

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1302

To provide for a national insurance and reinsurance program against the risk of hurricanes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1993

Mr. SHAW (for himself, Mr. GOSS, Mr. HASTINGS, Mr. McCOLLUM, Mrs. MEEK, Mr. JOHNSTON of Florida, and Ms. BROWN of Florida) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

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## A BILL

To provide for a national insurance and reinsurance program against the risk of hurricanes, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act shall be cited as the  
5 “Hurricane Hazard Reduction Act”.

6 (b) TABLE OF CONTENTS.—

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

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

Sec. 101. Identification of hurricane-prone States.

- Sec. 102. Criteria for loss-reduction measures.
- Sec. 103. Hurricane Loss Mitigation Advisory Committee.
- Sec. 104. Self-Sustaining Mitigation Fund.
- Sec. 105. State implementation of loss-reduction measures.
- Sec. 106. Incentive to purchase hurricane coverage in hurricane zones.
- Sec. 107. Effect of noncompliance with State mitigation program.
- Sec. 108. Coordination with other programs.
- Sec. 109. Annual report.
- Sec. 110. Regulations.

#### TITLE II—NATIONAL HURRICANE INSURANCE PROGRAM

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

#### TITLE III—NATIONAL HURRICANE EXCESS LOSS REINSURANCE PROGRAM

- Sec. 301. Establishment and terms of coverage.
- Sec. 302. Lines of insurance.
- Sec. 303. Premium rates.
- Sec. 304. Reinsurance contracts.
- Sec. 305. Reinsurance Fund.
- Sec. 306. Borrowing from Treasury.

### 1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “additional losses” means claim  
 4 and loss adjustment expense payments for hurricane  
 5 coverage issued pursuant to title II that exceed the  
 6 accumulated amounts in the Residential Property  
 7 Insurance Fund.

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

1           (3) The term “compliance State” means any  
2 hurricane-prone State that has been certified by the  
3 Director as a compliance State under section 105.

4           (4) The term “critical facilities vulnerable to  
5 hurricanes” means schools and structures essential  
6 to emergency services necessary for posthurricane  
7 recovery (including hospitals, fire and police facili-  
8 ties, temporary shelters, and emergency operating  
9 and preparedness centers) that—

10                   (A) have any form of construction or de-  
11 sign that the Director determines is vulnerable  
12 to hurricane hazards; and

13                   (B) are located in hurricane zones within  
14 hurricane-prone States.

15           (5) The term “Director” means the Director of  
16 the Federal Emergency Management Agency.

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

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

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

3               (8) The term “hurricane coverage” means hur-  
4       ricane insurance issued pursuant to title II.

5               (9) The term “hurricane-prone State” means a  
6       State determined by the Director pursuant to sec-  
7       tion 101 to have an exposure to the hurricane perils.

8               (10) The term “hurricane zone” means an area  
9       within a State identified and classified by the Direc-  
10      tor under section 101(a) as subject to major or mod-  
11      erate hurricane risk.

12              (11) The term “Insurance Committee” means  
13      the Hurricane Insurance and Reinsurance Advisory  
14      Committee established under section 207.

15              (12) The term “Insurance Fund” means the  
16      Residential Property Insurance Fund established  
17      under section 208.

18              (13) The term “insurance industry” means all  
19      private insurers and private reinsurers.

20              (14) The term “Loss Mitigation Committee”  
21      means the hurricane Loss Mitigation Advisory Com-  
22      mittee established under section 103.

23              (15) The term “loss-reduction criteria” means  
24      the comprehensive criteria for hurricane loss mitiga-  
25      tion established by the Director under section 102.

1           (16) The term “new residential property”  
2 means residential property constructed or substan-  
3 tially improved after the expiration of the 24-month  
4 period beginning on the date of the enactment of  
5 this Act.

6           (17) The term “Primary Insurance Program”  
7 means the national hurricane insurance program es-  
8 tablished under title II.

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

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

23           (20) The term “Reinsurance Program” means  
24 the national hurricane excess loss reinsurance pro-  
25 gram established under title III.

1 (21) The term “residential property” means—

2 (A) any 1- to 4-family residential structure  
3 (including mobile or manufactured homes) and  
4 the personal property therein;

5 (B) any residential structure (including  
6 condominiums, cooperatives, and apartment  
7 structures) containing more than 4 dwelling  
8 units; and

9 (C) the personal property of occupants of  
10 residential structures containing more than 4  
11 dwelling units.

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

18 (23) The term “Self-Sustaining Mitigation  
19 Fund” means the Fund established under section  
20 104.

21 **TITLE I—PARTICIPATION BY**  
22 **STATES IN ADOPTION OF HAZ-**  
23 **ARD REDUCTION MEASURES**

24 **SEC. 101. IDENTIFICATION OF HURRICANE-PRONE STATES.**

25 (a) INITIAL IDENTIFICATION OF STATES.—

1           (1) IN GENERAL.—The Director, in consulta-  
2           tion with the National Oceanographic and Atmos-  
3           pheric Administration, other relevant Federal enti-  
4           ties, and meteorological and hurricane experts in the  
5           private sector, shall identify States having an expo-  
6           sure to hurricane perils. The Director shall identify  
7           any areas that are subject to major or moderate  
8           hurricane risks and shall establish such areas as  
9           hurricane zones.

10           (2) TIMING AND PUBLICATION.—The Director  
11           shall identify such States and zones before the expi-  
12           ration of the 1-year period beginning on the date of  
13           the enactment of this Act, and shall cause a listing  
14           of such States and zones to be published in the Fed-  
15           eral Register and in widely circulated local news-  
16           papers in the applicable States before the expiration  
17           of the 1-year period.

18           (b) FINAL NOTIFICATION.—Each State identified  
19           under subsection (a) shall be considered to be an hurri-  
20           cane-prone State for purposes of this Act upon the expira-  
21           tion of the 18-month period beginning upon the date of  
22           the enactment of this Act. The Director shall notify the  
23           chief executive officer of each State containing a hurricane  
24           zone established under subsection (a) in writing, before

1 the expiration of such 18-month period, that the State is  
2 an hurricane-prone State for purposes of this Act.

3 (c) ONGOING IDENTIFICATION AND NOTIFICATION.—

4 Based upon any additional meteorological and hurricane  
5 information that from time to time becomes available, the  
6 Director may identify additional areas subject to major  
7 or moderate hurricane risk (not identified under sub-  
8 section (a)) and shall establish any such areas as hurri-  
9 cane zones. Any States containing such zones (that did  
10 not contain any hurricane zones established under sub-  
11 section (a)) shall be considered to be an hurricane-prone  
12 State for purposes of this Act upon the notification of the  
13 chief executive officer of the State, in writing, of the iden-  
14 tification of the State as an hurricane-prone State.

15 (d) APPEAL.—Any State aggrieved by a final deter-  
16 mination as a hurricane-prone State pursuant to sub-  
17 section (b) or (c), may, after exhausting administrative  
18 remedies, appeal such determination to any United States  
19 district court for a district located within the State, not  
20 more than 60 days after receipt of notice of such deter-  
21 mination. The scope of review by the court shall be as pro-  
22 vided under chapter 7 of title 5, United States Code. Dur-  
23 ing the pendency of any such litigation, all determinations  
24 of the Director shall be effective and final for the purposes

1 of this Act unless stayed by the court for good cause  
2 shown.

3 **SEC. 102. CRITERIA FOR LOSS-REDUCTION MEASURES.**

4 (a) DEVELOPMENT.—

5 (1) IN GENERAL.—The Director shall develop  
6 comprehensive loss-reduction criteria for State and  
7 local land use and management ordinances, building  
8 codes, and other loss-reduction measures consistent  
9 with the requirements under subsection (b). The Di-  
10 rector shall periodically update such criteria to re-  
11 flect technical advances designed to reduce losses  
12 from hurricanes.

13 (2) COORDINATION.—The Director shall de-  
14 velop the loss-reduction criteria in coordination and  
15 consistent with the Robert T. Stafford Disaster Re-  
16 lief and Emergency Assistance Act and any other  
17 relevant Federal laws. In developing the loss reduc-  
18 tion criteria, the Director shall consult other affected  
19 Federal entities, including the National Institute of  
20 Standards and Technology, the National Oceanic  
21 and Atmospheric Administration, representatives of  
22 State and local governments, regional hurricane pre-  
23 paredness organizations, model building code organi-  
24 zations, and insurance industry groups.

1           (3) SUBMISSION OF DRAFT TO LOSS MITIGA-  
2           TION COMMITTEE.—Not later than the expiration of  
3           the 12-month period beginning on the date of the  
4           enactment of this Act, the Director shall submit a  
5           draft of the loss-reduction criteria to the Loss Miti-  
6           gation Committee established under section 103. Be-  
7           fore issuing any final regulations under paragraph  
8           (4), the Director shall consider any recommenda-  
9           tions made by the Loss Mitigation Committee re-  
10          garding the draft criteria.

11          (4) REGULATIONS.—Not later than the expira-  
12          tion of the 18-month period beginning on the date  
13          of the enactment of this Act, the Director shall issue  
14          regulations establishing the loss-reduction criteria  
15          under this section, subject to the provisions of sub-  
16          chapter II of chapter 5 of title 5, United States  
17          Code. In issuing final regulations under this para-  
18          graph, the Director shall cause to be published in  
19          the Federal Register a description of any differences  
20          between the recommendations of the Loss Mitigation  
21          Committee and the final regulations (including the  
22          applicability of loss-reduction measures to States  
23          and localities) developed by the Director. The de-  
24          scription shall contain, for each such difference, an  
25          explanation of why the recommendations of the Loss

1 Mitigation Committee were not included in the final  
2 regulations.

3 (b) CONTENT.—The comprehensive loss-reduction  
4 criteria established under this section shall include meas-  
5 ures for the reduction of losses from future hurricanes,  
6 as follows:

7 (1) MANDATORY INCLUSION.—The Director  
8 shall include in the loss-reduction criteria the follow-  
9 ing loss-reduction measures:

10 (A) Minimum building standards sufficient  
11 to reduce losses from hurricanes applicable to  
12 new residential property and other buildings lo-  
13 cated in hurricane zones.

14 (B) Community-based building codes appli-  
15 cable to new residential property, which shall  
16 meet or exceed any minimum hurricane provi-  
17 sions contained in (i) the most recent edition of  
18 the National Building Code, (ii) the most recent  
19 edition of the Standard Building Code, or (iii)  
20 the most recent edition of the Uniform Building  
21 Code.

22 (2) DISCRETIONARY INCLUSION.—The Director  
23 shall consider and may include in the loss-reduction  
24 criteria established under this section any of the fol-  
25 lowing additional loss-reduction measures:

1 (A) Community-based building codes which  
2 contain minimum requirements for construction  
3 of new residential property that is located in a  
4 hurricane zone not currently covered by any of  
5 the building codes referred to in paragraph  
6 (1)(B) but identified by the Director as being  
7 located in hurricane-prone States.

8 (B) Measures to control construction of  
9 buildings in high-risk areas within hurricane  
10 zones.

11 (C) To the extent practicable, retrofitting  
12 of critical facilities vulnerable to hurricanes.

13 (D) Inspections before transfer of residen-  
14 tial property (and provision to buyers of inspec-  
15 tion reports) regarding the adequacy of mitiga-  
16 tion measures to reduce damage by hurricanes.

17 (E) Hurricane preparedness and planning  
18 measures, including—

19 (i) expanded research and develop-  
20 ment by government and private sector en-  
21 tities of new cost-effective building tech-  
22 nologies for new construction and retro-  
23 fitting of existing buildings;

1           (ii) educational and promotional cam-  
2           paigns to encourage additional voluntary  
3           mitigation;

4           (iii) reward-based fiscal incentives,  
5           such as lower property tax assessments,  
6           prohibiting reassessments for retrofitting  
7           which results in increased property values,  
8           or other tax incentives to encourage use of  
9           the most advanced mitigation technology;

10          (iv) State or community-based efforts  
11          to assist low- and moderate-income house-  
12          holds to purchase needed hurricane insur-  
13          ance and to adopt cost-effective loss-reduc-  
14          tion measures;

15          (v) improvements in long-term hurri-  
16          cane construction practices, including the  
17          training and licensing of hurricane design  
18          professionals as well as public and private  
19          building inspectors;

20          (vi) institutional support, training in  
21          hurricane engineering technology and other  
22          disciplines, and staffing to ensure compli-  
23          ance with the community-based building  
24          codes; and

1 (vii) minimizing damage to public util-  
2 ities, including sewer, gas, electrical and  
3 water systems, and other lifelines, consist-  
4 ent with section 104(b).

5 (F) Any other mitigation measures, includ-  
6 ing measures suggested by the Loss Mitigation  
7 Committee, that the Director considers appro-  
8 priate.

9 (c) STANDARD.—The Director may not include any  
10 mitigation measure included in the loss-reduction criteria  
11 established under this section unless the Director deter-  
12 mines that the measure is—

13 (1) directly related to the risk of loss from hur-  
14 ricanes in areas where residential property is lo-  
15 cated;

16 (2) sufficiently effective in reducing the risk of  
17 loss from hurricanes to justify any costs to the Fed-  
18 eral Government, State and local governments, and  
19 individual property owners in carrying out or com-  
20 plying with the measure;

21 (3) practical and workable with respect to the  
22 areas or property to which the measure relates.

23 (d) TECHNICAL ASSISTANCE.—The Director shall co-  
24 ordinate with and provide technical assistance to States,  
25 interstate, and local officials and agencies to encourage

1 adoption and enforcement of State and local actions that  
2 incorporate and support the loss-reduction measures de-  
3 veloped by the Director under this section.

4 **SEC. 103. HURRICANE LOSS MITIGATION ADVISORY COM-**  
5 **MITTEE.**

6 (a) ESTABLISHMENT.—There is hereby established  
7 an independent advisory committee within the executive  
8 branch to be known as the hurricane Loss Mitigation Ad-  
9 visory Committee (in this section referred to as the “Com-  
10 mittee”). The Committee, its members, and its functions  
11 shall be separate from the Hurricane Insurance and Rein-  
12 surance Advisory Committee established under section  
13 207. Except as otherwise provided in this section, the  
14 Committee shall be subject to the provisions of the Federal  
15 Advisory Committee Act.

16 (b) MEMBERSHIP.—

17 (1) APPOINTED MEMBERS.—The Committee  
18 shall be composed of 10 members appointed by the  
19 President. The members shall be chosen from among  
20 citizens of the United States who are respected ex-  
21 perts in the field of hurricane loss mitigation, who  
22 shall include—

23 (A) not less than 2 individuals who are  
24 employed by a State government as an emer-  
25 gency planners;

1 (B) not less than 2 individuals who are  
2 knowledgeable regarding local community build-  
3 ing codes; and

4 (C) not less than 2 individuals who is em-  
5 ployed as hurricane engineers.

6 The President shall provide for geographic diversity  
7 among the members of the Committee and not less  
8 than 5 members shall be individuals who are resi-  
9 dents of hurricane-prone States.

10 (2) EX OFFICIO MEMBER.—Notwithstanding  
11 paragraph (1), the Chairman of the Insurance Com-  
12 mittee shall serve as an ex officio member of the  
13 Loss Mitigation Committee.

14 (c) VACANCIES.—A vacancy in the Commission shall  
15 be filled in the manner in which the original appointment  
16 was made.

17 (d) CHAIRMAN.—The President shall designate a  
18 chairman of the Committee from among members selected  
19 for appointment to the Committee.

20 (e) TIMING.—The President shall appoint the mem-  
21 bers of the Committee not later than 180 days after the  
22 date of the enactment of this Act.

23 (f) FUNCTIONS.—The Committee shall review the  
24 loss reduction criteria (including the specific loss-reduction  
25 measures) established under section 102. Not later than

1 90 days after receiving the draft of the loss-reduction cri-  
2 teria under section 102(a)(3), the Committee shall submit  
3 to the Director written comments and recommendations  
4 for any changes to the criteria.

5 (g) RESPONSIBILITIES OF DIRECTOR.—The Director  
6 shall fully cooperate with the Committee and provide the  
7 Committee with access to personnel and information. The  
8 Committee may request assistance from relevant Federal  
9 agencies as the Committee considers necessary to carry  
10 out its functions.

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

12 (a) IN GENERAL.—A percentage of the premiums for  
13 hurricane insurance collected under the Primary Insur-  
14 ance Program under title II, as the Director shall des-  
15 ignate, shall be deposited annually in a separate fund to  
16 be known as the Self-Sustaining Mitigation Fund. The  
17 percentage may not exceed 5 percent, unless the Director  
18 determines that the amounts in the Insurance Fund are  
19 sufficient to provide for any probable expected losses from  
20 future hurricanes. Interest on amounts in the Fund shall  
21 be credited to the Fund.

22 (b) USE.—Amounts in the Self-Sustaining Mitigation  
23 Fund shall be available, to the extent provided in appro-  
24 priation Acts, to the Director to provide assistance to sup-  
25 port the hurricane hazard reduction activities, as follows:

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

2 (2) Assistance to provide hurricane education  
3 pursuant to subsection (c).

4 (3) Assistance for research and development on  
5 construction techniques to reduce costs of new con-  
6 struction and retrofitting of existing buildings.

7 (4) Low-interest loans or grants for the retro-  
8 fitting of critical facilities vulnerable to hurricanes.

9 (c) HURRICANE EDUCATION PROGRAM.—The Direc-  
10 tor shall provide assistance under this section to support  
11 programs educating the general public on the national di-  
12 mensions of hurricane risk and on methods for home-  
13 owners to reduce the hazards resulting from future hurri-  
14 canes.

15 **SEC. 105. STATE IMPLEMENTATION OF LOSS-REDUCTION**  
16 **MEASURES.**

17 (a) REQUIREMENTS FOR COMPLIANCE STATES.—  
18 The Director may certify a hurricane-prone State as a  
19 compliance State for purposes of this Act only if—

20 (1) before the expiration of the 2-year period  
21 beginning upon the promulgation of final regulations  
22 under section 103 establishing the loss-reduction cri-  
23 teria—

24 (A) each county and municipality located  
25 in each hurricane zone within the State have

1           adopted and are enforcing the applicable miti-  
2           gation measures required under the loss-reduc-  
3           tion criteria; and

4                   (B) the chief executive officer of the State  
5           has designated an administrative authority to  
6           coordinate the development and enforcement of  
7           hurricane implementation plans for the State,  
8           which plans comply with the requirements of  
9           the loss-reduction criteria; and

10           (2) the State submits a certification to the Di-  
11           rector under subsection (b)(1) before the expiration  
12           of such 2-year period and the Director approves  
13           such certification under subsection (c).

14           (b) STATE CERTIFICATION.—The certification re-  
15           ferred to in subsection (a)(2) shall state that the State  
16           has substantially adopted and is substantially enforcing  
17           the applicable mitigation measures required under the  
18           loss-reduction criteria. In providing the certification, each  
19           State may consult with any relevant private accreditation  
20           and rating organizations approved by the Director.

21           (c) DETERMINATION OF COMPLIANCE.—

22                   (1) CRITERIA.—The Director shall issue regula-  
23           tions not later than 18 months after the date of the  
24           enactment of this Act establishing criteria for mak-

1 ing, reviewing, and approving State certifications  
2 under subsection (b).

3 (2) INITIAL REVIEW.—The Director shall re-  
4 view each certification submitted under subsection  
5 (b) to determine whether it is accurate and whether  
6 the State submitting the certification is substantially  
7 complying with, and enforcing, the applicable mitiga-  
8 tion measures required under the loss-reduction cri-  
9 teria. If, using the criteria established under para-  
10 graph (1), the Director determines that the State  
11 certification is substantially accurate and the State  
12 has adopted and is enforcing the applicable mitiga-  
13 tion measures, the Director shall certify the State as  
14 a compliance State for purposes of this Act.

15 (3) NONCOMPLIANCE STATES.—If an hurri-  
16 cane-prone State fails to submit a certification under  
17 subsection (a)(2) or the Director determines under  
18 paragraph (2) or (5) that the State has submitted  
19 an inaccurate certification, has not adopted or en-  
20 forced minimum applicable mitigation measures, or  
21 has failed to acquire recertification as a compliance  
22 State, the Director shall certify the State as a non-  
23 compliance State for purposes of this Act.

24 (4) REVIEW OF NONCOMPLIANCE.—A State cer-  
25 tified as a noncompliance State pursuant to para-

1 graph (3) may at any time after such certification  
2 request the Director to review its certification and  
3 compliance, pursuant to which the Director may cer-  
4 tify the States as a compliance State in accordance  
5 with paragraph (2).

6 (5) PERIODIC REVIEW.—Using the criteria es-  
7 tablished under subsection (1), the Director shall re-  
8 view the compliance with, and enforcement of, the  
9 applicable mitigation measures by each compliance  
10 State not less than once every 2 years and shall  
11 recertify States as compliance States or certify  
12 States as noncompliance States, as appropriate.

13 (d) ASSISTANCE TO PROMOTE COMPLIANCE.—The  
14 Director shall provide assistance to each compliance State  
15 from amounts in the Self-Sustaining Mitigation Fund  
16 under section 104, to the extent that amounts for such  
17 assistance are made available under appropriation Acts.  
18 The amount of such assistance provided to each State  
19 shall be based on the State’s need for hazard reduction  
20 as measured by the State’s lack of preparedness efforts,  
21 the amount of hurricane insurance premiums collected in  
22 that State under the Primary Insurance Program, and the  
23 State’s risk of future hurricanes. The State shall use any  
24 such financial assistance to support development and im-  
25 plementation of the State’s mitigation plan, including edu-

1 cation, enforcement, and mitigation economic incentives,  
2 such as low-interest loans for retrofitting.

3 **SEC. 106. INCENTIVE TO PURCHASE HURRICANE COV-**  
4 **ERAGE IN HURRICANE ZONES.**

5 (a) AVAILABILITY OF FEDERALLY RELATED MORT-  
6 GAGE LOANS.—After the expiration of the 2-year period  
7 beginning upon the promulgation of final regulations  
8 under section 102 establishing the loss-reduction criteria,  
9 no federally related mortgage loan secured by residential  
10 property located in an hurricane zone may be made, in-  
11 creased, extended, or renewed unless the property securing  
12 the loan is insured by hurricane coverage or equivalent in-  
13 surance from a private insurer, in the amount required  
14 under section 203(a)(6). The Director shall determine, in  
15 cooperation with the appropriate Federal agencies, the  
16 methods by which such mortgagors shall be required to  
17 present proof of compliance with the provisions of this  
18 subsection.

19 (b) EXEMPTION FOR STATE PROPERTIES.—Notwith-  
20 standing subsection (a), hurricane coverage (or equivalent  
21 private coverage) shall not be required for any State-  
22 owned property that is covered under a State policy of self-  
23 insurance adequate in the determination of the Director.  
24 The Director shall publish and periodically revise a list  
25 of States to which this subsection applies.

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

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

11 (1) the State in which the property is located  
12 has been certified as a noncompliance State under  
13 section 105; and

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

16 (A) indicates that the property does not  
17 meet the mitigation measures under the loss-re-  
18 duction criteria that would apply to the prop-  
19 erty if the State were a compliance State; or

20 (B) has not been conducted.

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

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

1 the programs of such agencies and the Primary Insurance  
2 Program are mutually consistent.

3 **SEC. 109. ANNUAL REPORT.**

4 The Director shall include in the annual report sub-  
5 mitted to the President and the Congress pursuant to sec-  
6 tion 2–105 of Executive Order No. 12148 (50 U.S.C. App.  
7 2251; relating to the Federal Emergency Management  
8 Agency), a description of the activities carried out under  
9 this Act and an evaluation of any progress achieved in  
10 such activities during the preceding year.

11 **SEC. 110. REGULATIONS.**

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

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

1 **TITLE II—NATIONAL HURRI-**  
2 **CANE INSURANCE PROGRAM**

3 **SEC. 201. AUTHORITY AND ORGANIZATION.**

4 (a) ESTABLISHMENT.—To carry out the purposes of  
5 this Act, the Director shall establish and carry out a na-  
6 tional hurricane insurance program to provide insurance  
7 against loss resulting from physical damage to or loss of  
8 real property or personal property related thereto, in the  
9 United States, arising from any hurricane.

10 (b) IMPLEMENTATION.—In carrying out the Primary  
11 Insurance Program, the Director shall arrange for partici-  
12 pation, on other than a risk-sharing basis, by private in-  
13 surers, insurance agents and brokers, insurance adjust-  
14 ment organizations, and other persons. The Director may  
15 take any actions reasonably necessary and appropriate to  
16 carry out this title, including the making of contracts, the  
17 employment and compensation of persons, and the acquisi-  
18 tion of real and personal property.

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

23 (d) JURISDICTION OF COURTS.—Any actions by or  
24 against the Director (or employees of the Federal Emer-  
25 gency Management Agency) in connection with activities

1 under this title shall be brought in the appropriate district  
2 court of the United States, except that any action by an  
3 insurer or reinsurer against the Director (or employees of  
4 the Federal Emergency Management Agency) shall be  
5 brought in the United States District Court for the Dis-  
6 trict of Columbia.

7 (e) PLAN OF OPERATION.—

8 (1) DEVELOPMENT.—The Director shall de-  
9 velop a plan of operation under this subsection to  
10 ensure the fair, reasonable, and equitable adminis-  
11 tration of the Insurance Fund, the Reinsurance  
12 Fund, and other activities under this Act.

13 (2) CONTENTS.—The plan of operation shall set  
14 forth the specific policy and programmatic details  
15 for operating the Primary Insurance Program and  
16 the Reinsurance Program, and shall include (A) all  
17 guidelines, criteria, definitions, clarifications, and  
18 procedures necessary to carry out this Act, (B) pro-  
19 cedures for implementing the mitigation incentives  
20 under section 206, and (C) standards for insurers to  
21 retain expense allowances from premiums collected  
22 under this title.

23 (3) STUDY OF LOW-INCOME RATES.—In devel-  
24 oping the plan of operation, the Director shall con-  
25 sider options for charging less than actuarial rates

1 for residential property occupied by low-income pol-  
2 icyholders and may include in the plan any option  
3 the Director considers necessary, appropriate, and  
4 practicable, subject to the requirements under sec-  
5 tion 205(b).

6 (4) SUBMISSION OF DRAFT TO INSURANCE COM-  
7 MITTEE.—Not later than the expiration of the 12-  
8 month period beginning on the date of the enact-  
9 ment of this Act, the Director shall submit a draft  
10 of the plan of operation to the Insurance Committee  
11 established under section 207. Before issuing any  
12 proposed regulations under paragraph (5), the Di-  
13 rector shall consider any recommendations made by  
14 the Insurance Committee regarding the draft plan of  
15 operation.

16 (5) REGULATIONS.—

17 (A) PROPOSED REGULATIONS.—Not later  
18 than the expiration of the 18-month period be-  
19 ginning on the date of the enactment of this  
20 Act, the Director shall issue proposed regula-  
21 tions establishing the plan of operation under  
22 this subsection, subject to the provisions of sub-  
23 chapter II of chapter 5 of title 5, United States  
24 Code. In issuing proposed regulations under  
25 this paragraph, the Director shall cause to be

1 published in the Federal Register a description  
2 of any differences between the recommendations  
3 of the Insurance Committee and the proposed  
4 regulations (including the guidelines, criteria,  
5 definitions, clarifications, and procedures under  
6 the plan) developed by the Director. The de-  
7 scription shall contain, for each such difference,  
8 an explanation of why the recommendations of  
9 the Insurance Committee were not included in  
10 the proposed regulations.

11 (B) COMMENTS.—Upon issuance of the  
12 proposed regulations under subparagraph (A),  
13 the Director shall request comments from the  
14 Insurance Committee regarding any changes to  
15 the regulations.

16 (C) FINAL REGULATIONS.—Not later than  
17 6 months after issuance of the proposed regula-  
18 tions, the Director shall issue final regulations  
19 establishing the plan of action.

20 (D) SUBSEQUENT CHANGES.—Any  
21 changes to the plan of operation after issuance  
22 of the final regulations containing the plan  
23 under subparagraph (C) shall be made pursu-  
24 ant to regulations issued in the manner pro-  
25 vided in subparagraphs (B) through (C).

1 **SEC. 202. SCOPE OF PROGRAM.**

2 (a) RESIDENTIAL PROPERTIES.—In carrying out the  
3 Primary Insurance Program, the Director shall make hur-  
4 ricane coverage available only for residential property. The  
5 Director shall make such coverage available in hurricane-  
6 prone States.

7 (b) ADDITIONAL TYPES OF PROPERTIES.—If, on the  
8 basis of studies and investigations undertaken and carried  
9 out and information received or exchanged under section  
10 204, and such other information as may be necessary, the  
11 Director determines that it would be feasible to extend the  
12 Primary Insurance Program to cover property other than  
13 residential property, the Director may recommend to Con-  
14 gress that hurricane coverage under this title be made  
15 available to cover any types and classes of—

- 16 (1) other properties in residential areas;
- 17 (2) small business properties that are owned or  
18 leased and operated by small business concerns;
- 19 (3) religious properties;
- 20 (4) agricultural properties;
- 21 (5) properties occupied by primary nonprofit or-  
22 ganizations; and
- 23 (6) properties owned by State and local govern-  
24 ments and agencies thereof.

1 **SEC. 203. TERMS AND LIMITATIONS OF INSURANCE COV-**  
2 **ERAGE.**

3 (a) TERMS.—Pursuant to the plan of operation es-  
4 tablished under section 201(e) and after consultation with  
5 the Insurance Committee, the Director shall establish, by  
6 regulation, the general terms and conditions of insurability  
7 for properties eligible for residential property insurance  
8 coverage under section 202. Such regulations shall meet  
9 the requirements of this section and may include—

10 (1) the type and locational classification of such  
11 eligible properties;

12 (2) the nature of damage that may be covered  
13 by such insurance;

14 (3) appropriate minimum premiums;

15 (4) appropriate loss-deductibles including vari-  
16 able deductibles based on the existence of loss-reduc-  
17 ing measures that affect the risk of loss;

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

20 (6) appropriate minimum coverage amounts  
21 pursuant to section 106(a) for each classification of  
22 eligible properties, which may not be less than the  
23 outstanding principal balance of the mortgage loan  
24 securing the property or the maximum coverage  
25 limit for the property under paragraph (5), which-  
26 ever is less; and

1           (7) any other terms and limitations relating to  
2           such residential property insurance coverage that  
3           may be necessary to carry out the purposes of this  
4           title.

5           (b) LIMITATIONS.—Hurricane coverage under this  
6           title shall cover any damage to covered eligible property  
7           proximately caused by an hurricane and shall include cov-  
8           erage for debris removal and additional living expenses in-  
9           curred as a result of direct damage to the premises by  
10          hurricane.

11          (c) ELIGIBILITY OF COVERAGE.—Any private insurer  
12          issuing residential property insurance coverage in hurri-  
13          cane-prone States may provide the coverage under this  
14          title, on behalf of the Federal Government, to residential  
15          property policyholders of the insurer. Any private insurer  
16          electing to participate in the Primary Insurance Program  
17          shall make coverage available to all residential property  
18          policyholders of the insurer in hurricane-prone States. Any  
19          private insurer electing to purchase the excess reinsurance  
20          coverage pursuant to title III shall make the coverage  
21          available, on behalf of the Federal Government, or at  
22          equivalent coverage and rates on their own behalf, to all  
23          residential property policyholders of the insurer.

1 **SEC. 204. ESTABLISHMENT OF ACTUARIAL PREMIUM**  
2 **RATES.**

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

12 (b) ARRANGEMENTS FOR SERVICES.—In carrying out  
13 such studies, the Director shall consult with the Loss Miti-  
14 gation Committee and the Insurance Committee and may  
15 enter into contracts, agreements, or other arrangements  
16 to utilize the services of the National Oceanic and Atmos-  
17 pheric Administration and other relevant Federal, State,  
18 and local governmental agencies, and other persons.

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

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

23 (A) the severity and frequency of hurri-  
24 canes by hurricane zone and States in which  
25 the insured property is located, including known  
26 differences in meteorological conditions;

1 (B) the value of the insured property;

2 (C) the age of the structures located on  
3 the insured property;

4 (D) the construction type of the structures  
5 located on the insured property;

6 (E) the architectural type of the structures  
7 located on the insured property;

8 (F) hurricane loss-reduction measures (in-  
9 cluding measures described in section 102) em-  
10 ployed in the construction or retrofitting of resi-  
11 dential property structures; and

12 (G) any other criteria the Director consid-  
13 ers appropriate; and

14 (2) application of accepted actuarial and rate-  
15 making principles that reflect the risks involved, an-  
16 ticipated insurance related administrative and oper-  
17 ating costs, and loss and loss-adjustment expense  
18 payments, and that provide for adequate reserves.

19 (d) LIMITATION.—Any rate classification system  
20 used by the Director to establish actuarial rates under this  
21 section shall be cost-effective and shall not impose costs  
22 for the initial establishment or the subsequent administra-  
23 tion of the rate plan that are disproportionate to the size  
24 of the insurance premiums.

1 **SEC. 205. CHARGEABLE PREMIUM RATES.**

2 (a) ESTABLISHMENT.—On the basis of actuarial  
3 rates established under section 204 and any other infor-  
4 mation available to the Director, the Director shall from  
5 time to time, and after consultation with the Loss Mitiga-  
6 tion Committee and the Insurance Committee, establish  
7 and prescribe, by regulation—

8 (1) chargeable premium rates for any types and  
9 classes of properties eligible for hurricane coverage;  
10 and

11 (2) the terms and conditions under which such  
12 rates shall apply.

13 (b) MINIMIZATION OF CROSS-SUBSIDIZATION.—To  
14 the maximum extent practicable and except as provided  
15 in subsection (c), chargeable premium rates shall be actu-  
16 arial rates over an extended period of time and shall result  
17 in a minimum of cross-subsidization by reasonably reflect-  
18 ing the risk of damaging hurricanes in total and for each  
19 subclassification of policyholders. In setting and adjusting  
20 chargeable rates under this section, the Director shall pro-  
21 vide that, over an extended period of time, expected ex-  
22 penditures from the Insurance Fund under section 208(c)  
23 do not exceed expected receipts of the Fund under section  
24 208(b).

25 (c) LOW-INCOME RATES AND MITIGATION INCEN-  
26 TIVES.—Pursuant to the plan of operation established

1 under section 201(e), the Director may establish charge-  
2 able rates under this section for residential property occu-  
3 pied by low-income residents and residential property de-  
4 scribed in section 206(4), that are less than the actuarial  
5 rates established under section 204, but only to the extent  
6 that such rates do not prevent compliance with the last  
7 sentence of subsection (b).

8 **SEC. 206. MITIGATION INCENTIVES.**

9 In providing hurricane coverage pursuant to the plan  
10 of operation, the Director shall provide for the following  
11 mitigation incentives:

12 (1) Charging lower deductible amounts for such  
13 coverage for any residential property meeting the  
14 hurricane building standards established under the  
15 loss-reduction criteria.

16 (2) Requiring under such coverage that repairs  
17 to residential property sustaining hurricane damage  
18 in excess of the deductible include, at a minimum,  
19 such mitigation measures as the Director determines  
20 appropriate to protect against further damage by  
21 hurricanes.

22 (3) Requiring under such coverage that residen-  
23 tial property suffering damage in an amount greater  
24 than 50 percent the replacement value of the prop-  
25 erty shall be rebuilt to at least the minimum stand-

1 ards required under the loss-reduction criteria under  
2 section 102 and applicable to the State.

3 (4) Charging lower premiums or deductible  
4 amounts for such coverage for any residential prop-  
5 erty located in a hurricane zone in an hurricane-  
6 prone State that passes an hurricane inspection that  
7 is required as a condition of sale, paid for by the  
8 seller, and meets the requirements of section  
9 102(b)(2)(F).

10 **SEC. 207. HURRICANE INSURANCE AND REINSURANCE AD-**  
11 **VISORY COMMITTEE.**

12 (a) ESTABLISHMENT.—There is hereby established  
13 an independent advisory committee within the executive  
14 branch to be known as the Hurricane Insurance and Rein-  
15 surance Advisory Committee. The Insurance Committee,  
16 its members, and its functions shall be separate from the  
17 Loss Mitigation Committee established under section 103.  
18 Except as otherwise provided in this section, the Commit-  
19 tee shall be subject to the provisions of the Federal Advi-  
20 sory Committee Act.

21 (b) MEMBERSHIP.—

22 (1) APPOINTED MEMBERS.—The Insurance  
23 Committee shall be composed of 5 members ap-  
24 pointed by the President. The members shall be cho-

1       sen from among citizens of the United States and  
2       shall include—

3               (A) 2 individuals who represent the inter-  
4               ests of private insurers;

5               (B) 1 individual who represents the inter-  
6               ests of private reinsurers;

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

9               (D) 1 individual who is a State insurance  
10              regulator.

11             (2) EX OFFICIO MEMBER.—Notwithstanding  
12             paragraph (1), the Chairman of the Loss Mitigation  
13             Committee under section 103 shall serve as an ex  
14             officio member of the Insurance Committee.

15             (c) VACANCIES.—A vacancy in the Insurance Com-  
16             mittee shall be filled in the manner in which the original  
17             appointment was made.

18             (d) CHAIRMAN.—The President shall designate a  
19             chairman of the Insurance Committee from among mem-  
20             bers selected for appointment to the Committee.

21             (e) TIMING.—The President shall appoint the mem-  
22             bers of the Insurance Committee not later than 180 days  
23             after the date of the enactment of this Act.

24             (f) FUNCTIONS.—The Insurance Committee shall re-  
25             view the draft plan of operation established under section

1 201(e). Not later than 120 days after receiving the draft  
2 plan of operation, the Committee shall submit to the Di-  
3 rector written comments and recommendations for any  
4 changes to the plan. After final regulations establishing  
5 the plan of operation have been issued, the Committee  
6 shall submit a written report not less than once every 180  
7 days to the Director and the Congress evaluating the oper-  
8 ations of the Primary Insurance Program and the Rein-  
9 surance Program and making recommendations for any  
10 actions relating to such programs. The Committee shall  
11 respond as soon as practicable to all requests of the Direc-  
12 tor made pursuant to subsection (g) or section  
13 201(e)(5)(B).

14 (g) RESPONSIBILITIES OF THE DIRECTOR.—The Di-  
15 rector shall fully cooperate with the Insurance Committee  
16 and provide the Committee with access to personnel and  
17 information as the Committee considers necessary to carry  
18 out its functions. The Director shall request comments  
19 from the Committee on any questions regarding operation  
20 of the Primary Insurance Program or Reinsurance Pro-  
21 gram.

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

23 (a) ESTABLISHMENT.—There is hereby established in  
24 the Treasury of the United States the Residential Prop-

1 erty Insurance Fund for the purpose of carrying out the  
2 Primary Insurance Program.

3 (b) CREDITS.—The Insurance Fund shall be credited  
4 with—

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

10 (2) any amounts borrowed under section 209;

11 (3) any amounts appropriated to the Insurance  
12 Fund; and

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

15 (c) USES.—Amounts in the Insurance Fund shall be  
16 available for—

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

19 (2) payments for insurance company expense  
20 allowances paid (including agents' commissions,  
21 State premium taxes, and companies' administration  
22 expenses);

23 (3) administrative expenses of the Primary In-  
24 surance Program; and

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

3           (d) INVESTMENT.—The Director may request the  
4 Secretary of Treasury to invest any amount in the Insur-  
5 ance Fund in obligations issued or guaranteed by the  
6 United States, as the Director considers appropriate.

7           (e) INSURANCE PAYMENTS.—Private insurers issuing  
8 hurricane coverage shall remit the premiums collected, less  
9 the insurers' expense allowances, to the Director on a  
10 quarterly basis not later than 30 days after the end of  
11 the calendar quarter, in accordance with procedures pre-  
12 scribed in the plan of operation. Any premiums collected  
13 and to be submitted to the Director shall be deposited in  
14 a separate, interest-bearing account established by the in-  
15 surer and any interest collected on any such account shall  
16 be remitted to the Director with the premiums on a quar-  
17 terly basis.

18           (f) REIMBURSEMENT OF INSURERS.—

19           (1) REQUIREMENT AND PROCEDURE.—The Di-  
20 rector shall reimburse private insurers providing  
21 hurricane coverage from amounts made available  
22 from the Insurance Fund. Reimbursement shall be  
23 made for all claim payments in an amount up to and  
24 including the policy limits of coverage and for all

1 loss adjustment expenses paid as a result of hurri-  
2 canes, as follows:

3 (A) The Director shall reimburse insurers  
4 for all claim payments and loss adjustment ex-  
5 pense payments made pursuant to obligations  
6 of the Federal Government. To the extent that  
7 reimbursement is obtained by private insurers  
8 for losses also covered under the Excess Rein-  
9 surance Program, the insurer shall reimburse  
10 the Insurance Fund accordingly.

11 (B) If the gross reimbursements exceed  
12 amounts available in the Insurance Fund, a  
13 combination of amounts borrowed from the in-  
14 dustry under subparagraph (C) and amounts  
15 borrowed from the Treasury of the United  
16 States under section 209 shall cover the addi-  
17 tional losses.

18 (C) The industry share under subpara-  
19 graph (B) shall be equivalent to 20 percent of  
20 the additional losses. Each private insurer issu-  
21 ing hurricane coverage shall be assessed for the  
22 industry participation in the additional losses  
23 based upon the proportion that such insurer's  
24 written premiums for hurricane coverage in  
25 each State in which the hurricane events oc-

1           curred bear to the total written premiums for  
2           hurricane coverage from all insurers in each  
3           State in which the same events occurred, based  
4           on the most recently published annual report of  
5           the Federal Emergency Management Agency.  
6           Assessments under this subparagraph may be  
7           reinsured under title III.

8           (2) REGULATIONS.—The Director shall issue  
9           regulations establishing the general method or meth-  
10          ods by which proved and approved claims for losses  
11          may be adjusted and paid for damages covered by  
12          hurricane coverage. The claim practices of the Insur-  
13          ance Fund shall be subject to, and conform with,  
14          any applicable State insurance unfair trade practices  
15          statutes. Judicial review of a decision of the Director  
16          regarding reimbursement of a private insurer shall  
17          be available pursuant to section 201(d).

18          (g) OBLIGATIONS.—Any hurricane insurance cov-  
19          erage provided under the Primary Insurance Program  
20          shall constitute an obligation, in accordance with the pro-  
21          visions of this title, of the United States. The full faith  
22          and credit of the United States is hereby pledged for the  
23          full payment and performance of such obligations, subject  
24          to the provisions of subsection (f)(1)(C). The private in-  
25          surers participating in the program shall bear no risk and

1 shall assume no liability for the hurricane coverage pro-  
2 vided through the program except as provided in sub-  
3 section (f)(1)(C).

4 (h) STATUS OF FUND.—Any premiums collected for  
5 deposit in the Insurance Fund shall be exempt from all  
6 taxation now or hereafter imposed by the United States,  
7 by any territory, dependency or possession thereof, or by  
8 the State, county, municipality, or local taxing authority,  
9 except that the insurance policies issued by or in conjunc-  
10 tion with the Federal Government pursuant to this title  
11 shall be subject, where applicable, to State insurance pre-  
12 mium taxes.

13 **SEC. 209. BORROWING FROM TREASURY.**

14 (a) AUTHORITY.—To the extent that the accumulated  
15 assets, including any return on investments, in the Insur-  
16 ance Fund are insufficient to pay claims and expenses,  
17 the Director shall issue, from time to time, to the Sec-  
18 retary of the Treasury, notes and other obligations to  
19 cover the insufficiency. The amounts of such obligations  
20 outstanding at any one time shall not exceed  
21 \$25,000,000,000 (or such greater amount as may be ap-  
22 proved by the President).

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

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

3 (c) DEPOSITS.—Any amounts borrowed under this  
4 section shall be deposited in the Insurance Fund.

5 (d) REPAYMENT.—The Director shall provide for the  
6 recovery of any amounts that are borrowed under this sec-  
7 tion and repaid, including interest on the borrowed funds,  
8 through future chargeable premium rates for hurricane  
9 coverage, pursuant to the plan of operation. The Secretary  
10 of the Treasury may grant extensions in repayment sched-  
11 ules that the Director determines are necessary.

12 **TITLE III—NATIONAL HURRI-**  
13 **CANE EXCESS LOSS REINSUR-**  
14 **ANCE PROGRAM**

15 **SEC. 301. ESTABLISHMENT AND TERMS OF COVERAGE.**

16 (a) ESTABLISHMENT.—

17 (1) INITIAL AVAILABILITY.—Upon the issuance  
18 of final regulations establishing the plan of operation  
19 under section 201(e), the Director shall establish  
20 and carry out a national hurricane excess loss insur-  
21 ance program to make available, to any private in-  
22 surer participating in the Primary Insurance Pro-  
23 gram or any private reinsurer which reinsures any  
24 such private insurer, reinsurance coverage for direct

1 and indirect losses that are not eligible for hurricane  
2 coverage under title II and arise from a hurricane.

3 (2) EXPANDED AVAILABILITY.—Upon the expi-  
4 ration of the 2-year period beginning upon issuance  
5 of the regulations referred to in paragraph (1), the  
6 Director shall make available, to any private insurer  
7 or private reinsurer, excess reinsurance coverage for  
8 direct and indirect losses that are not eligible for  
9 hurricane coverage under title II and arise from an  
10 hurricane. Any private insurer or reinsurer partici-  
11 pating in the Primary Insurance Program under  
12 title II shall purchase the excess reinsurance cov-  
13 erage under this title.

14 (b) LIABILITY.—Excess reinsurance under this title  
15 shall be made available subject to the following require-  
16 ments:

17 (1) INDUSTRY.—The Reinsurance Fund under  
18 section 305 shall be liable with respect to such rein-  
19 surance in the event of an hurricane after, as deter-  
20 mined by the Director, the insurance industry has  
21 incurred losses and loss adjustment expenses from  
22 the single event that are covered under the lines de-  
23 scribed in section 302(a) and that exceed 8 percent  
24 of the industry countrywide subject net written pre-  
25 mium.

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

8           (c) QUALIFYING LOSSES.—For the purposes of sub-  
9           section (b), the term “qualifying losses” means losses and  
10          loss adjustment expenses incurred by a private insurer or  
11          private reinsurer from an hurricane event, reduced—

12           (1) by any collectible reinsurance recoverable;  
13          and

14           (2) by a factor for uncollectible reinsurance re-  
15          coverable determined as follows:

16           (A) If the percentage of unrecoverable re-  
17           insurance arising from the event to total rein-  
18           surance (not including hurricane excess loss re-  
19           insurance purchased under this title) with re-  
20           spect to the event is over 0 percent but not over  
21           5 percent, 0 percent of unrecoverable reinsur-  
22           ance.

23           (B) If the percentage of unrecoverable re-  
24           insurance arising from the event to total rein-  
25           surance (not including hurricane excess loss re-

1 insurance purchased under this title) with re-  
2 spect to the event is over 5 percent but not over  
3 15 percent, 33.33 percent of unrecoverable rein-  
4 surance over 5 percent but not over 15 percent.

5 (C) If the percentage of unrecoverable re-  
6 insurance arising from the event to total rein-  
7 surance (not including hurricane excess loss re-  
8 insurance purchased under this title) with re-  
9 spect to the event is over 15 percent but not  
10 over 25 percent, the amount determined under  
11 subparagraph (B) plus 66.66 percent of unre-  
12 coverable reinsurance over 15 percent but not  
13 over 25 percent.

14 (D) If the percentage of unrecoverable re-  
15 insurance arising from the event to total rein-  
16 surance (not including hurricane excess loss re-  
17 insurance purchased under this title) with re-  
18 spect to the event is over 25 percent, the  
19 amount determined under subparagraph (C)  
20 plus 100 percent of unrecoverable reinsurance  
21 over 25 percent.

22 (d) ELIGIBILITY OF INDIVIDUAL INSURERS.—

23 (1) IN GENERAL.—Notwithstanding the provi-  
24 sions of subsections (b) and (c), a private insurer or  
25 private reinsurer shall be eligible for excess loss rein-

1       surance coverage and reimbursement from the Fed-  
2       eral Government if the insurer or reinsurer has in-  
3       curred losses, prior to any reinsurance coverage,  
4       from a single event that are included in the lines de-  
5       scribed in section 302(a) and that exceed 50 percent  
6       of the insurer's countrywide subject direct written  
7       premium or the insurer's countrywide subject net  
8       written premium, whichever is greater.

9               (2) LIABILITY.—After a private insurer or pri-  
10       vate reinsurer covered under the Reinsurance Pro-  
11       gram has sustained losses described in paragraph  
12       (1), the Federal Government shall be liable for 95  
13       percent of qualifying losses, as defined in subsection  
14       (c), in excess of 20 percent of the private insurer's  
15       or reinsurer's countrywide subject net written pre-  
16       mium.

17               (3) LIMITATION ON LIABILITY.—Notwithstand-  
18       ing paragraphs (1) and (2), the Federal Government  
19       shall not be liable under this subsection in excess of  
20       200 percent of a private insurer's countrywide sub-  
21       ject direct net written premium and 600 percent of  
22       a private reinsurer's countrywide subject assumed  
23       net written premium. In the event a company is both  
24       a private insurer and a private reinsurer, the Fed-  
25       eral Government shall not be liable under this sub-

1 section in excess of 200 percent of the company's  
2 subject direct net written premium and 600 percent  
3 of the company's subject assumed net written pre-  
4 mium. Intracompany or intragroup reinsurance ar-  
5 rangements or contracts shall not be considered as  
6 reinsurance in the calculation of insurance and rein-  
7 surance subject direct or subject assumed net writ-  
8 ten premium under this subsection.

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

10 (1) The term “subject assumed net written pre-  
11 mium” means premiums received from other insur-  
12 ance companies for reinsurance less ceded reinsur-  
13 ance, for all lines of coverage described in section  
14 302.

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

23 (3) The term “subject net written premium”  
24 means direct and reinsurance premiums received by  
25 private insurers and private reinsurers, less pre-

1 miums paid for ceded reinsurance, for all lines of  
2 coverage described in section 302.

3 (4) The term “unrecoverable reinsurance”  
4 means reinsurance proceeds due and payable in ac-  
5 cordance with the terms of a reinsurance contract  
6 that are not paid within 12 months of the due date.

7 **SEC. 302. LINES OF INSURANCE.**

8 (a) COVERED LINES FOR INSURERS.—The Director  
9 shall provide excess loss reinsurance coverage under this  
10 title for all of the following lines of insurance appearing  
11 in the National Association of Insurance Commissioners  
12 Fire and Casualty Annual Statement filed with the appli-  
13 cable State department of insurance:

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

1 (13) Burglary and Theft.

2 (14) Boiler and Machinery.

3 (15) Reinsurance.

4 The Director shall provide that any private insurer or re-  
5 insurer purchasing excess loss reinsurance coverage under  
6 this title purchase coverage for all of covered lines of in-  
7 surance described in this subsection and in all affected  
8 hurricane zones within a hurricane-prone State.

9 (b) COVERED LINES FOR REINSURERS.—The Fed-  
10 eral Government shall provide excess loss reinsurance cov-  
11 erage to private reinsurers for all of the lines of insurance  
12 referred to in subsection (a) as well as other lines of insur-  
13 ance appearing in the National Association of Insurance  
14 Commissioners Fire and Casualty Annual Statement, as  
15 determined by the Director in the plan of operation and  
16 in consultation with the Insurance Committee.

17 **SEC. 303. PREMIUM RATES.**

18 (a) ESTABLISHMENT.—The Director shall establish  
19 the rates for excess loss reinsurance coverage and adjust  
20 the rates when necessary, using generally accepted actuar-  
21 ial principles. To the maximum extent practicable, such  
22 rates shall be actuarial rates that produce a minimum de-  
23 gree of cross-subsidization over an extended period of time  
24 consistent with the infrequency of catastrophic hurricanes.  
25 In setting and adjusting the rates, the Director shall pro-

1 vide that, over an extended period of time, expected ex-  
2 penditures from the Reinsurance Fund under section  
3 305(c) do not exceed expected receipts of the Reinsurance  
4 Fund under section 305(b).

5 (b) CONSIDERATIONS.—In setting or adjusting such  
6 rates, the Director shall provide for a minimum degree  
7 of cross-subsidization among classes of reinsureds by rea-  
8 sonably reflecting the differences in risk of and vulner-  
9 ability to loss from hurricanes that would be subject to  
10 payment from the Reinsurance Fund, giving consideration  
11 to—

12 (1) the premium volume of the reinsured by line  
13 of insurance described in section 302(a) by hurri-  
14 cane zone or State in which the risks insured or re-  
15 insured by the reinsured are located; and

16 (2) the proportion of the total expected amount  
17 of payments for qualifying losses and loss adjust-  
18 ment expenses by line of insurance described in sec-  
19 tion 302(a) by hurricane zone or State expected for  
20 each reinsured.

21 (c) LIMITATION.—Any rate classification system used  
22 by the Director under this section shall be cost-effective  
23 and shall not impose costs for the initial establishment or  
24 the subsequent administration of the rating plan that are  
25 disproportionate to the size of the premiums.

1       (d) QUARTERLY PAYMENT.—Premiums for excess  
2 loss reinsurance coverage under this title shall be paid to  
3 the Reinsurance Fund on a quarterly basis.

4 **SEC. 304. REINSURANCE CONTRACTS.**

5       (a) TERMS.—Contracts for excess loss reinsurance  
6 coverage issued by the Director under this title shall con-  
7 tain terms and conditions similar to those generally used  
8 in private catastrophic reinsurance contracts.

9       (b) JUDICIAL REVIEW.—Judicial review of a decision  
10 of the Director regarding payment of claims under a con-  
11 tract for excess loss reinsurance coverage under this title  
12 shall be made available pursuant to section 201(d).

13       (c) OBLIGATIONS.—All contracts for excess loss rein-  
14 surance coverage issued under this title shall constitute  
15 obligations, in accordance with the terms of such reinsur-  
16 ance, of the United States. The full faith and credit of  
17 the United States is hereby pledged for the full payment  
18 and performance of such obligations.

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

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

2 (a) ESTABLISHMENT.—There is hereby established in  
3 the Treasury of the United States the Reinsurance Fund  
4 for the purposes of carrying out the Reinsurance Program.

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

7 (1) any reinsurance premiums received by the  
8 Director under the Reinsurance Program;

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

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

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

14 (1) payments for qualifying losses and loss ad-  
15 justment expenses under the Reinsurance Program  
16 under this title;

17 (2) administrative expenses of carrying out the  
18 Reinsurance Program; and

19 (3) interest payments on amounts borrowed  
20 under section 306, if any.

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

25 (e) STATUS OF FUNDS.—Any reinsurance premiums  
26 collected for deposit in the Reinsurance Fund shall be ex-

1   empt from all taxation now or hereafter imposed by the  
2   United States, by any territory, dependency or possession  
3   thereof, or by any State, county, municipality, or local tax-  
4   ing authority, except that the reinsurance policies issued  
5   by or in conjunction with the Federal Government pursu-  
6   ant to this title shall be subject, where applicable, to State  
7   insurance premium taxes.

8   **SEC. 306. BORROWING FROM TREASURY.**

9       (a) **AUTHORITY.**—To the extent that the accumulated  
10   assets, including any return on investments, in the Rein-  
11   surance Fund are insufficient to pay claims and expenses,  
12   the Director shall issue, from time to time, to the Sec-  
13   retary of the Treasury, notes and other obligations to  
14   cover the insufficiency. The amounts of such obligations  
15   outstanding at any one time shall not exceed  
16   \$25,000,000,000 (or such greater amount as may be ap-  
17   proved by the President).

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

23       (c) **DEPOSITS.**—Any amounts borrowed by the Direc-  
24   tor under this section shall be deposited in the Reinsur-  
25   ance Fund.

1       (d) REPAYMENT.—The Director shall provide for the  
2 recovery of any amounts that are borrowed under this sec-  
3 tion and repaid, including interest on the borrowed funds,  
4 through future chargeable premium rates for excess loss  
5 reinsurance coverage under this title, pursuant to the plan  
6 of operation. The Secretary of the Treasury may grant  
7 extensions in repayment schedules that the Director deter-  
8 mines are necessary.

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