

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1043

To amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 17 (legislative day, JULY 10), 1995

Mr. STEVENS (for himself, Mr. INOUE, Mr. MURKOWSKI, Mr. SIMON, Mr. INHOFE, Mr. DODD, Mr. SIMPSON, Mr. AKAKA, Mr. SANTORUM, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, 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.**

4 This Act may be cited as the “Natural Disaster Pro-  
5 tection and Insurance Act of 1995”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 Section 2 of the Earthquake Hazards Reduction Act  
3 of 1977 (42 U.S.C. 7701) is amended by adding at the  
4 end the following new paragraphs:

5 “(12) In addition to earthquakes, other cata-  
6 strophic natural disasters, such as major hurricanes  
7 and volcanic eruptions, will strike the United States  
8 in the future and will inflict substantial long-term  
9 consequences in terms of deaths, injuries, property  
10 damages, and social and economic losses.

11 “(13) The Federal Government and the govern-  
12 ments of States are ill-equipped to respond to cata-  
13 strophic natural disasters.

14 “(14) Billions of dollars in taxpayer-supported  
15 government assistance will be paid to rebuild follow-  
16 ing catastrophic natural disasters.

17 “(15) Hazard mitigation can significantly and  
18 cost-effectively reduce the long-term consequences of  
19 natural disasters, especially for those least capable  
20 of helping themselves, including the elderly.

21 “(16) Hazard mitigation measures, including  
22 building codes, have proved effective in reducing  
23 deaths, injuries, and property damage caused by cat-  
24 astrophic natural disasters.

1           “(17) Hazard mitigation measures are not in  
2 place in many high-hazard areas, and are not ade-  
3 quately enforced where they are in place.

4           “(18) First response capability, including fire  
5 fighting, emergency medical assistance, and search  
6 and rescue personnel, is as important as hazard  
7 mitigation in lessening the impact of natural disas-  
8 ters.

9           “(19) Millions of persons in the United States  
10 do not have adequate insurance coverage to protect  
11 property from catastrophic natural disasters.

12           “(20) In the early 1990’s, catastrophic natural  
13 disasters (including Hurricane Andrew and Hurri-  
14 cane Iniki and the Northridge earthquake)—

15                   “(A) have inflicted substantial losses on  
16 private insurance companies; and

17                   “(B) those losses have limited the ability  
18 to write new coverages in the stricken regions  
19 and other parts of the United States.

20           “(21) The natural disasters referred to in para-  
21 graph (20) inflicted substantial losses on State and  
22 local governments and caused severe strains on the  
23 budgets of those local governments.

24           “(22) The flooding in the Midwest in the early  
25 1990’s underscored the need to improve the partici-

1       pation in the National Flood Insurance Program.  
2       Programs should be evaluated for possible privatiza-  
3       tion or coordination with and inclusion in the disas-  
4       ter insurance program authorized by the Natural  
5       Disaster Protection and Insurance Act of 1995.”.

6       **SEC. 3. PURPOSE.**

7       Section 3 of the Earthquake Hazards Reduction Act  
8       of 1977 (42 U.S.C. 7702) is amended—

9               (1) by inserting “(a) EARTHQUAKE HAZARD  
10       REDUCTION.—” before “It is the purpose”; and

11              (2) by adding at the end the following new sub-  
12       section:

13       “(b) NATURAL DISASTER, RELIEF, AND INSUR-  
14       ANCE.—It is the purpose of the Congress to reduce deaths,  
15       injuries, and property damage from natural disasters  
16       through a hazard mitigation program and to ensure that  
17       all people of the United States have adequate disaster in-  
18       surance coverage. The objectives of the program shall in-  
19       clude—

20              “(1) the building of safer structures and the  
21       upgrading of existing buildings and lifelines;

22              “(2) the enhancement of State and local com-  
23       munity emergency management;

24              “(3) the improvement of State and local emer-  
25       gency first response capability, including the devel-

1       opment of standards and guidelines for staffing, op-  
2       erations, and training;

3               “(4) the forging of a partnership with the Fed-  
4       eral Government that makes the States and political  
5       subdivisions thereof ultimately responsible for imple-  
6       menting and enforcing multihazard mitigation meas-  
7       ures and emergency management;

8               “(5) the creation of a self-sustaining funding  
9       mechanism to assist States in paying for mitigation  
10      efforts;

11              “(6) the provision of coverage for natural disas-  
12      ter perils together with standard insurance policies;

13              “(7) the establishment of premium rates based  
14      on risk, so that if a State or political subdivision  
15      thereof has no discernible hazard for a particular  
16      peril, the amount of premiums collected for that risk  
17      would be minimal or nonexistent;

18              “(8) assurances that the insurance industry—

19                      “(A) makes a substantial contribution in  
20                      paying losses; and

21                      “(B) continues to provide coverage follow-  
22                      ing a catastrophic natural disaster;

23              “(9) the employment of the insurance industry  
24      through a private natural disaster insurance cor-

1 poration to speed rebuilding following a catastrophic  
 2 natural disaster; and

3 “(10) the saving of taxpayer money through a  
 4 self-funded hazard mitigation and insurance Natural  
 5 Disaster Protection Fund in order to reduce reliance  
 6 on disaster assistance from governments.”.

7 **SEC. 4. DEFINITIONS.**

8 Section 4 of the Earthquake Hazards Reduction Act  
 9 of 1977 (42 U.S.C. 7703) is amended by adding at the  
 10 end the following new paragraphs:

11 “(8) The term ‘building’ means any structure  
 12 that is—

13 “(A) fully or partially enclosed; and

14 “(B) used or intended for sheltering per-  
 15 sons or property.

16 “(9) The term ‘commercial losses’ means phys-  
 17 ical damage losses to insured commercial (other than  
 18 residential) property and other losses arising out of  
 19 the effects of earthquakes, volcanic eruptions,  
 20 tsunamis, or hurricanes for the lines of insurance  
 21 appearing in the National Association of Insurance  
 22 Commissioners Fire and Casualty Annual Statement  
 23 as determined by the Natural Disaster Insurance  
 24 Corporation under section 302 and which shall, at a  
 25 minimum, include loss of insurance for—

1           “(A) commercial multiple peril;

2           “(B) workers’ compensation;

3           “(C) allied lines;

4           “(D) fire;

5           “(E) reinsurance;

6           “(F) liability;

7           “(G) earthquake;

8           “(H) inland marine; and

9           “(I) ocean marine.

10           “(10) The term ‘critical facility’ means any  
11 school or structure that is essential to emergency  
12 services necessary for post-natural disaster recovery,  
13 including a hospital, fire or police facility, temporary  
14 shelter, or emergency operating and preparedness  
15 center.

16           “(11) The term ‘Corporation’ means the Natu-  
17 ral Disaster Insurance Corporation referred to in  
18 section 301.

19           “(12) The term ‘Director of the Agency’ means  
20 the Director of the Federal Emergency Management  
21 Agency.

22           “(13) The term ‘earthquake’ means any shak-  
23 ing or trembling of the crust of the Earth caused by  
24 underground seismic forces.

1           “(14) The term ‘federally related mortgage  
2 loan’ has the meaning given the term in section 3(1)  
3 of the Real Estate Settlement Procedures Act of  
4 1974 (12 U.S.C. 2602(1)).

5           “(15) The term ‘first responder’ means any fire  
6 fighting, police, or other emergency medical person-  
7 nel who has the authority under applicable law to  
8 engage in and provide immediate emergency re-  
9 sponse services.

10           “(16) The term ‘flood’ or ‘flooding’ means a  
11 general and temporary condition of partial or com-  
12 plete inundation of normally dry land areas from the  
13 overflow of inland or tidal waters or the unusual and  
14 rapid accumulation of runoff or surface waters from  
15 any source.

16           “(17) The term ‘hurricane’—

17                   “(A) means a nonfrontal, warm core, low  
18 pressure atmospheric system—

19                           “(i) having a definite organized cir-  
20 culation with sustained wind speeds of 74  
21 miles per hour or greater; and

22                           “(ii) that is officially declared to be a  
23 hurricane by the National Hurricane Cen-  
24 ter; and



1           “(B) includes any associated windstorm  
2           events occurring within 168 hours before and  
3           after the hurricane first makes landfall within  
4           a State.

5           “(18) The term ‘local community’ means a po-  
6           litical subdivision of a State that has a department,  
7           or similar entity, that oversees local zoning and  
8           building code compliance efforts.

9           “(19) The term ‘natural disaster-prone State’  
10          means a State determined by the Director of the  
11          Agency pursuant to section 204 to have an exposure  
12          to the earthquake, volcanic eruption, tsunami, wind-  
13          storm, or hurricane perils.

14          “(20) The term ‘new building construction’  
15          means construction of a structure carried out pursu-  
16          ant to a building permit issued after the date of en-  
17          actment of the Natural Disaster Protection and In-  
18          surance Act of 1995.

19          “(21) The term ‘ordinance or law coverage’  
20          means insurance coverage for the increased cost of  
21          construction to repair or rebuild buildings and the  
22          cost of demolition due to the enforcement of any or-  
23          dinance or law, such as building codes.

24          “(22) The term ‘primary insurance coverage’  
25          means policies or supplemental contracts of insur-

1       ance insured in the name of the Natural Disaster  
2       Insurance Corporation pursuant to section 311 that  
3       provide indemnity, in whole or in part, for the loss,  
4       destruction, or damage of residential property.

5               “(23) The term ‘private insurer’ means any pri-  
6       vate insurer or private reinsurer, including all relat-  
7       ed affiliates or subsidiaries under the same owner-  
8       ship or management consistent with the definition in  
9       section 1504(a) of the Internal Revenue Code of  
10      1986, that is licensed or admitted to write property  
11      and casualty insurance or reinsurance within a  
12      State.

13              “(24) The term ‘public facility’ has the mean-  
14      ing given the term in section 102(8) of the Robert  
15      T. Stafford Disaster Relief and Emergency Assist-  
16      ance Act (42 U.S.C. 5122(8)).

17              “(25) The term ‘rate’, when used in the context  
18      of insurance—

19                      “(A) means the cost of—

20                              “(i) insurance per exposure unit as-  
21                              sessed for the primary insurance coverages  
22                              under subtitle B of title III; and

23                              “(ii) the reinsurance coverage under  
24                              subtitle C of title III; and

25                      “(B) includes—

1           “(i) the pure expected loss cost that is  
2           actuarially based on the level of risk and  
3           represents the amount needed to pay ex-  
4           pected losses;

5           “(ii) the loss adjustment expense;

6           “(iii) a factor for the mitigation set-  
7           aside assessed under section 404(b);

8           “(iv) administrative costs of the Natu-  
9           ral Disaster Insurance Corporation created  
10          under section 301; and

11          “(v) compensation for any costs in-  
12          curred by private insurers, including—

13               “(I) administrative expenses;

14               “(II) agent commissions; and

15               “(III) taxes.

16          “(26) The term ‘reinsurance coverage’ means  
17          the contract provided by the Natural Disaster Insur-  
18          ance Corporation under section 321 under which  
19          that corporation accepts and agrees to pay part of  
20          the losses for certain catastrophic natural disasters  
21          covered by a private insurer or a State insurance  
22          pool.

23          “(27) The term ‘residential property’ means  
24          any family residential building that houses between

1       1 and 4 families (including mobile or manufactured  
2 homes).

3           “(28) The term ‘standard residential property  
4 insurance contract’ means any conventional policy  
5 offered by a private insurer to its residential prop-  
6 erty policyholders that provides indemnity, in whole  
7 or in part, for the loss, destruction, or damage of  
8 residential property.

9           “(29) The term ‘State insurance pool’ means  
10 any State-authorized joint underwriting or joint re-  
11 insurance association, risk pool, residual market  
12 mechanism, or other type of State-sanctioned entity  
13 that—

14                   “(A) provides property insurance coverage  
15 against hurricanes, earthquakes, volcanic erup-  
16 tions, or tsunamis; and

17                   “(B) meets minimum standards estab-  
18 lished by the Natural Disaster Insurance Cor-  
19 poration under section 302 regarding actuari-  
20 ally sound rates, the use of available local fi-  
21 nancing, and reasonable underwriting stand-  
22 ards.

23           “(30) The term ‘subject net written premium’  
24 means direct and reinsurance premiums received by

1 private insurers, reduced by any premiums paid  
2 for—

3 “(A) ceded reinsurance;

4 “(B) residential property insurance; or

5 “(C) any covered commercial line of insur-  
6 ance included in the plan of operation under  
7 section 302(a)(4)(B).

8 “(31) The term ‘substantially modified building  
9 construction’ means with respect to additions or im-  
10 provements to an existing building—

11 “(A) made during any 18-month period be-  
12 ginning on or after the date of enactment of the  
13 Natural Disaster Protection and Insurance Act  
14 of 1995; and

15 “(B) that result in a value of the building  
16 that is at least 50 percent greater than the  
17 value of the building at the time of the com-  
18 mencement of the additions or improvements,  
19 as measured by the most recent official prop-  
20 erty assessment.

21 “(32) The term ‘tsunami’ means an ocean wave  
22 generated by underwater disturbances in the crust of  
23 the Earth, primarily earthquakes and submarine vol-  
24 canic eruptions.

1           “(33) The term ‘volcanic eruption’ means the  
2           expulsion, as a result of natural causes, of molten  
3           rock, rock fragments, gases, ashes, mud, lava flows,  
4           and other natural substances through an opening in  
5           the crust of the Earth.

6           “(34) The term ‘windstorm’—

7                   “(A) means an atmospheric disturbance  
8                   marked by high velocity movements of air, in-  
9                   cluding a tornado, and

10                   “(B) does not include a hurricane.”.

11 **SEC. 5. CONFORMING AMENDMENTS.**

12           The Earthquake Hazards Reduction Act of 1977 (42  
13 U.S.C. 7701 et seq.) is amended—

14                   (1) in section 4(2) (42 U.S.C. 7703(2))—

15                           (A) by inserting “, as used in title I,” be-  
16                           fore “means”; and

17                           (B) by striking “section 5” and inserting  
18                           “section 101”;

19                   (2) by inserting after section 4 the following  
20           heading:

21 **“TITLE I—EARTHQUAKE HAZ-**  
22 **ARDS REDUCTION PRO-**  
23 **GRAM”;**

24                   (3) by redesignating sections 5 through 12 as  
25           sections 101 through 108, respectively;

1 (4) in sections 101, 103, 105, 106, and 108 (as  
 2 redesignated by paragraph (3)), by striking “this  
 3 Act” each place it appears and inserting “this title”  
 4 in each such place; and

5 (5) in section 108 (as redesignated by para-  
 6 graph (3))—

7 (A) by striking “sections 5 and 6” each  
 8 place it appears and inserting “sections 101  
 9 and 102”; and

10 (B) by striking “section 11” and inserting  
 11 “section 107”.

12 **SEC. 6. MULTHAZARD MITIGATION PROGRAM.**

13 The Earthquake Hazards Reduction Act of 1977 (42  
 14 U.S.C. 7701 et seq.) is amended by adding at the end  
 15 the following new title:

16 **“TITLE II—MULTHAZARD**  
 17 **MITIGATION PROGRAM**  
 18 **“Subtitle A—Federal Emergency**  
 19 **Management Agency**

20 **“SEC. 201. SUPPORT PROGRAMS.**

21 “(a) IN GENERAL.—The Director of the Agency shall  
 22 establish and carry out natural disaster hazard mitigation  
 23 programs that support the purposes specified in sub-  
 24 sections (b) through (d).

1       “(b) RESEARCH.—The Director of the Agency shall  
2 undertake research to strengthen building codes and pro-  
3 mote the development of cost-effective building tech-  
4 nologies and other related hazard mitigation measures.

5       “(c) TECHNOLOGY.—The Director of the Agency  
6 shall develop hazard mitigation technology for States, local  
7 communities, and architects, engineers, building contrac-  
8 tors, and other persons responsible for the implementation  
9 and enforcement of hazard mitigation measures.

10       “(d) EDUCATION.—The Director of the Agency shall  
11 undertake educational programs to enhance public aware-  
12 ness of the risks and hazards associated with natural dis-  
13 asters and ways to mitigate losses from such disasters.

14       **“SEC. 202. NEW FEDERAL BUILDING STANDARDS.**

15       “Federally leased, assisted, or regulated buildings  
16 shall be subject to the requirements contained in Execu-  
17 tive Order No. 12699 entitled ‘Seismic Safety of Federal  
18 and Federally Assisted or Regulated New Building Con-  
19 struction’, issued on January 5, 1990, relating to design  
20 and construction standards for federally leased, assisted,  
21 or regulated buildings with appropriate seismic design to  
22 accommodate earthquakes.



1 **“SEC. 203. NATIONAL MINIMUM CONSENSUS BUILDING**  
2 **CONSTRUCTION STANDARDS.**

3       “(a) STUDY.—The Director of the Agency shall enter  
4 into an arrangement with the Director of the National  
5 Academy of Sciences to conduct a study of the advisability  
6 and feasibility of establishing national minimum consensus  
7 building construction standards for residential and com-  
8 mercial building construction. The study shall be limited  
9 to the use of national minimum consensus building con-  
10 struction standards to minimize property damage and re-  
11 duce personal injuries that result from natural disasters,  
12 such as hurricanes, windstorms, earthquakes, and floods.

13       “(b) NATIONAL ACADEMY OF SCIENCES.—The study  
14 described in subsection (a) shall be performed by a panel  
15 of recognized experts appointed by the Director of the Na-  
16 tional Academy of Sciences. The experts shall include rep-  
17 resentatives of building constructors, realtors, private in-  
18 surers, building code officials from the model building code  
19 organizations, organized labor, and other experts that the  
20 Director of the National Academy of Sciences determines  
21 to be appropriate.

22       “(c) TRANSMIT TO CONGRESS.—Not later than 2  
23 years after the date of enactment of this title, the Director  
24 of the National Academy of Sciences shall transmit to the  
25 Congress a report of the findings of the study conducted  
26 under subsection (a) that includes any recommendations

1 that the Director of the National Academy of Sciences  
2 considers appropriate.

3 **“SEC. 204. DESIGNATION OF NATURAL DISASTER-PRONE**  
4 **STATES.**

5 “(a) DESIGNATION.—Not later than 180 days after  
6 the date of enactment of this title, and on January 1 of  
7 each year thereafter, the Director of the Agency shall de-  
8 termine which States are considered to have an exposure  
9 to earthquake, volcanic eruption, tsunami, windstorm, or  
10 hurricane perils. Based upon scientific risk data, the Di-  
11 rector of the Agency shall classify those States as natural  
12 disaster-prone States for purposes of this Act.

13 “(b) SCIENTIFIC RISK DATA.—

14 “(1) SEISMIC PERILS.—The determination and  
15 classification under subsection (a) concerning which  
16 States are considered to have an exposure for earth-  
17 quake, volcanic eruption, or tsunami perils shall be  
18 based solely on seismic data provided by the United  
19 States Geological Survey of the Department of the  
20 Interior, or the designated successor agency of the  
21 United States Geological Survey.

22 “(2) HURRICANE PERIL.—The determination of  
23 which States are considered to have an exposure to  
24 windstorm or hurricane peril shall be based solely on  
25 windstorm and hurricane data provided by the Na-

1 tional Oceanic and Atmospheric Administration of  
2 the Department of Commerce, or the designated suc-  
3 cessor agency of the National Oceanic and Atmos-  
4 pheric Administration.

5 **“Subtitle B—State and Community**  
6 **Programs**

7 **“SEC. 211. ADOPTION OF BUILDING AND SAFETY CODES.**

8 “(a) MULTHAZARD BUILDING AND SAFETY  
9 CODES.—

10 “(1) IN GENERAL.—Notwithstanding any other  
11 provision of law, each natural disaster-prone State,  
12 as designated under section 204, shall, not later  
13 than the date specified in section 213(a)(2), either  
14 adopt building codes in accordance with paragraph  
15 (2) or make a certification in accordance with para-  
16 graph (3).

17 “(2) BUILDING CODES.—

18 “(A) IN GENERAL.—If a State chooses to  
19 adopt building codes in accordance with para-  
20 graph (1), the State shall adopt for all new and  
21 substantially modified building construction in  
22 that State building codes that meet the appro-  
23 priate hurricane, windstorm, earthquake, vol-  
24 canic eruption, or tsunami natural disaster haz-  
25 ard mitigation portions of the most recent edi-

1           tion of at least one of the model building codes  
2           specified in subparagraph (B) that shall be ap-  
3           plicable to regions that are exposed to any of  
4           those natural disaster perils.

5           “(B) MODEL BUILDING CODES.—The  
6           model building codes specified in this subpara-  
7           graph are—

8                   “(i) the National Building Code pre-  
9                   pared by the Building Officials and Code  
10                  Administrators;

11                   “(ii) the Standard Building Code pre-  
12                   pared by the Southern Building Code Con-  
13                   gress; and

14                   “(iii) the Uniform Building Code pre-  
15                   pared by the International Congress of  
16                   Building Officials.

17           “(C) OTHER RELEVANT BUILDING AND  
18           HOUSING CODES AND STANDARDS.—Each State  
19           referred to in subparagraph (A) shall, incor-  
20           porate in the building codes of the State rel-  
21           evant housing codes and standards in addition  
22           to those specified in subparagraph (B), includ-  
23           ing the national consensus safety codes of the  
24           National Fire Protection Association, includ-  
25           ing—

- 1                   “(i) the National Electrical Code;  
2                   “(ii) the National Fuel Gas Code;  
3                   “(iii) the Flammable and Combustible  
4                   Liquids Code; and  
5                   “(iv) the Standard for Storage and  
6                   Handling of Liquefied Petroleum Gases.

7                   “(3) CERTIFICATION.—If a State chooses to  
8                   make a certification in accordance with paragraph  
9                   (1), the chief executive officer of the State shall cer-  
10                  tify to the Director of the Agency that the local com-  
11                  munities of the State have adopted and are enforc-  
12                  ing building codes that meet the appropriate mini-  
13                  mum natural disaster hazard mitigation portions of  
14                  any of the model building codes referred to in para-  
15                  graph (2)(A) and other building and housing codes  
16                  and standards described in paragraph (2)(B) for all  
17                  new and substantially modified building construction  
18                  in that State.

19                  “(b) FLOOD PERFORMANCE STANDARDS.—At a min-  
20                  imum, each State that contains local communities identi-  
21                  fied as flood-prone communities under chapter III of the  
22                  National Flood Insurance Act of 1968 (42 U.S.C. 4101  
23                  et seq.) shall, not later than the date specified in section  
24                  213(a)(2), either—

1           “(1) adopt relevant flood minimum performance  
2 standards, flood-proofing, and other flood protection  
3 measures that minimize flood damage for new and  
4 substantially modified building construction located  
5 in flood-prone local communities that meet the cri-  
6 teria established by the Director of the Agency  
7 under section 1361 of the National Flood Insurance  
8 Act of 1968 (42 U.S.C. 4102); or

9           “(2) certify to the Director of the Agency that  
10 all of the flood-prone local communities in the State  
11 have adopted and are enforcing the minimum per-  
12 formance standards described in paragraph (1) for  
13 new and substantially modified building construc-  
14 tion.

15 **“SEC. 212. DEVELOPMENT OF STATE MITIGATION PLANS.**

16           “(a) GENERAL AUTHORITY.—Not later than the date  
17 specified in section 213(a)(3), each natural disaster-prone  
18 State, as determined under section 204, shall—

19           “(1) develop, with active public participation, a  
20 mitigation plan that establishes a plan with accom-  
21 panying schedules for improving the ability of the  
22 State to reduce the hazards of natural disasters,  
23 such as hurricanes, windstorms, earthquakes, vol-  
24 canic eruptions, tsunamis, and floods; or

1           “(2) designate a mitigation plan that is in ef-  
2           fect at the time of the designation that includes the  
3           processes described in subsection (b) as the applica-  
4           ble natural hazards mitigation plan.

5           “(b) CONTENT OF STATE MITIGATION PLANS.—

6           “(1) IN GENERAL.—Each State natural hazards  
7           mitigation plan described in subsection (a) shall in-  
8           clude, a process for—

9                   “(A) ensuring compliance with building  
10                  and safety codes, including those described in  
11                  section 211;

12                  “(B) improving emergency response to nat-  
13                  ural disasters (including capabilities for fire  
14                  fighting, search and rescue, and the provision of  
15                  shelters, communications, and medical relief);

16                  “(C) developing standards and guidelines  
17                  for the regular training of first responders for  
18                  disaster emergency mitigation;

19                  “(D) enforcing local community land use  
20                  and management ordinances;

21                  “(E) addressing further development in  
22                  high-risk, disaster-prone areas and the impact  
23                  of such development on life, safety, and the en-  
24                  vironment;

1           “(F) developing voluntary training pro-  
 2           grams to instruct planners, construction engi-  
 3           neers, architects, code officials, plumbers, elec-  
 4           tricians, and building inspectors on wind- and  
 5           earthquake-resistant design and construction  
 6           with emphasis on hazard mitigation of applica-  
 7           ble codes; and

8           “(G) identifying essential critical facilities,  
 9           lifelines, and public facilities to be retrofitted  
 10          within a time period specified in the plan.

11          “(2) DEADLINE FOR IMPLEMENTATION.—Each  
 12          State covered under a State natural hazards mitiga-  
 13          tion plan described in subsection (a) shall implement  
 14          the processes described in paragraph (1) by not later  
 15          than the date specified in section 213(a)(3).

16       **“SEC. 213. TIME PERIODS FOR STATE DEVELOPMENT AND**  
 17                               **IMPLEMENTATION OF BUILDING CODES AND**  
 18                               **MITIGATION PLANS AND CERTIFICATION OF**  
 19                               **COMPLIANCE.**

20          “(a) DEADLINES.—

21          “(1) SUBMISSION OF STATE MITIGATION PLANS  
 22          TO FEMA.—Not later than 2 years after the date of  
 23          enactment of this title, the chief executive officer of  
 24          each State covered under section 212 shall submit to  
 25          the Director of the Agency the mitigation plan of the



1 State developed pursuant to section 212. If the chief  
2 executive officer submits a mitigation plan under  
3 this paragraph that does not meet the requirements  
4 of section 212, or if the chief executive officer fails  
5 to meet the deadline specified in this paragraph, the  
6 State shall be considered to be in noncompliance  
7 with the requirements of this paragraph.

8 “(2) ADOPTION OF BUILDING CODES.—

9 “(A) IN GENERAL.—Not later than 3 years  
10 after the date of enactment of this title, the  
11 chief executive officer of each State covered  
12 under section 211 shall certify to the Director  
13 of the Agency—

14 “(i) whether the State has adopted  
15 the building and safety codes identified in  
16 section 211(a)(2) in accordance with the  
17 requirements of that section; or

18 “(ii) whether the local communities of  
19 the State have adopted applicable building  
20 and safety codes in accordance with the re-  
21 quirements of section 211(a)(3).

22 “(B) NONCOMPLIANCE.—If the chief execu-  
23 tive officer certifies under subparagraph (A)  
24 that the State has not met applicable require-  
25 ments referred to in that subparagraph, or if

1 the chief executive officer fails to make a cer-  
2 tification by the date specified in that subpara-  
3 graph, the State shall be considered to be in  
4 noncompliance with the requirements of this  
5 paragraph.

6 “(3) IMPLEMENTATION OF MITIGATION  
7 PLANS.—

8 “(A) IN GENERAL.—Not later than 4 years  
9 after the date of enactment of this title, the  
10 chief executive officer of each State covered  
11 under section 212 shall certify to the Director  
12 of the Agency whether the processes of its miti-  
13 gation plan as described in section 212(b) have  
14 been implemented in accordance with the re-  
15 quirements of that section.

16 “(B) NONCOMPLIANCE.—If the chief exec-  
17 utive officer certifies under this paragraph that  
18 those processes have not been implemented, or  
19 if the chief executive officer fails to make a cer-  
20 tification by the date specified in this para-  
21 graph, the State shall be considered to be in  
22 noncompliance with the requirements of this  
23 paragraph.

24 “(4) BUILDING CODE ENFORCEMENT.—

1           “(A) IN GENERAL.—Not later than 5 years  
2 after the date of enactment of this title, each  
3 State covered under section 212 shall certify to  
4 the Director of the Agency whether the applica-  
5 ble building and safety codes identified in sec-  
6 tion 212 are being adequately enforced.

7           “(B) NONCOMPLIANCE.—If the chief exec-  
8 utive officer certifies under this paragraph that  
9 the applicable building and safety codes identi-  
10 fied in section 212 are not being adequately en-  
11 forced, or if the chief executive officer fails to  
12 make a certification by the date specified in this  
13 paragraph, the State shall be considered to be  
14 in noncompliance with the requirements of this  
15 paragraph.

16           “(b) NOTIFICATION AND OPPORTUNITY TO CURE.—

17           “(1) IN GENERAL.—The Director of the Agency  
18 shall promptly notify in writing those States that fail  
19 to meet an applicable compliance requirement re-  
20 ferred to in subsection (a).

21           “(2) REDUCTION IN CERTAIN ASSISTANCE.—If  
22 a State does not take corrective action within 180  
23 days after receiving notification under paragraph  
24 (1), the State shall be subject to a reduction in as-  
25 sistance specified in section 214 until such date as

1 the Director of the Agency determines that the State  
2 has taken the necessary corrective action.

3 “(c) REGULATIONS.—Not later than 1 year after the  
4 date of enactment of this title, the Director of the Agency  
5 shall issue final regulations necessary to carry out this sec-  
6 tion. The regulations issued under this subsection shall in-  
7 clude guidance to States concerning what constitutes ade-  
8 quate compliance with the hazard mitigation measures of  
9 this subtitle.

10 **“SEC. 214. FEDERAL SHARE OF FINANCIAL ASSISTANCE.**

11 “(a) REDUCED FEDERAL SHARE FOR DISASTER  
12 AID.—During the applicable period specified in section  
13 213(b)(2), with respect to a State that fails to meet an  
14 applicable deadline under section 213, the Federal share  
15 of assistance otherwise available to that State under sec-  
16 tions 406(b)(1) and 407(d)(1) of the Robert T. Stafford  
17 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
18 5172(b)(1) and 5173(d)(1)) shall be reduced by 50 per-  
19 cent.

20 “(b) DENIAL OF MITIGATION FUNDS.—During the  
21 applicable period specified in section 213(b)(2), a State  
22 that fails to meet an applicable deadline under section 213  
23 shall not be eligible to receive funds from the Mitigation  
24 Account.

1 **“SEC. 215. MITIGATION ACCOUNT.**

2 “(a) FUNDS TO STATES.—

3 “(1) AUTHORITY.—Beginning with the first day  
4 of the full fiscal year beginning after the date of en-  
5 actment of this title, and on the first day of every  
6 fiscal year thereafter, after the Director of the Agen-  
7 cy credits premiums from the Natural Disaster In-  
8 surance Corporation described in section 301, the  
9 Director of the Agency shall allocate to the States  
10 (except for any State that is denied funds under sec-  
11 tion 214(b)) all of the funds appropriated to the  
12 Mitigation Account described in section 404.

13 “(2) FORMULA.—

14 “(A) IN GENERAL.—Subject to paragraph  
15 (3), the Director of the Agency shall allocate  
16 funds from the Mitigation Account to a State  
17 on the basis of a pro rata formula that is based  
18 on the primary insurance coverages and rein-  
19 surance coverage premiums described in section  
20 303 that are collected from that State.

21 “(B) REGULATIONS.—Not later than 1  
22 year after the date of enactment of this title,  
23 the Director of the Agency shall issue final reg-  
24 ulations describing the pro rata formula de-  
25 scribed in subparagraph (A).

1           “(3) MINIMUM AMOUNT.—The minimum  
2 amount allotted to a State under this subsection for  
3 a fiscal year shall be equal to the greater of—

4           “(A) 0.25 percent of the amounts in the  
5 Mitigation Account on the day before the date  
6 of the allotment; or

7           “(B) \$250,000.

8           “(b) USE.—

9           “(1) IN GENERAL.—The funds allotted to  
10 States under subsection (a) shall be used to support  
11 natural disaster hazard mitigation activities, includ-  
12 ing providing assistance for—

13           “(A) first responders;

14           “(B) State revolving loan funds, if estab-  
15 lished, to undertake financing, including the  
16 leveraging of funds for hazard mitigation activi-  
17 ties;

18           “(C) low-income individuals and families to  
19 assist in paying for the undertaking of hazard  
20 mitigation measures;

21           “(D) the dissemination of cost-effective  
22 technologies—

23           “(i) to prevent or substantially reduce  
24 damage caused by natural disasters; and

1           “(ii) for the establishment of geo-  
2           graphically dispersed and duly incor-  
3           porated natural disaster damage preven-  
4           tion and mitigation Centers for Protection  
5           Against Natural Disasters to carry out the  
6           dissemination of those technologies;

7           “(E) addressing further development in  
8           high-risk, disaster-prone areas and the impact  
9           of that development on the environment; and

10           “(F) the construction of buildings to serve  
11           as models for the advancement of public edu-  
12           cation concerning cost-effective hazard mitiga-  
13           tion technology in the design and construction  
14           of buildings, including the employment of fire  
15           suppression and water catchment systems.

16           “(2) PRIORITY.—Each State that receives an  
17           allotment under subsection (a) shall give priority to  
18           using that assistance to fund hazard mitigation ac-  
19           tivities that are necessary to bring the State into  
20           compliance with the building and safety code re-  
21           quirements of section 211 and the mitigation plan  
22           requirements of section 212.

23           “(c) LOCAL COMMUNITIES.—As a condition to receiv-  
24           ing an allotment under subsection (a), each State shall  
25           agree to transfer not less than 25 percent of the amount

1 of the allotment to local communities to support activities  
2 necessary to ensure State compliance with the hazard  
3 mitigation requirements of this subtitle.

4 “(d) AUDITS.—The Director of the Agency shall peri-  
5 odically conduct audits to ensure that States and local  
6 communities are using the funds from the allotments  
7 made under subsection (a) to support the hazard mitiga-  
8 tion activities described in this section.

9 **“SEC. 216. NO UNFUNDED MANDATES.**

10 “(a) IN GENERAL.—If the appropriate official of a  
11 State documents to the Director of the Agency that the  
12 State has not received adequate funds from the Mitigation  
13 Account under section 215 to fully cover the costs of com-  
14 plying with a specific mitigation requirement described in  
15 this subtitle, that mitigation requirement shall not apply  
16 to that State until such time as the State receives ade-  
17 quate funds to fully cover the cost of that requirement.

18 “(b) EXCEPTIONS.—

19 “(1) ADEQUATE FUNDS.—Subsection (a) does  
20 not apply to any mitigation requirement described in  
21 this subtitle with respect to which a State has failed  
22 to document that the State received an inadequate  
23 amount of funds from the Mitigation Account to  
24 fully cover the cost of complying with that mitigation  
25 requirement.



1           “(2) NONCOMPLIANCE STATES.—During the  
2 applicable period specified in section 214(b), sub-  
3 section (a) shall not apply to any State that is ineli-  
4 gible to receive funds from the Mitigation Account  
5 pursuant to section 214(b).

6           “(3) CONDITIONAL FEDERAL ASSISTANCE.—  
7 Subsection (a) shall not apply to any duty imposed  
8 on a State by this subtitle that is a condition relat-  
9 ing to Federal assistance provided to the State  
10 under the Robert T. Stafford Disaster Relief and  
11 Emergency Assistance Act (42 U.S.C. 5121 et  
12 seq.).”.

13 **SEC. 7. NATURAL DISASTER INSURANCE.**

14       The Earthquake Hazards Reduction Act of 1977 (42  
15 U.S.C. 7701 et seq.), as amended by section 6, is further  
16 amended by adding after title II the following new title:

17 **“TITLE III—NATURAL DISASTER**  
18 **INSURANCE**

19 **“Subtitle A—Natural Disaster**  
20 **Insurance Corporation**

21 **“SEC. 301. ORGANIZATIONAL STRUCTURE.**

22       “(a) CREATION.—The Secretary of the Treasury  
23 shall grant loans in accordance with section 306(d) to a  
24 private, nongovernmental, and not-for-profit membership  
25 corporation, that meets the requirements of subsection (b)

1 (hereafter in this title referred to as the ‘Natural Disaster  
2 Insurance Corporation’ or ‘Corporation’).

3 “(b) PURPOSE.—The Natural Disaster Insurance  
4 Corporation that receives loans as described in subsection  
5 (a)—

6 “(1) shall provide primary insurance coverages  
7 and reinsurance coverage for hurricanes, earth-  
8 quakes, volcanic eruptions, and tsunamis; and

9 “(2) shall only be eligible to receive loans under  
10 section 306(d), if it complies with all requirements  
11 of this subtitle.

12 “(c) MEMBERSHIP.—The members of the Corpora-  
13 tion shall own shares in the Corporation and shall consist  
14 of—

15 “(1) private insurers that participate as service  
16 providers for the primary insurance coverages in-  
17 sured by the Corporation under section 311; and

18 “(2) private insurers and State insurance pools  
19 that purchase the reinsurance coverage provided by  
20 the Corporation under section 321.

21 “(d) STARTUP.—

22 “(1) ADMINISTRATOR.—

23 “(A) IN GENERAL.—An administrator of  
24 the Corporation shall be selected by the mem-

1           bers of the Corporation, at the initial organiza-  
2           tional meeting of the Corporation.

3           “(B) DUTIES OF THE ADMINISTRATOR.—

4           The administrator of the Corporation shall,  
5           with respect to the Corporation, coordinate—

6                   “(i) the hiring of temporary staff;

7                   “(ii) obtaining office space;

8                   “(iii) contracting with consultants and  
9           entities;

10                   “(iv) managing the election of the ini-  
11           tial Board of Directors of the Corporation;  
12           and

13                   “(v) receiving the startup loans de-  
14           scribed in paragraph (2).

15           “(C) TERMINATION OF ADMINISTRATOR.—

16           The activities of the administrator shall termi-  
17           nate when all members of the Board of Direc-  
18           tors of the Corporation have been selected.

19           “(2) STARTUP LOANS.—

20                   “(A) STARTUP ADMINISTRATIVE COSTS.—

21           Startup administrative costs of the Corporation  
22           shall be derived from loans received from the  
23           private insurers participating as members of the  
24           Corporation.

1           “(B) AMOUNT OF STARTUP LOANS.—The  
2 amount of startup loans received from private  
3 insurers shall be in proportion to each of the  
4 participating insurer’s countrywide subject net  
5 written premium (as defined and determined by  
6 the Director of the Agency).

7           “(C) REPAYMENT OF STARTUP LOANS.—  
8 Not later than 3 years after the Corporation is  
9 established under subsection (a), or such later  
10 time as sufficient funds become available, all  
11 startup loans received from private insurers as  
12 described in this paragraph shall be repaid with  
13 interest by the Corporation from amounts in  
14 the trust accounts established pursuant to sec-  
15 tion 306.

16       “(e) BOARD OF DIRECTORS.—

17           “(1) GOVERNANCE.—

18           “(A) IN GENERAL.—The Corporation shall  
19 be governed by a 15-member Board of Direc-  
20 tors (hereafter in this title referred to as the  
21 ‘Board’).

22           “(B) VOTING.—Each director of the Board  
23 shall have 1 vote and the Board shall set policy  
24 and decide all matters by a simple majority of  
25 the votes cast.

1           “(C) DUTIES OF THE BOARD.—The Board  
2 shall develop and approve the plan of operation  
3 described in section 302 and shall be respon-  
4 sible for the operation and management of the  
5 Corporation.

6           “(2) SELECTION OF DIRECTORS.—The 15 di-  
7 rectors of the Board shall be selected as follows:

8           “(A) INSURANCE DIRECTORS.—

9           “(i) IN GENERAL.—Nine insurance di-  
10 rectors shall be elected by the members of  
11 the Corporation. Except as provided in  
12 clause (iii), each insurance director shall  
13 have 1 vote. The selection of the insurance  
14 directors shall reflect an equitable cross  
15 section of the private insurers participating  
16 as members of the Corporation in accord-  
17 ance with this subparagraph. No more  
18 than 1 employee of a specific private in-  
19 surer may serve on the Board at any time.

20           “(ii) SPECIAL CLASSES OF INSUR-  
21 ERS.—During the period that the Corpora-  
22 tion is in existence, of the directors of the  
23 Board—

1           “(I) one director shall represent  
2 reinsurers that write primarily rein-  
3 surance;

4           “(II) one director shall represent  
5 small providers of direct insurance  
6 that write primarily in personal lines  
7 of insurance in less than 10 States;  
8 and

9           “(III) one director shall rep-  
10 resent commercial insurers that write  
11 primarily commercial insurance lines  
12 throughout the United States.

13           “(iii) ELECTION BASED ON PREMIUM  
14 VOLUME.—Three insurance directors shall  
15 be elected to the Board on the basis of the  
16 premium volume weighting criteria de-  
17 scribed as follows:

18           “(I) INITIAL ELECTION.—For  
19 the initial election of the 3 directors  
20 under this clause, the vote of each pri-  
21 vate insurer serving as a member of  
22 the Corporation shall be weighted in  
23 proportion to that insurer’s country-  
24 wide subject net written premium (as  
25 defined and determined by the Direc-

1 tor of the Agency) in relationship to  
2 the countrywide subject net written  
3 premium for all private insurers serv-  
4 ing as members of the Corporation.

5 “(II) SUBSEQUENT ELECTION.—

6 For the election of the 3 directors  
7 under this clause other than the ini-  
8 tial 3 such directors, the vote of each  
9 private insurer serving as a member  
10 of the Corporation shall be weighted  
11 to reflect the proportion of all pre-  
12 mium collected by all participating  
13 providers of the primary insurance  
14 coverages described in subtitle B and  
15 the premium paid by all purchasers of  
16 the reinsurance coverage provided by  
17 the Corporation pursuant to subtitle  
18 C collected by the private insurer.

19 “(III) NUMBER OF VOTES.—For

20 each election held to elect any 1 of the  
21 3 directors under this clause, a pri-  
22 vate insurer may only vote for 1 can-  
23 didate.

24 “(iv) AT-LARGE ELECTION.—Three

25 insurance directors shall be elected at large

1 by the private insurers serving as members  
2 of the Corporation.

3 “(B) NONINSURANCE DIRECTORS.—

4 “(i) IN GENERAL.—Not later than  
5 180 days after the election of the insur-  
6 ance directors under subparagraph (A), the  
7 insurance directors elected pursuant to  
8 subparagraph (A) shall nominate 6  
9 noninsurance directors, who shall be elect-  
10 ed by the members of the Corporation.

11 “(ii) INTERESTS REPRESENTED.—  
12 Each of the following interests shall be  
13 represented by at least 1, but not more  
14 than 2, of the 6 noninsurance directors:

15 “(I) Insurance agents or brokers.

16 “(II) State insurance regulators.

17 “(III) Risk assessment experts  
18 who are members of the National  
19 Academy of Sciences.

20 “(IV) Consumers of property-cas-  
21 ualty insurance, including consumers  
22 of commercial insurance.

23 “(V) Representatives of the  
24 banking or real estate industry which



1                   are impacted by property-casualty in-  
2                   surance.

3                   “(C) VACANCIES.—A vacancy on the  
4                   Board shall be immediately filled with a direc-  
5                   tor who is selected in the manner described in  
6                   the plan of operation developed under section  
7                   302.

8                   “(3) TERMS OF SERVICE.—The directors elect-  
9                   ed under paragraph (2) shall serve staggered terms  
10                  of not more than 6 years, as determined by the  
11                  Board at the time of election.

12                  “(4) CHAIRPERSON.—The Board shall select a  
13                  chairperson from among its directors.

14                  “(5) FIDUCIARY DUTY.—For carrying out the  
15                  duties of the Board, the directors of the Board shall  
16                  have a fiduciary duty to the Corporation, that shall  
17                  supersede any duty to an employer or other special  
18                  interest that the director may otherwise represent.

19                  “(f) POWERS.—

20                  “(1) CONTROL.—The Corporation shall be—

21                          “(A) privately owned by the members of  
22                          the Corporation, as described in subsection (b);  
23                          and

24                          “(B) under the direction of the Board, as  
25                          described in subsection (d).

1           “(2) GENERAL POWERS.—Upon the selection of  
2 the 9 insurance directors under subsection (d)(2)(A),  
3 the Corporation shall take all necessary and appro-  
4 priate actions to carry out the functions of the Cor-  
5 poration, including hiring staff, making contracts,  
6 and paying the salaries and expenses of employees  
7 with funds from start-up loans described in sub-  
8 section (c)(2) and the trust accounts described in  
9 section 306.

10           “(3) SPECIFIC POWERS.—Consistent with the  
11 plan of operation developed under section 302, the  
12 Corporation, under the direction of the Board, shall  
13 have the power—

14           “(A) to provide—

15           “(i) the primary insurance coverages  
16 described in subtitle B; and

17           “(ii) the reinsurance coverage de-  
18 scribed in subtitle C;

19           “(B) to manage the trust accounts de-  
20 scribed in section 306;

21           “(C) to raise funds by issuing obligations  
22 in the private market, except that such obliga-  
23 tions shall not carry the full faith and credit of  
24 the United States; and

1           “(D) to take all other actions necessary  
2           and proper to carry out the operations of the  
3           Corporation.

4           “(4) EXCLUDED POWERS.—The Corporation  
5           may not—

6           “(A) exercise powers that are reserved to  
7           the Federal Government as a sovereign govern-  
8           ment;

9           “(B) make financial commitments with any  
10          sovereign government; and

11          “(C) have as an employee any Federal em-  
12          ployee who is subject to the civil service laws  
13          under title 5, United States Code.

14          “(g) LIMITATIONS ON LIABILITY.—

15          “(1) INDIVIDUAL MEMBERS.—Individual mem-  
16          bers of the Corporation, as described in subsection  
17          (b), shall not be liable, or in any way responsible, for  
18          the obligations of the Corporation and the trust ac-  
19          counts described in section 306.

20          “(2) UNDER FEDERAL LAW.—No action by the  
21          Corporation or the Board pertaining to the plan of  
22          operation described in section 302 or the rates de-  
23          scribed in section 303 shall subject the Corporation  
24          or the Board to liability under Federal law or any

1 law of a State if that action is taken pursuant to au-  
2 thority granted to the Corporation under this Act.

3 **“SEC. 302. PLAN OF OPERATION.**

4 “(a) ESTABLISHMENT.—

5 “(1) DEVELOPMENT.—The Board shall develop  
6 a plan of operation (hereafter in this section referred  
7 to as the ‘plan’) describing the administration of the  
8 Corporation and the provision of insurance coverages  
9 by the Corporation.

10 “(2) GENERAL CONTENTS.—The plan shall set  
11 forth the specific policy and programmatic details,  
12 including all guidelines, criteria, definitions, clari-  
13 fications, and procedures necessary for the primary  
14 insurance coverages described in subtitle B and the  
15 reinsurance coverage described in subtitle C to oper-  
16 ate under standard conditions of insurance that shall  
17 be applicable in all States.

18 “(3) INSURANCE COVERAGE PARTICULARS.—  
19 Concerning the particular information regarding the  
20 insurance coverages issued or provided by the Cor-  
21 poration (hereafter in this subsection referred to as  
22 ‘coverage particulars’), the plan shall include—

23 “(A) final rates, or adjustments thereto,  
24 established under section 303;

1           “(B) specific terms and conditions of in-  
2           surance coverages, including—

3                   “(i) coverage eligibility requirements;

4                   “(ii) coverage limits;

5                   “(iii) deductibles;

6                   “(iv) quota-share amounts as de-  
7           scribed in section 314(c); and

8                   “(v) levels of retained losses as de-  
9           scribed in section 323;

10           “(C) specific insurance forms and policy  
11           contracts; and

12           “(D) criteria for the settlement of insur-  
13           ance claims.

14           “(4) MISCELLANEOUS PLAN PROVISIONS.—In  
15           addition to the coverage particulars described in  
16           paragraph (3), the plan shall include—

17                   “(A) the minimum financial viability  
18           standards necessary for private insurers and  
19           State insurance pools to qualify as eligible enti-  
20           ties to purchase the reinsurance coverage under  
21           section 321(b);

22                   “(B) the commercial lines of insurance  
23           that have a significant loss potential from  
24           earthquakes, volcanic eruptions, tsunamis, and

1           hurricanes that will be used in determining  
2           commercial losses;

3           “(C) the terms for the repayment of any  
4           obligations issued in the private market pursu-  
5           ant to section 301(e)(3)(C);

6           “(D) the conditions for private insurers to  
7           withdraw from acting as service providers of the  
8           primary insurance coverages pursuant to sec-  
9           tion 306(d)(3)(C);

10          “(E) appropriate limitations on private in-  
11          surers acting as service providers of the pri-  
12          mary insurance coverages under section 312(b)  
13          to restrict the insurers withdrawing from offer-  
14          ing property and casualty insurance in the vol-  
15          untary private market in certain States; and

16          “(F) grievance procedures for resolving  
17          disputes among members of the Corporation re-  
18          sulting from the decisions of the Board.

19          “(5) PROPRIETARY INFORMATION.—To the  
20          maximum extent practicable, the plan shall protect  
21          as proprietary specific information provided by pri-  
22          vate insurers that is necessary to develop the rates  
23          and specific terms and conditions of the insurance  
24          coverages issued or provided by the Corporation.

1           “(6) INSURER STABILITY IN INSURANCE COV-  
2 ERAGES.—To the maximum extent practicable, the  
3 plan shall encourage stability with respect to partici-  
4 pation by private insurers in the insurance coverages  
5 issued or provided by the Corporation.

6           “(b) PLAN APPROVAL.—The Natural Disaster Insur-  
7 ance Board of Actuaries shall review and approve the plan  
8 and any amendments made to the plan in accordance with  
9 the process described in section 304(c).

10          “(c) ANNUAL REPORT.—

11           “(1) IN GENERAL.—Not later than 1 year after  
12 the initial meeting of the Board, and annually there-  
13 after, the Board shall prepare a written report on  
14 the overall operations of the Corporation.

15           “(2) DISTRIBUTION.—The Board shall distrib-  
16 ute a copy of the report prepared under paragraph  
17 (1) to—

18           “(A) each member of the Corporation; and

19           “(B) the Independent Board of Actuaries  
20 established under section 304.

21 **“SEC. 303. PRICING.**

22          “(a) ESTABLISHMENT OF RATES.—

23           “(1) IN GENERAL.—Using generally accepted  
24 actuarial principles and consistent with section  
25 304(d)(5), the Board shall develop, establish, and

1 adjust when necessary, the rates for the primary in-  
2 surance coverages issued by the Corporation under  
3 section 311 and rates for the reinsurance coverage  
4 provided by the Corporation under section 321.

5 “(2) DETERMINATION OF RATES AND ADJUST-  
6 MENTS.—The rates and adjustments referred to in  
7 paragraph (1) shall be based on historical aggregate  
8 losses supplemented by natural disaster modeling  
9 techniques and other scientific evidence and loss ad-  
10 justment expenses that are—

11 “(A) calculated to determine the ultimate  
12 value of the losses; and

13 “(B) projected through the utilization of  
14 trend analysis to a future point of time (as de-  
15 termined by the Board).

16 “(b) ACTUARIALLY SOUND REQUIREMENT.—

17 “(1) IN GENERAL.—The rates established or  
18 adjusted under subsection (a) shall be actuarially  
19 sound by reflecting the risk of loss to the insured  
20 property from the natural disaster perils covered and  
21 shall satisfy both of the actuarial principles de-  
22 scribed in paragraph (2).

23 “(2) ACTUARIAL PRINCIPLES.—The rates estab-  
24 lished by the Board shall—



1           “(A) result in a minimum of cross-sub-  
2           sidization between the geographic risk terri-  
3           tories (as defined and determined by the  
4           Board); and

5           “(B) produce expected premiums that shall  
6           be sufficient to pay for all—

7                   “(i) claims;

8                   “(ii) loss adjustment expenses; and

9                   “(iii) administrative costs of the Cor-  
10                  poration in administering the trust ac-  
11                  counts established in section 306.

12          “(c) APPROVAL OF RATES.—The Natural Disaster  
13          Insurance Board of Actuaries shall review and approve the  
14          rates, and adjustments to the rates, developed by the  
15          Board under this section in accordance with the process  
16          described in section 304.

17          **“SEC. 304. INDEPENDENT BOARD OF ACTUARIES.**

18          “(a) ESTABLISHMENT.—There is established an inde-  
19          pendent Natural Disaster Insurance Board of Actuaries  
20          (referred to in this section as the ‘Independent Board’)  
21          to review and approve the plan of operation developed  
22          under section 302 and the rates developed under section  
23          303.

24          “(b) MEMBERSHIP.—

1           “(1) APPOINTMENT.—Not later than 180 days  
2 after the date of enactment of the Natural Disaster  
3 Protection and Insurance Act of 1995, the Secretary  
4 of the Treasury (hereafter in this section referred to  
5 as the ‘Secretary’) shall appoint the members of the  
6 Independent Board.

7           “(2) MEMBERS.—

8           “(A) IN GENERAL.—The Independent  
9 Board shall be comprised of 5 members.

10           “(B) VACANCIES.—The Secretary shall,  
11 upon the occurrence of a vacancy on the Inde-  
12 pendent Board, immediately appoint a member  
13 to fill the vacancy in the same manner as the  
14 original appointment.

15           “(2) QUALIFICATIONS.—The members of the  
16 Independent Board described in paragraph (1)—

17           “(A) shall be citizens of the United States;

18           “(B) may not be employees of members of  
19 the Corporation; and

20           “(C) shall be professional actuaries who—

21           “(i) are members of the Casualty Ac-  
22 tuarial Society or the American Academy  
23 of Actuaries (or its successor) and meet  
24 the qualification standards of the Academy

1 (or its successor) for public statements of  
2 actuarial opinion; and

3 “(ii) have previous experience in set-  
4 ting actuarially sound property and cas-  
5 ualty rates.

6 “(3) CHAIRPERSON.—The Secretary shall des-  
7 ignate a chairperson of the Independent Board from  
8 among members appointed to the Independent  
9 Board.

10 “(4) TERMS OF SERVICE.—The members ap-  
11 pointed under paragraph (2) shall serve staggered  
12 terms of not more than 6 years, as determined by  
13 the Secretary at the time of appointment.

14 “(c) APPROVAL OF THE PLAN OF OPERATION.—

15 “(1) SUBMISSION OF DRAFT PLAN TO INDE-  
16 PENDENT BOARD.—Not later than 15 months after  
17 the date of enactment of this title, the Board of the  
18 Corporation shall submit to the Independent Board  
19 a draft plan of operation that satisfies the require-  
20 ments of section 302(a).

21 “(2) APPROVAL OF THE PLAN.—If, upon the  
22 termination of the 90-day period beginning on the  
23 date on which the Independent Board receives the  
24 draft plan under paragraph (1), the Independent  
25 Board has not disapproved the draft plan under

1 paragraph (3), the draft plan shall be deemed to  
2 have been approved and shall become final.

3 “(3) STANDARD FOR DISAPPROVAL.—The Inde-  
4 pendent Board may disapprove the draft plan de-  
5 scribed in paragraph (2) only if the plan, as a whole,  
6 is materially inconsistent with the provisions of this  
7 title.

8 “(4) OPPORTUNITY TO CURE.—

9 “(A) IN GENERAL.—If the Independent  
10 Board disapproves a draft plan under para-  
11 graph (2), the chairperson of the Independent  
12 Board shall immediately return the plan to the  
13 Board of the Corporation, together with written  
14 instructions of the changes required for the  
15 plan to be materially consistent with the provi-  
16 sions of this title.

17 “(B) REVISIONS.—Upon receipt of the  
18 plan and instructions returned under subpara-  
19 graph (A), the Board of the Corporation  
20 shall—

21 “(i) modify the plan in a manner con-  
22 sistent with the instructions; and

23 “(ii) submit a modified plan to the  
24 Independent Board for approval in accord-

1           ance with the process described in para-  
2           graph (2).

3           “(5) AMENDMENTS TO THE PLAN.—Any  
4           amendments to the plan shall be developed by the  
5           Board of the Corporation under section 302 and ap-  
6           proved by the Independent Board in accordance with  
7           the process described in paragraph (2).

8           “(6) REPORT TO SECRETARY.—After reviewing  
9           the draft plan of operation, and amendments there-  
10          to, the Independent Board shall prepare and submit  
11          a report to the Secretary of its finding regarding  
12          such plan.

13          “(d) APPROVAL OF RATES.—

14                 “(1) SUBMISSION OF PROPOSED RATES TO THE  
15                 INDEPENDENT BOARD.—Not later than 1 year after  
16                 the date of enactment of this title, the Board of the  
17                 Corporation shall submit to the Independent Board  
18                 for approval rates developed by the Board of the  
19                 Corporation that are proposed to be established for  
20                 the insurance coverages issued or provided by the  
21                 Corporation under section 303(a), including any  
22                 methodologies used in developing such rates.

23                 “(2) APPROVAL BY THE INDEPENDENT  
24                 BOARD.—

1           “(A) PRIMARY INSURANCE COVERAGES  
2 RATES.—If, at the termination of the 90-day  
3 period beginning on the date on which the Inde-  
4 pendent Board receives the rates under para-  
5 graph (1), the Independent Board has not ap-  
6 proved the rates under paragraph (3), the rates  
7 shall be deemed to have been approved.

8           “(B) REINSURANCE COVERAGE METH-  
9 ODOLOGIES.—If, at the termination of the 90-  
10 day period beginning on the date on which the  
11 Independent Board receives the information  
12 concerning the methodologies used for deter-  
13 mining proposed rates under paragraph (1), the  
14 Independent Board has not disapproved the  
15 methodologies on the basis of the standard de-  
16 scribed in paragraph (3), the methodologies  
17 shall be deemed to have been approved.

18           “(3) STANDARD FOR DISAPPROVAL.—The Inde-  
19 pendent Board may disapprove the rates or meth-  
20 odologies described in paragraph (2) only if the  
21 Independent Board presents compelling and substan-  
22 tial actuarial evidence on the record that the rates  
23 or methodologies are materially inconsistent with the  
24 actuarial soundness requirement of section 303(b).

25           “(4) OPPORTUNITY TO CURE.—

1           “(A) IN GENERAL.—If the Independent  
2 Board disapproves any proposed rates or meth-  
3 odologies under this subsection, the chairperson  
4 of the Independent Board shall immediately re-  
5 turn the rates and methodologies to the Board  
6 of the Corporation together with written in-  
7 structions of the changes required to the rates  
8 and methodologies to satisfy the actuarial re-  
9 quirement of section 303(b).

10           “(B) REVISIONS.—Upon receipt of the  
11 rates or methodologies returned under subpara-  
12 graph (A), the Board shall modify the rates or  
13 methodologies in a manner consistent with the  
14 instructions of the Independent Board and re-  
15 submit them to the Independent Board for ap-  
16 proval according to the process described in  
17 paragraph (2).

18           “(5) APPROVAL OF RATES.—

19           “(A) PRIMARY INSURANCE COVERAGES  
20 RATES.—Upon the approval by the Independent  
21 Board of rates for the primary insurance cov-  
22 erages under this subsection, rates proposed  
23 under paragraph (1) shall—

24           “(i) become final; and

1           “(ii) be included by the Board of the  
2           Corporation in the plan of operation under  
3           section 302 for the primary insurance cov-  
4           erages issued by the Corporation.

5           “(B) REINSURANCE COVERAGE RATES.—  
6           Upon the approval by the Independent Board of  
7           methodologies for the reinsurance coverage  
8           rates under this subsection, the rates for the re-  
9           insurance coverage proposed under paragraph  
10          (1) shall—

11                   “(i) become final; and

12                   “(ii) be included by the Board in the  
13                   plan of operation under section 302 for the  
14                   reinsurance coverage provided by the Cor-  
15                   poration.

16          “(6) ADJUSTMENT OF RATES.—Any adjustment  
17          of the rates for the primary insurance coverages and  
18          the methodologies used in developing the rates for  
19          the reinsurance coverage shall be developed by the  
20          Board of the Corporation under section 303 and ap-  
21          proved by the Independent Board according to the  
22          process described in paragraph (2).

23          “(e) CONSULTATION.—The Independent Board shall  
24          consult risk assessment experts who are employed by the  
25          United States Geological Survey of the Department of the



1 Interior (or its designated successor agency), the National  
2 Oceanic and Atmospheric Administration of the Depart-  
3 ment of Commerce (or its designated successor agency),  
4 the National Academy of Sciences, and similar public and  
5 private scientific groups to ensure that natural disaster  
6 risk models and the geographic rating territories used in  
7 developing and approving the actuarial rates under this  
8 section are accurate.

9 **“SEC. 305. PARTICIPATION OF STATE INSURANCE REGU-**  
10 **LATORS.**

11 “(a) INFORMATIONAL FILINGS.—

12 “(1) ITEMS TO FILE.—The Board of the Cor-  
13 poration shall file with each State insurance commis-  
14 sion or equivalent State agency information copies  
15 (including any revised copies) of—

16 “(A) the rates charged for the primary  
17 coverage issued by the Corporation under sub-  
18 title B; and

19 “(B) any insurance forms or policies that  
20 describe the terms or conditions of the insur-  
21 ance coverages issued or provided by the Cor-  
22 poration.

23 “(2) NOT SUBJECT TO APPROVAL.—Except as  
24 provided in paragraph (3), the items submitted to a  
25 State insurance commission or equivalent State

1 agency under paragraph (1) shall be for informa-  
2 tional purposes only, and shall not be subject to the  
3 approval of those State insurance regulators.

4 “(3) FILING OF DEVIATIONS.—

5 “(A) GENERAL AUTHORITY.—Subject to  
6 subparagraph (B), private insurers participat-  
7 ing as service providers of the primary insur-  
8 ance coverages under section 312(b) may apply  
9 rates that deviate from the rates established by  
10 the Corporation.

11 “(B) DEVIATIONS LIMITED TO INSURER  
12 COSTS.—The rate deviations described in sub-  
13 paragraph (A) shall be based only on the dif-  
14 ference in cost to the private insurer (as com-  
15 pared to the costs determined by the Corpora-  
16 tion for calculating that portion of the rate filed  
17 by the Corporation under paragraph (1)(A)) in  
18 an amount sufficient to compensate the private  
19 insurer for costs incurred by the private in-  
20 surer, including administrative expenses, agent  
21 commissions, and taxes.

22 “(C) STATE REQUIREMENTS.—Each deter-  
23 mination of a rate deviation under this para-  
24 graph shall be subject to any applicable State

1 requirement for the filing of property insurance  
2 rates.

3 “(b) CLAIMS SETTLEMENT.—The Corporation shall  
4 address inquiries and complaints concerning claims settle-  
5 ment practices related to the insurance coverages issued  
6 or provided by the Corporation, including complaints  
7 brought to the attention of a State insurance regulator,  
8 in accordance with the plan of operation under section  
9 302.

10 “(c) STATE PREMIUM TAXES.—Each State may as-  
11 sess an insurance premium tax on any insurance policy  
12 issued by the Corporation under section 311 in that State,  
13 to the extent that the rate of such tax does not exceed  
14 the rate of the applicable premium taxes assessed by the  
15 State for the equivalent standard residential property in-  
16 surance contract charged by a domestic private insurer (as  
17 determined by the appropriate official of the State).

18 “(d) STATE FUNDS.—The Corporation may not par-  
19 ticipate in any State guaranty insurance fund or any State  
20 insurance pool. Policyholders of the Corporation may not  
21 file claims against any State guaranty insurance fund for  
22 purposes of the insurance coverages issued or provided by  
23 the Corporation.

24 “(e) STATE REQUIRED DISASTER INSURANCE POLI-  
25 CIES.—No State may require a private insurer acting as

1 a service provider for the Corporation of primary insur-  
2 ance coverages under subtitle B to sell insurance coverages  
3 or participate in any program that provides insurance for  
4 damages related to earthquakes, volcanic eruptions,  
5 tsunamis, or hurricanes in amounts greater than the  
6 amounts provided by the primary insurance coverages is-  
7 sued by the Corporation.

8 **“SEC. 306. TRUST ACCOUNTS.**

9 “(a) PRIMARY INSURANCE COVERAGE TRUST AC-  
10 COUNT.—

11 “(1) ESTABLISHMENT.—The Corporation shall  
12 establish and maintain a Primary Insurance Cov-  
13 erage Trust Account (hereafter in this section re-  
14 ferred to as the ‘primary account’) to hold funds in  
15 trust generated through the primary insurance cov-  
16 erages described in subtitle B.

17 “(2) ACCOUNT DEPOSITS.—Except for the  
18 amount set aside for the Mitigation Account under  
19 section 404(b), the Board shall deposit in the pri-  
20 mary account the portion of the premiums collected  
21 by private insurers servicing the primary insurance  
22 coverage policies described in subtitle B that is due  
23 to the Corporation, plus any interest income accrued  
24 on those premiums.

1           “(3) PAYMENT OF CLAIMS.—From amounts in  
2           the primary account, the Corporation shall only pay  
3           qualifying claims and loss adjustment expenses, as  
4           described in section 314(d), to private insurers act-  
5           ing as service providers of the primary insurance  
6           coverages.

7           “(b) REINSURANCE COVERAGE TRUST ACCOUNT.—

8           “(1) ESTABLISHMENT.—The Corporation shall  
9           establish and maintain a Reinsurance Coverage  
10          Trust Account (hereafter in this section referred to  
11          as the ‘reinsurance account’) to hold funds in trust  
12          generated through the reinsurance coverage de-  
13          scribed in subtitle C.

14          “(2) ACCOUNT DEPOSITS.—Except for the  
15          amount set aside for the Mitigation Account under  
16          section 404(b), the Board shall deposit in the rein-  
17          surance account premiums paid by private insurers  
18          that have purchased the reinsurance coverage policy  
19          described in subtitle C, plus any interest income ac-  
20          crued on those premiums.

21          “(3) PAYMENT OF CLAIMS.—From amounts in  
22          the reinsurance account, the Corporation shall pay  
23          qualifying claims, as described in section 322(c), to  
24          private insurers that have purchased the reinsurance  
25          coverage.

1 “(c) INVESTMENTS.—

2 “(1) GENERAL AUTHORITY.—The Board shall  
3 invest as the Board considers appropriate, in the  
4 primary account and the reinsurance account such  
5 amounts as are not required to meet current finan-  
6 cial commitments.

7 “(2) DEPOSITS.—Any income generated from  
8 the investments described in paragraph (1) shall be  
9 deposited by the Board, as appropriate, into the pri-  
10 mary account or the reinsurance account.

11 “(d) FEDERAL LOANS.—

12 “(1) LENDING AUTHORITY.—To the extent that  
13 the accumulated assets of the trust accounts de-  
14 scribed in subsection (a) or (b), or funds raised by  
15 issuing obligations in the private market pursuant to  
16 section 301(e)(3)(C), are insufficient to pay claims  
17 and expenses resulting from the primary insurance  
18 coverages or the reinsurance coverage, the Secretary  
19 of the Treasury shall provide direct loans from the  
20 Private Loss Account described in section 402 in  
21 sufficient amounts to cover that shortfall in accord-  
22 ance with this subsection.

23 “(2) CONDITIONS.—The following conditions  
24 shall apply to each Federal loan provided to the Cor-  
25 poration under this subsection:

1           “(A) FINANCIAL CAPACITY.—The aggre-  
2           gate amount of all outstanding loans to the  
3           Corporation at any given time shall not exceed  
4           the financial capacity of the Corporation to  
5           repay those loans not later than 20 years after  
6           receiving the loans.

7           “(B) NO SUBSIDY COST.—All loans au-  
8           thorized by this subsection shall be made under  
9           such terms and conditions as are necessary to  
10          ensure that, at the time the loans are made,  
11          there is no subsidy cost to the Federal Govern-  
12          ment for purposes of the Federal Credit Reform  
13          Act of 1990.

14          “(C) LOAN SUBJECT TO APPROPRIA-  
15          TIONS.—All loans are subject to the availability  
16          of funds pursuant to appropriations Acts.

17          “(3) REPAYMENT.—

18                 “(A) IN GENERAL.—In a manner consist-  
19                 ent with paragraph (2), the Secretary of the  
20                 Treasury shall recoup—

21                         “(i) any amounts that the Corporation  
22                         borrows from the Federal Government  
23                         under this subsection; and

24                                 “(ii) interest on the borrowed funds.

1           “(B) INTEREST RATES.—The rate of inter-  
2           est on any loan made to the Corporation under  
3           this subsection shall be at a nonsubsidized rate  
4           of interest established by the Secretary of the  
5           Treasury, taking into consideration the current  
6           average market yield on outstanding marketable  
7           obligations of the United States of comparable  
8           maturities.

9           “(C) PRIMARY COVERAGE REPAYMENT  
10          TERMS.—The Corporation shall require, under  
11          contractual terms and conditions, that a private  
12          insurer acting as a service provider of the pri-  
13          mary insurance coverages under section 312  
14          that receives reimbursements for qualifying  
15          claims under section 314(d) consisting of funds  
16          loaned from the Federal Government or from  
17          private sources under this subsection shall—

18                 “(i) continue acting as a service pro-  
19                 vider of such primary insurance coverages  
20                 at levels that are at least equivalent to the  
21                 levels provided by those service providers  
22                 before receiving reimbursement until the  
23                 loans made to the Corporation, including  
24                 interest, are fully repaid by the Corpora-  
25                 tion pursuant to subparagraph (A); or



1           “(ii) discontinue acting as a service  
2           provider of such primary insurance cov-  
3           erages, if that private insurer satisfies the  
4           conditions of withdrawal set by the Board  
5           of the Corporation in the plan of operation  
6           under section 302(a)(4)(D).

7           “(D) REINSURANCE REPAYMENT TERMS.—  
8           The Corporation shall require, under contrac-  
9           tual terms and conditions with eligible entities  
10          (as defined in section 321(b)), that those eligi-  
11          ble entities that receive payments for qualifying  
12          claims under section 322(c) that consist of  
13          funds loaned from the Federal Government or  
14          from private sources under this subsection  
15          shall—

16                 “(i) continue to purchase the reinsur-  
17                 ance coverage provided under section 321  
18                 at levels that are at least equivalent to the  
19                 levels of coverage in effect before the re-  
20                 ceipt of such payments until the loans  
21                 made to the Corporation, including inter-  
22                 est, are fully repaid by the Corporation  
23                 pursuant to subparagraph (A); or

24                 “(ii) fully repay the portion of the  
25                 loans made to the Corporation, including

1 interest, within a reasonable period estab-  
2 lished by the Corporation.

3 “(4) MITIGATION PAYMENTS.—The failure of  
4 the Corporation to pay natural disaster hazard miti-  
5 gation funds and deposit those funds in the Mitiga-  
6 tion Account as provided in section 404 shall render  
7 the Corporation ineligible to obtain Federal loans  
8 under this subsection.

9 “(e) NO COMINGLING.—The amounts in the primary  
10 account established in subsection (a) and the reinsurance  
11 account established in subsection (b) shall be kept sepa-  
12 rate. The Corporation shall not permit the transfer of  
13 funds between the two accounts.

14 **“SEC. 307. NO FEDERAL FUNDS.**

15 “Except as provided for in section 306(d), no Federal  
16 funds shall be authorized or appropriated to fund any ac-  
17 tivity of the Corporation.

18 **“SEC. 308. GAO AUDITS.**

19 “(a) AUDITS.—Not later than 1 year after the Cor-  
20 poration commences the issuance of primary insurance  
21 coverages under section 311 and reinsurance coverage  
22 under section 321, and once every 3 years thereafter, dur-  
23 ing the period that the Corporation provides insurance or  
24 reinsurance coverages, the Comptroller General of the  
25 United States shall audit activities of the Corporation and

1 the Independent Board of Actuaries established under sec-  
2 tion 304 to ensure that both entities are complying with  
3 the provisions of this title.

4 “(b) SUBMISSION TO CONGRESS.—Upon completion  
5 of each audit conducted under subsection (a), the Comp-  
6 troller General of the United States shall submit to the  
7 Congress a report on the results of the audit.

8 **“Subtitle B—Primary Insurance**  
9 **Coverages**

10 **“SEC. 311. SCOPE OF COVERAGE.**

11 “(a) GENERAL AUTHORITY.—The Corporation may  
12 not receive Federal loans under section 306(d) unless the  
13 Corporation issues primary insurance coverages that—

14 “(1) shall cover losses to the eligible property  
15 described in subsection (b) resulting from the natu-  
16 ral disaster perils described in subsection (c); and

17 “(2) are subject to the terms and conditions de-  
18 scribed in section 314.

19 “(b) ELIGIBLE PROPERTY.—Any primary insurance  
20 coverages provided by the Corporation shall insure against  
21 physical damages and losses to residential property, in-  
22 cluding debris removal, additional living expenses incurred  
23 as a result of direct damage to the residential property,  
24 and ordinance and law coverages.

1       “(c) NATURAL DISASTER PERILS COVERED.—Any  
2 primary insurance coverages issued by the Corporation  
3 shall cover any damage to the eligible property and related  
4 coverages described in subsection (b) proximately caused  
5 by—

6           “(1) an earthquake, other than any fire proxi-  
7 mately caused by an earthquake;

8           “(2) a volcanic eruption, including any fire  
9 proximately caused by a volcanic eruption;

10          “(3) a tsunami associated with an earthquake  
11 or volcanic eruption; or

12          “(4) a hurricane.

13 **“SEC. 312. PROVISION OF COVERAGE.**

14       “(a) TYPE OF POLICY.—The primary insurance cov-  
15 erages described in section 311 shall be supplemental con-  
16 tracts of insurance issued by the Corporation in conjunc-  
17 tion with a standard residential property insurance con-  
18 tract issued by a private insurer acting as a service pro-  
19 vider.

20       “(b) PRIVATE INSURERS ACTING AS SERVICE PRO-  
21 VIDERS.—

22           “(1) IN GENERAL.—A private insurer that is  
23 participating as a member of the Corporation under  
24 section 301(b) may act as a service provider by of-

1       fering the primary insurance coverages described in  
2       section 311 in accordance with this subsection.

3           “(2) SEISMIC PERILS.—A private insurer acting  
4       as a service provider under this subsection shall  
5       offer the primary insurance coverages on behalf of  
6       the Corporation for earthquake, volcanic eruption,  
7       and tsunami perils, as described in section 311(c), to  
8       all residential property policyholders of the private  
9       insurer that are located in earthquake, volcanic  
10      eruption, and tsunami-prone States, as determined  
11      by the Director of the Agency under section 204(a).

12          “(3) HURRICANE PERIL.—In addition to offer-  
13      ing the coverages described in paragraph (2), a pri-  
14      vate insurer acting as a service provider under this  
15      section may offer the primary insurance coverage on  
16      behalf of the Corporation for hurricane peril, if that  
17      coverage is offered to all of the residential property  
18      policyholders of the private insurer in hurricane-  
19      prone States, as determined by the Director of the  
20      Agency under section 204(a).

21          “(4) QUOTA-SHARE AMOUNTS.—Any private in-  
22      surer acting as a service provider shall agree to ac-  
23      cept the applicable quota-share amounts for each  
24      coverage described in section 314(c).

1 **“SEC. 313. INSURANCE PURCHASE REQUIREMENT.**

2       “(a) COVERAGE REQUIRED WITH FEDERAL MORT-  
3 GAGES.—No federally related mortgage loan secured by  
4 residential property located in an earthquake-, volcanic  
5 eruption-, tsunami-, or hurricane-prone State (as deter-  
6 mined by the Director of the Agency under section 204(a))  
7 shall be made or renewed unless the property used to se-  
8 cure the loan is covered by—

9               “(1) primary insurance coverages issued by the  
10 Corporation described in section 311; or

11               “(2) coverage insured by a private insurer  
12 that—

13                       “(A) has terms, conditions, and rates that  
14 are at least equivalent to the primary insurance  
15 coverages for seismic perils as described in sec-  
16 tion 312(b)(1); and

17                       “(B) has at least equivalent terms and  
18 conditions as the primary insurance coverage  
19 for the hurricane peril, as described in section  
20 312(b)(2).

21       “(b) ESCROW INSURANCE PREMIUMS.—

22               “(1) ESCROW REQUIREMENT.—

23                       “(A) IN GENERAL.—If a lender or other  
24 servicer of residential property mortgage loans  
25 requires the escrowing of taxes, insurance pre-  
26 miums, or any other charges as a condition of

1 the loan, any premiums from earthquake, vol-  
2 canic eruption, tsunami, and hurricane insur-  
3 ance for residential property that is used to se-  
4 cure a federally related mortgage loan shall be  
5 paid to that lender or servicer of the loan.

6 “(B) PAYMENTS.—The premiums referred  
7 to in subparagraph (A) shall be paid in such  
8 manner as to make sufficient payments as due  
9 for the duration of the loan.

10 “(2) ESCROW ACCOUNT.—

11 “(A) IN GENERAL.—Upon receipt of pre-  
12 miums described in paragraph (1), the lender or  
13 servicer of a residential property loan referred  
14 to in paragraph (1) shall deposit the premiums  
15 in an escrow account on behalf of the borrower.

16 “(B) PAYMENT.—Upon receipt of a notice  
17 from the private insurer acting as a service pro-  
18 vider or direct insurer that provides the insur-  
19 ance referred to in paragraph (1) that insur-  
20 ance premiums are due, the lender or servicer  
21 shall pay from the escrow account to the pro-  
22 vider of the insurance the amount of the insur-  
23 ance premiums owed.

24 “(c) ELIGIBILITY REQUIREMENTS.—

1           “(1) RESIDENTIAL PROPERTY.—Residential  
2 property owners in natural disaster-prone States  
3 shall be ineligible to receive any financial assistance  
4 (including temporary housing) provided under sec-  
5 tion 408 or 411 of the Robert T. Stafford Disaster  
6 Relief and Emergency Assistance Act (42 U.S.C.  
7 5174 and 5178) or any other similar disaster assist-  
8 ance provided by any Federal agency if—

9           “(A) the residential property was not in-  
10 sured at the time of the natural disaster at cov-  
11 erage levels that are at least equivalent to—

12           “(i) the primary insurance coverages  
13 provided under section 311; and

14           “(ii) the flood insurance coverage pro-  
15 vided under the National Flood Insurance  
16 Act of 1968 (42 U.S.C. 4001 et seq.), if  
17 the residential owner is required to have  
18 such coverage under that Act; and

19           “(B) the annual household income of the  
20 residential property—

21           “(i) exceeds \$60,000 in 1995; or

22           “(ii) in any calendar year after 1995  
23 exceeds the base amount for 1995 under  
24 clause (i), adjusted for the percentage in-



1           crease in the Consumer Price Index for  
2           each subsequent year.

3           “(2) BUSINESS PROPERTIES.—An owner of  
4           business properties in natural disaster-prone States  
5           shall be ineligible to receive any financial assistance  
6           provided under sections 408 or 411 of the Robert T.  
7           Stafford Disaster Relief and Emergency Assistance  
8           Act (42 U.S.C. 5174 and 5178) or any other similar  
9           disaster assistance provided by the Small Business  
10          Administration or any other Federal agency, not-  
11          withstanding any other provision of those Acts or  
12          other Federal law, if the business property was not  
13          insured at the time of the natural disaster by disas-  
14          ter insurance that comports with the coverages de-  
15          scribed in paragraph (1)(A).

16          “(d) APPLICABILITY.—The provisions of subsections  
17 (a) through (c) shall not take effect until—

18           “(1) the Corporation described in section 301  
19           has been created;

20           “(2) the terms and conditions of the primary  
21           insurance coverages issued by the Corporation under  
22           section 311 fully satisfy the provisions of section  
23           314; and

24           “(3) the premiums written by the private insur-  
25           ers participating as service providers of the Corpora-

1       tion described in section 312(b) represent at least 51  
2       percent of the private residential property insurance  
3       market in the natural disaster-prone States.

4       “(e) EFFECT OF FAILURE TO WRITE A SUFFICIENT  
5 AMOUNT OF PREMIUMS.—If, after having written pre-  
6 miums for the private residential property insurance mar-  
7 ket referred to in subsection (d)(3) at the level specified  
8 in that subsection, the participating private insurers fail  
9 to maintain that level, subsections (a) through (c) shall  
10 not apply until that level is attained.

11 **“SEC. 314. TERMS AND CONDITIONS.**

12       “(a) GENERAL AUTHORITY.—

13               “(1) SETTING THE TERMS AND CONDITIONS.—  
14       The Board of the Corporation shall set the terms  
15       and conditions of the primary insurance coverages  
16       provided under this subtitle. The Board may, from  
17       time to time, modify the terms and conditions. The  
18       Board shall include the terms and conditions in the  
19       plan of operation developed pursuant to section 302.

20               “(2) GUIDING PRINCIPLE.—The Board shall  
21       standardize terms and conditions for the primary in-  
22       surance coverage policies, and to the maximum ex-  
23       tent practicable, design the terms and conditions to  
24       limit the financial exposure of the primary account  
25       described in section 306(a) to a manageable level,

1 taking into consideration the probable maximum  
2 losses for the natural disaster perils described in sec-  
3 tion 311(c).

4 “(3) CONSIDERATIONS.—In setting the terms  
5 and conditions of the primary insurance coverages,  
6 the Board shall give due consideration to—

7 “(A) the rates, scope and limits of cov-  
8 erage, and the deductibles in the standard resi-  
9 dential property insurance contract for the nat-  
10 ural disaster perils described in section 311(c)  
11 available in the voluntary primary market on  
12 the date of enactment of this title; and

13 “(B) the ability of the Corporation to  
14 maintain a financially prudent level of risk in  
15 protecting against the exposure caused, in part,  
16 by the insurance purchase requirement de-  
17 scribed in section 313.

18 “(b) SPECIFIC TERMS AND CONDITIONS.—The terms  
19 and conditions for the primary insurance coverages shall  
20 include—

21 “(1) limits on the amount of coverage available;

22 “(2) rates, as determined under section 303;

23 “(3) deductibles that may vary based on the  
24 type of peril, geographic areas, and the existence of

1 loss-reduction measures that affect the risk of loss;  
2 and

3 “(4) any other terms and conditions that the  
4 Board determines to be necessary, consistent with  
5 the purposes of this subtitle.

6 “(c) QUOTA-SHARE AMOUNTS.—

7 “(1) IN GENERAL.—The primary insurance cov-  
8 erages issued by the Corporation in accordance with  
9 this subtitle shall offer the quota-share amounts pre-  
10 scribed under this subsection as a condition to par-  
11 ticipation as a service provider, except that the pri-  
12 vate insurer shall have the option of retaining quota-  
13 share amounts in amounts greater than prescribed  
14 under this subsection.

15 “(2) SEISMIC PERILS.—The quota-share  
16 amount offered by the Corporation for earthquake,  
17 volcanic eruption, and tsunami perils shall be 10  
18 percent.

19 “(3) HURRICANE PERIL.—The quota-share  
20 amount offered by the Corporation for hurricane  
21 peril shall be 50 percent.

22 “(d) PAYMENT OF CLAIMS.—

23 “(1) PAYING QUALIFYING LOSSES.—Private in-  
24 surers acting as service providers of the primary in-  
25 surance coverages under this subtitle shall pay quali-

1       fying losses to policyholders, as determined by the  
2       terms of the primary insurance coverage policies, if  
3       the Corporation certifies to the private insurers that  
4       sufficient amounts are available in the primary ac-  
5       count, including any Federal loans available pursu-  
6       ant to section 306(d), to fully reimburse the private  
7       insurers under paragraph (2).

8           “(2) REIMBURSEMENT OF INSURERS.—The  
9       Corporation shall reimburse fully a private insurer  
10      with funds from the primary account not later than  
11      90 days after the date on which any claim payments  
12      are made and any loss adjustment expenses are in-  
13      curred by the private insurer under the terms of the  
14      primary insurance coverage policies.

15          “(3) NO LIABILITY FOR PRIVATE INSURERS.—  
16      Private insurers acting as service providers of the  
17      primary insurance coverages shall not be liable, or in  
18      any way responsible, for the payment of claims for  
19      which full reimbursement under the terms of para-  
20      graph (2) is not provided, except that such private  
21      insurers shall be responsible for payment of claims  
22      resulting from the quota-share amounts such insur-  
23      ers agree to retain under subsection (c).

24   **“SEC. 315. FLOOD INSURANCE.**

25          “(a) FLOOD INSURANCE STUDY.—

1           “(1) MEASURES TO INCREASE COVERAGE.—Not  
2 later than 18 months after the date of enactment of  
3 the Natural Disaster Protection and Insurance Act  
4 of 1995, the Director of the Agency, in cooperation  
5 with the Corporation, shall submit a report to Con-  
6 gress concerning any additional sanctions, or other  
7 measures, that they consider necessary and appro-  
8 priate to ensure that policyholders purchase Federal  
9 flood insurance provided pursuant to the National  
10 Flood Insurance Act of 1968 (42 U.S.C. 4001 et  
11 seq.).

12           “(2) ASSESSMENT OF PROPOSALS.—The report  
13 described in paragraph (1) shall include an assess-  
14 ment of the advisability and feasibility of—

15           “(A) adding the Standard Flood Insurance  
16 Policy issued pursuant to the National Flood  
17 Insurance Act of 1968 (42 U.S.C. 4001 et  
18 seq.), or the content thereof, to the primary in-  
19 surance coverage contracts issued by the Cor-  
20 poration pursuant to section 311; or

21           “(B) privatizing the National Flood Insur-  
22 ance Program managed by the Director of the  
23 Agency pursuant to the National Flood Insur-  
24 ance Act of 1968 (42 U.S.C. 4001 et seq.).

1       “(b) IMPROVED PARTICIPATION IN THE FEDERAL  
2 FLOOD INSURANCE PROGRAM.—

3           “(1) WARNING STATEMENT REQUIRED FROM  
4 ALL PRIVATE INSURERS.—Not later than 18 months  
5 after the date of enactment of the Natural Disaster  
6 Protection and Insurance Act of 1995, all residential  
7 property insurance contracts issued by private insur-  
8 ers that exclude coverage for physical damage  
9 caused by flooding shall bear the following warning  
10 statement: ‘FLOOD INSURANCE WARNING:  
11 This policy does not cover losses caused by flooding.  
12 However, if you have purchased a separate flood in-  
13 surance policy, including one issued under the Na-  
14 tional Flood Insurance program, you have coverage  
15 against physical damage caused by flooding. If your  
16 property is located in a flood-prone area and you  
17 have a mortgage from a bank or other lending insti-  
18 tution regulated or insured by a Federal entity (as  
19 most are), you may be required by that lending in-  
20 stitution to have flood insurance. If this requirement  
21 applies to you and you fail to have flood insurance  
22 coverage, your eligibility to obtain Federal disaster  
23 aid for flood losses could be subject to conditions.’

24           “(2) ALTERNATIVE WARNING STATEMENT.—

1           “(A) If a private insurer referred to in  
2           paragraph (1) is engaged in the Write Your  
3           Own program of the National Flood Insurance  
4           program established pursuant to section 1345  
5           of the National Flood Insurance Act of 1968  
6           (42 U.S.C. 4081) and the regulations promul-  
7           gated pursuant to that section, the following  
8           sentence shall appear at the end of the warning  
9           statement required by paragraph (1):

10          “‘For more information about obtaining insurance to  
11          cover physical damage caused by flooding, consult your in-  
12          surance agent, broker, or insurance company representa-  
13          tive.’

14               “(B) If a private insurer referred to in  
15               paragraph (1) is not engaged in a Write Your  
16               Own program as described in subparagraph  
17               (A), the following sentence shall appear at the  
18               end of the warning statement required by para-  
19               graph (1):

20          “‘For more information about obtaining insurance to  
21          cover physical damage caused by flooding, consult your in-  
22          surance agent, broker, or insurance company representa-  
23          tive or call the National Flood Insurance program.’

24               “(3) LOCATION AND FORMAT OF WARNING  
25          STATEMENT.—The warning statement required by



1 paragraphs (1) and (2) shall be located in a con-  
2 spicuous and prominent place on the residential  
3 property insurance contract. The statement shall be  
4 displayed in legible type that contrasts by typog-  
5 raphy, layout, or color with other printed materials  
6 on the policy issued by the private insurer.

7 “(4) CONSEQUENCES OF NONCOMPLIANCE.—  
8 Any private insurer referred to in paragraph (1)  
9 that fails to comply with this section shall be ineli-  
10 gible to participate as a member of the Corporation  
11 under section 301.

## 12 **“Subtitle C—Reinsurance Coverage**

### 13 **“SEC. 321. SCOPE OF COVERAGE.**

14 “(a) GENERAL AUTHORITY.—The Corporation may  
15 not receive Federal loans under section 306(d) unless the  
16 Corporation makes available excess reinsurance coverage  
17 that shall—

18 “(1) provide coverage to eligible entities de-  
19 scribed in subsection (b) for any direct and indirect  
20 losses for the covered losses set forth in subsection  
21 (c) that are caused by the natural disaster perils de-  
22 scribed in subsection (d); and

23 “(2) comply with terms and conditions de-  
24 scribed in sections 322 and 323.

1       “(b) ELIGIBLE ENTITIES.—As members of the Cor-  
2 poration, private insurers and State insurance pools may  
3 purchase the excess reinsurance coverage described in sub-  
4 section (a), if such entities meet the minimum criteria and  
5 financial viability standards set by the Corporation in the  
6 plan of operation under section 302.

7       “(c) COVERED LOSSES.—The excess reinsurance cov-  
8 erage described in subsection (a) shall insure against—

9               “(1) residential losses, including quota-share  
10 amounts retained by the private insurers under sec-  
11 tion 314(c), that have not already been insured by  
12 the Corporation under the primary insurance cov-  
13 erage policies described in section 311; and

14               “(2) commercial losses.

15       “(d) NATURAL DISASTER PERILS.—The excess rein-  
16 surance coverage described in subsection (a) shall cover  
17 losses from natural disaster perils that are proximately  
18 caused by—

19               “(1) earthquakes;

20               “(2) volcanic eruptions;

21               “(3) tsunamis; and

22               “(4) hurricanes.

23 **“SEC. 322. TERMS AND CONDITIONS.**

24       “(a) GENERAL AUTHORITY.—

1           “(1) SETTING OF TERMS AND CONDITIONS.—

2           The Board of the Corporation shall—

3                   “(A) set the terms and conditions of the  
4                   reinsurance coverage issued under this subtitle;  
5                   and

6                   “(B) include the terms and conditions in  
7                   the plan of operation developed pursuant to sec-  
8                   tion 302.

9           “(2) GUIDING PRINCIPLE.—The terms and con-  
10          ditions for the reinsurance coverage policy shall be—

11                   “(A) similar to those generally used in pri-  
12                   vate catastrophic reinsurance contracts; and

13                   “(B) standardized and designed, to the  
14                   maximum extent practicable, to limit the finan-  
15                   cial exposure of the reinsurance account de-  
16                   scribed in section 306(b) to a manageable level  
17                   given the probable maximum losses for the nat-  
18                   ural disaster perils described in section 321(d).

19          “(3) MODIFICATIONS.—The Board may from  
20          time to time modify the terms and conditions set  
21          forth in accordance with this subsection.

22          “(b) SPECIFIC TERMS AND CONDITIONS.—The terms  
23          and conditions for reinsurance coverage issued under this  
24          subtitle shall include—

25                   “(1) limits on the amount of coverage available;

1           “(2) rates determined under section 303, that  
2 shall take into account—

3           “(A) the financial standing of the private  
4 insurers; and

5           “(B) the exposure of the private insurer to  
6 the natural disaster perils described in section  
7 321(d); and

8           “(3) any other terms and conditions that the  
9 Board determines necessary, consistent with the pur-  
10 poses of this subtitle.

11       “(c) PAYMENT OF CLAIMS.—From amounts in the  
12 reinsurance account described in section 306(b), including  
13 any Federal loans provided under section 306(d), the Cor-  
14 poration shall pay the qualifying losses (as determined  
15 under section 323) of those private insurers that have pur-  
16 chased the reinsurance coverage provided by the Corpora-  
17 tion under section 321.

18 **“SEC. 323. LEVELS OF RETAINED LOSSES.**

19       “(a) INDUSTRYWIDE ELIGIBILITY.—

20           “(1) IN GENERAL.—Excess reinsurance cov-  
21 erage under this subtitle shall be available to all pri-  
22 vate insurers that are eligible for reinsurance pursu-  
23 ant to section 321(b) in accordance with this sub-  
24 section.

25           “(2) INDUSTRY RETAINED LOSSES.—

1           “(A) IN GENERAL.—The reinsurance ac-  
2           count established under section 306(b) shall  
3           provide excess reinsurance coverage when the  
4           Board of the Corporation determines, pursuant  
5           to the plan of operation under section 302, that  
6           the insurance industry is likely, as a result of  
7           hurricane, earthquake, volcanic eruption, or tsu-  
8           nami events occurring during any 12-month pe-  
9           riod, to incur gross losses in the lines of insur-  
10          ance covered under section 321(c) that exceed  
11          15 percent of the consolidated industry surplus  
12          as regards policyholders.

13          “(B) CALCULATION.—In calculating the  
14          percentage of consolidated industry surplus as  
15          regards policyholders, the Board shall aggregate  
16          only such separate events as will likely result in  
17          industry gross losses of at least  
18          \$1,500,000,000, aggregated to determine  
19          whether the applicable percentage level for  
20          gross losses described in subparagraph (A) is  
21          met. For any calendar year after 1995, the  
22          Board shall adjust the dollar amount specified  
23          in the preceding sentence by the applicable per-  
24          centage change in the Consumer Price Index  
25          for the preceding calendar year.

1           “(3) INDIVIDUAL COMPANY RETAINED  
2 LOSSES.—If the Board determines that the insur-  
3 ance industry has sustained gross losses at the ap-  
4 plicable percentage level described in paragraph (1),  
5 the Board shall pay from the reinsurance account  
6 established under section 306(b) to a private insurer  
7 that is eligible for reinsurance under section 321(b)  
8 95 percent of qualifying losses in excess of 15 per-  
9 cent of the consolidated surplus as regards policy-  
10 holders of the private insurer.

11           “(b) INDIVIDUAL INSURER ELIGIBILITY.—

12           “(1) INDIVIDUAL INSURER RETAINED  
13 LOSSES.—If the Board determines that the applica-  
14 ble percentage level under subsection (a)(1) has not  
15 been reached for gross losses sustained by the insur-  
16 ance industry, a private insurer that is eligible for  
17 reinsurance under section 321(b) shall be eligible for  
18 excess reinsurance coverage and reimbursement from  
19 the reinsurance account established under section  
20 306(b) if the private insurer has incurred—

21                   “(A) gross losses from a single earthquake,  
22 volcanic eruption, or tsunami event that—

23                           “(i) are included in the lines of insur-  
24                           ance covered in section 321(c); and

1           “(ii) exceed 20 percent of the consoli-  
2           dated surplus as regards policyholders of  
3           the private insurer; or

4           “(B) gross losses from a single hurricane  
5           event that—

6           “(i) are included in the lines covered  
7           in section 321(c)(other than workers’ com-  
8           pensation and earthquake lines of insur-  
9           ance); and

10           “(ii) exceed 20 percent of the consoli-  
11           dated surplus as regards policyholders of  
12           the private insurer.

13           “(2) REINSURANCE ACCOUNT PAYMENTS.—If  
14           the Board determines that a private insurer referred  
15           to in paragraph (1) has sustained gross losses de-  
16           scribed in paragraph (1), the Board shall pay from  
17           the reinsurance account established under section  
18           306(b), 95 percent of qualifying losses in excess of  
19           20 percent of the consolidated surplus as regards  
20           policyholders of the private insurer.

21           “(3) LIMITATION OF REINSURANCE ACCOUNT  
22           PAYMENTS.—The payments by the Board from the  
23           reinsurance account under this subsection shall be  
24           limited to 200 percent of the consolidated surplus as  
25           regards policyholders of the private insurer.

1 “(c) STATE INSURANCE PROGRAMS.—

2 “(1) IN GENERAL.—Excess reinsurance cov-  
3 erage under this subtitle shall be available to each  
4 State insurance pool eligible for reinsurance pursu-  
5 ant to section 321(b) in accordance with paragraph  
6 (2).

7 “(2) STATE POOL LOSSES.—

8 “(A) IN GENERAL.—Subject to paragraph  
9 (3), the reinsurance account established under  
10 section 306(b) shall provide excess reinsurance  
11 coverage when the Board determines, pursuant  
12 to the plan of operation under section 302, that  
13 the State insurance pool is likely to incur gross  
14 losses in the State served by the eligible State  
15 insurance pool arising from hurricane, earth-  
16 quake, volcanic eruption, or tsunami events oc-  
17 ccurring during any 12-month period that exceed  
18 the lesser of—

19 “(i) an amount equal to 10 times the  
20 sum of the direct earned premiums for  
21 that State insurance pool for the losses  
22 covered in section 321(c); or

23 “(ii) \$10,000,000,000.

24 “(B) ADJUSTMENT.—For any calendar  
25 year after 1995, the Board shall adjust the



1 amount specified in subparagraph (A) by the  
2 applicable percentage change in the Consumer  
3 Price Index for the preceding calendar year.

4 “(3) MINIMUM LOSSES.—The minimum amount  
5 payable to a State insurance pool under paragraph  
6 (2) shall be \$500,000,000. For any calendar year  
7 after 1995, the Board shall adjust the amount speci-  
8 fied in the preceding sentence by the applicable per-  
9 centage change in the Consumer Price Index for the  
10 preceding calendar year.

11 “(4) RETAINED LOSSES.—If the Board deter-  
12 mines that the insurance industry has sustained  
13 gross losses described in paragraph (2), the reinsur-  
14 ance account established under section 306(b) shall  
15 pay to an individual State insurance pool, 95 percent  
16 of qualifying losses in excess of the applicable  
17 amount determined under paragraph (2)(A).

18 “(d) QUALIFYING LOSSES DEFINED.—

19 “(1) IN GENERAL.—For purposes of this sub-  
20 title, the term ‘qualifying losses’ shall include—

21 “(A) the losses and loss adjustment ex-  
22 penses incurred by a private insurer or State  
23 insurance pool referred to in section 321(b);  
24 and

1           “(B) any assessments, surcharges, or other  
2           liabilities imposed by any State residual insur-  
3           ance pooling program or guaranty account,  
4           attributable to hurricanes, earthquakes, volcanic  
5           eruptions, or tsunamis occurring during any 12-  
6           month period encompassing the events described in  
7           subsections (a)(1) and (c)(1) or the event described  
8           in subsection (b)(1), reduced by the amount speci-  
9           fied in paragraph (2).

10           “(2) REDUCTION.—Qualifying losses deter-  
11           mined under paragraph (1) shall be reduced by—

12                   “(A) any collectible reinsurance recover-  
13                   able; and

14                   “(B) an appropriate percentage of any  
15                   uncollectible reinsurance arising from the event,  
16                   as set forth in the plan of operation under sec-  
17                   tion 302.

18           “(e) OBLIGATIONS.—All reinsurance contracts issued  
19           under this subtitle shall constitute obligations, in accord-  
20           ance with the terms of the reinsurance, of the Corporation.

21           “(f) DEFINITIONS.—For the purposes of this section  
22           the following definitions shall apply:

23                   “(1) CONSOLIDATED INDUSTRY SURPLUS AS  
24                   REGARDS POLICYHOLDERS.—The term ‘consolidated  
25                   industry surplus as regards policyholders’ means the

1 consolidated surplus as regards policyholders of the  
2 property and casualty insurance industry (excluding  
3 life insurance) for the calendar year immediately  
4 preceding the hurricane, earthquake, volcanic erup-  
5 tion, or tsunami events described in subsection  
6 (a)(1), as determined by the National Association of  
7 Insurance Commissioners or other credible source  
8 (as determined by the Corporation).

9 “(2) CONSOLIDATED SURPLUS AS REGARDS  
10 POLICYHOLDERS.—The term ‘consolidated surplus  
11 as regards policyholders’ means the surplus as re-  
12 gards policyholders of the private insurer (excluding  
13 life insurance) based on financial data submitted to  
14 the National Association of Insurance Commis-  
15 sioners or other credible source, as determined by  
16 the Corporation for the calendar year immediately  
17 preceding the hurricane, earthquake, volcanic erup-  
18 tion, or tsunami event described in subsections  
19 (a)(1) and (b)(1).

20 “(3) DIRECT EARNED PREMIUMS.—The term  
21 ‘direct earned premiums’ means the direct earned  
22 premiums for certain lines of property and casualty  
23 insurance coverage as published in the National As-  
24 sociation of Insurance Commissioners Fire and Cas-  
25 ualty Annual Statement filed with the applicable

1 State department of insurance for the most recent  
 2 calendar year available preceding the hurricane,  
 3 earthquake, volcanic eruption, or tsunami event de-  
 4 scribed in subsection (c)(1).

5 “(4) GROSS LOSSES.—The term ‘gross losses’  
 6 means all losses and loss adjustment expenses, prior  
 7 to deducting any private reinsurance recoverables.

8 “(5) UNCOLLECTIBLE REINSURANCE.—The  
 9 term ‘uncollectible reinsurance’ means reinsurance  
 10 proceeds due and payable in accordance with the  
 11 terms of the reinsurance contract that are not paid  
 12 within 12 months of the due date.”.

13 **SEC. 8. NATURAL DISASTER PROTECTION FUND.**

14 The Earthquake Hazards Reduction Act of 1977 (42  
 15 U.S.C. 7701 et seq.), as amended by section 7, is further  
 16 amended by adding at the end the following new title:

17 **“TITLE IV—NATURAL DISASTER**  
 18 **PROTECTION FUND**

19 **“SEC. 401. ESTABLISHMENT.**

20 “(a) THE FUND.—There is established within the  
 21 Treasury of the United States a trust fund to be known  
 22 as the Natural Disaster Protection Fund (referred to in  
 23 this title as the ‘Fund’), consisting of such amounts as  
 24 may be appropriated or credited to the Fund, as provided  
 25 in this title.

1       “(b) ACCOUNTS.—There is established in the Fund  
2 the following accounts:

3           “(1) PRIVATE LOSS ACCOUNT.—A Private Loss  
4 Account, as described in section 402.

5           “(2) PUBLIC LOSS ACCOUNT.—A Public Loss  
6 Account, as described in section 403.

7           “(3) MITIGATION ACCOUNT.—A Mitigation Ac-  
8 count, as described in section 404.

9       “(c) NO COMINGLING.—The amounts in the accounts  
10 established in subsection (b) shall be kept separate. The  
11 Secretary of the Treasury shall not permit borrowing of  
12 moneys among the accounts.

13 **“SEC. 402. PRIVATE LOSS ACCOUNT.**

14       “Funds in the Private Loss Account established in  
15 section 401(b) shall be used by the Secretary of the Treas-  
16 ury to provide direct Federal loans to cover shortfalls in  
17 the primary account described in section 306(a) and the  
18 reinsurance account described in section 306(b), subject  
19 to the lending authority, conditions, and repayment terms  
20 of section 306(d).

21 **“SEC. 403. PUBLIC LOSS ACCOUNT.**

22       “(a) IN GENERAL.—The Public Loss Account estab-  
23 lished in section 401(b) shall be used by the Secretary of  
24 the Treasury to cover losses to, and retrofitting of, public  
25 facilities, critical facilities, and lifelines.

1 “(b) DESCRIPTION OF ACCOUNT.—

2 “(1) SOURCE OF FUNDS.—The Director of the  
3 Agency or the appropriate head of a Federal agency  
4 shall transfer to the Secretary of the Treasury and  
5 the Secretary of the Treasury shall credit to the  
6 Public Loss Account amounts specifically designated  
7 and appropriated (if the specifically designated  
8 amounts under this paragraph are in addition to and  
9 not in lieu of annual appropriations for the pro-  
10 grams)—

11 “(A) annually pursuant to title IV of the  
12 Robert T. Stafford Disaster Relief and Emer-  
13 gency Assistance Act (42 U.S.C. 5170 et seq.)  
14 for repair and restoration of Federal facilities,  
15 public facilities, critical facilities, and lifelines;

16 “(B) pursuant to any natural disaster  
17 emergency supplemental appropriations Act en-  
18 acted after the date of enactment of the Natu-  
19 ral Disaster Protection and Insurance Act of  
20 1995 and intended to be allocated to the Fed-  
21 eral Emergency Management Agency, the De-  
22 partment of Transportation, the Department of  
23 Housing and Urban Development, or any other  
24 Federal agency for the repair and restoration of

1 public facilities, critical facilities, and lifelines;  
2 and

3 “(C) annually after the date of enactment  
4 of the Natural Disaster Protection and Insur-  
5 ance Act of 1995 for the public infrastructure  
6 programs or Federal entities specified in para-  
7 graph (2).

8 “(2) PROGRAMS AND ENTITIES.—The programs  
9 and entities referred to in paragraph (1)(C) are as  
10 follows:

11 “(A) The Highway Trust Fund.

12 “(B) The Airport and Airway Trust Fund.

13 “(C) The Harbor Maintenance Trust  
14 Fund.

15 “(D) Grants for construction of water  
16 treatment works under title II of the Federal  
17 Water Pollution Control Act (33 U.S.C. 1281 et  
18 seq.).

19 “(E) The Natural Resources Conservation  
20 Service.

21 “(F) The Economic Development Adminis-  
22 tration.

23 “(G) The Army Corps of Engineers.

24 “(H) The General Services Administration.

1           “(3) AMOUNT OF ACCOUNT.—The Secretary of  
2 the Treasury shall retain in the Public Loss Account  
3 a reserve of funds sufficient to cover the anticipated  
4 costs resulting from natural disasters for an annual  
5 10-year historical average of disaster relief provided  
6 to the Secretary of the Treasury by the Director of  
7 the Agency.

8           “(4) AUTHORIZATION.—There are authorized to  
9 be appropriated such sums as may be necessary to  
10 carry out this section.

11          “(c) PURPOSES OF ACCOUNT.—

12           “(1) REBUILDING GRANTS.—Funds from the  
13 Public Loss Account shall be used by the Director  
14 of the Agency to provide grants to States for the re-  
15 pair or restoration of public facilities, critical facili-  
16 ties, lifelines, and infrastructure damaged or de-  
17 stroyed by natural disasters.

18           “(2) PREDISASTER MITIGATION.—The Public  
19 Loss Account shall provide grants to States for pre-  
20 natural disaster hazard mitigation, including the ret-  
21 rofitting of public facilities, critical facilities, and  
22 lifelines.

23           “(3) FEDERAL SHARE.—

24           “(A) COMPLIANCE STATE.—The Federal  
25 share of a grant provided from the Public Loss



1 Account under this subsection shall be 75 per-  
2 cent if the State receiving the grant is in com-  
3 pliance with each applicable deadline under sec-  
4 tion 213.

5 “(B) NONCOMPLIANCE STATE.—Consistent  
6 with the penalty described in section 214(a),  
7 the Federal share of a grant from the Public  
8 Loss Account under this subsection shall be 50  
9 percent if the State receiving the grant is not  
10 in compliance with any applicable deadline  
11 under section 213.

12 “(C) WAIVER.—The Federal share per-  
13 centages described in subparagraphs (A) and  
14 (B) shall be increased only upon the enactment  
15 of a joint resolution that shall not be designated  
16 as an emergency under section 251(b)(2)(D) of  
17 the Balanced Budget and Emergency Deficit  
18 Control Act of 1985 (2 U.S.C. 401(b)(2)(D)).

19 **“SEC. 404. MITIGATION ACCOUNT.**

20 “(a) PURPOSE OF THE ACCOUNT.—The Mitigation  
21 Account established in section 401(b) shall support the  
22 natural disaster hazard mitigation efforts described in  
23 subtitle B of title VII.

24 “(b) MITIGATION SET-ASIDE.—

1           “(1) IN GENERAL.—The Corporation shall pay  
2           a percent of the annual net premiums collected for  
3           the primary insurance coverages described in subtitle  
4           B of title III and the reinsurance coverage described  
5           in subtitle C of title III for natural disaster hazard  
6           mitigation purposes.

7           “(2) PRECISE PERCENTAGE.—

8           “(A) IN GENERAL.—The percent amount  
9           described in paragraph (1) shall be a percent-  
10          age amount that totals on an annual basis  
11          \$200,000,000.

12          “(B) ADJUSTMENT.—For any calendar  
13          year after 1995, the dollar amount specified in  
14          subparagraph (A) shall be adjusted by the per-  
15          centage change in the Consumer Price Index  
16          for the preceding calendar year.

17          “(c) DEPOSITS.—The Director of the Agency shall  
18          transfer and credit on an annual basis to the Mitigation  
19          Account amounts received from—

20                 “(1) the amounts set aside of the annual pre-  
21                 miums described in subsection (b); and

22                 “(2) appropriations provided for pre-natural  
23                 disaster hazard mitigation activities conducted under  
24                 the Robert T. Stafford Disaster Relief and Emer-  
25                 gency Assistance Act (42 U.S.C. 5121 et seq.).

1       “(d) AUTHORIZATION.—For the purposes of sub-  
 2 section (c)(2) only, there is authorized to be appropriated  
 3 to the Mitigation Account for fiscal year 1996, and annu-  
 4 ally thereafter, an amount equal to the amounts provided  
 5 annually from the percent set aside of premiums received  
 6 pursuant to subsection (b).”.

7 **SEC. 9. FEDERAL DISASTER ASSISTANCE AMENDMENTS.**

8       (a) CONTRIBUTIONS.—Section 406(a)(1) of the Rob-  
 9 ert T. Stafford Disaster Relief and Emergency Assistance  
 10 Act (42 U.S.C. 5172(a)(1)) is amended by inserting before  
 11 the semicolon the following: “if the State has paid, or  
 12 agreed to pay, at least \$5 per each resident of the State  
 13 (as determined by the most recent official census for that  
 14 State conducted by the Bureau of the Census) for the re-  
 15 pair, restoration, reconstruction, or replacement of public  
 16 facilities damaged or destroyed by that major disaster in  
 17 that State”.

18       (b) MINIMUM FEDERAL SHARE.—Section 406(b) of  
 19 the Robert T. Stafford Disaster Relief and Emergency As-  
 20 sistance Act (42 U.S.C. 5172(b)) is amended—

21           (1) in the subsection heading, by striking “MIN-  
 22       IMUM”;

23           (2) by striking “The” and inserting the follow-  
 24       ing:

25           “(1) SHARE AMOUNTS.—The”;

1 (3) by striking “be not less than—” and insert-  
2 ing “be—”;

3 (4) by striking “(1) 75” and inserting the fol-  
4 lowing:

5 “(A) 75”;

6 (5) by striking “(2) 100” and inserting the fol-  
7 lowing:

8 “(B) 100”;

9 (6) by striking “(3) 75” and inserting the fol-  
10 lowing:

11 “(C) 75”; and

12 (7) by adding at the end the following new  
13 paragraph:

14 “(2) WAIVER.—The Federal share percentages  
15 described in paragraph (1) (which may be modified  
16 by section 214(a) of the Natural Disaster Protection  
17 and Insurance Act of 1995) shall be increased only  
18 upon the enactment of a joint resolution the appro-  
19 priations for which shall not be designated as emer-  
20 gency requirements under section 251(b)(2)(D) of  
21 the Balanced Budget and Emergency Deficit Control  
22 Act of 1985 (2 U.S.C. 901(b)(2)(D)).”.

23 (c) FEDERAL SHARE.—Section 407(d) of the Robert  
24 T. Stafford Disaster Relief and Emergency Assistance Act  
25 (42 U.S.C. 5173(d)) is amended—

1 (1) by striking “The Federal share” and insert-  
2 ing the following:

3 “(1) SHARE AMOUNT.—The Federal share”;

4 (2) by striking “not less than”; and

5 (3) by adding at the end the following new  
6 paragraph:

7 “(2) WAIVER.—The Federal share percentage  
8 described in paragraph (1) (which may be modified  
9 by section 214(a) of the Natural Disaster Protection  
10 and Insurance Act of 1995) shall be increased only  
11 upon the enactment of a joint resolution the appro-  
12 priations for which shall not be designated as emer-  
13 gency requirements under section 251(b)(2)(D) of  
14 the Balanced Budget and Emergency Deficit Control  
15 Act of 1985 (2 U.S.C. 901(b)(2)(D)).”.

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