer and, unless set aside, limited, or suspended by*
11 *a court in proceedings authorized hereunder, such*
12 *temporary order shall remain effective and enforceable*
13 *until an order of the Secretary under subsection*
14 *(a)(2)(D) becomes final or until the Secretary dis-*
15 *misses the proceedings under subsection (a)(2).*

16 **[(3)** *JUDICIAL REVIEW.—Before the expiration*
17 *of the 10-day period beginning on the date any tem-*
18 *porary order has been served upon a foreign insurer*
19 *under paragraph (1), such foreign insurer may apply*
20 *to the United States District Court for the District of*
21 *Columbia for an injunction setting aside, limiting, or*
22 *suspending the enforcement, operation, or effectiveness*
23 *of such order, and such court shall have jurisdiction*
24 *to issue such injunction.*

1 **[(4) CONTINUATION OF APPLICABILITY OF RE-**
2 **QUIREMENTS.**—A foreign insurer for which a tem-
3 porary order has been issued under this subsection
4 shall continue to be subject to the requirements of this
5 title applicable to foreign insurers and certified for-
6 eign insurers and the Secretary shall have the same
7 powers and rights with respect to such foreign insurer
8 as in the case of a certified foreign insurer, subject to
9 the administrative proceedings as provided in this
10 title.

11 **[(5) PUBLICATION OF ORDER.**—A foreign in-
12 surer for which a temporary order has been issued
13 under this subsection shall give notice of the order to
14 each of its policyholders and cedants in such manner
15 and at such times as the Secretary may find to be
16 necessary and may order for the protection of the pol-
17 icyholders and cedants. If the Secretary determines
18 that the foreign insurer has not substantially com-
19 plied with the notice to policyholders and cedants re-
20 quired by the Secretary, the Secretary may provide
21 such notice in such manner as the Secretary may find
22 to be necessary and appropriate.

23 **[(c) FINAL DECISIONS TO TERMINATE CERTIFI-**
24 **CATION.**—The Secretary shall make, and may not delegate,
25 any decision to—

1 **[(1)** *issue a temporary order terminating certifi-*
2 *cation of a foreign insurer; or*

3 **[(2)** *issue a final order terminating certification*
4 *of a foreign insurer.*

5 **[SEC. 143. CEASE-AND-DESIST ORDERS.**

6 **[(a)** *CEASE-AND-DESIST ORDERS.—*

7 **[(1)** *GROUNDS FOR ISSUANCE.—The Secretary*
8 *may issue and serve upon a foreign insurer or an in-*
9 *surer-affiliated party a notice of charges under this*
10 *subsection if, in the determination of the Secretary—*

11 **[(A)** *the foreign insurer or insurer-affili-*
12 *ated party is in an unsafe or unsound condition;*

13 **[(B)** *the foreign insurer or insurer-affili-*
14 *ated party is engaging or has engaged, or the*
15 *Secretary has reasonable cause to believe that the*
16 *foreign insurer or insurer-affiliated party is*
17 *about to engage, in an unsafe or unsound prac-*
18 *tice in conducting the business of such foreign*
19 *insurer; or*

20 **[(C)** *the foreign insurer or insurer-affili-*
21 *ated party is violating or has violated, or the*
22 *Secretary has reasonable cause to believe that the*
23 *foreign insurer or insurer-affiliated party is*
24 *about to violate, a law, rule, or regulation, or*
25 *any condition imposed in writing by the Sec-*

1 retary or any written agreement entered into
2 with the Secretary.

3 **[(2) CONTENTS OF NOTICE OF CHARGES.**—The
4 notice shall contain a statement of the facts constitut-
5 ing the unsafe or unsound condition, the unsafe or
6 unsound practice or practices, or the alleged violation
7 or violations, and shall fix a time and place at which
8 a hearing will be held to determine whether an order
9 to cease and desist therefrom should issue against the
10 foreign insurer or insurer-affiliated party.

11 **[(3) HEARING AND FAILURE TO APPEAR.**—Such
12 hearing shall be fixed for a date not earlier than 30
13 days nor later than 60 days after service of such no-
14 tice unless an earlier or a later date is set by the Sec-
15 retary at the request of any party so served. Unless
16 the party or parties so served appears at the hearing
17 personally or by a duly authorized representative, the
18 party shall be deemed to have consented to the issu-
19 ance of the cease-and-desist order under paragraph
20 (4).

21 **[(4) ISSUANCE OF ORDER.**—In the event of con-
22 sent under paragraph (3) or if, upon the record made
23 at any such hearing, the Secretary finds that any un-
24 safe or unsound condition, unsafe or unsound prac-
25 tice, or violation specified in the notice of charges has

1 *been established, the Secretary may issue and serve*
2 *upon the foreign insurer or insurer-affiliated party*
3 *an order to cease and desist from any such violation*
4 *or practice. Such order may, by provisions which*
5 *may be mandatory or otherwise, require the foreign*
6 *insurer or insurer-affiliated party to cease and desist*
7 *from the same, and, further, to take affirmative action*
8 *as provided in subsection (c) to correct the conditions*
9 *resulting from any such condition, practice, or viola-*
10 *tion.*

11 **[(5) EFFECTIVE DATE.**—*A cease-and-desist*
12 *order under this subsection shall become effective upon*
13 *the date specified in the order or, if no date is speci-*
14 *fied, upon the expiration of the 30-day period begin-*
15 *ning upon service of the order upon the foreign in-*
16 *surer or other person concerned and shall remain ef-*
17 *fective and enforceable as provided therein, except to*
18 *such extent as it is stayed, modified, terminated, or*
19 *set aside by action of the Secretary or a reviewing*
20 *court.*

21 **[(b) TEMPORARY CEASE-AND-DESIST ORDERS.**—

22 **[(1) GROUNDS FOR ISSUANCE.**—*Whenever the*
23 *Secretary determines that the unsafe or unsound con-*
24 *dition, the unsafe or unsound practice or practices, or*
25 *the violation or threatened violation specified in the*

1 *notice of charges served upon a foreign insurer or in-*
2 *surer-affiliated party pursuant to subsection (a)(1),*
3 *or the continuation thereof, is likely—*

4 *[(A) to cause insolvency or significant dis-*
5 *sipation of assets or earnings of the foreign in-*
6 *surer, or*

7 *[(B) to weaken the condition of the foreign*
8 *insurer or otherwise prejudice the interests of its*
9 *policyholders or cedants prior to the completion*
10 *of the proceedings conducted pursuant to sub-*
11 *section (a),*

12 *the Secretary may issue a temporary order requiring*
13 *the foreign insurer or insurer-affiliated party to cease*
14 *and desist from any such violation or practice and to*
15 *take affirmative action to prevent or remedy such in-*
16 *solvency, dissipation, condition, practice, violation, or*
17 *prejudice pending completion of such proceedings.*

18 *[(2) EFFECTIVE DATE.—An order under this*
19 *subsection shall become effective upon service upon the*
20 *foreign insurer or such party participating in the*
21 *conduct of the affairs of the foreign insurer and, un-*
22 *less set aside, limited, or suspended by a court in pro-*
23 *ceedings authorized by paragraph (3), shall remain*
24 *effective and enforceable pending the completion of the*
25 *administrative proceedings pursuant to such notice*

1 *and until such time as the Secretary dismisses the*
2 *charges specified in such notice, or if a cease-and-de-*
3 *sist order is issued against the foreign insurer or such*
4 *party, until the effective date of such order.*

5 **[(3) JUDICIAL REVIEW.**—*Within 10 days after a*
6 *foreign insurer or insurer-affiliated party has been*
7 *served with a temporary cease-and-desist order under*
8 *this subsection, the foreign insurer or such party may*
9 *apply to the United States District Court for the Dis-*
10 *trict of Columbia for an injunction setting aside, lim-*
11 *iting, or suspending the enforcement, operation, or ef-*
12 *fectiveness of such order pending the completion of the*
13 *administrative proceedings pursuant to the notice of*
14 *charges served upon the foreign insurer or such party*
15 *under subsection (a)(1), and such court shall have ju-*
16 *risdiction to issue such injunction.*

17 **[(4) INCOMPLETE OR INACCURATE RECORDS.**—

18 **[(A) TEMPORARY ORDER.**—*If a notice of*
19 *charges served under subsection (a)(1) specifies,*
20 *on the basis of particular facts and cir-*
21 *cumstances, that a foreign insurer's books and*
22 *records are so incomplete or inaccurate that the*
23 *Secretary is unable, through the normal super-*
24 *visory process, to determine the financial condi-*
25 *tion of the foreign insurer or the details or pur-*

1 *pose of any transaction or transactions that may*
2 *have a material effect on the financial condition*
3 *of the foreign insurer, the Secretary may issue a*
4 *temporary order requiring—*

5 **[(i)** *the cessation of any activity or*
6 *practice which gave rise, whether in whole*
7 *or in part, to the incomplete or inaccurate*
8 *state of the books or records; or*

9 **[(ii)** *affirmative action to restore such*
10 *books or records to a complete and accurate*
11 *state, until the completion of the proceed-*
12 *ings initiated under subsection (a)(1).*

13 **[(B) EFFECTIVE PERIOD.—***Any temporary*
14 *order issued under subparagraph (A)—*

15 **[(i)** *shall become effective upon service;*
16 *and*

17 **[(ii)** *unless set aside, limited, or sus-*
18 *pending by a court in proceedings under*
19 *paragraph (3), shall remain in effect and*
20 *enforceable until the earlier of—*

21 **[(I)** *the completion of the pro-*
22 *ceeding initiated under subsection*
23 *(a)(1) in connection with the notice of*
24 *charges; or*

1 *[(II) the date that the Secretary*
2 *determines, by examination or other-*
3 *wise, that the foreign insurer's books*
4 *and records are accurate and reflect*
5 *the financial condition of the foreign*
6 *insurer.*

7 *[(5) INJUNCTION.—In the case of violation or*
8 *threatened violation of, or failure to obey, a tem-*
9 *porary cease-and-desist order issued pursuant to*
10 *paragraph (1), the Secretary may apply to the*
11 *United States District Court for the District of Co-*
12 *lumbia for an injunction to enforce such order. If the*
13 *court determines that there has been such violation or*
14 *threatened violation or failure to obey, it shall be the*
15 *duty of the court to issue such injunction.*

16 *[(c) AFFIRMATIVE ACTION TO CORRECT CONDITIONS*
17 *RESULTING FROM VIOLATIONS OR PRACTICES.—The au-*
18 *thority to issue orders under subsections (a) and (b) that*
19 *requires a foreign insurer or insurer-affiliated party to take*
20 *affirmative action to correct or remedy any unsafe or un-*
21 *sound condition or conditions resulting from any practice*
22 *or violation, with respect to which such order is issued, in-*
23 *cludes the authority to require such foreign insurer or in-*
24 *surer-affiliated party to—*

1 **[(1)** *make restitution or provide reimbursement,*
2 *indemnification, or guarantee against loss;*

3 **[(2)** *rescind agreements or contracts;*

4 **[(3)** *employ qualified officers or employees (who*
5 *may be subject to approval by the Secretary at the di-*
6 *rection of the Secretary); and*

7 **[(4)** *take such other action as the Secretary de-*
8 *termines to be appropriate.*

9 **[(d)** *AUTHORITY TO LIMIT ACTIVITIES.—The author-*
10 *ity to issue orders under subsections (a) and (b) includes*
11 *the authority to place limitations on the activities or func-*
12 *tions of a foreign insurer or insurer-affiliated party.*

13 **[(e)** *STANDARDS FOR HEARINGS.—*

14 **[(1)** *VENUE.—Any hearing provided for in this*
15 *section shall be held in the judicial district of the*
16 *United States District Court for the District of Co-*
17 *lumbia and shall be conducted in accordance with the*
18 *provisions of chapter 5 of title 5 of the United States*
19 *Code.*

20 **[(2)** *ISSUANCE OF ORDER.—After such hearing,*
21 *and within 90 days after the Secretary has notified*
22 *the parties that the case has been submitted to the*
23 *Secretary for final decision, the Secretary shall render*
24 *the decision (which shall include findings of fact upon*
25 *which its decision is predicated) and shall issue and*

1 *serve upon each party to the proceeding an order or*
2 *orders consistent with the provisions of this section.*

3 **[(3) MODIFICATION.**—*Judicial review of any*
4 *cease and desist order (other than a temporary cease*
5 *and desist order) shall be exclusively as provided in*
6 *subsection (f). Unless a petition for review is timely*
7 *filed as provided in subsection (f)(1) and thereafter*
8 *until the record in the proceeding has been filed as so*
9 *provided, the Secretary may at any time, modify, ter-*
10 *minate, or set aside any such order upon such notice*
11 *and in such manner as the Secretary considers prop-*
12 *er. Upon such filing of the record, the Secretary may*
13 *modify, terminate, or set aside any such order with*
14 *permission of the court.*

15 **[(f) JUDICIAL REVIEW.**—

16 **[(1) COMMENCEMENT.**—*Any party to any pro-*
17 *ceeding under this section may obtain a review of any*
18 *order served pursuant to this section (other than a*
19 *temporary cease and desist order issued with the con-*
20 *sent, whether actual or deemed, of the foreign insurer*
21 *or insurer-affiliated party concerned) by the filing in*
22 *the United States Court of Appeals for the District of*
23 *Columbia Circuit, within 30 days after the date of*
24 *service of such order, a written petition praying that*
25 *the order be modified, terminated, or set aside. The*

1 clerk of the court shall transmit a copy of such peti-
2 tion to the Secretary, and thereupon the Secretary
3 shall file in the court the record in the proceeding, as
4 provided in section 2112 of title 28 of the United
5 States Code.

6 **[(2) JURISDICTION.**—Upon the filing of such pe-
7 tition, such court shall have jurisdiction, which upon
8 the filing of the record shall (except as provided in the
9 last sentence of subsection (e)(3)) be exclusive, to af-
10 firm, modify, terminate, or set aside, in whole or in
11 part, the order of the Secretary.

12 **[(3) REVIEW.**—Review of such proceedings shall
13 be had as provided in chapter 7 of title 5 of the
14 United States Code.

15 **[(4) FINAL JUDGMENT.**—The judgment and de-
16 cree of the court shall be final, except that the same
17 shall be subject to review by the Supreme Court upon
18 certiorari, as provided in section 1254 of title 28 of
19 the United States Code.

20 **[(5) NO AUTOMATIC STAY.**—The commencement
21 of proceedings for judicial review under this sub-
22 section shall not, unless specifically ordered by the
23 court, operate as a stay of any order issued by the
24 Secretary.

25 **[(g) ENFORCEMENT AND JURISDICTION.**—

1 **[(1) ENFORCEMENT.**—*The Secretary may (in*
2 *the discretion of the Secretary) apply to any United*
3 *States district court, or the United States court of*
4 *any territory, within the jurisdiction of which the for-*
5 *ign insurer transacts business, for the enforcement of*
6 *any effective and outstanding notice or order issued*
7 *under this section. Such courts shall have jurisdiction*
8 *and power to order and require compliance herewith.*

9 **[(2) JURISDICTION.**—*Except as otherwise pro-*
10 *vided in this section, no court shall have jurisdiction*
11 *to affect by injunction or otherwise the issuance or en-*
12 *forcement of any notice or order under this section,*
13 *or to review, modify, suspend, terminate, or set aside*
14 *any such notice or order.*

15 **[(h) CIVIL MONETARY PENALTY.**—

16 **[(1) FIRST TIER.**—*Any foreign insurer which,*
17 *and any insurer-affiliated party who—*

18 **[(A)** *violates any provision of this title or*
19 *any regulation issued pursuant to this title,*

20 **[(B)** *violates any final order or temporary*
21 *order issued pursuant to subsection (a) or (b),*

22 **[(C)** *violates any condition imposed in*
23 *writing by the Secretary in connection with the*
24 *certification of any foreign insurer as a certified*
25 *foreign insurer, or*

1 **[(D)** *violates any written agreement be-*
2 *tween such foreign insurer and the Secretary,*
3 *shall forfeit and pay a civil penalty of not more than*
4 *\$50,000 for each day during which such violation*
5 *continues.*

6 **[(2)** *SECOND TIER.—Notwithstanding para-*
7 *graph (1), any foreign insurer which, and any in-*
8 *surer-affiliated party who—*

9 **[(A)(i)** *commits any violation described in*
10 *any subparagraph of paragraph (1),*

11 **[(ii)** *recklessly engages in an unsafe or un-*
12 *sound practice in conducting the affairs of such*
13 *foreign insurer, or*

14 **[(iii)** *breaches any fiduciary duty, and*

15 **[(B)** *which violation, practice, or breach—*

16 **[(i)** *is part of a pattern of misconduct;*

17 **[(ii)** *causes or is likely to cause more*
18 *than a minimal loss to such foreign insurer;*

19 *or*

20 **[(iii)** *results in pecuniary gain or*
21 *other benefit to such party,*

22 *shall forfeit and pay a civil penalty of not more than*
23 *\$100,000 for each day during which such violation,*
24 *practice, or breach continues.*

1 **[(3) THIRD TIER.**—*Notwithstanding paragraphs*
2 *(1) and (2), any foreign insurer which, and any in-*
3 *surer-affiliated party who—*

4 **[(A) knowingly—**

5 **[(i) commits any violation described**
6 *in any subparagraph of paragraph (1),*

7 **[(ii) engages in any unsafe or un-**
8 *sound practice in conducting the affairs of*
9 *such foreign insurer, or*

10 **[(iii) breaches any fiduciary duty,**
11 *and*

12 **[(B) knowingly or recklessly causes a sub-**
13 *stantial loss to such foreign insurer or a substan-*
14 *tial pecuniary gain or other benefit to such*
15 *party by reason of such violation, practice, or*
16 *breach,*

17 *shall forfeit and pay a civil penalty in an amount*
18 *not to exceed the applicable maximum amount deter-*
19 *mined under paragraph (4) for each day during*
20 *which such violation, practice, or breach continues.*

21 **[(4) MAXIMUM AMOUNTS OF PENALTIES FOR**
22 **ANY VIOLATION DESCRIBED IN PARAGRAPH (3).**—*The*
23 *maximum daily amount of any civil penalty which*
24 *may be assessed pursuant to paragraph (3) for any*

1 violation, practice, or breach described in such sub-
2 paragraph is—

3 **[(A)** *in the case of any person other than*
4 *a foreign insurer, an amount to not exceed*
5 *\$500,000; and*

6 **[(B)** *in the case of any foreign insurer, an*
7 *amount not to exceed the lesser of—*

8 **[(i)** *\$1,000,000; or*

9 **[(ii)** *1 percent of the total assets of*
10 *such insurer.*

11 **[(5) ASSESSMENT.—**

12 **[(A) WRITTEN NOTICE.—***Any penalty im-*
13 *posed under paragraph (1), (2), or (3) may be*
14 *assessed and collected by the Secretary by writ-*
15 *ten notice.*

16 **[(B) FINALITY OF ASSESSMENT.—***If, with*
17 *respect to any assessment under subparagraph*
18 *(A), a hearing is not requested pursuant to para-*
19 *graph (8) within the period of time allowed*
20 *under such paragraph, the assessment shall con-*
21 *stitute a final and unappealable order.*

22 **[(6) AUTHORITY TO MODIFY OR REMIT PEN-**
23 *ALTY.—**The Secretary may compromise, modify, or*
24 *remit any penalty that the Secretary may assess or*
25 *had already assessed under paragraph (1), (2), or (3).*

1 **[(7) MITIGATING FACTORS.**—*In determining the*
2 *amount of any penalty imposed under paragraph (1),*
3 *(2), or (3), the Secretary shall take into account the*
4 *appropriateness of the penalty with respect to—*

5 **[(A)** *the size of financial resources and*
6 *good faith of the foreign insurer or other person*
7 *charged;*

8 **[(B)** *the gravity of the violation;*

9 **[(C)** *the history of previous violations; and*

10 **[(D)** *such other matters as justice may re-*
11 *quire.*

12 **[(8) HEARING.**—*The foreign insurer or other*
13 *person against whom any penalty is assessed under*
14 *this subsection shall be afforded an agency hearing if*
15 *such insurer or person submits a request for such*
16 *hearing within 20 days after the issuance of the no-*
17 *tice of assessment.*

18 **[(9) COLLECTION.**—

19 **[(A) REFERRAL.**—*If any foreign insurer or*
20 *other person fails to pay an assessment after any*
21 *penalty assessed under this subsection has be-*
22 *come final, the Secretary shall recover the*
23 *amount assessed by action in the appropriate*
24 *United States district court.*

1 **[(B) APPROPRIATENESS OF PENALTY NOT**
2 *REVIEWABLE.—In any civil action under sub-*
3 *paragraph (A), the validity and appropriateness*
4 *of the penalty shall not be subject to review.*

5 **[(10) DISBURSEMENT.—All penalties collected**
6 *under authority of this subsection shall be paid to the*
7 *Secretary and shall be available to the Secretary, in*
8 *such amounts and to such extent as are or have been*
9 *provided in appropriation Acts, to carry out this*
10 *title.*

11 **[(11) REGULATIONS.—The Secretary shall pre-**
12 *scribe regulations establishing such procedures as may*
13 *be necessary to carry out this subsection.*

14 **[(i) NOTICE UNDER THIS SECTION AFTER SEPARA-**
15 *TION FROM SERVICE.—The resignation, termination of em-*
16 *ployment or participation, or separation of an insurer-af-*
17 *filiated party (including a separation caused by the closing*
18 *of the foreign insurer) shall not affect the jurisdiction and*
19 *authority of the Secretary to issue any notice and proceed*
20 *under this section against any such party, if such notice*
21 *is served before the end of the 6-year period beginning on*
22 *the date such party ceased to be such a party with respect*
23 *to such foreign insurer (whether such date occurs before, on,*
24 *or after the date of the enactment of this Act).*

25 **[(j) PREJUDGMENT ATTACHMENT.—**

1 **[(1) IN GENERAL.**—*In any action brought by*
2 *the Secretary pursuant to this section, or in actions*
3 *brought in aid of, or to enforce an order in, any ad-*
4 *ministrative or other civil action for monetary dam-*
5 *ages, restitution, or civil monetary penalties brought*
6 *by the Secretary, the court may, upon application of*
7 *the Secretary, issue a restraining order that—*

8 **[(A)** *prohibits any person subject to the*
9 *proceeding from withdrawing, transferring, re-*
10 *moving, dissipating, or disposing of any funds,*
11 *assets or other property; and*

12 **[(B)** *appoints a temporary receiver to ad-*
13 *minister the restraining order.*

14 **[(2) STANDARD.**—*A permanent or temporary*
15 *injunction or restraining order shall be granted with-*
16 *out bond upon a proper showing that monetary dam-*
17 *ages, restitution, or civil monetary penalties, as*
18 *sought by the Secretary, is appropriate.*

19 **[(k) SERVICE.**—*Any service required or authorized to*
20 *be made by the Secretary under this section may be made*
21 *by registered mail, or in such other manner reasonably cal-*
22 *culated to give actual notice as the Secretary may by regu-*
23 *lation or otherwise provide. Copies of any notice or order*
24 *served by the Secretary upon any foreign insurer or any*
25 *insurer-affiliated party, pursuant to the provisions of this*

1 *section, shall also be sent to the appropriate State insurance*
2 *regulator.*

3 **[(l) NOTICE TO STATE REGULATORS.**—*In connection*
4 *with any proceeding under subsection (a) or (b)(1) involv-*
5 *ing a foreign insurer or any insurer-affiliated party, the*
6 *Secretary shall provide the appropriate State insurance*
7 *regulator with notice of the Secretary's intent to institute*
8 *such a proceeding and the grounds therefore. No foreign in-*
9 *surer or other party who is the subject of any notice or order*
10 *issued by the Secretary under this section shall have stand-*
11 *ing to raise the requirements of this subsection as ground*
12 *for attacking the validity of any such notice or order.*

13 **[(m) OATHS AND SUBPOENAS.**—

14 **[(1) AUTHORITY.**—*In the course of or in connec-*
15 *tion with any proceeding under this section, the Sec-*
16 *retary (or any designated representative thereof, in-*
17 *cluding any person designated to conduct any hearing*
18 *under this section) shall have the power—*

19 **[(A)** *to administer oaths and affirmations;*

20 **[(B)** *to take or cause to be taken deposi-*
21 *tions; and*

22 **[(C)** *to issue, revoke, quash, or modify sub-*
23 *poenas and subpoenas duces tecum.*

1 *The Secretary may make rules and regulations with*
2 *respect to any such proceedings, claims, examina-*
3 *tions, or investigations.*

4 **[(2) WITNESSES AND DOCUMENTS.**—*The attend-*
5 *ance of witnesses and the production of documents*
6 *provided for in this subsection may be required from*
7 *any place in any State or in any territory or other*
8 *place subject to the jurisdiction of the United States*
9 *at any designated place where such proceeding is*
10 *being conducted.*

11 **[(3) ENFORCEMENT.**—*The Secretary or any*
12 *party to proceedings under this section may apply to*
13 *the United States District Court for the District of*
14 *Columbia, or the United States district court for the*
15 *judicial district or the United States court in any ter-*
16 *ritory in which such proceeding is being conducted, or*
17 *where the witness resides or carries on business, for*
18 *enforcement of any subpoena or subpoena duces tecum*
19 *issued pursuant to this subsection, and such courts*
20 *shall have jurisdiction and power to order and re-*
21 *quire compliance therewith.*

22 **[(4) FEES AND EXPENSES.**—*Witnesses subpoe-*
23 *naed under this subsection shall be paid the same fees*
24 *and mileage that are paid witnesses in the district*
25 *courts of the United States. Any court having juris-*

1 *diction of any proceeding instituted under this section*
2 *by an foreign insurer or a director or officer thereof,*
3 *may allow to any such party such reasonable expenses*
4 *and attorneys' fees as it deems just and proper, and*
5 *such expenses and fees shall be paid by the foreign in-*
6 *surer or from its assets.*

7 **[(5) MISDEMEANOR.**—*Any person who willfully*
8 *shall fail or refuse to attend and testify or to answer*
9 *any lawful inquiry or to produce books, papers, cor-*
10 *respondence, memoranda, contracts, agreements, or*
11 *other records, if in such person's power so to do, in*
12 *obedience to the subpoena of the Secretary, shall be*
13 *guilty of a misdemeanor and, upon conviction, shall*
14 *be subject to a fine of not more than \$1,000 or to im-*
15 *prisonment for a term of not more than 1 year or*
16 *both.*

17 **[(n) ACTS OUTSIDE THE UNITED STATES.**—*An act*
18 *or practice outside the United States on the part of a for-*
19 *foreign insurer or any officer, director, employee, or agent*
20 *thereof may not constitute the basis for any action by any*
21 *officer or agency of the United States under this section,*
22 *unless—*

23 **[(1)** *such officer or agency alleges a belief that*
24 *such act or practice has been, is, or is likely to be a*
25 *cause of or carried on in connection with or in fur-*

1 *therance of an act or practice within any one or more*
2 *States which, in and of itself, would constitute an ap-*
3 *propriate basis for action by a Federal officer or*
4 *agency under this section; or*

5 **[(2)** *the alleged act or practice is one which, if*
6 *proven, would, in the judgment of the Secretary, ad-*
7 *versely affect the United States policyholders or*
8 *cedants of the insurer.*

9 **[(o)** *PUBLIC DISCLOSURES OF FINAL ORDERS AND*
10 *AGREEMENTS.—*

11 **[(1)** *IN GENERAL.—The Secretary shall publish*
12 *and make available to the public on a monthly*
13 *basis—*

14 **[(A)** *any written agreement or other writ-*
15 *ten statement for which a violation may be en-*
16 *forced by the Secretary, unless the Secretary (in*
17 *the discretion of the Secretary) determines that*
18 *publication would be contrary to the public in-*
19 *terest;*

20 **[(B)** *any final order issued with respect to*
21 *any administrative enforcement proceeding initi-*
22 *ated by the Secretary under this section; and*

23 **[(C)** *any modification to or termination of*
24 *any order or agreement made public pursuant to*
25 *this paragraph.*

1 **[(2) HEARINGS.**—*All hearings on the record*
2 *with respect to any notice of charges issued by the*
3 *Secretary shall be open to the public, unless the Sec-*
4 *retary (in the discretion of the Secretary) determines*
5 *that holding an open hearing would be contrary to*
6 *the public interest.*

7 **[(3) REPORTS TO CONGRESS.**—*The Secretary*
8 *shall prepare a written report as a part of each deter-*
9 *mination not to hold a public hearing pursuant to*
10 *paragraph (2) or not to publish a document pursuant*
11 *to paragraph (1)(A). At the end of each calendar*
12 *quarter, the Secretary shall submit all such reports to*
13 *the Congress.*

14 **[(4) TRANSCRIPT OF HEARING.**—*The Secretary*
15 *shall prepare a transcript that includes all testimony*
16 *and other documentary evidence for all hearings com-*
17 *menced pursuant to subsection (e). A transcript of*
18 *public hearings shall be made available to the public*
19 *pursuant to section 552 of title 5, United States Code.*

20 **[(5) DELAY OF PUBLICATION UNDER EXCEP-**
21 *TIONAL CIRCUMSTANCES.*—*If the Secretary makes a*
22 *determination in writing that the publication of a*
23 *final order pursuant to paragraph (1)(B) would seri-*
24 *ously threaten the safety and soundness of a foreign*

1 *insurer, the Secretary may delay the publication of*
2 *the document for a reasonable time.*

3 **[(6) RETENTION OF DOCUMENTS.**—*The Sec-*
4 *retary shall keep and maintain a record, for a period*
5 *of at least 6 years, of all documents described in*
6 *paragraph (1) and all informal enforcement agree-*
7 *ments and other supervisory actions and supporting*
8 *documents issued with respect to or in connection*
9 *with any administrative enforcement proceeding ini-*
10 *tiated by the Secretary under this section.*

11 **[SEC. 144. ACTIONS BY STATE INSURANCE REGULATORS TO**
12 **ENFORCE REQUIREMENTS APPLICABLE TO**
13 **FOREIGN INSURERS.**

14 **[(a) IN GENERAL.**—*Subject to the provisions of this*
15 *section, any appropriate State insurance regulator may*
16 *bring a civil action in a Federal or State court of competent*
17 *jurisdiction, on behalf of the Secretary, against any foreign*
18 *insurer that commits any action that would make the for-*
19 *eign insurer subject to a civil monetary penalty under sec-*
20 *tion 143(h). The court shall have the jurisdiction to enjoin*
21 *such action and apply the appropriate civil monetary pen-*
22 *alty under section 143(h).*

23 **[(b) NOTICE TO SECRETARY.**—*A State insurance reg-*
24 *ulator may bring an action under this section only if the*
25 *State insurance regulator notifies the Secretary in writing,*

1 *not less than 30 days before the commencement of the ac-*
2 *tion, of the regulator's intent to bring the action, of the*
3 *identities of the foreign insurer or persons to be named as*
4 *defendants to the action, and of all information the regu-*
5 *lator possesses regarding the activity that is the subject of*
6 *the action that may materially affect the Secretary's deci-*
7 *sion to initiate a proceeding to impose a civil monetary*
8 *penalty under section 143(h) against the prospective defend-*
9 *ants. Any notice or information received by the Secretary*
10 *pursuant to this subsection shall remain confidential and*
11 *shall not be disclosed to any foreign insurer or person to*
12 *be named as a defendant to the action.*

13 **[(c) NOTICE BY SECRETARY OF INTENDED ACTION.—**
14 *The Secretary shall notify a State insurance regulator pro-*
15 *viding notice under subsection (b) of whether the Secretary*
16 *intends to initiate a proceeding to impose a civil monetary*
17 *penalty under section 143(h) against the prospective defend-*
18 *ants. Notice under this subsection shall be provided, in writ-*
19 *ing, not later than the expiration of the 30-day period be-*
20 *ginning on the date that the Secretary receives the written*
21 *notice under subsection (b).*

22 **[(d) REQUIREMENTS FOR ACTION BY STATE INSUR-**
23 **ANCE REGULATOR.—***A State insurance regulator may*
24 *bring an action under this section only—*

1 **[(1)** *after receipt of notice under subsection (c)*
2 *that the Secretary does not intend to initiate a pro-*
3 *ceeding to impose a civil monetary penalty under sec-*
4 *tion 143(h) against the prospective defendants;*

5 **[(2)** *if, upon the expiration of the period re-*
6 *ferred to in subsection (c), the Secretary has not pro-*
7 *vided the notice required under subsection (c); or*

8 **[(3)** *if the Secretary provides notice under sub-*
9 *section (c) that the Secretary intends to initiate a*
10 *proceeding to impose a civil monetary penalty under*
11 *section 143(h) against the prospective defendants, but*
12 *upon the expiration of the 90-day period beginning*
13 *on the date such notice is sent the Secretary has not*
14 *initiated such a proceeding.*

15 *A notice by the Secretary under paragraph (1), absence of*
16 *notice by the Secretary under paragraph (2), or failure by*
17 *the Secretary to initiate a proceeding under paragraph (3),*
18 *shall not be admissible as evidence of the liability or non-*
19 *liability of a defendant in any civil proceeding commenced*
20 *by a State insurance regulator pursuant to this section. A*
21 *matter considered by or in the possession of the Secretary*
22 *shall not be discoverable in any civil proceeding commenced*
23 *by a State insurance regulator pursuant to this section.*

24 **[(e)** *PROHIBITION OF SETTLEMENT WITHOUT SEC-*
25 *RETARY'S CONSENT.—No settlement agreement with regard*

1 *to any action under this section may be entered into or*
2 *agreed to by any State insurance regulator who brought the*
3 *action on behalf of the Secretary without the prior written*
4 *consent of the Secretary.*

5 **[(f) SHARE OF PENALTY.—**

6 **[(1) STATE ACTIONS.—***In any action brought*
7 *under this section, the court shall distribute 50 per-*
8 *cent of any civil monetary penalty imposed to the*
9 *State insurance regulator who brought the action and*
10 *50 percent to the Secretary.*

11 **[(2) CIVIL MONETARY PENALTIES.—***If a State*
12 *insurance regulator furnishes the Secretary with no-*
13 *tice and information pursuant to subsection (b) and*
14 *such notice and information is a contributing factor*
15 *in imposing a civil monetary penalty under section*
16 *143(h), then the court shall distribute to the State in-*
17 *surence regulator the greater of (A) one-third of the*
18 *amount of the civil monetary penalty imposed, or (B)*
19 *the costs of the investigation conducted by the State*
20 *insurance regulator.*

21 **[SEC. 145. CRIMINAL PENALTIES.**

22 **[(a) SUBMISSION OF FALSE AND MISLEADING INFOR-**
23 **MATION.—***Whoever knowingly submits information re-*
24 *quired under this title to the Secretary that is false and*

1 *misleading shall be fined under title 18, United States Code,*
 2 *or imprisoned not more than 30 years, or both.*

3 **[(b) FALSE REPRESENTATION OF CERTIFICATION.—**

4 **[(1) IN GENERAL.—***Section 709 of title 18,*
 5 *United States Code, is amended by inserting after the*
 6 *undesignated paragraph relating to the Overseas Pri-*
 7 *vate Investment Corporation the following new para-*
 8 *graph:*

9 **[(“Whoever falsely advertises or represents, or publishes**
 10 *or displays any sign, symbol, or advertisement reasonably*
 11 *calculated to convey the impression that a foreign insurer*
 12 *that is not a certified foreign insurer under title I of the*
 13 *Insurance Consumer Protection Act is such a certified for-*
 14 *ign insurer; or”.*

15 **[(2) EFFECTIVE DATE.—***This subsection shall*
 16 *take effect upon the expiration of the 18-month period*
 17 *beginning upon the date of the enactment of this Act.*

18 **[SEC. 146. NOTIFICATION TO STATE INSURANCE REGU-**
 19 **LATORS AND COORDINATION WITH FOREIGN**
 20 **INSURANCE REGULATORS.**

21 **[(a) STATE INSURANCE REGULATORS.—**

22 **[(1) NOTICE.—***Subject to any other require-*
 23 *ments of this title, the Secretary shall notify each ap-*
 24 *propriate State insurance regulator before examining*
 25 *any foreign insurer under this subtitle, terminating*

1 *or suspending the certification of any certified foreign*
2 *insurer under this subtitle, issuing any order or tak-*
3 *ing any other enforcement action authorized against*
4 *any foreign insurer or insurer-affiliated party pursu-*
5 *ant to this subtitle, or imposing any civil monetary*
6 *penalty or commencing any criminal action pursuant*
7 *to this subtitle and the amendment made by this sub-*
8 *title.*

9 **[(2) EFFECT OF REQUIREMENT.**—*No foreign in-*
10 *surer or other party who is the subject of any notice*
11 *or order issued by the Secretary pursuant to sub-*
12 *section shall have standing to raise the requirements*
13 *of this subsection as ground for attacking the validity*
14 *of any such notice or order.*

15 **[(b) FOREIGN INSURANCE REGULATORS.**—

16 **[(1) REQUESTING ASSISTANCE FROM FOREIGN**
17 *INSURANCE REGULATORS.*—*In conducting any inves-*
18 *tigation, examination, or enforcement action under*
19 *this title, the Secretary may—*

20 **[(A)** *request the assistance of any foreign*
21 *insurance regulator; and*

22 **[(B)** *maintain an office outside the United*
23 *States.*

24 **[(2) PROVIDING ASSISTANCE TO FOREIGN INSUR-**
25 *ANCE REGULATORS.*—

1 **[(A) IN GENERAL.**—*The Secretary may, at*
2 *the request of any foreign insurance regulator,*
3 *assist such regulator if such regulator states that*
4 *the requesting regulator is conducting an inves-*
5 *tigation to determine whether any person has*
6 *violated, is violating, or is about to violate any*
7 *law or regulation relating to insurance or rein-*
8 *surance matters administered or enforced by the*
9 *requesting regulator.*

10 **[(B) INVESTIGATION BY SECRETARY.**—*The*
11 *Secretary may, in the discretion of the Secretary,*
12 *investigate and collect information and evidence*
13 *pertinent to a request for assistance under sub-*
14 *paragraph (A). Any such investigation shall*
15 *comply with the laws of the United States and*
16 *the policies and procedures of the Secretary.*

17 **[(C) FACTORS TO CONSIDER.**—*In deciding*
18 *whether to provide assistance under this para-*
19 *graph, the Secretary shall consider—*

20 **[(i)** *whether the requesting regulator*
21 *has agreed to provide reciprocal assistance*
22 *with respect to insurance and reinsurance*
23 *matters within the jurisdiction of the Sec-*
24 *retary; and*

1 *[(ii) whether compliance with the re-*
2 *quest would prejudice the public interest of*
3 *the United States.*

4 *[(3) RULE OF CONSTRUCTION.—Paragraphs (1)*
5 *and (2) shall not be construed to limit the authority*
6 *of the Secretary to provide or receive assistance or in-*
7 *formation to or from any foreign authority with re-*
8 *spect to any matter.*

9 **[SEC. 147. NATIONAL INSURANCE INTELLIGENCE**
10 **DATABASE.]**

11 *[(a) IN GENERAL.—The Secretary shall collect infor-*
12 *mation regarding individuals and other persons that have*
13 *engaged in any activity in violation of any Federal or State*
14 *law, regulation, or order relating to insurance or reinsur-*
15 *ance activities. The Secretary shall establish a computer-*
16 *based database of such information and shall regularly up-*
17 *date the database.*

18 *[(b) LAW ENFORCEMENT ACCESS.—The Secretary*
19 *shall make information from the database under this section*
20 *available to appropriate Federal and State law enforcement*
21 *and regulatory agencies upon request.*

22 *[(c) CONFIDENTIALITY.—Except as provided in sub-*
23 *section (b), notwithstanding any other law, regulation, or*
24 *dinance, any agreement, any judgment or order of any*
25 *court, tribunal, or other officer, or any other legal process,*

1 *the Secretary may not disclose any information from the*
2 *database under this section.*

3 ***[Subtitle D—General Provisions***

4 ***[SEC. 161. TRANSFER OF INFORMATION WITH STATE IN-***
5 ***SURANCE REGULATORS.***

6 ***[****The Secretary shall provide to a State insurance reg-*
7 *ulator any application submitted under section 102 or 122*
8 *by a foreign insurer, any financial statement or other infor-*
9 *mation submitted under section 105 or 125 by a foreign*
10 *insurer, and any other information submitted to the Sec-*
11 *retary under this title by a foreign insurer, if such informa-*
12 *tion is requested by such State insurance regulator for such*
13 *insurer.*

14 ***[SEC. 162. NATIONAL ADVISORY COUNCIL OF STATE INSUR-***
15 ***ANCE REGULATORS.***

16 ***[****(a) ESTABLISHMENT.—The Secretary shall establish*
17 *an advisory council to be known as the National Advisory*
18 *Council of State Insurance Regulators.*

19 ***[****(b) DUTIES.—The National Advisory Council of*
20 *State Insurance Regulators shall advise the Secretary on*
21 *activities with respect to the requirements for foreign insur-*
22 *ers under this title, certification of foreign insurers under*
23 *this title, standards of such certification, and any other ac-*
24 *tivities of the Secretary under this title. The Advisory Coun-*
25 *cil may submit such advice and recommendations to the*

1 *Secretary in writing and the Secretary shall respond, in*
2 *writing, to any such advice, and shall include in any such*
3 *response an explanation of any actions taken with respect*
4 *to the advice and any reasons for not following any rec-*
5 *ommendations of the Advisory Council that were not adopt-*
6 *ed by the Secretary.*

7 **[(c) MEMBERSHIP.—**

8 **[(1) NUMBER AND APPOINTMENT.—***The Na-*
9 *tional Advisory Council of State Insurance Regu-*
10 *lators shall be composed of 10 members appointed by*
11 *the Secretary subject to the following requirements:*

12 **[(A) STATE INSURANCE REGULATORS.—**
13 *The members shall be the individuals serving as*
14 *the heads, members of the governing bodies, or*
15 *the designees of such individuals, of the State in-*
16 *surance regulators of 10 different States.*

17 **[(B) DIVERSITY AMONG STATE POPU-**
18 **LATION.—***In appointing the membership of the*
19 *Advisory Council, the Secretary shall provide*
20 *that the States represented by members shall dif-*
21 *fer widely, with respect to each other, in popu-*
22 *lation.*

23 **[(C) GEOGRAPHICAL DIVERSITY.—***In ap-*
24 *pointing the membership of the Advisory Coun-*
25 *cil, the Secretary shall provide that the States*

1 *represented by members include States from the*
2 *various regions of the United States.*

3 **[(2) TERMS.—**

4 **[(A) IN GENERAL.—***Each member shall be*
5 *appointed for a term of 2 years, except as pro-*
6 *vided in subparagraphs (B) and (C).*

7 **[(B) TERMS OF INITIAL APPOINTEES.—***As*
8 *designated by the Secretary at the time of ap-*
9 *pointment, of the members first appointed, 5*
10 *shall be appointed for terms of 1 year.*

11 **[(C) VACANCIES.—***If, before the expiration*
12 *of the term of a member of the Advisory Council,*
13 *such member no longer serves as a State insur-*
14 *ance regulator, the Secretary shall appoint a*
15 *successor who shall meet the requirements of this*
16 *subsection to serve for the remainder of that*
17 *term. A member may serve after the expiration*
18 *of that member's term until a successor has taken*
19 *office.*

20 **[(d) MEETINGS.—***The National Advisory Council of*
21 *State Insurance Regulators shall meet not less frequently*
22 *than once each calendar quarter of each year.*

23 **[(e) PERMANENT STATUS.—***Section 14(a)(2)(B) of the*
24 *Federal Advisory Committee Act (5 U.S.C. App.; relating*
25 *to the termination of advisory committees) shall not apply*

1 *to the National Advisory Council of State Insurance Regu-*
2 *lators.*

3 **[SEC. 163. GAO STUDY OF ACCOUNTING PRINCIPLES.**

4 **[(a) STUDY.**—*The Comptroller General of the United*
5 *States shall conduct a study of the applicability and appro-*
6 *priateness of generally accepted accounting principles and*
7 *United States statutory accounting principles for use in*
8 *evaluating the financial statements required to be submitted*
9 *under sections 105 and 125 by foreign insurers. The study*
10 *shall be designed to determine what accounting principles*
11 *are most appropriate to the businesses of insurance and re-*
12 *insurance, taking into consideration the characteristics of*
13 *such businesses and insurers and reinsurers.*

14 **[(b) REPORT.**—*The Comptroller General shall submit*
15 *a report to the Committee on Banking, Finance and Urban*
16 *Affairs of the House of Representatives and the Committee*
17 *on Banking, Housing, and Urban Affairs of the Senate, not*
18 *later than the expiration of the 12-month period beginning*
19 *on the date of the enactment of this Act on the results of*
20 *the study. The report shall include a determination of the*
21 *accounting principles most appropriate for use in evaluat-*
22 *ing financial statements under sections 105 and 125, the*
23 *extent of the applicability of such principles for use in such*
24 *financial statements, identification and analysis of any*
25 *benefits and problems in using such principles for such pur-*

1 *poses, and any recommendations of the Comptroller General*
2 *regarding the establishment of separate or different stand-*
3 *ards or principles for such use.*

4 **[SEC. 164. FEES.**

5 **[(a) APPLICATION FEES FOR CERTIFICATION.—***The*
6 *Secretary may assess and collect a reasonable application*
7 *fee from foreign insurers applying under section 102 or 122*
8 *for certification, to cover any costs of the application proce-*
9 *dure and reviewing applications.*

10 **[(b) REGULATORY FEES.—**

11 **[(1) IN GENERAL.—***The Secretary shall, in ac-*
12 *cordance with this subsection, assess and collect regu-*
13 *latory fees from certified foreign insurers to cover the*
14 *costs incurred by the Secretary related to certifying*
15 *and examining foreign insurers under the provisions*
16 *of this title.*

17 **[(2) AMOUNT OF FEES.—***Fees under this sub-*
18 *section may be assessed and collected from any cer-*
19 *tified foreign insurer in an amount reasonably based*
20 *on the proportion of the activities of the Secretary re-*
21 *ferred to in paragraph (1) that relate to such foreign*
22 *insurer.*

23 **[SEC. 165. FORMS.**

24 **[***The Secretary may prescribe the form or forms in*
25 *which any information required under any application,*

1 *statement, report, or other documentation required under*
2 *this title (or any regulation or order issued pursuant to*
3 *this title) shall be submitted to the Secretary, the content*
4 *of such information, and the standards, procedures, and*
5 *manner of any certification, authentication, or verification*
6 *to be followed in preparing and submitting such informa-*
7 *tion.*

8 ***[SEC. 166. DETERMINATION OF QUALIFIED FINANCIAL IN-***
9 ***STITUTIONS AND CONTROL.***

10 ***[(a) QUALIFIED FINANCIAL INSTITUTIONS.—****For pur-*
11 *poses of this title, a qualified financial institution shall be*
12 *an insured depository institution (as such term is defined*
13 *in section 3(c) of the Federal Deposit Insurance Act) that*
14 *is adequately capitalized (for purposes of section 38 of such*
15 *Act), including a United States branch of a foreign bank,*
16 *and has been determined by the Secretary to meet such ad-*
17 *ditional standards of financial condition and standing as*
18 *the Secretary considers necessary and appropriate for pur-*
19 *poses of this title.*

20 ***[(b) CONTROL.—****For purposes of this title, a person*
21 *shall be considered to have control with respect to another*
22 *person if—*

23 ***[(1) such person directly, indirectly, or acting***
24 ***through 1 or more other persons, owns, controls, or***

1 *has the power to vote 25 percent or more of any class*
2 *of voting securities of such other person;*

3 **[(2)** *such person controls, in any manner, the*
4 *election of a majority of the directors or trustees of*
5 *such other person; or*

6 **[(3)** *the Secretary makes a determination on the*
7 *record, after notice and opportunity for a hearing,*
8 *that such person directly or indirectly exercises a con-*
9 *trolling influence over the management or policies of*
10 *such other person; except that, in making any such*
11 *determination, control shall be presumed to exist if*
12 *such person directly, indirectly, or acting through 1*
13 *or more other persons, owns, controls, or has the*
14 *power to vote 10 percent or more of any class of vot-*
15 *ing securities of such other person.*

16 **[SEC. 167. DEFINITIONS.**

17 **[For purposes of this title:**

18 **[(1)** *APPROPRIATE STATE INSURANCE REGU-*
19 *LATOR.—The term “appropriate State insurance reg-*
20 *ulator” means, with respect to a foreign insurer, the*
21 *State insurance regulator for any State in which the*
22 *foreign insurer does a substantial amount of business,*
23 *as determined by the Secretary.*

1 **[(2) CERTIFIED FOREIGN DIRECT INSURER.—**
2 *The term “certified foreign direct insurer” means a*
3 *foreign insurer certified under subtitle A.*

4 **[(3) CERTIFIED FOREIGN INSURER.—***The term*
5 *“certified foreign insurer” means a certified foreign*
6 *direct insurer or a certified foreign reinsurer.*

7 **[(4) CERTIFIED FOREIGN REINSURER.—***The*
8 *term “certified foreign reinsurer” means foreign rein-*
9 *surer certified under subtitle B.*

10 **[(5) FOREIGN DIRECT INSURER.—***The term*
11 *“foreign direct insurer” means a foreign insurer that*
12 *has outstanding United States direct written insur-*
13 *ance obligations (not including obligations for life in-*
14 *surance or health insurance).*

15 **[(6) FOREIGN INSURANCE REGULATOR.—***The*
16 *term “foreign insurance regulator” means the agency*
17 *having principal insurance regulatory authority in*
18 *any country other than the United States.*

19 **[(7) FOREIGN INSURER.—***The term “foreign in-*
20 *surer” means an insurer or reinsurer other than—*

21 **[(A)** *an insurer or reinsurer organized*
22 *under the laws of any State; or*

23 **[(B)** *the United States branch of a foreign*
24 *insurer.*

1 *The term includes insurers and reinsurers doing busi-*
2 *ness as single insurers, groups including individual*
3 *unincorporated underwriters, and groups of incor-*
4 *porated insurers under common administration.*

5 **[(8) FOREIGN REINSURER.**—*The term “foreign*
6 *reinsurer” means a foreign insurer that insures any*
7 *portion of risks undertaken by a United States in-*
8 *surer (not including risks covered by life insurance or*
9 *health insurance).*

10 **[(9) HEALTH INSURANCE.**—*The term “health*
11 *insurance” means any health insurance, accident and*
12 *health insurance, accident and sickness or disability*
13 *insurance contract or certificate of insurance, whether*
14 *issued on a group or individual basis, that pays bene-*
15 *fits to an insured who becomes ill, injured, or disabled*
16 *or who receives any medical or dental treatment or*
17 *therapy covered by the terms of the contract, except*
18 *contracts or certificates that (A) provide such benefits*
19 *for illness or injury that results from the liability of*
20 *another, (B) pay benefits as the result of an occupa-*
21 *tional injury or disease covered by a contract of work-*
22 *ers’ compensation and employers’ liability insurance,*
23 *or (C) are issued by a mandatory State pooling plan*
24 *or any agency or program established or required by*
25 *the Federal Government.*

1 **[(10) INSURER-AFFILIATED PARTY.**—The term
2 “insurer affiliated party” means—

3 **[(A)** any director, officer, employee, or con-
4 trolling stockholder of, or agent for, a foreign in-
5 surer;

6 **[(B)** any shareholder, consultant, joint ven-
7 ture partner, and any other person as deter-
8 mined by the Secretary (by regulation or case-
9 by-case) who participates in the conduct of the
10 affairs of a foreign insurer; and

11 **[(C)** any independent contractor (including
12 any attorney, appraiser, actuary, or accountant)
13 who knowingly or recklessly participates in—

14 **[(i)** any violation of any law or regu-
15 lation,

16 **[(ii)** any breach of fiduciary duty, or

17 **[(iii)** any unsafe or unsound practice,
18 which caused or is likely to cause more than a
19 minimal financial loss to, or a significant ad-
20 verse affect on, the foreign insurer.

21 **[(11) LETTER OF CREDIT.**—The term “letter of
22 credit” means a clean irrevocable letter of credit is-
23 sued or confirmed by a qualified financial institution,
24 in a form prescribed by the Secretary.

1 **[(12) LIFE INSURANCE.**—*The term “life insur-*
2 *ance” means any contract or certificate of insurance,*
3 *whether issued on a group or individual basis, that*
4 *is designed primarily to pay benefits to or on behalf*
5 *of a beneficiary as the result of the death of an indi-*
6 *vidual. The term includes contracts that may also*
7 *pay benefits, in addition to death benefits, in the form*
8 *of surrender values, premium deferral in the event of*
9 *a disability, or income payments prior to the death*
10 *of the insured. The term also includes any annuity or*
11 *other contract or certificate of insurance, whether is-*
12 *sued on a group or individual basis, that pays an in-*
13 *come benefit for the life of 1 or more persons or for*
14 *a specified period of time (including single lump-sum*
15 *payments), including annuity contracts and certifi-*
16 *cates under group annuity contracts in the form of*
17 *guaranteed investment contracts, deposit administra-*
18 *tion contracts, unallocated funding agreements, allo-*
19 *cated funding agreements, structured settlement agree-*
20 *ments, lottery contracts, and any immediate or de-*
21 *ferred annuity contracts.*

22 **[(13) READILY MARKETABLE SECURITIES.**—*The*
23 *term “readily marketable securities” means securities*
24 *registered for trading on a national securities ex-*
25 *change in accordance with section 12 of the Securities*

1 *Exchange Act of 1934 and any other securities ap-*
2 *proved by the Secretary.*

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

5 **[(15) STATE.**—*The term “State” means the*
6 *States of the United States, the District of Columbia,*
7 *the Commonwealth of Puerto Rico, Guam, the Virgin*
8 *Islands, and American Samoa.*

9 **[(16) STATE INSURANCE REGULATOR.**—*The*
10 *term “State insurance regulator” means the agency*
11 *having principal insurance regulatory authority in a*
12 *State.*

13 **[(17) UNITED STATES BRANCH OF FOREIGN IN-**
14 *SURER.*—*The term “United States branch of foreign*
15 *insurer” means the business unit through which in-*
16 *surance business is transacted within the United*
17 *States by a foreign insurer, whose assets and*
18 *liabilities pertaining to such business are within the*
19 *United States, and that has been issued a certificate*
20 *of authority to transact insurance by 1 or more*
21 *States.*

22 **[(18) UNITED STATES DIRECT WRITTEN INSUR-**
23 *ANCE OBLIGATIONS.*—*The term “United States direct*
24 *written insurance obligations” means obligations of a*
25 *direct insurer under a contract of insurance for direct*

1 *risk in any State (not including risks covered by life*
2 *insurance or health insurance), including incurred*
3 *but not reported claims.*

4 **[(19) UNITED STATES INSURER.**—*The term*
5 *“United States insurer” means an insurer or rein-*
6 *surer licensed by a State insurance regulator.*

7 **[(20) UNITED STATES REINSURANCE OBLIGA-**
8 *TIONS.*—*The term “United States reinsurance obliga-*
9 *tions” means obligations (not including obligations*
10 *for life insurance or health insurance) under any re-*
11 *insurance contracts to United States insurers for re-*
12 *ported claims, incurred but not reported claims, un-*
13 *earned premiums, losses and loss adjustment expense,*
14 *and aggregate reserves.*

15 **[SEC. 168. RELATION TO STATE LAWS.**

16 **[***This title may not be construed to preempt the law*
17 *of any State, except to the extent that such laws are incon-*
18 *sistent with the provisions of this title, and then only to*
19 *the extent of such inconsistency. The Secretary is authorized*
20 *to determine whether such inconsistencies exist. The Sec-*
21 *retary may not determine that any State law is inconsis-*
22 *tent with any provision of this title if the law imposes re-*
23 *quirements that are in addition to the requirements under*
24 *this title and such requirements do not conflict with the*
25 *requirements under this title.*

1 **【SEC. 169. EFFECTIVE DATES.**

2 **【(a) ISSUANCE OF REGULATIONS.**—*The Secretary*
3 *shall issue any regulations necessary to carry out this title*
4 *(including regulations establishing standards or require-*
5 *ments for applications under sections 102 and 122, for for-*
6 *foreign insurers under sections 104 and 124, for accounting*
7 *under sections 105 and 125, for examination under section*
8 *141, for termination and suspension of certification under*
9 *section 142, for cease-and-desist orders under section 143,*
10 *and for qualified financial institutions under section 166)*
11 *not later than the expiration of the 18-month period begin-*
12 *ning on the date of the enactment of this Act.*

13 **【(b) CERTIFICATION.**—*Not later than the expiration*
14 *of the 24-month period beginning on the date of the enact-*
15 *ment of this Act, the Secretary shall commence certifying*
16 *foreign insurers as certified foreign direct insurers and cer-*
17 *tified foreign reinsurers under subtitles A and B, respec-*
18 *tively.*

19 **【(c) REQUIREMENTS FOR CONDUCTING DIRECT IN-**
20 **SURANCE AND REINSURANCE BUSINESS.**—*The date referred*
21 *to in sections 101 and 121 (relating to requirements for*
22 *foreign insurers to conduct direct insurance business or to*
23 *claim credit for reinsurance) shall be the date of the expira-*
24 *tion of the 30-month period beginning on the date of the*
25 *enactment of this Act.*

1 **[TITLE II—DISCLOSURE OF IN-**
2 **SURANCE AVAILABILITY AND**
3 **INSURER INVESTMENT IN-**
4 **FORMATION**

5 **[SEC. 201. SHORT TITLE.**

6 *[This title may be cited as the “Insurance Disclosure*
7 *Act”.*

8 **[SEC. 202. FINDINGS AND PURPOSES.**

9 *[(a) FINDINGS.—The Congress finds that—*

10 *[(1) there are disparities in insurance coverage*
11 *provided by some insurers between areas of different*
12 *incomes and racial composition;*

13 *[(2) such disparities in affordability and avail-*
14 *ability of insurance severely limit the ability of quali-*
15 *fied consumers to obtain credit for home, business,*
16 *and automobile purchases; and*

17 *[(3) the lack of affordable and adequate commer-*
18 *cial insurance for small businesses severely curtails*
19 *the establishment and growth of such businesses.*

20 *[(b) PURPOSES.—The purposes of this title are—*

21 *[(1) to establish a nationwide database for de-*
22 *termining the availability, affordability, and ade-*
23 *quacy of insurance coverage for consumers and small*
24 *businesses;*

1 *of insurance agents (including minority insurance agents),*
2 *representatives of property and casualty insurers, and com-*
3 *munity, consumer, and civil rights organizations, as appro-*
4 *priate.*

5 ***[SEC. 204. REPORTING OF NONCOMMERCIAL INSURANCE***
6 ***INFORMATION.***

7 ***[(a) IN GENERAL.—****The requirements established pur-*
8 *suant to section 203 to carry out this section shall—*

9 ***[(1) be designed to ensure that information is***
10 ***submitted and compiled under this section as may be***
11 ***necessary to permit analysis and comparison of—***

12 ***[(A) the availability and affordability of***
13 ***insurance coverage and the quality or type of in-***
14 ***surance coverage, by MSA and applicable region***
15 ***and race and gender of policyholders; and***

16 ***[(B) the location of the principal place of***
17 ***business of insurance agents and the race of such***
18 ***agents, and the location of the principal place of***
19 ***business of insurance agents terminated and the***
20 ***race of such agents, by MSA and applicable re-***
21 ***gion; and***

22 ***[(2) specify the data elements required to be re-***
23 ***ported under this section and require uniformity in***
24 ***the definitions of the data elements.***

25 ***[(b) DESIGNATED INSURERS.—***

1 **[(1) AGGREGATE INFORMATION.**—*The regula-*
2 *tions issued under section 203 shall require that each*
3 *designated insurer for a designated line of insurance*
4 *under subparagraph (A) or (B) of section 215(c)(1)*
5 *compile and submit to the Secretary, for each annual*
6 *reporting period—*

7 **[(A)** *the total number of policies issued in*
8 *such line, total exposures covered by such poli-*
9 *cies, and total amount of premiums for such*
10 *policies, by designated line and by designated*
11 *MSA and applicable region in which the insured*
12 *risk is located;*

13 **[(B)** *the total number of cancellations and*
14 *nonrenewals (expressed in terms of policies or ex-*
15 *posures, as determined by the Secretary), by des-*
16 *ignated line and by designated MSA and appli-*
17 *cable region in which the insured risk is located;*

18 **[(C)** *the total number and racial character-*
19 *istics of—*

20 **[(i)** *licensed agents of such insurer*
21 *selling insurance in the designated line, by*
22 *designated MSA and applicable region in*
23 *which the agent's principal place of business*
24 *is located; and*

1 *[(ii) such agents who were terminated*
2 *by the insurer, by designated MSA and ap-*
3 *plicable region in which the agent's prin-*
4 *cipal place of business was located; and*

5 *[(D) for such designated line of insurance,*
6 *information that will enable the Secretary to as-*
7 *sess the aggregate loss experience for the insurer,*
8 *by designated MSA and applicable region in*
9 *which the insured risk is located.*

10 *[(2) SPECIFICATION OF INFORMATION FOR ITEM-*
11 *IZED DISCLOSURE.—*

12 *[(A) IN GENERAL.—The regulations issued*
13 *under section 203 regarding annual reporting*
14 *requirements for designated insurers for a des-*
15 *ignated line of insurance under subparagraph*
16 *(A) or (B) of section 215(c)(1) shall, with respect*
17 *to policies issued under the designated line or ex-*
18 *posure units covered by such policies, as deter-*
19 *mined by the Secretary—*

20 *[(i) specify the data elements that*
21 *shall be submitted;*

22 *[(ii) provide for the submission of in-*
23 *formation on an individual insurer basis;*

24 *[(iii) provide for the submission of the*
25 *information with the least burden on insur-*

1 *ers, particularly small insurers, and insur-*
2 *ance agents;*

3 **[(iv)** *take into account existing statis-*
4 *tical reporting systems in the insurance in-*
5 *dustry;*

6 **[(v)** *require reporting by MSA and*
7 *applicable region in which the insured risk*
8 *is located;*

9 **[(vi)** *provide for the submission of in-*
10 *formation that identifies the designated*
11 *line, and subline or coverage type;*

12 **[(vii)** *provide for the submission of in-*
13 *formation that distinguishes policies written*
14 *in a residual market from policies written*
15 *in the voluntary market;*

16 **[(viii)** *specify—*

17 **[(I)** *whether information shall be*
18 *submitted on the basis of policy or ex-*
19 *posure unit; and*

20 **[(II)** *whether information, when*
21 *submitted, shall be aggregated by like*
22 *policyholders with like policies, except*
23 *that the Secretary shall not permit*
24 *such aggregation if it will adversely af-*

1 *fect the accuracy of the information re-*
2 *ported;*

3 **[(ix)** *provide for the submission of in-*
4 *formation regarding the number of cancella-*
5 *tions and nonrenewals of policies under the*
6 *designated line by MSA and applicable re-*
7 *gion in which the insured risk is located, by*
8 *race and gender of the policyholder (if*
9 *known to the insurer), and by whether the*
10 *policy was issued in a voluntary or residual*
11 *market; and*

12 **[(x)** *provide for the submission of in-*
13 *formation on the racial characteristics and*
14 *gender of policyholders at the level of detail*
15 *comparable to that required by the Home*
16 *Mortgage Disclosure Act of 1975 (and the*
17 *regulations issued thereunder).*

18 **[(B) RULES REGARDING OBTAINING RACIAL**
19 *INFORMATION.—With respect to the information*
20 *specified in subparagraph (A)(x), applicants for,*
21 *and policyholders of, insurance may be asked*
22 *their racial characteristics only in writing. Any*
23 *such written question shall clearly indicate that*
24 *a response to the question is voluntary on the*
25 *part of the applicant or policyholder, but encour-*

1 aged, and that the information is being requested
2 by the Federal Government to monitor the avail-
3 ability and affordability of insurance. If an ap-
4 plicant for, or policyholder of, insurance declines
5 to provide such information, the agent or insurer
6 for such insurance may provide such informa-
7 tion.

8 **[(3) RULE FOR REPORTING BY DESIGNATED IN-**
9 **SURERS.**—A designated insurer for a designated line
10 shall submit—

11 **[(A)** information required under subpara-
12 graphs (A), (B), and (D) of paragraph (1) and
13 information required pursuant to paragraph (2),
14 for risks insured under such line that are located
15 within each designated MSA any part of which
16 is located in a State for which the insurer is des-
17 ignated; and

18 **[(B)** information required under para-
19 graph (1)(C) for agents within such designated
20 MSA's.

21 **[(c) NONDESIGNATED INSURERS.**—The regulations is-
22 sued under section 203 shall require each insurer that issues
23 an insurance policy in a designated line of insurance under
24 subparagraph (A) or (B) of section 215(c)(1) that covers
25 an insured risk located in a designated MSA and which

1 *is not a designated insurer for the line in any State in*
2 *which any part of such MSA is located, to compile and sub-*
3 *mit to the Secretary, for each annual reporting period—*

4 **[(1)** *the total number of policies issued in such*
5 *line,*

6 **[(2)** *the total exposures covered by such policies,*
7 *and*

8 **[(3)** *the total amount of premiums for such poli-*
9 *cies,*

10 *by designated MSA and applicable region in which the in-*
11 *sured risk is located.*

12 **[SEC. 205. STUDY OF COMMERCIAL INSURANCE FOR RESI-**
13 **DENTIAL PROPERTIES AND SMALL BUSI-**
14 **NESSES.**

15 **[(a)** *IN GENERAL.—The Secretary shall conduct a*
16 *study to determine the availability, affordability, and qual-*
17 *ity or types of commercial insurance coverage for residen-*
18 *tial properties and small businesses, in urban areas.*

19 **[(b)** *SUBMISSION OF INFORMATION.—To acquire in-*
20 *formation for the study under this section, the Secretary*
21 *shall, by regulation, establish requirements for insurers pro-*
22 *viding commercial insurance for residential properties and*
23 *small businesses to compile and submit to the Secretary on*
24 *an annual basis information regarding such insurance, as*
25 *follows:*

1 **[(1) MSA's.**—*The Secretary shall carry out the*
2 *study only with respect to the 25 MSA's having the*
3 *largest populations, as determined by the Secretary*
4 *and specified in the regulations under this section.*

5 **[(2) INSURERS.**—*For each of the MSA's speci-*
6 *fied pursuant to paragraph (1), the Secretary shall*
7 *designate the insurers required to submit the informa-*
8 *tion. The Secretary shall designate a sufficient num-*
9 *ber of insurers to provide a representative sample of*
10 *the insurers providing such insurance in each such*
11 *MSA.*

12 **[(3) LINES OF INSURANCE.**—*The Secretary shall*
13 *require the submission of information regarding such*
14 *lines, sublines, or coverage types of commercial insur-*
15 *ance as the Secretary determines are necessary or im-*
16 *portant with respect to establishing, operating, or*
17 *maintaining residential properties and each type of*
18 *small business selected under paragraph (4), and*
19 *shall require submission of such information by such*
20 *lines, sublines, or coverage types.*

21 **[(4) SMALL BUSINESSES.**—*For purposes of*
22 *paragraph (3), the Secretary shall determine the types*
23 *of businesses that are typically small businesses and*
24 *shall select a representative sample of such types.*

1 **[(5) DATA ELEMENTS.**—*The Secretary shall*
2 *identify the data elements required to be submitted.*

3 **[(6) SUBMISSION BY LOCATION.**—*The Secretary*
4 *shall require the information to be submitted by des-*
5 *ignated MSA and applicable region in which the in-*
6 *sured risk is located.*

7 **[(7) SUBMISSION BY INSURER.**—*The Secretary*
8 *shall require the submission of information on an in-*
9 *dividual insurer basis and shall specify whether in-*
10 *formation, when submitted, shall be aggregated by like*
11 *policies, except that the Secretary shall not permit*
12 *such aggregation if it will adversely affect the accu-*
13 *racy of the information reported.*

14 **[(8) SUNSET.**—*The Secretary shall require the*
15 *submission of information under this section only for*
16 *each of the first 5 annual reporting periods beginning*
17 *more than 36 months after the date of the enactment*
18 *of this Act.*

19 **[(c) CONSIDERATIONS.**—*In establishing the require-*
20 *ments for submission of information under this section, the*
21 *Secretary shall—*

22 **[(1)** *take into consideration the administrative,*
23 *paperwork, and other burdens on insurers and insur-*
24 *ance agents involved in complying with the require-*
25 *ments of this section;*

1 **[(2)** *minimize the burdens imposed by such re-*
2 *quirements with respect to such insurers and agents;*
3 *and*

4 **[(3)** *take into consideration existing statistical*
5 *reporting systems in the insurance industry.*

6 **[(d)** *REPORT.—Not later than 6 months after the expi-*
7 *ration of the 5-year period referred to in subsection (b)(8),*
8 *the Secretary shall submit a report to the Congress describ-*
9 *ing the information submitted under the study conducted*
10 *under this section and any findings of the Secretary from*
11 *the study regarding disparities in the availability, afford-*
12 *ability, and quality or types of commercial insurance cov-*
13 *erage for residential properties and small businesses, in*
14 *urban areas.*

15 **[SEC. 206. REPORTING OF BID, PERFORMANCE, AND PAY-**
16 **MENT BONDS FOR SMALL BUSINESSES.**

17 **[(a)** *IN GENERAL.—The Secretary shall by regulation*
18 *establish requirements in accordance with section 203 for*
19 *insurers to compile and submit to the Secretary, for each*
20 *annual reporting period, information regarding bid, per-*
21 *formance, and payment bonds for small businesses, by lines*
22 *designated under subparagraph (C) of section 215(c)(1),*
23 *that is similar to the information required to be submitted*
24 *under section 204.*

1 **[(b) CONTENTS.**—*The regulations under this section*
2 *shall provide for—*

3 **[(1)** *designation of insurers required to submit*
4 *the information, pursuant to standards comparable to*
5 *the standards for designation under section 215(b),*
6 *and submission of the information on an individual*
7 *insurer basis;*

8 **[(2)** *identification of data elements required to*
9 *be submitted;*

10 **[(3)** *the information to be submitted by des-*
11 *ignated MSA and applicable region;*

12 **[(4)** *the information to be submitted in a man-*
13 *ner similar to that required for information submit-*
14 *ted under section 204;*

15 **[(5)** *an appropriate definition of small busi-*
16 *nesses; and*

17 **[(6)** *the information to be submitted for each*
18 *annual reporting period.*

19 **[SEC. 207. REPORTING OF RURAL INSURANCE INFORMA-**
20 **TION.**

21 **[(a) IN GENERAL.**—*The Secretary shall, by regula-*
22 *tion, establish requirements for insurers to annually com-*
23 *pile and submit to the Secretary information concerning*
24 *the availability, affordability, and quality or type of insur-*

1 *ance in designated rural areas in the lines designated under*
2 *subparagraphs (A) and (B) of section 215(c)(1).*

3 **[(b) CONTENT.—***The regulations under this section*
4 *shall provide that—*

5 **[(1) the information to be compiled and submit-**
6 *ted under this section by designated insurers and in-*
7 *surers that are not designated insurers shall be of*
8 *such types, data elements, and specificity that is as*
9 *identical as possible to the types, data elements, and*
10 *specificity of information required under this title of*
11 *designated and nondesignated insurers, respectively,*
12 *for designated MSA's and shall be subject to the pro-*
13 *visions of section 204(b)(2)(B); and*

14 **[(2) the information compiled and submitted**
15 *under this section shall be compiled and submitted on*
16 *the basis of each 5-digit zip code in which the insured*
17 *risks are located, rather than on the basis of des-*
18 *ignated MSA and applicable region (as otherwise re-*
19 *quired in this title).*

20 **[(c) DESIGNATION OF RURAL AREAS.—***For purposes*
21 *of this section, the term “designated rural area” means the*
22 *following:*

23 **[(1) FIRST 5 YEARS.—***With respect to the first*
24 *5 annual reporting periods to which the reporting re-*
25 *quirements under this section apply, any of the 50*

1 *rural areas designated by the Secretary and specified*
2 *in regulations issued pursuant to section 224, which*
3 *shall not be amended or revised after issuance. The*
4 *Secretary shall (to the extent possible) designate 1*
5 *rural area under this paragraph in each State of the*
6 *United States.*

7 **[(2) AFTER FIRST 5 YEARS.—***With respect to*
8 *annual reporting periods thereafter, a rural area for*
9 *which a designation made by the Secretary under this*
10 *paragraph is in effect, pursuant to the following re-*
11 *quirements:*

12 **[(A)** *The designations shall be made for*
13 *each of the successive 5-year periods at the time*
14 *provided in subparagraph (C), and the first such*
15 *period shall be the 5-year period beginning upon*
16 *the commencement of the 6th annual reporting*
17 *period to which the reporting requirements under*
18 *this title apply.*

19 **[(B)** *The Secretary shall designate 50 rural*
20 *areas as designated rural areas for each such 5-*
21 *year period and shall designate such rural areas*
22 *based upon the information and recommenda-*
23 *tions made in the report under section 220(b) re-*
24 *lating to the period.*

1 **[(C)** *The Secretary shall make the designa-*
2 *tion of rural areas for an ensuing 5-year period*
3 *by regulations issued—*

4 **[(i)** *not later than the date occurring*
5 *12 months before the commencement of the*
6 *5-year period; and*

7 **[(ii)** *not later than 6 months after the*
8 *submission to the Secretary of the report*
9 *under section 220(b) relating to such period.*

10 **[(D)** *The designations for a 5-year period*
11 *shall take effect upon the commencement of the*
12 *first annual reporting period of the 5-year pe-*
13 *riod that begins at least 12 months after the is-*
14 *suance of the regulations making such designa-*
15 *tions, and shall remain in effect until the expira-*
16 *tion of the 5-year period.*

17 *Notwithstanding any other provision of this section, the des-*
18 *ignation of a rural area shall remain in effect until a suc-*
19 *ceeding designation of rural areas under paragraph (2)*
20 *takes effect.*

21 **[SEC. 208. WAIVER OF REPORTING REQUIREMENTS.**

22 **[(a)** *WAIVER FOR STATES COLLECTING EQUIVALENT*
23 *INFORMATION.—*

24 **[(1)** *AUTHORITY.—Subject to the requirements*
25 *under this section, the Secretary shall provide, by reg-*

1 *ulation, for the waiver of the applicability of the pro-*
2 *visions of sections 204, 205, and 207 for each insurer*
3 *transacting business within a State referred to in*
4 *paragraph (2), but only with respect to information*
5 *required to be submitted under such sections that re-*
6 *lates to agents or insured risks located in the State.*

7 **[(2) REQUIREMENTS.—***The Secretary may make*
8 *a waiver pursuant to paragraph (1) only with respect*
9 *to a State that the Secretary determines has in effect*
10 *a law or other requirement that—*

11 **[(A)** *requires insurers to submit to the*
12 *State information that is at least the same or*
13 *equivalent to the information that is required to*
14 *be submitted to the Secretary pursuant to sec-*
15 *tions 204, 205, and 207;*

16 **[(B)** *provides for adequate enforcement of*
17 *such law or other requirements;*

18 **[(C)** *provides for the same annual report-*
19 *ing period used by the Secretary under this title*
20 *and for submission of the information to the Sec-*
21 *retary in a timely fashion, as determined by the*
22 *Secretary; and*

23 **[(D)** *provides that, to the extent statistical*
24 *agents are permitted to submit information to*
25 *the State on behalf of insurers, such agents are*

1 *subject to the same or equivalent requirements as*
2 *provided under section 210(b).*

3 **[(3) DURATION.—***A waiver pursuant to para-*
4 *graph (1) may remain in effect only during the pe-*
5 *riod for which the State law or other requirement re-*
6 *quired under paragraph (2) remains in effect.*

7 **[(b) MULTIPLE-STATE MSA'S.—***In the case of any*
8 *designated MSA that contains area within (1) any State*
9 *for which a waiver has been made pursuant to subsection*
10 *(a), and (2) any State for which such a waiver has not*
11 *been made, the provisions of this title requiring submission*
12 *of information to the Secretary regarding such MSA shall*
13 *be considered to apply only to the portion of such MSA that*
14 *is located within the State for which such a waiver has not*
15 *been made.*

16 **[(c) AUTHORITY FOR SECRETARY TO OBTAIN INFOR-**
17 **MATION DIRECTLY FROM INSURERS.—***If the State for*
18 *which a waiver has been made pursuant to subsection (a)*
19 *does not submit to the Secretary the information required*
20 *under subsection (a)(2)(A) or submits information that is*
21 *not complete, the Secretary shall require the insurers*
22 *transacting business within the State to submit such infor-*
23 *mation directly to the Secretary.*

1 **[SEC. 209. REPORTING BY PRIVATE MORTGAGE INSURERS.**

2 **[(a) HMDA REPORTING.**—*On an annual basis, the*
3 *Financial Institutions Examination Council shall deter-*
4 *mine the extent to which each insurer providing private*
5 *mortgage insurance is making available to the public and*
6 *submitting to the appropriate agency information regard-*
7 *ing such insurance that is equivalent to the information*
8 *regarding mortgages required to be reported under the*
9 *Home Mortgage Disclosure Act of 1975.*

10 **[(b) REPORTING UNDER THIS TITLE.**—

11 **[(1) CERTIFICATION OF NONCOMPLIANCE.**—*If,*
12 *for any annual period referred to in subsection (a),*
13 *such Council determines that any insurer providing*
14 *private mortgage insurance is not making available*
15 *to the public or submitting the information referred*
16 *to in subsection (a) or that the information made*
17 *available or submitted is not equivalent information*
18 *as described in subsection (a), then the Council shall*
19 *notify the insurer of such noncompliance. If, after the*
20 *expiration of a reasonable period of time, the insurer*
21 *has not remedied such noncompliance to the satisfac-*
22 *tion of the Council, then the Council shall imme-*
23 *diately certify such noncompliance to the Secretary.*

24 **[(2) REQUIREMENT.**—*Upon the receipt of a cer-*
25 *tification under paragraph (1), the Secretary shall,*
26 *by regulation, require such insurer to submit to the*

1 *Secretary information regarding such insurance that*
2 *complies with the provisions of section 204 that are*
3 *applicable to such insurance. Such regulations shall*
4 *be issued not later than 6 months after receipt of such*
5 *certification and shall apply to the first succeeding*
6 *annual reporting period that begins at least 6 months*
7 *after issuance of such regulations and to each annual*
8 *reporting period thereafter.*

9 **[SEC. 210. USE OF DATA CONTRACTOR AND STATISTICAL**
10 **AGENTS.**

11 **[(a) DATA COLLECTION CONTRACTOR.—***The Secretary*
12 *may contract with a data collection contractor to collect the*
13 *information required to be maintained and submitted*
14 *under sections 204, 205, 207, 208, 209(b), and 211 if the*
15 *contractor agrees to collect the information pursuant to the*
16 *terms and conditions of such sections and this title and the*
17 *regulations issued thereunder. Information submitted to*
18 *such contractor shall be available to the public to the same*
19 *extent as if the information were submitted directly to the*
20 *Secretary.*

21 **[(b) USE OF STATISTICAL AGENTS.—**

22 **[(1) IN GENERAL.—***The Secretary shall provide,*
23 *by regulation, that insurers may submit any infor-*
24 *mation required under sections 204, 205, 207, and*

1 *209(b) through statistical agents acting on behalf of*
2 *more than one insurer.*

3 **[(2) PROTECTIONS.**—*The regulations issued*
4 *under this subsection shall permit submission of in-*
5 *formation through a statistical agent only if the Sec-*
6 *retary determines that—*

7 **[(A)** *the statistical agent has adequate pro-*
8 *cedures to protect the integrity of the informa-*
9 *tion submitted;*

10 **[(B)** *the statistical agent has a statistical*
11 *plan and format for submitting the information*
12 *that meets the requirements of this title;*

13 **[(C)** *the statistical agent has procedures in*
14 *place that ensure that information reported*
15 *under the statistical plan in connection with re-*
16 *porting under this title and submitted to the Sec-*
17 *retary is not subject to any adjustment by the*
18 *statistical agent or an insurer for reasons other*
19 *than technical accuracy and conformance to the*
20 *statistical plan;*

21 **[(D)** *the information of an insurer is not*
22 *subject to review by any other insurer before*
23 *being made available to the public; and*

1 **[(E)** *acceptance of the information through*
2 *the statistical agent will not adversely affect the*
3 *accuracy of the information reported.*

4 **[(3)** *DISCONTINUANCE OF ACCEPTANCE OF IN-*
5 *FORMATION.—The Secretary may discontinue accept-*
6 *ing information reported through a statistical agent*
7 *pursuant to this subsection if the Secretary deter-*
8 *mines that the requirements for such reporting are no*
9 *longer met or that continued acceptance of such infor-*
10 *mation is contrary to the goal of ensuring the accu-*
11 *racy of the information reported.*

12 **[(4)** *GAO AUDITS.—The Comptroller General*
13 *shall, at the request of the Secretary, audit informa-*
14 *tion collection and submission performed under this*
15 *subsection by data collection contractors or statistical*
16 *agents to ensure that the integrity of the information*
17 *collected and submitted is protected. In determining*
18 *whether to request an audit of a statistical agent, the*
19 *Secretary shall consider the sufficiency (for purposes*
20 *of this title) of audits of the statistical agent con-*
21 *ducted in connection with State insurance regulation.*

22 **[(5)** *LIABILITY.—Notwithstanding any use of a*
23 *statistical agent as authorized under this subsection,*
24 *an insurer using such an agent shall be responsible*
25 *for compliance with the requirements under this title.*

1 **[SEC. 211. REPORTING OF INFORMATION REGARDING IN-**
2 **VESTMENTS BY INSURERS.**

3 **[(a) IN GENERAL.—***The Secretary of Housing and*
4 *Urban Development shall, by regulation, require that each*
5 *designated insurer that makes a designated investment in*
6 *a property or business located in a designated MSA shall*
7 *compile and submit to the Secretary for each annual report-*
8 *ing period, the following information:*

9 **[(1) DIRECT LOANS.—**

10 **[(A) COMMERCIAL REAL ESTATE LOANS.—**
11 *The total number of loans for the purchase of*
12 *commercial real estate made by the designated*
13 *insurer, the aggregate amount of such loans, and*
14 *the amount of each such loan, by designated*
15 *MSA and applicable region in which the real es-*
16 *tate for which the loan was made is located.*

17 **[(B) SINGLE-FAMILY MORTGAGES.—***The*
18 *total number of mortgage loans for the purchase*
19 *of 1- to 4-family dwellings made by the des-*
20 *ignated insurer, the aggregate amount of such*
21 *loans, and the amount of each such loan, by des-*
22 *ignated MSA and applicable region in which the*
23 *dwelling for which the loan was made is located,*
24 *which information shall be disaggregated by ra-*
25 *cial characteristics, income level, and gender of*
26 *the borrower under the loan.*

1 **[(C) COMMERCIAL AND INDUSTRIAL**
2 *LOANS.—The total number of commercial and*
3 *industrial loans made by the designated insurer,*
4 *the aggregate amount of such loans, and the*
5 *amount of each such loan, by designated MSA*
6 *and applicable region in which the property or*
7 *business involved in the loan is located, which*
8 *information shall be disaggregated by the size of*
9 *business of the borrower under the loan and by*
10 *the ownership characteristic of the business,*
11 *which shall be classified as either minority-*
12 *owned, women-owned, or otherwise-owned.*

13 **[(2) LOAN PURCHASES.—**

14 **[(A) COMMERCIAL REAL ESTATE LOANS.—**
15 *The total number of loans for the purchase of*
16 *commercial real estate purchased by the des-*
17 *ignated insurer, the aggregate amount of such*
18 *loans, and the amount of each such loan, by des-*
19 *ignated MSA and applicable region in which the*
20 *real estate for which the loan was made is lo-*
21 *cated.*

22 **[(B) SINGLE-FAMILY MORTGAGES.—The**
23 *total number of mortgage loans for the purchase*
24 *of 1- to 4-family dwellings purchased by the des-*
25 *ignated insurer, the aggregate amount of such*

1 *loans, and the amount of each such loan, by des-*
2 *ignated MSA and applicable region in which the*
3 *dwelling for which the loan was made is located,*
4 *which information shall be disaggregated by ra-*
5 *cial characteristics, income level, and gender of*
6 *the borrower under the loan.*

7 **[(C) COMMERCIAL AND INDUSTRIAL**
8 *LOANS.—The total number of commercial and*
9 *industrial loans purchased by the designated in-*
10 *surer, the aggregate amount of such loans, and*
11 *the amount of each such loan, by designated*
12 *MSA and applicable region in which the prop-*
13 *erty or business involved in the loan is located,*
14 *which information shall be disaggregated by the*
15 *size of business of the borrower under the loan*
16 *and by the ownership characteristic of the busi-*
17 *ness, which shall be classified as either minority-*
18 *owned, women-owned, or otherwise-owned.*

19 **[(3) OTHER INVESTMENTS.—For such other in-**
20 *vestments made by the designated insurer, as the Sec-*
21 *retary may designate pursuant to subsection (b), the*
22 *total number of such investments, the aggregate*
23 *amount of such investments, and the amount of each*
24 *such investment, by designated MSA and applicable*
25 *region in which the property or business involved in*

1 *the investment is located, as determined by the Sec-*
2 *retary, which information shall be disaggregated by*
3 *the size of business of the borrower under the loan and*
4 *by the ownership characteristic of the business, which*
5 *shall be classified as either minority-owned, women-*
6 *owned, or otherwise-owned.*

7 **[(b) DESIGNATION OF OTHER INVESTMENTS.—**

8 **[(1) IN GENERAL.—***For purposes of subsection*
9 *(a)(3), the Secretary may designate activities and in-*
10 *vestments other than the investments described in*
11 *paragraphs (1) and (2) of subsection (a) for which*
12 *designated insurers shall compile and submit infor-*
13 *mation under this section.*

14 **[(2) REQUIREMENT.—***In making designations*
15 *under this subsection, the Secretary shall designate*
16 *(A) activities and investments that significantly bene-*
17 *fit low- and moderate-income families and persons,*
18 *small businesses in distressed communities, or*
19 *minority- or women-owned businesses, and (B) activi-*
20 *ties and investments that contribute to the creation of*
21 *jobs and economic development of distressed commu-*
22 *nities.*

23 **[(3) CONSIDERATIONS.—***The Secretary shall*
24 *specifically consider for designation under this sub-*
25 *section investments in community development finan-*

1 *cial institutions, community development corpora-*
2 *tions, State-issued bonds, and securities backed by*
3 *State development funds.*

4 **[(c) SIZE OF BUSINESS.**—*The Secretary shall, by reg-*
5 *ulation, establish various categories of the sizes of busi-*
6 *nesses, for purposes of disaggregating information under*
7 *paragraphs (1)(C), (2)(C), and (3) of subsection (a) by var-*
8 *ious sizes of businesses.*

9 **[SEC. 212. SUBMISSION OF INFORMATION TO SECRETARY**
10 **AND MAINTENANCE OF INFORMATION.**

11 **[(a) PERIOD OF MAINTENANCE.**—*Each insurer re-*
12 *quired by this title to compile and submit information to*
13 *the Secretary shall maintain such information for the 3-*
14 *year period beginning upon the conclusion of the annual*
15 *reporting period to which such information relates. The*
16 *Secretary shall maintain any information submitted to the*
17 *Secretary for such period as the Secretary considers appro-*
18 *priate and feasible to carry out the purposes of this title*
19 *and to allow for historical analysis and comparison of the*
20 *information.*

21 **[(b) SUBMISSION.**—*The Secretary shall issue regula-*
22 *tions prescribing a standard schedule (taking into consider-*
23 *ation the provisions of section 214(a)), format, and method*
24 *for submitting information under this title to the Secretary.*
25 *The format and method of submitting the information shall*

1 *facilitate and encourage the submission in a form readable*
2 *by a computer. Any insurer submitting information to the*
3 *Secretary may submit in writing to the Secretary any ad-*
4 *ditional information or explanations that the insurer con-*
5 *siders relevant to the decision by the insurer to sell insur-*
6 *ance.*

7 ***[SEC. 213. COMPILATION OF AGGREGATE INFORMATION.***

8 ***[(a) INSURANCE INFORMATION.—****For each annual re-*
9 *porting period, the Secretary shall—*

10 ***[(1) compile, for each designated MSA, by des-***
11 ***ignated line (and if such information is submitted, by***
12 ***subline or coverage type)—***

13 ***[(A) information submitted under sections***
14 ***204, 205, 208, and 209(b) and loss ratios (if the***
15 ***submission of loss information is required), ag-***
16 ***gregated by applicable region for all insurers***
17 ***submitting such information; and***

18 ***[(B) such information and loss ratios (if***
19 ***the submission of loss information is required),***
20 ***aggregated by applicable region for each such in-***
21 ***surer; and***

22 ***[(2) produce tables based on information sub-***
23 ***mitted under sections 204, 205, 208, and 209(b) for***
24 ***each designated MSA, by insurer and for all insurers,***

1 *by designated line (and if such information is sub-*
2 *mitted, by subline or coverage type), indicating—*

3 *【(A) insurance underwriting patterns ag-*
4 *gregated for the applicable regions within the*
5 *MSA, grouped according to location, age of prop-*
6 *erty, income level, and racial characteristics of*
7 *neighborhoods; and*

8 *【(B) loss ratios based on the information*
9 *obtained pursuant to sections 204, 205, 208, and*
10 *209(b) (if the submission of loss information is*
11 *required), aggregated for the applicable regions*
12 *within the MSA, grouped according to location,*
13 *age of property, income level, and racial charac-*
14 *teristics of neighborhoods.*

15 *【(b) AGENT INFORMATION.—For each annual report-*
16 *ing period and for each designated MSA, the Secretary shall*
17 *compile, by designated line, the information submitted*
18 *under section 204(b)(1)(C)—*

19 *【(1) by designated insurer by applicable region;*

20 *【(2) by designated insurer aggregated for the ap-*
21 *plicable regions within the designated MSA, grouped*
22 *according to location, age of property, income level,*
23 *and racial characteristics; and*

24 *【(3) for all designated insurers that have sub-*
25 *mitted such information for the designated MSA, ag-*

1 *gregated for the applicable regions within the des-*
2 *ignated MSA, grouped according to location, age of*
3 *property, income level, and racial characteristics.*

4 **[(c) RURAL INSURANCE INFORMATION.**—*For each an-*
5 *nual reporting period, the Secretary shall—*

6 **[(1)** *compile for each applicable 5-digit zip code,*
7 *by designated line (and if such information is sub-*
8 *mitted, by subline or coverage type)—*

9 **[(A)** *information regarding insurance in*
10 *rural areas submitted under sections 207 and*
11 *208 and loss ratios, for all insurers for which*
12 *such information is submitted; and*

13 **[(B)** *such information and loss ratios, for*
14 *each such insurer; and*

15 **[(2)** *produce tables for each 5-digit zip code*
16 *based on information regarding insurance in rural*
17 *areas submitted under sections 207 and 208, by in-*
18 *surer and for all such insurers for which information*
19 *is submitted under such sections, by designated line*
20 *(and if such information is submitted, by subline or*
21 *coverage type), indicating—*

22 **[(A)** *insurance underwriting patterns, ag-*
23 *gregated by zip codes, grouped according to loca-*
24 *tion, age of property, income level, and racial*

1 *characteristics of neighborhoods (where such de-*
2 *mographic information is available); and*

3 **[(B)** *loss ratios, based on the information*
4 *obtained pursuant to sections 207 and 208, ag-*
5 *gregated by zip codes, grouped according to loca-*
6 *tion, age of property, income level, and racial*
7 *characteristics of neighborhoods (where such de-*
8 *mographic information is available).*

9 **[(d)** *INVESTMENT INFORMATION.—For each annual*
10 *reporting period, the Secretary shall—*

11 **[(1)** *compile the information submitted under*
12 *section 211, for each designated MSA—*

13 **[(A)** *aggregated by applicable region for all*
14 *insurers, by designated investment; and*

15 **[(B)** *aggregated by applicable region for*
16 *each insurer, by designated investment; and*

17 **[(2)** *produce tables for each designated MSA, for*
18 *each insurer and for all insurers, indicating patterns*
19 *of designated investments, which shall be aggregated*
20 *by applicable region, grouped according to racial*
21 *characteristics, income level, and gender of the bor-*
22 *rower or size of business of the borrower and owner-*
23 *ship characteristic of the business, as applicable.*

24 **[SEC. 214. AVAILABILITY AND ACCESS SYSTEM.**

25 **[(a)** *AVAILABILITY TO PUBLIC.—*

1 **[(1) IN GENERAL.**—*The Secretary shall main-*
2 *tain and make available to the public, in accordance*
3 *with the requirements of this section, any information*
4 *submitted to the Secretary under this title and any*
5 *information compiled by the Secretary under this*
6 *title.*

7 **[(2) TIMING.**—*The Secretary shall make such*
8 *information publicly available on a timetable deter-*
9 *mined by the Secretary, but not later than 9 months*
10 *after the conclusion of the annual reporting period to*
11 *which the information relates, except that such infor-*
12 *mation shall not be made available to the public until*
13 *it is available in its entirety unless not all the infor-*
14 *mation required to be reported is available by such*
15 *date.*

16 **[(b) PUBLIC ACCESS SYSTEM.**—

17 **[(1) IMPLEMENTATION.**—*The Secretary shall*
18 *implement a system to facilitate access to any infor-*
19 *mation required to be made available to the public*
20 *under this title.*

21 **[(2) BASES OF AVAILABILITY.**—*The system shall*
22 *provide access in the following manners:*

23 **[(A) ACCESS TO ITEMIZED INFORMA-**
24 *TION.*—*To information submitted under sections*
25 *204, 205, 207, 208, 209(b), and 211 on the basis*

1 *of the insurer submitting the information, on the*
2 *basis of designated MSA and applicable region*
3 *(or in the case of rural information submitted*
4 *under section 207 or 208, on the basis of 5-digit*
5 *zip code), and on any other basis the Secretary*
6 *considers feasible and appropriate.*

7 **[(B) ACCESS TO AGGREGATE INFORMA-**
8 **TION.—***To aggregate information compiled under*
9 *section 213, on the basis of (i) the insurer sub-*
10 *mitting the information, and (ii) designated*
11 *MSA and applicable region (or in the case of*
12 *rural information submitted under section 207*
13 *or 208, on the basis of 5-digit zip code), and on*
14 *any other basis the Secretary considers feasible*
15 *and appropriate.*

16 **[(3) METHOD.—***The access system shall include*
17 *a toll-free telephone number that can be used by the*
18 *public to request such information and the address at*
19 *which a written request for such information may be*
20 *submitted.*

21 **[(4) FORM.—***The Secretary shall, by regulation,*
22 *establish the forms in which such information may be*
23 *furnished by the Secretary. Such forms shall include*
24 *written statements, forms readable by widely used*
25 *personal computers, and, if feasible, on-line access for*

1 *personal computers. The Secretary shall provide the*
2 *information available under this section in any such*
3 *form requested by the person requesting the informa-*
4 *tion, except that the Secretary may charge a fee for*
5 *providing such information, which may not exceed*
6 *the amount, determined by the Secretary, that is*
7 *equal to the cost of reproducing the information.*

8 **[(5) ANALYSIS SOFTWARE.—***The Secretary shall*
9 *make available to the public software that can be used*
10 *on a personal computer to analyze the information*
11 *provided under this section. The software shall be ca-*
12 *pable of analyzing the information by insurer, des-*
13 *ignated line, race, gender, MSA, and applicable re-*
14 *gion. It shall also contain data compiled by the Sec-*
15 *retary for each MSA and applicable region on income*
16 *levels, age of property, and racial characteristics that*
17 *can be used to evaluate the information provided*
18 *under this title by insurers. The software and any ac-*
19 *companying data shall be made available to the pub-*
20 *lic without charge, except for an amount, determined*
21 *by the Secretary, which shall not exceed the actual*
22 *cost of reproducing the software and the accompany-*
23 *ing data.*

24 **[(c) PROTECTIONS REGARDING LOSS INFORMA-**
25 **TION.—**

1 **[(1) PROHIBITION OF DISCLOSURE OF LOSS IN-**
2 **FORMATION.**—Notwithstanding any other provision of
3 this title, the Secretary may not make available to the
4 public or otherwise disclose any information submit-
5 ted under this title regarding the amount or number
6 of claims paid by any insurer, the amount of losses
7 of any insurer, or the loss experience for any insurer,
8 except (A) in the form of a loss ratio (expressing the
9 relationship of claims paid to premiums) made avail-
10 able or disclosed in compliance with the provisions of
11 paragraph (2), or (B) as provided in paragraph (3).

12 **[(2) PROTECTION OF IDENTITY OF INSURER.**—
13 In making available to the public or otherwise disclos-
14 ing a loss ratio for an insurer—

15 **[(A) the Secretary may not identify the in-**
16 **surer to which the loss ratio relates; and**

17 **[(B) the Secretary may disclose the loss**
18 **ratio only in a manner that does not allow any**
19 **party to determine the identity of the specific in-**
20 **surer to which the loss ratio relates, except par-**
21 **ties having access to information under para-**
22 **graph (3).**

23 **[(3) CONFIDENTIALITY OF INFORMATION DIS-**
24 **CLOSED TO GOVERNMENTAL AGENCIES.**—The Sec-
25 retary may make information referred to in para-

1 *graph (1) and the identity of the specific insurer to*
2 *which such information relates available to any Fed-*
3 *eral entity and any State agency responsible for regu-*
4 *lating insurance in a State and may otherwise dis-*
5 *close such information to any such entity or agency,*
6 *but only to the extent such entity or agency agrees not*
7 *to make any such information available or disclose*
8 *such information to any other person.*

9 ***[SEC. 215. DESIGNATIONS.***

10 ***[(a) DESIGNATION OF MSA'S.—****For purposes of this*
11 *title, the term “designated MSA” means the following*
12 *MSA's:*

13 ***[(1) FIRST 5 YEARS.—****With respect to the first*
14 *5 annual reporting periods to which the reporting re-*
15 *quirements under this title apply (pursuant to section*
16 *226), any of the 150 MSA's selected as follows:*

17 ***[(A) The Secretary shall select the 50***
18 *MSA's having the largest populations, as deter-*
19 *mined by the Secretary and specified in regula-*
20 *tions issued pursuant to section 224, which shall*
21 *not be amended or revised after issuance.*

22 ***[(B) The Secretary shall select 100 addi-***
23 *tional MSA's, on a basis that provides for (i) ge-*
24 *ographic diversity among the designated MSA's*

1 under this paragraph, and (ii) diversity in size
2 of the populations among such MSA's.

3 **[(2) AFTER FIRST 5 YEARS.**—With respect to
4 annual reporting periods thereafter, an MSA for
5 which a designation under this paragraph is in effect,
6 pursuant to the following requirements:

7 **[(A)** The designations shall be made for
8 each of the successive 5-year periods at the time
9 provided in subparagraph (C), and the first such
10 period shall be the 5-year period beginning upon
11 the commencement of the 6th annual reporting
12 period to which the reporting requirements under
13 this title apply.

14 **[(B)** The Secretary shall designate not less
15 than 150 MSA's as designated MSA's for each
16 such 5-year period and shall designate such
17 MSA's based upon the information and rec-
18 ommendations made in the report under section
19 220(b) relating to the period.

20 **[(C)** The Secretary shall make the designa-
21 tion of MSA's for an ensuing 5-year period by
22 regulations issued—

23 **[(i)** not later than the date occurring
24 12 months before the commencement of the
25 5-year period; and

1 **[(ii)** *not later than 6 months after the*
2 *submission to the Secretary of the report*
3 *under section 220(b) relating to such period.*

4 **[(D)** *The designations for a 5-year period*
5 *shall take effect upon the commencement of the*
6 *first annual reporting period of the 5-year pe-*
7 *riod that begins at least 12 months after the is-*
8 *suance of the regulations making such designa-*
9 *tions, and shall remain in effect until the expira-*
10 *tion of the 5-year period.*

11 *Notwithstanding any other provision of this section, the des-*
12 *ignation of an MSA shall remain in effect until a succeed-*
13 *ing designation of MSA's under paragraph (2) takes effect.*

14 **[(b)** *DESIGNATION OF INSURERS.—The Secretary*
15 *shall designate, for each designated line and each State, in-*
16 *surers doing business in the lines as designated insurers in*
17 *the State for purposes of this title, subject to the following*
18 *requirements:*

19 **[(1)** *HIGHEST AGGREGATE PREMIUM VOLUME.—*

20 **[(A)** *GENERAL RULE.—For a State, the*
21 *Secretary shall designate, for each designated*
22 *line, each of the insurers and insurer groups in-*
23 *cluded in the class established under this para-*
24 *graph for the State.*

1 **[(B) DETERMINATION.**—*In the State, the*
2 *Secretary shall rank the insurers and insurer*
3 *groups in each designated line from the insurer*
4 *or group having the largest aggregate premium*
5 *volume in the State for such line to the insurer*
6 *or group having the smallest such aggregate pre-*
7 *mium volume and shall include in the class for*
8 *the State only (i) the insurer or group of the*
9 *highest rank, and (ii) each insurer or group of*
10 *successively lower rank if the inclusion of such*
11 *insurer or group in the class does not result in*
12 *the sum of such aggregate premium volumes for*
13 *insurers and groups in the class exceeding 80*
14 *percent of the total aggregate premium volume in*
15 *the State for the line, and (iii) the first such suc-*
16 *cessively lower ranked insurer or insurer group*
17 *whose inclusion in the class results in such sum*
18 *exceeding 80 percent of the total aggregate pre-*
19 *mium volume in the State for the line.*

20 **[(2) MINIMUM AGGREGATE PREMIUM VOLUME.**—
21 *For a State, the Secretary shall designate, for each*
22 *designated line, each insurer and insurer group not*
23 *designated pursuant to paragraph (1) whose premium*
24 *volume in the State for the designated line exceeds 1*

1 *percent of the total aggregate premium volume in the*
2 *State for the line.*

3 **[(3) FAIR PLANS AND JOINT UNDERWRITING AS-**
4 *SOCIATIONS.—For a State, the Secretary shall des-*
5 *ignates, for each designated line—*

6 **[(A) each statewide plan under part A of**
7 *title XII of the National Housing Act to assure*
8 *fair access to insurance requirements, and*

9 **[(B) each joint underwriting association,**
10 *that provides insurance under such line.*

11 **[(4) DURATION.—The Secretary shall designate**
12 *insurers under this subsection once every 5 years.*
13 *Each insurer designated shall be a designated insurer*
14 *for each of the first 5 successive annual reporting pe-*
15 *riods commencing after such designation.*

16 **[(c) DESIGNATION OF LINES OF INSURANCE.—**

17 **[(1) IN GENERAL.—The Secretary shall, by reg-**
18 *ulation, designate lines of insurance as designated*
19 *lines for purposes of this title, as follows:*

20 **[(A) AUTOMOBILE.—The Secretary shall**
21 *designate private passenger automobile insurance*
22 *and shall also designate any sublines and cov-*
23 *erage types of private passenger automobile in-*
24 *surance that the Secretary considers appropriate*
25 *to determine and compare the availability, af-*

1 *fordability, and type of coverage in such line*
2 *among applicable regions.*

3 **[(B) NONCOMMERCIAL INSURANCE FOR**
4 **RESIDENTIAL PROPERTY.—***The Secretary shall*
5 *designate homeowners insurance and dwelling*
6 *fire and allied lines, and shall distinguish the*
7 *coverage types in such lines by the perils covered*
8 *and by market or replacement value. For pur-*
9 *poses of this title, homeowners insurance shall*
10 *not include any renters coverage or coverage for*
11 *the personal property of a condominium owner.*

12 **[(C) BID, PERFORMANCE, AND PAYMENT**
13 **BONDS FOR SMALL BUSINESSES.—***The Secretary*
14 *shall designate lines, and any sublines and cov-*
15 *erage types, of bid, performance, and payment*
16 *bonds for small businesses, for which reporting is*
17 *required pursuant to section 206, that the Sec-*
18 *retary considers appropriate to determine and*
19 *compare the availability, affordability, and qual-*
20 *ity or type of coverage in bid, performance, and*
21 *payment bonds for small businesses among ap-*
22 *plicable regions.*

23 **[(2) REPORT.—***At any time the Secretary deter-*
24 *mines that any line of insurance not described in*
25 *paragraph (1) should be a designated line because*

1 *disparities in coverage provided under such line exist*
2 *among geographic areas having different income levels*
3 *or racial composition, the Secretary shall submit a*
4 *report recommending designating such line of insur-*
5 *ance as a designated line for purposes of this title to*
6 *the Committee on Banking, Finance and Urban Af-*
7 *airs of the House of Representatives and the appro-*
8 *priate Committees of the Senate.*

9 **[(3) DURATION.—**

10 **[(A) IN GENERAL.—***Except as provided in*
11 *subparagraph (B), the Secretary shall make the*
12 *designations under this subsection once every 5*
13 *years, by regulation, and each line and subline*
14 *or coverage type designated under such regula-*
15 *tions shall be designated for each of the first 5*
16 *successive annual reporting periods occurring*
17 *after issuance of the regulations.*

18 **[(B) ALTERATION.—***During any 5-year pe-*
19 *riod referred to in subparagraph (A) in which*
20 *designations are in effect, the Secretary may*
21 *amend or revise the designated lines, sublines,*
22 *and coverage types only by regulation and only*
23 *in accordance with the requirements of this sub-*
24 *section. Such regulations amending or revising*
25 *designations shall apply only to annual report-*

1 *retary shall allow insurers, or statistical agents acting on*
2 *behalf of insurers, to match addresses and applicable re-*
3 *gions through the use of 9-digit zip codes if the Secretary*
4 *determines that such use will substantially reduce the cost*
5 *and burden to insurers of such matching without signifi-*
6 *cant adverse impact on the reliability of the matching.*

7 **[(b) ADDRESS CONVERSION SOFTWARE.—***The Sec-*
8 *retary shall make available, to any insurer required to pro-*
9 *vide information to the Secretary under this title, computer*
10 *software that can be used to convert addresses to applicable*
11 *regions within designated MSA's. The software shall be*
12 *made available in forms that provide such conversion for*
13 *designated MSA's on a nationwide basis and on a State-*
14 *by-State basis. The software shall be made available not less*
15 *than 6-months before the first annual reporting period to*
16 *which the reporting requirements under this title apply*
17 *(pursuant to section 226) and shall be updated annually.*
18 *The software shall be made available without charge, except*
19 *for an amount, determined by the Secretary, which shall*
20 *not exceed the actual cost of reproducing the software.*

21 **[(c) CONVERTIBILITY.—**

22 **[(1) AUTHORITY.—***The Secretary may, by regu-*
23 *lation, provide for insurers to comply with the re-*
24 *quirements under sections 204, 205, 209(b), and 211*
25 *by reporting the information required under such sec-*

1 *tions on the basis of geographical location other than*
2 *MSA and applicable region, but only if the Secretary*
3 *determines that information reported on such other*
4 *basis is convertible to the basis of MSA and applica-*
5 *ble region and such conversion does not affect the ac-*
6 *curacy of the information.*

7 **[(2) LIMITATION.**—*With respect to any informa-*
8 *tion submitted on the basis of geographical location*
9 *other than designated MSA and applicable region*
10 *pursuant to paragraph (1), the Secretary may dis-*
11 *close the information only on the basis of designated*
12 *MSA and applicable region.*

13 **[SEC. 217. ANNUAL REPORTING PERIOD.**

14 **[(a) IN GENERAL.**—*For purposes of this title, the an-*
15 *nual reporting periods shall be the 12-month periods com-*
16 *mencing in each calendar year on the same day, which shall*
17 *be selected under subsection (b) by the Secretary.*

18 **[(b) SELECTION.**—*Not later than the expiration of the*
19 *6-month period beginning on the date of the enactment of*
20 *this Act, the Secretary shall, by regulation, select a day of*
21 *the year upon which all annual reporting periods shall*
22 *commence. In determining such day, the Secretary shall*
23 *consider the reporting periods used for purposes of State*
24 *and other insurance statistical reporting systems, in order*
25 *to minimize the burdens on insurers.*

1 **[SEC. 218. DISCLOSURES BY INSURERS TO APPLICANTS**
2 **AND POLICYHOLDERS.**

3 **[(a) IN GENERAL.—***The Secretary shall, by regula-*
4 *tion, require the following disclosures:*

5 **[(1) APPLICANTS.—***Each insurer that, through*
6 *the insurer, or an agent or broker, declines a written*
7 *application or written request to issue an insurance*
8 *policy under a designated line shall provide to the ap-*
9 *plicant at the time of such declination, through such*
10 *insurer, agent, or broker, one of the following:*

11 **[(A)** *A written explanation of the specific*
12 *reasons for the declination.*

13 **[(B)** *Written notice that (i) the applicant*
14 *may submit to the insurer, agent, or broker,*
15 *within 90 days of such notice, a written request*
16 *for a written explanation of the reasons for the*
17 *declination, and (ii) pursuant to such a request,*
18 *an explanation shall be provided to the appli-*
19 *cant within 21 days after receipt of such request.*

20 *If an insurer, agent, or broker making a declination*
21 *receives a written request referred to in subparagraph*
22 *(B) within such 90-day period, the insurer, agent, or*
23 *broker shall provide a written explanation referred to*
24 *in such subparagraph within such 21-day period.*

25 **[(2) POLICYHOLDERS.—***Each insurer that can-*
26 *cels or refuses to renew an insurance policy under a*

1 *designated line shall provide to the policyholder, in*
2 *writing and within an appropriate period of time as*
3 *determined by the Secretary, the reasons for canceling*
4 *or refusing to renew the policy.*

5 **[(b) MODEL ACTS.—***In issuing regulations under sub-*
6 *section (a), the Secretary shall consider relevant portions*
7 *of model acts developed by the National Association of In-*
8 *surance Commissioners.*

9 **[(c) PREEMPTION.—***Subsection (a) shall not be con-*
10 *strued to annul, alter, or effect, or exempt any insurer,*
11 *agent, or broker subject to the provisions of subsection (a)*
12 *from complying with any laws or requirements of any State*
13 *with respect to notifying insurance applicants or policy-*
14 *holders of the reasons for declination or cancellation of, or*
15 *refusal to renew insurance, except to the extent that such*
16 *laws or requirements are inconsistent with subsection (a)*
17 *(or the regulations issued thereunder) and then only to the*
18 *extent of such inconsistency. The Secretary is authorized to*
19 *determine whether such inconsistencies exist and to resolve*
20 *issues regarding such inconsistencies. The Secretary may*
21 *not provide that any State law or requirement is inconsis-*
22 *ent with subsection (a) if it imposes requirements equiva-*
23 *lent to the requirements under such subsection or require-*
24 *ments that are more stringent or comprehensive, in the de-*
25 *termination of the Secretary.*

1 **[(d) IMMUNITY.**—*In issuing regulations under sub-*
2 *section (a), the Secretary shall specifically consider the ne-*
3 *cessity of providing insurers, agents, and brokers immunity*
4 *solely for the act of conveying or communicating the reasons*
5 *for a declination or cancellation of, or refusal to renew in-*
6 *surance on behalf of a principal making such decision. The*
7 *Secretary may provide for immunity under the regulations*
8 *issued under subsection (a) if the Secretary determines that*
9 *such a provision is necessary and in the public interest,*
10 *except that the Secretary may not provide immunity for*
11 *any conduct that is negligent, reckless, or willful.*

12 **[(e) ENFORCEMENT.**—*The Secretary may authorize*
13 *the States to enforce the requirements under regulations is-*
14 *sued under subsection (a).*

15 **[SEC. 219. ENFORCEMENT.**

16 **[(a) CIVIL PENALTIES.**—*Any insurer who is deter-*
17 *mined by the Secretary, after providing opportunity for a*
18 *hearing on the record, to have violated any requirement*
19 *pursuant to this title shall be subject to a civil penalty of*
20 *not to exceed \$5,000 for each day during which such viola-*
21 *tion continues.*

22 **[(b) INJUNCTION.**—*The Secretary may bring an ac-*
23 *tion in an appropriate United States district court for ap-*
24 *propriate declaratory and injunctive relief against any in-*

1 *insurer who violates the requirements referred to in subsection*
2 *(a).*

3 **[(c) INSURER LIABILITY.**—*An insurer shall be respon-*
4 *sible under subsections (a) and (b) for any violation of a*
5 *statistical agent acting on behalf of the insurer.*

6 **[SEC. 220. REPORTS.**

7 **[(a) ANNUAL REPORT.**—*The Secretary shall annually*
8 *report to the Committee on Banking, Finance and Urban*
9 *Affairs of the House of Representatives and the appropriate*
10 *Committees of the Senate on the implementation of this title*
11 *and shall make recommendations to such Committees on*
12 *such additional legislation as the Secretary deems appro-*
13 *priate to carry out this title. The Secretary shall include*
14 *in each annual report a description of any complaints or*
15 *problems resulting from the implementation of this title, of*
16 *which the Secretary has knowledge, made by (or on behalf*
17 *of) insurance policyholders that concern the disclosure of*
18 *information regarding policyholders and any recommenda-*
19 *tions for addressing such problems. Each report shall spe-*
20 *cifically address whether granting property and casualty*
21 *insurance powers to other financial intermediaries would*
22 *significantly reduce redlining and other discriminatory in-*
23 *surance practices and the Secretary shall consult with the*
24 *appropriate financial institution regulators regarding such*
25 *issues in preparing the report.*

1 **[(b) GAO REPORTS.—**

2 **[(1) IN GENERAL.—***The Comptroller General of*
3 *the United States shall submit a report under this*
4 *subsection to the Secretary and the Congress for each*
5 *5-year period referred to in sections 207(c)(2) and*
6 *215(a)(2), which contains information to be used by*
7 *the Secretary in implementing this title during such*
8 *period.*

9 **[(2) TIMING.—***The report under this subsection*
10 *for each such 5-year period shall be submitted not*
11 *later than the date occurring 18 months before the*
12 *commencement of the period to which the report re-*
13 *lates.*

14 **[(3) CONTENTS.—***A report under this subsection*
15 *shall include the following information:*

16 **[(A)** *An analysis of the adequacy of the im-*
17 *plementation of this title and any recommenda-*
18 *tions of the Comptroller General for improving*
19 *the implementation.*

20 **[(B)** *The costs to the Federal Government,*
21 *insurers, and consumers of implementing and*
22 *complying with this title.*

23 **[(C)** *Any beneficial or harmful effects re-*
24 *sulting from the requirements of this title.*

1 **[(D)** *An analysis of whether, considering*
2 *the purposes of this title, insurers are required*
3 *by this title (or by implementing regulations) to*
4 *submit appropriate information.*

5 **[(E)** *An analysis of whether sufficient evi-*
6 *dence exists of patterns of disparities in the*
7 *availability, affordability, and quality or type of*
8 *insurance coverage to warrant continued appli-*
9 *cability of the requirements of this title.*

10 **[(F)** *An analysis of whether the group of*
11 *designated MSA's in effect at the time of the re-*
12 *port are appropriate for purposes of this title.*

13 **[(G)** *Specific recommendations, for use by*
14 *the Secretary in designating MSA's for the 5-*
15 *year period for which the report is made, with*
16 *regard to—*

17 **[(i)** *the characteristics of MSA's that*
18 *should be included in the group of des-*
19 *ignated MSA's;*

20 **[(ii)** *the number of MSA's that should*
21 *be included in the group;*

22 **[(iii)** *the number of MSA's having*
23 *each particular characteristic that should be*
24 *included in the group; and*

1 *[(iv) the characteristics of MSA's, and*
2 *number of MSA's having each such char-*
3 *acteristic, that should be removed from the*
4 *group of designated MSA's in effect at the*
5 *time of the report.*

6 *[(H) With respect only to the first report*
7 *required under this subsection, recommendations*
8 *of whether the study conducted under section 205*
9 *should be continued beyond the date in section*
10 *205(b)(8) and, if so, whether the requirements re-*
11 *garding the submission of information under the*
12 *study should be expanded or changed with re-*
13 *spect to insurers, MSA's, lines, sublines or cov-*
14 *erage types of insurance, and types of small*
15 *businesses, or whether the study should be al-*
16 *lowed to terminate under law.*

17 *[(I) An analysis of whether the group of*
18 *designated rural areas in effect at the time of the*
19 *report are appropriate for purposes of this title.*

20 *[(J) Specific recommendations, for use by*
21 *the Secretary in designating rural areas for pur-*
22 *poses of section 207 for the 5-year period for*
23 *which the report is made, with regard to—*

1 *[(i) the characteristics of rural areas*
2 *that should be included in the group of des-*
3 *ignated rural areas under such section;*

4 *[(ii) the number of rural areas having*
5 *each particular characteristic that should be*
6 *included in the group; and*

7 *[(iii) the characteristics of rural areas,*
8 *and number of rural areas having each such*
9 *characteristic, that should be removed from*
10 *the group of designated rural areas in effect*
11 *at the time of the report.*

12 *[(K) Any other information or rec-*
13 *ommendations relating to the requirements or*
14 *implementation of this title that the Comptroller*
15 *General considers appropriate.*

16 *[(4) CONSULTATION.—In preparing each report*
17 *under this subsection, the Comptroller General shall*
18 *consult with Federal agencies having appropriate ex-*
19 *pertise, the National Association of Insurance Com-*
20 *missioners, State insurance regulators, statistical*
21 *agents, representatives of small businesses, representa-*
22 *tives of insurance agents (including minority insur-*
23 *ance agents) and property and casualty insurers, and*
24 *community, consumer, and civil rights organizations.*

1 **[SEC. 221. TASK FORCE ON AGENCY APPOINTMENTS.**

2 **[(a) ESTABLISHMENT.**—*Not later than 90 days after*
3 *the date of the enactment of this Act, the Secretary shall*
4 *establish a task force on insurance agency appointments.*
5 *The task force shall—*

6 **[(1)** *consist of representatives of appropriate*
7 *Federal agencies, property and casualty insurance*
8 *agents, including specifically minority insurance*
9 *agents, property and casualty insurers, State insur-*
10 *ance regulators, and community, consumer, and civil*
11 *rights organizations;*

12 **[(2)** *have a significant representation from mi-*
13 *nority insurance agents; and*

14 **[(3)** *be chaired by the Secretary or the Sec-*
15 *retary's designee.*

16 **[(b) FUNCTION.**—*The task force shall—*

17 **[(1)** *review the problems inner city and minor-*
18 *ity agents may have in receiving appointments to*
19 *represent property and casualty insurers and consider*
20 *the effects such problems have on the availability, af-*
21 *fordability, and quality or type of insurance, espe-*
22 *cially in underserved areas;*

23 **[(2)** *review the practices of insurers in termi-*
24 *nating agents and consider the effects such practices*
25 *have on the availability, affordability, and quality or*

1 *type of insurance, especially in underserved areas;*
2 *and*

3 **[(3)** *recommend solutions to improve the ability*
4 *of inner city and minority insurance agents to mar-*
5 *ket property and casualty insurance products, includ-*
6 *ing steps property and casualty insurers should take*
7 *to increase their appointments of such agents.*

8 **[(c) REPORT AND TERMINATION.**—*The task force shall*
9 *report to the Committee on Banking, Finance and Urban*
10 *Affairs of the House of Representatives and the appropriate*
11 *Committees of the Senate its findings under paragraphs (1)*
12 *and (2) of subsection (b) and its recommendations under*
13 *paragraph (3) of subsection (b) not later than 2 years after*
14 *the date of the enactment of this Act. The task force shall*
15 *terminate when the report is submitted to the Committees.*

16 **[SEC. 222. STUDIES.**

17 **[(a) STUDY OF INSURANCE PRESCREENING.**—

18 **[(1) IN GENERAL.**—*The Secretary shall conduct*
19 *a study to determine the feasibility and utility of re-*
20 *quiring insurers to report information with respect to*
21 *the characteristics of applicants for insurance and*
22 *reasons for rejection of applicants. The study shall ex-*
23 *amine the extent to which—*

24 **[(A)** *oral applications or representations*
25 *are used by insurers and agents in making deter-*

1 *minations regarding whether or not to insure a*
2 *prospective insured;*

3 *【(B) written applications are used by in-*
4 *surers and agents in making determinations re-*
5 *garding whether or not to insure a prospective*
6 *insured;*

7 *【(C) written applications are submitted*
8 *after the insurer or agent has already made a*
9 *determination to provide insurance to a prospec-*
10 *tive insured or has determined that the prospec-*
11 *tive insured is eligible for insurance; and*

12 *【(D) prospective insureds are discouraged*
13 *from submitting applications for insurance*
14 *based, in whole or in part, on—*

15 *【(i) the location of the risk to be in-*
16 *sured;*

17 *【(ii) the racial characteristics of the*
18 *prospective insured;*

19 *【(iii) the racial composition of the*
20 *neighborhood in which the risk to be insured*
21 *is located; and*

22 *【(iv) in the case of residential prop-*
23 *erty insurance, the age and value of the risk*
24 *to be insured.*

1 **[(2) REPORT.**—*The Secretary shall report the*
2 *results of the study under paragraph (1) to the Com-*
3 *mittee on Banking, Finance and Urban Affairs of the*
4 *House of Representatives and the appropriate Com-*
5 *mittees of the Senate not later than 2 years after the*
6 *date of the enactment of this Act. The report shall in-*
7 *clude recommendations of the Secretary (A) with re-*
8 *spect to requiring insurers to report on the disposi-*
9 *tion of oral and written applications for insurance,*
10 *and (B) for any legislation that the Secretary consid-*
11 *ers appropriate regarding the issues described in the*
12 *report.*

13 **[(b) STUDY OF INSURER ACTIONS TO MEET INSUR-**
14 **ANCE NEEDS OF CERTAIN NEIGHBORHOODS.**—*The Sec-*
15 *retary shall conduct a study of various practices, actions,*
16 *and methods undertaken by insurers to meet the property*
17 *and casualty insurance needs of residents of low- and mod-*
18 *erate-income neighborhoods, minority neighborhoods, and*
19 *small businesses located in such neighborhoods. The Sec-*
20 *retary shall report the results of the study, including any*
21 *recommendations, to the Committee on Banking, Finance*
22 *and Urban Affairs of the House of Representatives and the*
23 *appropriate Committees of the Senate not later than 2 years*
24 *after the date of the enactment of this Act.*

25 **[(c) STUDY OF DISPARATE CLAIMS TREATMENT.**—

1 **[(1) IN GENERAL.**—*The Secretary shall conduct*
2 *a study to determine whether, and the extent to*
3 *which, insurers engage in disparate treatment in han-*
4 *dling claims of policyholders under designated lines of*
5 *insurance based on the race, gender, and income level*
6 *of the policyholder, and on the racial characteristics*
7 *and income levels of the area in which the insured*
8 *risk is located. In conducting the study, the Secretary*
9 *shall specifically consider whether residents of low-in-*
10 *come neighborhoods or areas and minority neighbor-*
11 *hoods or areas are more likely than residents of other*
12 *areas to have their claims contested or their insurance*
13 *coverage canceled.*

14 **[(2) REPORT.**—*The Secretary shall submit a re-*
15 *port on the results of the study to the Committee on*
16 *Banking, Finance and Urban Affairs of the House of*
17 *Representatives and the appropriate Committees of*
18 *the Senate not later than 2 years after the date of the*
19 *enactment of this Act.*

20 **[(d) STUDY OF RATING TERRITORIES.**—*The Secretary*
21 *shall conduct a study to determine whether the practice in*
22 *the insurance industry of basing insurance premium*
23 *amounts on the territory in which the insured risk is lo-*
24 *cated has a disparate impact on the availability, afford-*
25 *ability, or quality of insurance by race, gender, or type of*

1 *neighborhood. The Secretary shall submit a report on the*
2 *results of the study to the Committee on Banking, Finance*
3 *and Urban Affairs of the House of Representatives and the*
4 *appropriate Committees of the Senate not later than 12*
5 *months after the date of the enactment of this Act.*

6 **[(e) STUDY OF INSURER REINVESTMENT REQUIRE-**
7 *MENTS.—*

8 **[(1) IN GENERAL.—***The Secretary shall conduct*
9 *a study to determine the feasibility of requiring in-*
10 *surers to reinvest in communities and neighborhoods*
11 *from which they collect premiums for insurance and*
12 *whether, and the extent to which, community reinvest-*
13 *ment requirements for insurers should be established*
14 *that are comparable to the community reinvestment*
15 *requirements applicable to depository institutions.*
16 *The Secretary shall consult with representatives of in-*
17 *surers and consumer, community, and civil rights or-*
18 *ganizations regarding the results of the study and*
19 *any recommendations to be made based on the results*
20 *of the study.*

21 **[(2) REPORT.—***The Secretary shall report the*
22 *results of the study, including any such recommenda-*
23 *tions, to the Committee on Banking, Finance and*
24 *Urban Affairs of the House of Representatives and the*
25 *appropriate Committees of the Senate not later than*

1 6 months after the conclusion of the first annual re-
2 porting period to which the reporting requirements
3 under this title apply (pursuant to section 226).

4 **[SEC. 223. EXEMPTION AND RELATION TO STATE LAWS.**

5 **[(a) EXEMPTION FOR UNITED STATES PROGRAMS.—**
6 Reporting shall not be required under this title with respect
7 to insurance provided by any program underwritten or ad-
8 ministered by the United States.

9 **[(b) RELATION TO STATE LAWS.—**This title does not
10 annul, alter, or affect, or exempt the obligation of any in-
11 surer subject to this title to comply with the laws of any
12 State or subdivision thereof with respect to public disclo-
13 sure, submission of information, and recordkeeping.

14 **[SEC. 224. REGULATIONS.**

15 **[(a) IN GENERAL.—**The Secretary shall issue any reg-
16 ulations required under this title and any other regulations
17 that may be necessary to carry out this title. The regula-
18 tions shall be issued through rulemaking in accordance with
19 the procedures under section 553 of title 5, United States
20 Code, for substantive rules. Except as otherwise provided
21 in this title, such final regulations shall be issued not later
22 than the expiration of the 18-month period beginning on
23 the date of the enactment of this Act.

24 **[(b) BURDENS.—**In prescribing such regulations, the
25 Secretary shall take into consideration the administrative,

1 *paperwork, and other burdens on insurance agents, includ-*
2 *ing independent insurance agents, involved in complying*
3 *with the requirements of this title and shall minimize the*
4 *burdens imposed by such requirements with respect to such*
5 *agents.*

6 **[SEC. 225. DEFINITIONS.**

7 **[For purposes of this title:**

8 **[**(1) *AGENT.—The term “agent” means, with re-*
9 *spect to an insurer, an agent licensed by a State who*
10 *sells property and casualty insurance. The term in-*
11 *cludes agents who are employees of the insurer, agents*
12 *who are independent contractors working exclusively*
13 *for the insurer, and agents who are independent con-*
14 *tractors appointed to represent the insurer on a*
15 *nonexclusive basis.*

16 **[**(2) *APPLICABLE REGION.—The term “applica-*
17 *ble region” means, with respect to a designated*
18 *MSA—*

19 **[**(A) *for any county located within the*
20 *MSA that has a population of more than 30,000,*
21 *the applicable census tract within the county; or*

22 **[**(B) *for any county located within the*
23 *MSA that has a population of 30,000 or less, the*
24 *applicable county.*

1 **[(3) COMMERCIAL INSURANCE.**—*The term “com-*
2 *mercial insurance” means any line of property and*
3 *casualty insurance, except private passenger auto-*
4 *mobile, homeowner’s insurance and dwelling fire and*
5 *allied lines, and other personal lines of insurance.*

6 **[(4) DESIGNATED INSURER.**—*The term “des-*
7 *ignated insurer” means, with respect to a designated*
8 *line, an insurer designated for a State by the Sec-*
9 *retary under section 215(b) as a designated insurer*
10 *for such line or any insurer that is part of an insurer*
11 *group selected under such section.*

12 **[(5) DESIGNATED INVESTMENT.**—*The term “des-*
13 *ignated investment” means making or purchasing a*
14 *loan for the purchase of commercial real estate, mak-*
15 *ing or purchasing a mortgage loan for the purchase*
16 *of a 1- to 4-family dwelling, making or purchasing*
17 *a commercial or industrial loan, or making any other*
18 *investment designated by the Secretary under section*
19 *211(b).*

20 **[(6) DESIGNATED LINE.**—*The term “designated*
21 *line” means a line of insurance or bid, performance,*
22 *and payment bonds designated by the Secretary*
23 *under section 215(c).*

24 **[(7) EXPOSURES.**—*The term “exposures” means,*
25 *for purposes of section 204, with respect to an insur-*

1 *ance policy, an expression of an exposure unit covered*
2 *under the policy compared to the duration of the pol-*
3 *icy (pursuant to standards established by the Sec-*
4 *retary for uniform reporting of exposures).*

5 **[(8) EXPOSURE UNITS.—***The term “exposure*
6 *units” means, for purposes of section 204, an auto-*
7 *mobile or dwelling covered under an insurance policy*
8 *for private passenger automobile or homeowners or*
9 *dwelling fire and allied lines coverage.*

10 **[(9) INSURANCE.—***The term “insurance” means*
11 *property and casualty insurance. Such term includes*
12 *primary insurance, surplus lines insurance, and any*
13 *other arrangement for the shifting and distributing of*
14 *risks that is determined to be insurance under the law*
15 *of any State in which the insurer or insurer group*
16 *engages in an insurance business.*

17 **[(10) INSURER.—***Except with respect to section*
18 *209, the term “insurer” means any corporation, asso-*
19 *ciation, society, order, firm, company, mutual, part-*
20 *nership, individual, aggregation of individuals, or*
21 *any other legal entity that is authorized to transact*
22 *the business of property or casualty insurance in any*
23 *State or that is engaged in a property or casualty in-*
24 *surance business. With respect to section 206, the term*
25 *means any person authorized to transact the business*

1 *of bid, performance, and payment bonds for small*
2 *businesses. The term includes any certified foreign di-*
3 *rect insurer under title I, but does not include an in-*
4 *dividual or entity which represents an insurer as*
5 *agent solely for the purpose of selling or which rep-*
6 *resents a consumer as a broker solely for the purpose*
7 *of buying insurance.*

8 **[(11) ISSUED.**—*The term “issued” means, with*
9 *respect to an insurance policy, newly issued or re-*
10 *newed.*

11 **[(12) JOINT UNDERWRITING ASSOCIATION.**—*The*
12 *term “joint underwriting association” means an un-*
13 *incorporated association of insurers established to*
14 *provide a particular form of insurance to the public.*

15 **[(13) MORTGAGE INSURANCE.**—*The term “mort-*
16 *gage insurance” means insurance against the*
17 *nonpayment of, or default on, a mortgage or loan for*
18 *residential or commercial property.*

19 **[(14) MSA.**—*The term “MSA” means a Metro-*
20 *politan Statistical Area or a Primary Metropolitan*
21 *Statistical Area.*

22 **[(15) PRIVATE MORTGAGE INSURANCE.**—*The*
23 *term “private mortgage insurance” means mortgage*
24 *insurance other than mortgage insurance made avail-*
25 *able under the National Housing Act, title 38 of the*

1 *United States Code, or title V of the Housing Act of*
2 *1949.*

3 **[(16) PROPERTY AND CASUALTY INSURANCE.—**
4 *The term “property and casualty insurance” means*
5 *insurance against loss of or damage to property, in-*
6 *surance against loss of income or extra expense in-*
7 *curring because of loss of, or damage to, property, and*
8 *insurance against third party liability claims caused*
9 *by negligence or imposed by statute or contract. Such*
10 *term does not include workers’ compensation, profes-*
11 *sional liability, or title insurance.*

12 **[(17) RESIDUAL MARKET.—***The term “residual*
13 *market” means an assigned risk plan, joint under-*
14 *writing association, or any similar mechanism de-*
15 *signed to make insurance available to those unable to*
16 *obtain it in the voluntary market. The term includes*
17 *each statewide plan under part A of title XII of the*
18 *National Housing Act to assure fair access to insur-*
19 *ance requirements.*

20 **[(18) RURAL AREA.—***The term “rural area”*
21 *means any area that—*

22 **[(A)** *has a population of 10,000 or more;*

23 **[(B)** *has a continuous boundary; and*

24 **[(C)** *contains only areas that are rural*
25 *areas, as such term is defined in section 520 of*

1 *the Housing Act of 1949 (except that clause*
2 *(3)(B) of such section 520 shall not apply for*
3 *purposes of this title).*

4 **[(19) SECRETARY.—***The term “Secretary”*
5 *means the Secretary of Housing and Urban Develop-*
6 *ment.*

7 **[(20) STATE.—***The term “State” means any*
8 *State, the District of Columbia, the Commonwealth of*
9 *Puerto Rico, the Northern Mariana Islands, the Vir-*
10 *gin Islands, American Samoa, and the Trust Terri-*
11 *tory of the Pacific Islands.*

12 **[SEC. 226. EFFECTIVE DATE.**

13 **[***The requirements of this title relating to reporting*
14 *of information by insurers shall take effect with respect to*
15 *the first annual reporting period that begins more than 36*
16 *months after the date of the enactment of this Act.*

[*Amend the title so as to read: “A bill to establish*
 minimum standards applicable to foreign insurers and re-
 insurers providing insurance in the United States, and
 provide for public access to information regarding the
 availability of insurance, and for other purposes.”.]

17 **SECTION 1. SHORT TITLE.**

18 **This Act may be cited as the “Anti Redlin-**
19 **ing in Insurance Disclosure Act”.**

20 **SEC. 2. FINDINGS AND CONSTRUCTION.**

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

1 **endar year and for designated lines of**
2 **insurance in a designated MSA—**

3 **(i) the total number of poli-**
4 **cies, total exposure units (in car**
5 **years and house years), and total**
6 **earned premium of insurance**
7 **policies by designated line which**
8 **were issued by such insurer and**
9 **the new written exposure units,**
10 **exposure units canceled, and the**
11 **exposure units not renewed by**
12 **such insurer, and**

13 **(ii) the number of licensed**
14 **agents of such insurer whose**
15 **principal place of business is lo-**
16 **cated in such designated MSA**
17 **and the number within each 5-**
18 **digit zip code in such designated**
19 **MSA and with respect to each**
20 **such agent, whether such agent is**
21 **an employee, independent con-**
22 **tractor working exclusively for**
23 **such insurer, or an independent**
24 **contractor appointed to represent**

1 **such insurer on a non-exclusive**
2 **basis.**

3 **(B) SUBMISSIONS AND AVAILABIL-**
4 **ITY.—The information described in**
5 **subparagraph (A) shall be—**

6 **(i) submitted to the Secretary**
7 **in accordance with subsection (d),**
8 **and**

9 **(ii) made available to the pub-**
10 **lic, in accordance with subsection**
11 **(b)(2), for inspection and copying,**
12 **at cost, at the home office of the**
13 **insurer and at a central deposi-**
14 **tory, established under sub-**
15 **section (c), by the Secretary.**

16 **(2) NON-DESIGNATED INSURERS.—Except**
17 **as provided in subsection (b)(7), every in-**
18 **surer which sells an insurance policy in a**
19 **designated line of insurance in a des-**
20 **ignated MSA and which is not a des-**
21 **ignated insurer in such MSA shall submit**
22 **to the Secretary for each calendar year in**
23 **accordance with subsection (d) and regu-**
24 **lations of the Secretary the total expo-**
25 **sure units (in car years and house years)**

1 of insurance policies in a designated line
2 sold in such MSA. With respect to such
3 policies, the insurer shall report the des-
4 ignated MSA where the insured risks are
5 located for which such insurance is is-
6 sued and within such MSA report the 5-
7 digit zip code where the risk is located.

8 **(b) REQUIREMENTS.—**

9 (1) **CONTENT.—**The information re-
10 quired to be maintained and made avail-
11 able under subsection (a)(1) shall be item-
12 ized in order to clearly and conspicu-
13 ously disclose the policies, the exposure
14 units, and the premium amount for each
15 line of insurance for which information is
16 required and be itemized by the 5-digit
17 zip code where the risks are located.

18 (2) **AVAILABILITY TO THE PUBLIC.—**The
19 information required to be maintained
20 and made available under subsection (a)
21 shall be made available to the public on
22 a timetable determined by the Secretary
23 but not later than October 1 of the cal-
24 endar year following the calendar year
25 for which the information is required to

1 **be made available, except that such infor-**
2 **mation shall not be made available to the**
3 **public until it is available in its entirety**
4 **but it shall be made available if not all**
5 **the information required to be reported**
6 **is available on such October 1 or on the**
7 **date determined by the Secretary.**

8 **(3) SPECIFICATION OF DATA.—**

9 **(A) IN GENERAL.—With respect to**
10 **information which is required to be**
11 **maintained and made available under**
12 **subsection (a)(1), the Secretary shall**
13 **by regulation establish specifications**
14 **for the collection and public report-**
15 **ing of such information with respect**
16 **to the following lines of insurance:**
17 **private passenger automobile, home-**
18 **owners, and dwelling fire and allied**
19 **lines. The specifications shall—**

20 **(i) provide that information**
21 **be aggregated among similar pol-**
22 **icyholders and reported on that**
23 **basis,**

24 **(ii) be designed to collect in-**
25 **formation with respect to the**

- 1 **availability, cost, and type of in-**
2 **surance coverage between and**
3 **among various geographic areas,**
4 **(iii) detail what data elements**
5 **should be collected,**
6 **(iv) provide for the collection**
7 **of information on an individual**
8 **insurer basis,**
9 **(v) minimize burdens on in-**
10 **surance agents, including inde-**
11 **pendent insurance agents,**
12 **(vi) provide the data required**
13 **by clause (ii) with the least bur-**
14 **den on insurers, particularly**
15 **small insurers,**
16 **(vii) take into account the**
17 **types of data collected under the**
18 **Home Mortgage Disclosure Act of**
19 **1975,**
20 **(viii) take into account exist-**
21 **ing statistical reporting systems**
22 **in the insurance industry,**
23 **(ix) require itemization by 5-**
24 **digit zip code, and**

1 **(x) include information on**
2 **policies written in a residual mar-**
3 **ket.**

4 **(B) CONSULTATIONS.—In develop-**
5 **ing the specifications in subpara-**
6 **graph (A), the Secretary shall consult**
7 **with—**

8 **(i) other Federal agencies**
9 **with appropriate expertise,**

10 **(ii) State insurance regu-**
11 **lators,**

12 **(iii) representatives of the in-**
13 **surance industry, including sta-**
14 **tistical agents,**

15 **(iv) representatives of insur-**
16 **ance producers, including minor-**
17 **ity insurance producers, and**

18 **(v) consumer, community, and**
19 **civil rights groups who are rep-**
20 **resentative of a diversity of geo-**
21 **graphic locations.**

22 **(C) EFFECTIVE DATE.—The regula-**
23 **tion under subparagraph (A) shall be**
24 **issued no later than 270 days after**
25 **the date of the enactment of this Act.**

1 **(4) COMMERCIAL INSURANCE STUDY AND**
2 **PILOT PROJECT.—**

3 **(A) STUDY.—The Secretary shall**
4 **conduct a study regarding the avail-**
5 **ability of commercial insurance**
6 **(other than professional liability in-**
7 **surance, workers compensation in-**
8 **surance, and title insurance) with**
9 **special emphasis on the availability**
10 **of commercial insurance for small**
11 **business. The study shall focus on—**

12 **(i) an appropriate definition**
13 **for small business; and**

14 **(ii) preliminary views regard-**
15 **ing the availability, cost, and type**
16 **of insurance coverage for small**
17 **business, which may be based on**
18 **surveys of members of the small**
19 **business community.**

20 **In conducting the study, the Sec-**
21 **retary shall consult with interested**
22 **parties from a diversity of locations,**
23 **including State insurance regulators,**
24 **consumer, community, and civil**
25 **rights groups, representatives of**

1 **small business, representatives of the**
2 **insurance industry, including statis-**
3 **tical agents, and representatives of**
4 **insurance producers, including mi-**
5 **nority insurance producers. The Sec-**
6 **retary shall submit a report detailing**
7 **the findings of the study to the Com-**
8 **mittee on Energy and Commerce of**
9 **the House of Representatives and the**
10 **appropriate committee of the Senate**
11 **no later than 18 months following the**
12 **date of enactment of this Act.**

13 **(B) PROPOSAL OF PILOT PROJECT.—**

14 **Concurrent with the conduct of the**
15 **study under subparagraph (A), the**
16 **Secretary shall develop a proposed**
17 **data collection pilot project in the 5**
18 **largest MSA's to help determine the**
19 **need for any further data collection**
20 **requirements to evaluate the avail-**
21 **ability, cost, and type of insurance**
22 **coverage for small business. In devel-**
23 **oping the proposed pilot project, the**
24 **Secretary shall consult with inter-**
25 **ested parties from a diversity of loca-**

1 **tions, including State insurance regu-**
2 **lators, consumer, community, and**
3 **civil rights groups, representatives of**
4 **small business, representatives of the**
5 **insurance industry, including statis-**
6 **tical agents, and representatives of**
7 **insurance producers, including mi-**
8 **nority insurance producers. The Sec-**
9 **retary shall submit a specific pro-**
10 **posal for a pilot project to the Com-**
11 **mittee on Energy and Commerce of**
12 **the House of Representatives and the**
13 **appropriate committee of the Senate**
14 **no later than 18 months following the**
15 **date of enactment of this Act.**

16 **(C) SPECIFICATIONS FOR PILOT**
17 **PROJECT.—Immediately following the**
18 **submission of the proposal for a pilot**
19 **project, the Secretary shall, by regu-**
20 **lation, establish specifications for the**
21 **collection and public reporting of in-**
22 **formation with respect to commercial**
23 **insurance for the proposed pilot**
24 **project. As part of the specifications,**
25 **the Secretary shall designate the 5**

1 **largest MSA's for purposes of the**
2 **pilot project. The specifications**
3 **shall—**

4 **(i) provide that information**
5 **be aggregated among similar pol-**
6 **icyholders and reported on that**
7 **basis,**

8 **(ii) be designed to collect in-**
9 **formation with respect to the**
10 **availability, cost, and type of in-**
11 **surance coverage between and**
12 **among various geographic areas,**

13 **(iii) provide for the collection**
14 **of information on an individual**
15 **insurer basis,**

16 **(iv) provide the data required**
17 **by clause (ii) with the least bur-**
18 **den on insurers, particularly**
19 **small insurers, and insurance**
20 **agents, including independent in-**
21 **surance agents,**

22 **(v) take into account existing**
23 **statistical reporting systems in**
24 **the insurance industry and use**

1 **existing data sources to the maxi-**
2 **mum practical extent,**

3 **(vi) include information on**
4 **policies written in a residual mar-**
5 **ket,**

6 **(vii) detail what data ele-**
7 **ments should be collected,**

8 **(viii) detail what insurers**
9 **should be designated insurers for**
10 **purposes of the pilot project,**

11 **(ix) detail what lines of com-**
12 **mercial insurance should be des-**
13 **ignated for purposes of the pilot**
14 **project, with particular consider-**
15 **ation given to commercial fire**
16 **and business owners lines,**

17 **(x) include an appropriate**
18 **definition of small business, if**
19 **necessary,**

20 **(xi) provide data representa-**
21 **tive of at least 2 years of experi-**
22 **ence and provide that the pilot**
23 **project will terminate no later**
24 **than 2 years after its inception,**
25 **and**

1 **(xii) provide adequate lead**
2 **time to insurers designated under**
3 **clause (viii) for the reporting to**
4 **begin.**

5 **The regulation shall be issued within**
6 **2 years of the date of enactment of**
7 **this Act.**

8 **(D) REPORTING UNDER PILOT**
9 **PROJECT.—Insurers designated under**
10 **subparagraph (C)(viii) shall report to**
11 **the Secretary with respect to lines of**
12 **insurance designated under subpara-**
13 **graph (C)(ix) in the 5 largest MSA's,**
14 **pursuant to the regulation issued by**
15 **the Secretary in subparagraph (C).**

16 **(E) ANALYSIS OF DATA UNDER PILOT**
17 **PROJECT.—At the conclusion of the**
18 **pilot project, the Secretary shall ana-**
19 **lyze the data collected. Within 1 year**
20 **of the conclusion of the pilot project,**
21 **the Secretary shall report to the Com-**
22 **mittee on Energy and Commerce of**
23 **the House of Representatives and the**
24 **appropriate committee of the Senate**
25 **on—**

1 **(i) any conclusions of the Sec-**
2 **retary regarding the data col-**
3 **lected under the pilot project,**
4 **particularly regarding the avail-**
5 **ability, cost, and type of commer-**
6 **cial insurance for small business,**
7 **and**

8 **(ii) the need for further data**
9 **collection requirements to evalu-**
10 **ate the availability, cost, and type**
11 **of such coverage or to help en-**
12 **sure the availability of such cov-**
13 **erage.**

14 **(5) PERIOD OF MAINTENANCE.—Any in-**
15 **formation required to be compiled and**
16 **made available under subsection (a) shall**
17 **be maintained and made available for a**
18 **period of 3 years after the close of the**
19 **first year during which such information**
20 **is required to be maintained and made**
21 **available.**

22 **(6) FORMAT FOR DISCLOSURES.—Subject**
23 **to subsection (c), the Secretary shall pre-**
24 **scribe a standard format for making in-**
25 **formation available as required by sub-**

1 **section (a). Such format shall encourage**
2 **the submission of information in a form**
3 **readable by a computer.**

4 **(7) EXEMPTION.—**

5 **(A) SECRETARIAL ACTION.—If the**
6 **Secretary determines that a State has**
7 **enacted a law, or otherwise imple-**
8 **mented a requirement under which—**

9 **(i) insurers operating in that**
10 **State are subject to disclosure re-**
11 **quirements on a 5-digit zip code**
12 **basis substantially similar to**
13 **those of subsection (a),**

14 **(ii) there are adequate provi-**
15 **sions for enforcement, and**

16 **(iii) the information disclosed**
17 **under the State law or require-**
18 **ment is made available to the Sec-**
19 **retary and the public in a manner**
20 **similar to other information dis-**
21 **closed under subsection (a),**

22 **then the Secretary shall by regulation**
23 **exempt insurers operating in that**
24 **State from complying with the re-**
25 **quirements of subsection (a) with re-**

1 **spect to that State's portions of the**
2 **designated MSA's. If the Secretary de-**
3 **termines that the State law or re-**
4 **quirement no longer meets the cri-**
5 **teria of clauses (i) through (iii) or is**
6 **no longer in effect, the Secretary**
7 **shall by regulation revoke the exemp-**
8 **tion.**

9 **(B) UNITED STATES PROGRAM.—Re-**
10 **porting shall not be required under**
11 **subsection (a) with respect to insur-**
12 **ance provided by a program under-**
13 **written or administered by the Unit-**
14 **ed States.**

15 **(c) PUBLIC ACCESS SYSTEM.—The Secretary**
16 **shall implement a system to facilitate public**
17 **access to information required to be made**
18 **available to the public under subsection (a).**
19 **Such system shall include arrangements for a**
20 **central depository of information in each des-**
21 **ignated MSA and for a telephone number**
22 **which can be used by the public, at cost, to**
23 **request such information. Statements shall be**
24 **made available to the public for inspection**
25 **and copying at such central depository of in-**

1 **formation for all designated insurers within**
2 **such MSA. The Secretary shall also make cop-**
3 **ies of such statements available in forms read-**
4 **able by widely used personal computers, such**
5 **as in disc format. The Secretary may charge**
6 **a fee for such information, which may not ex-**
7 **ceed the amount, determined by the Sec-**
8 **retary, that is equal to the cost of reproducing**
9 **the information.**

10 **(d) SUBMISSION TO SECRETARY.—With re-**
11 **spect to the information required to be sub-**
12 **mitted under subsection (a) to the Secretary,**
13 **the Secretary shall develop regulations pre-**
14 **scribing the format and method for submit-**
15 **ting such information. Such regulations shall**
16 **ensure uniformity among insurers, to the ex-**
17 **tent practicable, in the format used for re-**
18 **porting, including the definitions of data ele-**
19 **ments. Any reporting insurer may submit in**
20 **writing to the Secretary such additional data**
21 **or explanations as it deems relevant to the de-**
22 **cision by such insurer to sell insurance.**

23 **SEC. 4. DESIGNATIONS.**

24 **(a) DESIGNATIONS BY THE SECRETARY.—**

1 **(1) DESIGNATIONS OF MSA'S.—The Sec-**
2 **retary shall designate the MSA's for**
3 **which reporting is required under sec-**
4 **tion 3(a). The Secretary shall designate**
5 **the 25 MSA's having the largest popu-**
6 **lation.**

7 **(2) DESIGNATION OF INSURERS.—For**
8 **each MSA designated under paragraph**
9 **(1), the Secretary shall take the following**
10 **actions:**

11 **(A) The Secretary shall designate**
12 **the insurers transacting insurance**
13 **business in such MSA for which re-**
14 **porting is required under section**
15 **3(a). At a minimum, the Secretary**
16 **shall designate the 25 insurers in**
17 **such MSA having the largest pre-**
18 **mium volume in the designated lines**
19 **of insurance in each State in which**
20 **such MSA is located.**

21 **(B) In addition to the insurers**
22 **designated under subparagraph (A),**
23 **the Secretary shall also designate any**
24 **entity primarily providing insurance**
25 **in a designated line of insurance as**

1 **part of a residual market established**
2 **by State law.**

3 **(C) The Secretary shall also des-**
4 **ignate, in addition to the insurers**
5 **designated under subparagraphs (A)**
6 **and (B), insurers who specialize in**
7 **selling insurance in urban areas, in-**
8 **cluding surplus lines insurers.**

9 **(D) The Secretary shall also des-**
10 **ignate, in addition to the insurers**
11 **designated under subparagraph (A),**
12 **(B), and (C) insurers such that insur-**
13 **ers representing at least 80 percent of**
14 **the premium volume in each State in**
15 **which such MSA is located in the des-**
16 **ignated line of insurance are des-**
17 **ignated in such MSA. The Secretary**
18 **may not designate additional insurers**
19 **under this subparagraph if their mar-**
20 **ket share in the designated line of in-**
21 **surance in the applicable States, as**
22 **measured by premium volume in**
23 **each State in which such MSA is lo-**
24 **cated, is under 1 percent.**

1 **(E) In addition to the insurers**
2 **designated under subparagraph (A),**
3 **(B), (C), and (D) the Secretary may by**
4 **regulation designate additional insur-**
5 **ers in a MSA if the designation of ad-**
6 **ditional insurers is necessary to pro-**
7 **vide valid data with respect to the**
8 **availability, cost, and type of insur-**
9 **ance in the MSA.**

10 **(F) The Secretary shall revoke the**
11 **designation of an insurer designated**
12 **under subparagraph (A) as follows: If**
13 **such designated insurer has a market**
14 **share in a designated line of insur-**
15 **ance in a MSA, as measured by pre-**
16 **mium volume in each State in which**
17 **such MSA is located, of under 1 per-**
18 **cent, the Secretary shall revoke the**
19 **designation of such insurer beginning**
20 **with the insurer with the smallest**
21 **market share of such insurance if the**
22 **remainder of the designated insurers**
23 **have a market share of at least 75**
24 **percent of such insurance as meas-**
25 **ured by premium volume in each**

1 **State in which such MSA is located.**
2 **In addition, the Secretary may revoke**
3 **the designation of any insurer des-**
4 **ignated under subparagraph (A) with**
5 **a market share in a designated line of**
6 **insurance in a MSA, as measured by**
7 **premium volume in each State in**
8 **which such MSA is located, of under**
9 **1 percent if such designation has not**
10 **been revoked under this subpara-**
11 **graph and if such insurer primarily**
12 **sells insurance in rural areas of such**
13 **MSA.**

14 **(G) For purposes of this para-**
15 **graph, insurers which are affiliated**
16 **or are members of the same group**
17 **shall be considered together as one**
18 **insurer.**

19 **(3) DESIGNATION OF LINES OF INSUR-**
20 **ANCE.—For each MSA designated under**
21 **paragraph (1) the following are the des-**
22 **ignated lines of property and casualty in-**
23 **surance for which reporting is required**
24 **under section 3:**

1 **(A) Private passenger automobile**
2 **insurance.**

3 **(B) Homeowners insurance.**

4 **(C) Dwelling fire and allied lines**
5 **of insurance.**

6 **(4) TIMING OF DESIGNATIONS.—**

7 **(A) INITIAL DESIGNATIONS.—The**
8 **Secretary shall make initial designa-**
9 **tions required by paragraphs (1), (2),**
10 **and (3) no later than July 1 of the**
11 **year preceding the first year for**
12 **which reporting is required under**
13 **section 3. Such initial designations**
14 **shall be effective for 5 calendar years**
15 **from the date of designation.**

16 **(B) SUBSEQUENT DESIGNATIONS.—**
17 **Not later than July 1 of the year pre-**
18 **ceding the fifth year after a designa-**
19 **tion under subparagraph (A) or this**
20 **subparagraph, the Secretary shall**
21 **make another designation to be effec-**
22 **tive upon the expiration of such 5**
23 **years and such designation shall be**
24 **effective for 5 calendar years from**
25 **the date of designation.**

1 **(C) NOTICE.—The Secretary shall**
2 **notify persons involved in the des-**
3 **ignations no later than the July 15**
4 **which follows the designation.**

5 **(b) OBTAINING INFORMATION.—The Sec-**
6 **retary may obtain from insurers such infor-**
7 **mation as the Secretary may require to make**
8 **designations under subsection (a).**

9 **SEC. 5. TASK FORCE ON AGENCY APPOINTMENTS.**

10 **(a) ESTABLISHMENT.—Within 90 days of the**
11 **date of the enactment of this Act, the Sec-**
12 **retary shall establish a task force on insur-**
13 **ance agency appointments. The task force**
14 **shall—**

15 **(1) consist of representatives of ap-**
16 **propriate Federal agencies, property and**
17 **casualty insurance agents, including spe-**
18 **cifically minority insurance agents, prop-**
19 **erty and casualty insurance companies,**
20 **State insurance regulators, and public in-**
21 **terest groups,**

22 **(2) have a significant representation**
23 **from minority insurance agents, and**

24 **(3) be chaired by the Secretary or the**
25 **Secretary's designee.**

1 **(b) FUNCTION.— The task force shall—**

2 **(1) review the problems inner city**
3 **and minority agents may have in receiv-**
4 **ing appointments to represent property**
5 **and casualty insurance companies,**

6 **(2) review the practices of insurers in**
7 **terminating agents and consider the ef-**
8 **fect such practices have on the availabil-**
9 **ity or cost of insurance, especially in un-**
10 **derserved areas, and**

11 **(3) recommend solutions to improve**
12 **the ability of inner city and minority in-**
13 **surance agents to market property and**
14 **casualty insurance products, including**
15 **steps property and casualty insurance**
16 **companies should take to increase their**
17 **appointments of such agents.**

18 **(c) REPORT AND TERMINATION.—The task**
19 **force shall report to the Committee on Energy**
20 **and Commerce of the House of Representa-**
21 **tives and the appropriate Committee of the**
22 **Senate its findings under paragraphs (1) and**
23 **(2) of subsection (b) and its recommendations**
24 **under paragraph (3) of subsection (b) within**
25 **2 years after the date of the enactment of this**

1 **Act. The task force shall terminate when the**
2 **report is submitted to the Committees.**

3 **SEC. 6. IMPLEMENTATION OF SECTION 3.**

4 **(a) REGULATIONS.—The Secretary shall**
5 **promulgate such regulations as may be nec-**
6 **essary to carry out section 3. Such regulations**
7 **may—**

8 **(1) contain such classifications, dif-**
9 **ferentiations, or other provisions, and**

10 **(2) may provide for such adjustments**
11 **and exceptions for any class of trans-**
12 **actions,**

13 **as in the judgment of the Secretary are nec-**
14 **essary and proper to effectuate the purposes**
15 **of such section and to prevent circumvention**
16 **or evasion thereof or to facilitate compliance**
17 **therewith.**

18 **(b) DATA COLLECTION CONTRACTOR.—The**
19 **Secretary may contract with a data collection**
20 **contractor to carry out the Secretary's re-**
21 **sponsibilities under section 3 if the contractor**
22 **agrees to collect and make available the data**
23 **pursuant to the terms and conditions of such**
24 **section. A statistical agent may also be a data**
25 **contractor.**

1 **(c) ROLE OF STATISTICAL AGENTS.—**

2 **(1) ACCEPTANCE OF DATA.—The Sec-**
3 **retary and, if applicable, the contractor**
4 **under the subsection (b) contract may ac-**
5 **cept data reported under section 3(a) by**
6 **a statistical agent acting on behalf of**
7 **more than one insurer if—**

8 **(A) the statistical plan used by**
9 **the statistical agent for the reporting**
10 **of data on insurance provides for the**
11 **reporting of data in a manner com-**
12 **patible with section 3(a),**

13 **(B) the statistical agent reports**
14 **such data on an individual insurer**
15 **basis, and, at the discretion of the**
16 **Secretary, on an aggregate basis,**

17 **(C) the statistical agent provides**
18 **adequate procedures to protect the**
19 **integrity of the data reported,**

20 **(D) the statistical agent has pro-**
21 **cedures in place which ensure that**
22 **data reported under the statistical**
23 **plan in connection with reporting**
24 **under this Act and submitted to the**
25 **Secretary are not subject to adjust-**

1 **ment by the statistical agent or an in-**
2 **surer for reasons other than technical**
3 **accuracy and conformance to the sta-**
4 **tistical plan,**

5 **(E) the statistical agent ensures**
6 **that the data of one insurer is not**
7 **subject to review by other insurers**
8 **before public availability, and**

9 **(F) the statistical agent provides**
10 **for the reporting of data in a manner**
11 **compatible with the format pre-**
12 **scribed by the Secretary under sec-**
13 **tion 3(d).**

14 **(2) DISCONTINUANCE OF DATA ACCEPT-**
15 **ANCE.—The Secretary may, after provid-**
16 **ing an opportunity for a hearing, dis-**
17 **continue accepting data reported under**
18 **section 3(a) by a statistical agent acting**
19 **on behalf of more than one insurer if the**
20 **Secretary determines the requirements**
21 **for acceptance of data in paragraph (1)**
22 **are no longer met.**

23 **(d) ROLE OF GAO.—The Comptroller Gen-**
24 **eral shall have the authority to review and**
25 **audit any data collection and reporting per-**

1 **formed under section 3, whether by the Sec-**
2 **retary, the contractor under the subsection**
3 **(b) contract, or a statistical agent, to ensure**
4 **that the integrity of the data collected and re-**
5 **ported is protected.**

6 **(e) BURDENS ON INSURANCE AGENTS.—In**
7 **prescribing regulations under this Act, the**
8 **Secretary shall take into consideration the**
9 **administrative, paperwork, and other bur-**
10 **dens on insurance agents, including inde-**
11 **pendent insurance agents, involved in com-**
12 **plying with the requirements of this Act and**
13 **shall minimize the burdens imposed by such**
14 **requirements with respect to such agents.**

15 **SEC. 7. RELATION TO STATE LAWS.**

16 **This Act does not annul, alter, or affect, or**
17 **exempt the obligation of any insurer subject**
18 **to this Act to comply with the laws of any**
19 **State or subdivision thereof with respect to**
20 **public disclosure and recordkeeping.**

21 **SEC. 8. COMPILATION OF AGGREGATE DATA.**

22 **(a) SCOPE OF DATA AND TABLES.—The Sec-**
23 **retary shall compile each year, for each MSA,**
24 **data aggregated by 5-digit zip code for all in-**
25 **surers who are subject to section 3 or who are**

1 exempt from section 3 under subsection
2 (b)(7)(A) of such section. The Secretary shall
3 also produce tables indicating, for each MSA,
4 insurance policies aggregated for various cat-
5 egories of 5-digit zip codes grouped according
6 to location, age of property, income level, and
7 racial characteristics of neighborhood.

8 **(b) AGGREGATION OF INFORMATION.—**Statistical
9 agents may aggregate the data of insur-
10 ers that report to them and may provide such
11 information to the Secretary. The Secretary
12 may also provide the individual company
13 data submitted by insurers to statistical
14 agents for aggregation.

15 **(c) AVAILABILITY TO PUBLIC.—**The data
16 compiled and the tables produced pursuant to
17 subsection (a) shall be made available to the
18 public on a timetable determined by the Sec-
19 retary but not later than October 1 of the year
20 following the calendar year on which the data
21 and tables are based.

22 **SEC. 9. ENFORCEMENT.**

23 **(a) CIVIL PENALTIES.—**Any insurer who is
24 determined by the Secretary, after providing
25 opportunity for a hearing on the record, to

1 **have violated the requirements of section 3**
2 **shall be subject to a civil penalty of not to ex-**
3 **ceed \$5,000 for each day during which such**
4 **violation continues.**

5 **(b) INJUNCTION.—The Secretary may bring**
6 **an action in an appropriate United States dis-**
7 **trict court for appropriate declaratory and in-**
8 **junctionive relief against any insurer who vio-**
9 **lates the requirements of section 3.**

10 **(c) INSURER LIABILITY.—An insurer shall be**
11 **responsible under subsections (a) and (b) for**
12 **any violation of a statistical agent acting on**
13 **behalf of the insurer.**

14 **SEC. 10. SUNSET.**

15 **(a) EXPIRATION.—Except as provided in**
16 **subsection (b), this Act shall not be in effect**
17 **after the expiration of 5 years from its effec-**
18 **tive date. Prior to the expiration of 4 years**
19 **from such date, the Secretary shall report to**
20 **the Energy and Commerce Committee of the**
21 **House of Representatives and the appropriate**
22 **committee of the Senate—**

23 **(1) the quality of data received under**
24 **section 3 and the effectiveness of the data**
25 **requirement, including the relation be-**

1 **tween the cost of such data gathering**
2 **and the benefits from having such data**
3 **available,**

4 **(2) the appropriateness of the geo-**
5 **graphic data reporting units,**

6 **(3) the need for continued reporting**
7 **by the designated insurers in urban**
8 **areas,**

9 **(4) the efforts of insurers to meet the**
10 **insurance needs of minority and low-in-**
11 **come neighborhoods, and**

12 **(5) such other information as the Sec-**
13 **retary determines will assist in consider-**
14 **ing an extension of this Act.**

15 **(b) EXTENSION.—Based on the Secretary’s**
16 **report on the need described in subsection**
17 **(a)(3) and the information described in sub-**
18 **section (a)(5), the Secretary may extend this**
19 **Act for one period of 2 years.**

20 **SEC. 11. STUDIES.**

21 **(a) STUDY OF INFORMATION ON INSURANCE**
22 **APPLICANTS.—**

23 **(1) IN GENERAL.—The Secretary shall**
24 **conduct a study to determine the feasibil-**
25 **ity and utility of the collection of infor-**

1 **mation with respect to the characteristics**
2 **of applicants for insurance and reasons**
3 **for rejection of applicants. The study**
4 **shall examine the extent to which—**

5 **(A) oral applications or represen-**
6 **tations are used by insurers and**
7 **agents in making determinations re-**
8 **garding whether or not to insure a**
9 **prospective insured,**

10 **(B) written applications are used**
11 **by insurers and agents in making de-**
12 **terminations regarding whether or**
13 **not to insure a prospective insured,**

14 **(C) written applications are sub-**
15 **mitted after the insurer or agent has**
16 **already made a determination to pro-**
17 **vide insurance to a prospective in-**
18 **sured or has determined that the pro-**
19 **spective insured is eligible for insur-**
20 **ance, and**

21 **(D) prospective insureds are dis-**
22 **couraged from submitting applica-**
23 **tions for insurance based, in whole or**
24 **in part, on—**

1 **(i) the location of the risk to**
2 **be insured,**

3 **(ii) the race or ethnicity of the**
4 **prospective insured,**

5 **(iii) the racial or ethnic com-**
6 **position of the neighborhood in**
7 **which the risk to be insured is lo-**
8 **cated, and**

9 **(iv) in the case of residential**
10 **property insurance, the age and**
11 **value of the risk to be insured.**

12 **(2) REPORT.—The Secretary shall re-**
13 **port the results of the study under para-**
14 **graph (1) to the Committee on Energy**
15 **and Commerce of the House of Rep-**
16 **resentatives and the appropriate Com-**
17 **mittee of the Senate within 18 months of**
18 **the date of the enactment of this Act.**

19 **(b) STUDY OF INSURER ACTIONS TO MEET IN-**
20 **SURANCE NEEDS OF CERTAIN NEIGHBORHOODS.—**
21 **The Secretary shall conduct a study of var-**
22 **ious practices, actions, programs, and meth-**
23 **ods undertaken by insurers to meet the prop-**
24 **erty and casualty insurance needs of resi-**
25 **dents of low- and moderate-income neighbor-**

1 hoods, minority neighborhoods, and small
2 businesses located in such neighborhoods.
3 The Secretary may establish a task force of in-
4 terested parties, including representatives of
5 insurance companies, insurance agents, in-
6 cluding minority agents, and consumer rep-
7 resentatives to discuss additional practices,
8 actions, programs, and methods to meet these
9 needs. The Secretary shall report the results
10 of the study, including any recommendations,
11 to the Committee on Energy and Commerce of
12 the House of Representatives and the appro-
13 priate Committee of the Senate no later than
14 2 years after the date of the enactment of this
15 Act.

16 SEC. 12. DEFINITIONS.

17 For purposes of this Act:

18 (1) The term “commercial insurance”
19 means any line of property and casualty
20 insurance, except private passenger auto-
21 mobile and homeowner’s insurance.

22 (2) The term “designated insurer”
23 means an insurer designated by the Sec-
24 retary pursuant to section 4(a)(2).

1 **(3) The term “designated line” means**
2 **a line of insurance specified in section**
3 **4(a)(3).**

4 **(4) The term “exposure units” means**
5 **units insured against risk of loss by an**
6 **insurer and the term “units” means an**
7 **automobile or the number of units in a**
8 **building.**

9 **(5) The term “insurer” means any cor-**
10 **poration, association, society, order, firm,**
11 **company, partnership, individual, or ag-**
12 **gregation of individuals which is subject**
13 **to examination or supervision by any**
14 **State insurance regulator, or which is**
15 **doing or represents an insurance busi-**
16 **ness. Such term does not include an indi-**
17 **vidual or entity which represents an in-**
18 **surer as agent for the purpose of selling**
19 **or which represents a consumer as a**
20 **broker for the purpose of buying insur-**
21 **ance.**

22 **(6) The term “MSA” means a Metro-**
23 **politan Statistical Area or a Consolidated**
24 **Metropolitan Statistical Area and the**
25 **term “designated MSA” means an MSA**

1 **designated by the Secretary pursuant to**
2 **section 4(a)(1).**

3 **(7) The term “property and casualty**
4 **insurance” means insurance against loss**
5 **of or damage to property, insurance**
6 **against loss of income or extra expense**
7 **incurred because of loss of, or damage to,**
8 **property, and insurance against third**
9 **party liability claims caused by neg-**
10 **ligence or imposed by statute or contract.**

11 **(8) The term “residual market” means**
12 **an assigned risk plan, joint underwriting**
13 **association, or any similar mechanism de-**
14 **signed to make insurance available to**
15 **those unable to obtain it in the voluntary**
16 **market.**

17 **(9) The term “Secretary” means the**
18 **Secretary of Commerce.**

19 **(10) The term “State” means any**
20 **State, the District of Columbia, the Com-**
21 **monwealth of Puerto Rico, the Northern**
22 **Mariana Islands, the Virgin Islands,**
23 **American Samoa, and the Trust Territory**
24 **of the Pacific Islands.**

1 **SEC. 13. EFFECTIVE DATE.**

2 **The requirements of this Act shall take ef-**
3 **fect with respect to information on insurance**
4 **described in section 3 and developed in and**
5 **after calendar year 1995.**

**Amend the title so as to read: “A bill to
provide for disclosures for insurance in
interstate commerce.”.**

HR 1257 RH—2

HR 1257 RH—3

HR 1257 RH—4

HR 1257 RH—5

HR 1257 RH—6

HR 1257 RH—7

HR 1257 RH—8

HR 1257 RH—9

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