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105TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 105–687

HOMEOWNERS' INSURANCE AVAILABILITY ACT OF 1998

AUGUST 7, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LEACH, from the Committee on Banking and Financial Services, submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 219]

The Committee on Banking and Financial Services, to whom was referred the bill (H.R. 219) to establish a Federal program to provide reinsurance for State disaster insurance programs, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeowners' Insurance Availability Act of 1998".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the rising costs resulting from natural disasters have placed a strain on homeowners' insurance markets in many areas, jeopardizing the ability of many consumers to adequately insure their homes and possessions;

(2) the lack of sufficient insurance capacity threatens to increase the number of uninsured homeowners, which, in turn, increases the risk of mortgage defaults and the strain on the Nation's banking system;

(3) some States have intervened to ensure the continued availability of homeowners' insurance for all residents;

(4) it is appropriate that efforts to improve insurance availability be designed and implemented at the State level;

(5) while State insurance programs may be adequate to cover losses from most natural disasters, a small percentage of events are likely to exceed the financial capacity of these programs and the local insurance markets;

(6) limited Federal reinsurance will improve the effectiveness of State insurance programs and private insurance markets and will increase the likelihood

that homeowners' insurance claims will be fully paid in the event of a large natural catastrophe;

(7) it necessary to provide, on a temporary basis, a Federal reinsurance program that will promote stability in the homeowners' insurance market in the short run and encourage the growth of reinsurance capacity by the private and capital markets as soon as practical;

(8) such Federal reinsurance program should not remain in existence longer than necessary for the private entities or the capital markets, or both, to provide adequate reinsurance capacity to address the current homeowners' insurance market dislocations caused by various disasters; and

(9) any Federal reinsurance program must be founded upon sound actuarial principles and priced in a manner that minimizes the potential impact on the Treasury.

SEC. 3. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary of the Treasury shall carry out a program under this Act to make reinsurance coverage available through—

(1) contracts for reinsurance coverage under section 6, which shall be made available for purchase only by eligible State programs; and

(2) contracts for reinsurance coverage under section 7, which shall be made available for purchase by purchasers under section 7(a)(1) only through auctions under section 7(a).

(b) PURPOSE.—The program shall be designed to make reinsurance coverage under this Act available to improve the availability of homeowners' insurance for the purpose of facilitating the pooling, and spreading the risk, of catastrophic financial losses from natural disasters and to improve the solvency of homeowners' insurance markets.

(c) CONTRACT PRINCIPLES.—Under the program under this Act, the Secretary shall offer reinsurance coverage through contracts with covered purchasers, which contracts—

(1) shall not displace or compete with the private insurance or reinsurance markets or capital markets;

(2) shall minimize the administrative costs of the Federal Government;

(3) shall, in the case of any contract under section 6 for eligible State programs, provide coverage based solely on insured losses within the State of the eligible State program purchasing the contract; and

(4) shall, in the case of any contract under section 7 for purchase at auction, provide coverage based solely on insured losses within the region established pursuant to section 7(a) for which the auction is held.

SEC. 4. QUALIFIED LINES OF COVERAGE.

Each contract for reinsurance coverage made available under this Act shall provide insurance coverage against residential property losses to homes (including dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartment buildings.

SEC. 5. COVERED PERILS.

Each contract for reinsurance coverage made available under this Act shall cover losses that are—

(1) proximately caused by—

(A) earthquakes;

(B) perils ensuing from earthquakes, including fire and tsunami;

(C) tropical cyclones having maximum sustained winds of at least 74 miles per hour, including hurricanes and typhoons; or

(D) volcanic eruptions; and

(2) in the case only of a contract under section 6, insured by the eligible State program purchasing the contract.

The Secretary shall, by regulation, define the natural disaster perils under paragraph (1).

SEC. 6. CONTRACTS FOR REINSURANCE COVERAGE FOR ELIGIBLE STATE PROGRAMS.

(a) ELIGIBLE STATE PROGRAMS.—A program shall be eligible to purchase a contract under this section for reinsurance coverage under this Act only if the program is a State-operated program that complies with the following requirements:

(1) PROGRAM DESIGN.—The program shall be a State-operated—

(A) insurance program that offers coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments to State residents because of a finding by the State insurance commissioner or other State entity authorized

to make such determination that such a program is necessary in order to provide for the continued availability of such residential coverage for all residents; or

(B) reinsurance program that is designed to improve private insurance markets which offer coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments because of a finding by the State insurance commissioner or other State entity authorized to make such determination that such a program is necessary in order to provide for the continued availability of such residential coverage for all residents.

(2) TAX STATUS.—The program shall be structured and carried out in a manner so that the program is exempt from all Federal taxation.

(3) COVERAGE.—The program shall cover only a single peril.

(4) EARNINGS.—The program may not provide for the redistribution of any part of any net profits of the program to any insurer that participates in the program.

(5) MITIGATION.—

(A) IN GENERAL.—The program shall include mitigation provisions that require that not less than 10 percent of the net investment income of the State insurance or reinsurance program be used for programs to mitigate losses from natural disasters for which the State insurance or reinsurance program was established. For purposes of this paragraph, mitigation shall include methods to reduce losses of life and property.

(B) EXCEPTION.—Notwithstanding subparagraph (A), in the case of any State for which the Secretary has determined, pursuant to a request by the State insurance commissioner, that the 10 percent requirement under subparagraph (A) will jeopardize the actuarial soundness of the State program, subparagraph (A) shall be applied by substituting "5 percent" for "10 percent".

(6) REQUIREMENTS REGARDING COVERAGE.—

(A) IN GENERAL.—The program—

(i) may not involve cross-subsidization between any separate property and casualty lines covered under the program;

(ii) shall include provisions that authorize the State insurance commissioner or other State entity authorized to make such a determination to terminate the program if the insurance commissioner or other such entity determines that the program is no longer necessary to ensure the availability of homeowners' insurance for all State residents; and

(iii) shall provide that, for any insurance coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments that is made available under the State insurance program and for any reinsurance coverage for such insurance coverage made available under the State reinsurance program, the premium rates charged shall be amounts that, at a minimum, are sufficient to cover the full actuarial costs of such coverage, based on consideration of the risks involved and accepted actuarial and rate making principles, anticipated administrative expenses, and loss and loss-adjustment expenses.

(B) APPLICABILITY.—This paragraph shall apply to any program which, after January 1, 1998, commences offering insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of paragraph (1), or effective 2 years after the date of enactment for any existing State program described in section 8.

(7) OTHER QUALIFICATIONS.—

(A) IN GENERAL.—The program shall have been certified (for the year for which the coverage is in effect) by the Secretary as in compliance with regulations that shall be issued under this paragraph by the Secretary, in consultation with the National Commission on Catastrophe Risks and Insurance Loss Costs established under section 10. The regulations shall establish criteria for State programs to qualify to purchase reinsurance under this section, which are in addition to the requirements under the other paragraphs of this subsection.

(B) CONTENTS.—The regulations issued under this paragraph shall include requirements that—

(i) the State program have public members on its board of directors or have an advisory board with public members;

(ii) insurance coverage made available through the State program not supplant coverage that is otherwise reasonably available and affordable in the private insurance market;

(iii) the State program provide adequate insurance protection for the peril covered, which shall include a range of deductibles and premium costs that reflect the applicable risk to eligible properties;

(iv) the insurance protection provided by the State program is made available on a nondiscriminatory basis to all qualifying residents;

(v) the State, or the appropriate local governments within the State, have certified that new construction insured by the program complies with applicable building, fire, and safety codes;

(vi) the State, or appropriate local governments within the State, have in effect building, fire, and safety codes generally consistent with Federal Emergency Management Agency guidelines designed to reduce losses from the peril covered;

(vii) the State has taken actions to establish an insurance rate structure that takes into account measures to mitigate insurance losses; and

(viii) the State program complies with such other requirements that the Secretary considers necessary to carry out the purposes of this Act.

(b) TERMS OF CONTRACTS.—Each contract under this section for reinsurance coverage under this Act shall be subject to the following terms and conditions:

(1) MATURITY.—The term of the contract shall not exceed 1 year.

(2) PAYMENT CONDITION.—The contract shall authorize claims payments for eligible losses only to the eligible State program purchasing the coverage.

(3) RETAINED LOSSES REQUIREMENT.—The contract shall pay eligible losses only if the total amount of insurance claims for losses, which are covered by qualified lines, occur to properties located within the State covered by the contract, and result from a single event of a covered peril, exceeds the amount of retained losses provided under the contract (pursuant to section 8(a)) purchased by the eligible State program.

(4) MULTIPLE EVENTS.—The contract shall cover any eligible losses from one or more covered events that may occur during the term of the contract.

(5) TIMING OF ELIGIBLE LOSSES.—Eligible losses under the contract shall include only insurance claims for property covered by qualified lines that are reported to the eligible State program within the 3-year period beginning upon the event or events for which payment under the contract is made.

(6) PRICING.—

(A) DETERMINATION.—The cost of reinsurance coverage under the contract shall be an amount established by the Secretary as follows:

(i) RECOMMENDATIONS.—The Secretary shall take into consideration the recommendations of the Commission in establishing the cost, but the cost may not be less than the amount recommended by the Commission.

(ii) FAIRNESS TO TAXPAYERS.—The cost shall be established at a level that is designed to return to the Federal Government fair compensation for the risks being borne by the people of the United States and that takes into consideration the developmental stage of empirical models of natural disasters and the capacity of private markets to absorb insured losses from natural disasters.

(iii) SELF-SUFFICIENCY.—The rates for reinsurance coverage shall be established at a level that annually produces expected premiums which shall be sufficient to pay the annualized cost of all claims, loss adjustment expenses, and all administrative costs of reinsurance coverage offered under this section.

(B) COMPONENTS.—The cost shall consist of the following components:

(i) RISK-BASED PRICE.—A risk-based price, which shall reflect the anticipated annualized payout of the contract according to the actuarial analysis and recommendations of the Commission.

(ii) RISK LOAD.—A risk load in an amount that is not less than the risk-based price under clause (i).

(iii) ADMINISTRATIVE COSTS.—A sum sufficient to provide for the operation of the Commission and the administrative expenses incurred by the Secretary in carrying out this Act.

(7) REPAYMENT TERMS.—The contract shall include a condition that requires that, in the event that a covered purchaser receives payments for qualifying claims that consist of amounts derived from obligations issued under section 9(d), such covered purchaser shall continue to purchase the reinsurance coverage provided under this Act, in amounts that are at least as great as those

immediately before the Fund was credited with amounts borrowed under section 9(d), until such borrowed moneys, including interest, are repaid pursuant to section 9(d)(5)(B).

(8) INFORMATION.—The contract shall contain a condition providing that the Commission may require the State program that is covered to submit to the Commission all information on the State program relevant to the duties of the Commission, as determined by the Secretary.

(9) EXHAUSTION OF COVERAGE.—

(A) IN GENERAL.—Each contract shall provide that, if during the term of the contract the coverage under the contract is exhausted because of payment for losses from a covered event, the covered purchaser shall, during the 15-day period beginning upon the covered event that causes exhaustion of the coverage under the original contract, have an option to make a single purchase of similar coverage for the remaining term of the contract under terms and conditions similar to the original contract, but reflecting a new loss cost estimate and at a cost prorated based upon the remaining term.

(B) DISCRETION.—To facilitate making available contracts pursuant to the exercise of options under subparagraph (A), the Secretary may make—

(i) any estimates and determinations that may be necessary regarding whether coverage under a contract is exhausted and the amount of losses retained by a State program;

(ii) any estimates and assumptions necessary to establish the price, terms, and conditions of a contract provided pursuant to such an option; and

(iii) any subsequent adjustments to a contract provided pursuant to the exercise of such an option (including cancellation of the contract) to conform the price, terms, and conditions in accordance with findings by the Secretary regarding issues previously estimated and assumed by the Secretary pursuant to clause (ii).

(10) OTHERS.—The contract shall contain such other terms as the Secretary considers necessary to carry out this Act and to ensure the long-term financial integrity of the program under this Act.

(c) PRICE GOUGING PROTECTIONS.—Notwithstanding any other provision of this section, a State-operated program that otherwise meets the requirements of this section shall be eligible to purchase a contract under this section for reinsurance coverage made available under this Act only if the Secretary determines that there are in effect, in such State, laws or regulations sufficient to prohibit price gouging, during the term of such reinsurance coverage, in any disaster area located within the State.

SEC. 7. AUCTION OF CONTRACTS FOR REINSURANCE COVERAGE.

(a) AUCTION PROGRAM REQUIREMENTS.—The Secretary shall carry out a program to auction contracts for reinsurance coverage under this Act made available pursuant to section 3(a)(2), which shall comply with the following requirements:

(1) PURCHASERS.—The auction program shall provide for auctioning all contracts made available under this section to private insurers and reinsurers, State insurance and reinsurance programs, and other interested entities.

(2) REGIONAL AUCTIONS.—The auction program shall provide for auctions on a regional basis. The Secretary shall divide the States into not less than 6 regions for the purpose of holding such regional auctions, which shall include separate regions for all or part of the State of California and all or part of the State of Florida. Auctions for each region shall be conducted not less often than annually.

(3) RESERVE PRICE.—In auctioning a contract under this section for reinsurance coverage, the Secretary shall set a reserve price as the lowest base price for that contract, based upon the recommendations of the Commission. The reserve price shall be determined on the basis of the following components:

(A) RISK-BASED PRICE.—A risk-based price, which shall reflect the anticipated annualized payout of the contract according to the actuarial analysis and recommendations of the Commission.

(B) RISK LOAD.—A risk load in an amount that is not less than the risk-based price under subparagraph (A).

(C) ADMINISTRATIVE COSTS.—A sum sufficient to provide for the operation of the Commission and the administrative expenses incurred by the Secretary in carrying out this section.

(D) MITIGATION.—An adjustment that takes into account any efforts that are being made to reduce losses to property in the region in which the contract is being sold.

(4) OTHER REQUIREMENTS.—The Secretary may establish such other requirements for the auction program as the Secretary considers necessary to carry out this Act.

(b) CONTRACT TERMS AND CONDITIONS.—Each contract for reinsurance coverage auctioned under the program under this section shall include the following terms and conditions:

(1) MATURITY.—The term of each such contract shall not exceed 1 year.

(2) TRANSFERABILITY.—The contract shall at all times be fully transferable, assignable, and divisible.

(3) MULTIPLE EVENTS.—The contract shall contain the provisions described in section 6(b)(4).

(4) THRESHOLD OF COVERAGE.—Each contract auctioned in a region established under subsection (a)(2) shall provide that the covered purchaser may receive a payment for losses covered under the contract if, under a process specified in the contract, the Secretary determines that the insurance industry will, as a result of a single event of a covered peril, incur losses within the coverage area for such region that are covered by one or more lines of insurance under section 5 in an aggregate amount, for such event, greater than the level of retained losses specified in section 8.

(5) EXHAUSTION OF COVERAGE.—Each contract shall contain the provisions described in section 6(b)(9).

(6) OTHERS.—The contract shall contain such other terms as the Secretary considers necessary to carry out this Act and to ensure the long-term financial integrity of the program under this Act.

(c) PRICE GOUGING PROTECTIONS.—Notwithstanding any other provision of this section, a contract for reinsurance auctioned under this section shall provide reinsurance coverage only for losses incurred for property located in a State for which the Secretary of the Treasury has determined that there are in effect, in such State, laws or regulations sufficient to prohibit price gouging, during the term of such reinsurance coverage, in any disaster area located within the State.

SEC. 8. MINIMUM LEVEL OF RETAINED LOSSES AND MAXIMUM FEDERAL LIABILITY.

(a) AVAILABLE LEVELS OF RETAINED LOSSES.—In making reinsurance coverage available under this Act, the Secretary shall make available for purchase contracts for such coverage that require the sustainment of retained losses from a single event of a covered peril (as required under sections 6(b)(3) and 7(b)(4) for payment of eligible losses) in various amounts, as the Secretary determines appropriate and subject to the requirements under subsection (b).

(b) MINIMUM LEVEL OF RETAINED LOSSES.—

(1) CONTRACTS FOR STATE PROGRAMS.—Subject to paragraph (3) and notwithstanding any other provision of this Act, a contract for reinsurance coverage under section 6 for an eligible State program that offers insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of section 6(a)(1) may not be made available or sold unless the contract requires retained losses from a single event of a covered peril in the following amount:

(A) IN GENERAL.—The State program shall sustain an amount of retained losses of not less than the greater of—

(i) $2,000,000,000;

(ii) the claims-paying capacity of the eligible State program, as determined by the Secretary; and

(iii) an amount, determined by the Secretary in consultation with the Commission which is sufficient to cover eligible losses in the State during a 12-month period for all events having a likelihood of occurrence of once every 100 years.

(B) TRANSITION RULE FOR EXISTING STATE PROGRAMS.—

(i) CLAIMS-PAYING CAPACITY.—Subject to clause (ii), in the case of any eligible State program that was offering insurance or reinsurance coverage on the date of the enactment of this Act and the claims-paying capacity of which is greater than $2,000,000,000 but less than an amount determined for the State under subparagraph (A)(iii), the minimum level of retained losses applicable under this paragraph shall be the claims-paying capacity of such State program.

(ii) AGREEMENT.—Clause (i) shall apply to a State program only if the State program enters into a written agreement with the Secretary that shall provide a schedule for increasing the claims-paying capacity of the State program to the amount determined sufficient by the Secretary under subparagraph (A)(iii) of this subsection over a period not to exceed 5 years. The Secretary may extend the 5-year period for not more

than 2 additional one-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program. The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential one-year extensions.

(C) TRANSITION RULE FOR NEW STATE PROGRAMS.—

(i) 100-YEAR EVENT.—The Secretary may provide that, in the case of an eligible State program that, after January 1, 1998, commences offering insurance or reinsurance coverage, during the 5-year period beginning on the date that reinsurance coverage under section 6 is first made available, the minimum level of retained losses applicable under this paragraph shall be the amount determined for the State under subparagraph (A)(iii), except that such minimum level shall be adjusted annually as provided in clause (ii) of this subparagraph.

(ii) ANNUAL ADJUSTMENT.—Each annual adjustment under this clause shall increase the minimum level of retained losses applicable under this subparagraph to an eligible State program described in clause (i) in a manner such that—

(I) during the course of such 5-year period, the applicable minimum level of retained losses approaches the minimum level that, under subparagraph (A), will apply to the eligible State program upon the expiration of such period; and

(II) each such annual increase is a substantially similar amount, to the extent practicable.

(D) REDUCTION BECAUSE OF REDUCED CLAIMS-PAYING CAPACITY.—

(i) AUTHORITY.—Notwithstanding subparagraphs (A), (B), and (C) or the terms contained in a contract for reinsurance pursuant to such subparagraphs, if the Secretary determines that the claims-paying capacity of an eligible State program has been reduced because of payment for losses due to an event, the Secretary may reduce the minimum level of retained losses for the State commensurate with the current capacity of the State program, as determined by the Secretary, but in no case may such minimum level be less than $2,000,000,000.

(ii) TERM OF REDUCTION.—If the minimum level of retained losses for an eligible State program is reduced pursuant to clause (i), upon the expiration of the 5-year period beginning upon such reduction the minimum level of retained losses applicable to such State program under a contract for reinsurance coverage under section 6 shall be increased to an amount not less than the amount applicable to such State program immediately before such reduction.

(E) CLAIMS-PAYING CAPACITY.—For purposes of this paragraph, the claims-paying capacity of a State-operated insurance or reinsurance program under section 6(a)(1) shall be determined by the Secretary, in consultation with the Commission, taking into consideration retained losses to private insurers in the State in an amount assigned by the State insurance commissioner, the cash surplus of the program, and the lines of credit, reinsurance, and other financing mechanisms of the program established by law.

(2) AUCTION CONTRACTS.—Subject to paragraph (3) and notwithstanding any other provision of this Act, a contract for reinsurance coverage may not be made available or sold under section 7 through a regional auction unless the insurance industry in the region for which the auction was conducted sustains a cumulative amount of retained losses (in covered lines resulting from covered perils) of not less than the greater of—

(A) $2,000,000,000; and

(B) an amount, determined by the Secretary in consultation with the Commission, which is sufficient to cover eligible losses in the region during a 12-month period for all events having a likelihood of occurrence of once every 100 years.

(3) ANNUAL ADJUSTMENT.—The Secretary may annually raise the minimum level of retained losses established under paragraph (1) for an eligible State program or under paragraph (2) for a region to reflect, as determined by the Secretary—

(A) in the case of an eligible State program, changes to the claims-paying capacity of the program;

(B) changes in the capacity of the private insurance and reinsurance market;

(C) increases in the market value of properties; or

(D) such other situations as the Secretary considers appropriate.

In making any determination under this paragraph in the minimum level of retained losses, the Secretary shall establish such level at an amount such that the program under this Act for making reinsurance coverage available does not displace or compete with the private insurance or reinsurance markets or capital markets, as determined by the Secretary.

(4) OPTIONAL ANNUAL INFLATIONARY ADJUSTMENT.—The Secretary may, on an annual basis, raise the minimum level of retained losses established under paragraph (1) for each eligible State program and under paragraph (2) for each region to reflect the annual rate of inflation. Any such raise shall be made in accordance with an inflation index that the Secretary determines to be appropriate. The first such raise may be made one year after contracts for reinsurance coverage under this Act are first made available for purchase.

(c) MAXIMUM FEDERAL LIABILITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the maximum amount paid for all events in any single year by the Secretary pursuant to claims under all contracts for reinsurance coverage under this Act shall not exceed the applicable maximum amount for such year determined under paragraph (2). If, in any single year, claims under existing contracts for reinsurance coverage exceed the applicable maximum amount, each claimant shall receive a prorated portion of the amount available for payment of claims.

(2) APPLICABLE MAXIMUM AMOUNT.—For purposes of paragraph (1), the applicable maximum amount shall be—

(A) for any year not referred to in subparagraph (B), $25,000,000,000, except that the Secretary shall annually adjust such amount (as it may have been previously adjusted) to provide for inflation in accordance with an inflation index that the Secretary determines to be appropriate; or

(B) for any year during the 4-year period beginning on the date that contracts for reinsurance coverage under this Act are first made available for purchase, the dollar amount that the Secretary shall establish and annually revise, which may not in any event exceed $25,000,000,000.

(d) LIMITATION ON PERCENTAGE OF RISK IN EXCESS OF RETAINED LOSSES.—

(1) IN GENERAL.—The Secretary may not make available for purchase contracts for reinsurance coverage under this Act that represent more than 50 percent of the risk of insured losses in excess of retained losses—

(A) in the case of a contract under section 6 for an eligible State program, for such State; and

(B) in the case of a contract made available through a regional auction under section 7, for such region.

(2) PAYOUT.—For purposes of this subsection, the amount of payout from a reinsurance contract shall be the amount of eligible losses multiplied by the percentage in effect at the time under paragraph (1).

SEC. 9. DISASTER REINSURANCE FUND.

(a) ESTABLISHMENT.—There is established within the Treasury of the United States a fund to be known as the Disaster Reinsurance Fund (in this section referred to as the "Fund").

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

(1) amounts received annually from the sale of contracts for reinsurance coverage under this Act;

(2) any amounts borrowed under subsection (d);

(3) any amounts earned on investments of the Fund pursuant to subsection (e); and

(4) such other amounts as may be credited to the Fund.

(c) USES.—Amounts in the Fund may be used only to the extent approved in appropriation Acts and only for the following purposes:

(1) CONTRACT PAYMENTS.—For payments to covered purchasers under contracts for reinsurance coverage for eligible losses under such contracts.

(2) COMMISSION COSTS.—To pay for the operating costs of the Commission.

(3) ADMINISTRATIVE EXPENSES.—To pay for the administrative expenses incurred by the Secretary in carrying out the reinsurance program under this Act.

(4) TERMINATION.—Upon termination under section 12, as provided in such section.

(d) BORROWING.—

(1) AUTHORITY.—To the extent that the amounts in the Fund are insufficient to pay claims and expenses under subsection (c), the Secretary may issue such obligations of the Fund as may be necessary to cover the insufficiency and shall purchase any such obligations issued.

(2) PUBLIC DEBT TRANSACTION.—For the purpose of purchasing any such obligations, the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities are issued under such chapter are hereby extended to include any purchase by the Secretary of such obligations under this subsection.

(3) CHARACTERISTICS OF OBLIGATIONS.—Obligations issued under this subsection shall be in such forms and denominations, bear such maturities, bear interest at such rate, and be subject to such other terms and conditions, as the Secretary shall determine.

(4) TREATMENT.—All redemptions, purchases, and sales by the Secretary of obligations under this subsection shall be treated as public debt transactions of the United States.

(5) CONDITIONS.—The following conditions shall apply to any obligations issued under this subsection:

(A) The Secretary may issue such obligations only to such extent and in such amounts as are provided in appropriation Acts.

(B) Any obligations issued under this subsection shall be repaid, including interest, from the Fund and shall be recouped from premiums charged for reinsurance coverage provided under this Act.

(e) INVESTMENT.—If the Secretary determines that the amounts in the Fund are in excess of current needs, the Secretary may invest such amounts as the Secretary considers advisable in obligations issued or guaranteed by the United States.

(f) PROHIBITION OF FEDERAL FUNDS.—Except for amounts made available pursuant to subsection (d) and section 10(h), no Federal funds shall be authorized or appropriated for the Fund or for carrying out the reinsurance program under this Act.

SEC. 10. NATIONAL COMMISSION ON CATASTROPHE RISKS AND INSURANCE LOSS COSTS.

(a) ESTABLISHMENT.—The Secretary shall establish a commission to be known as the National Commission on Catastrophe Risks and Insurance Loss Costs.

(b) DUTIES.—The Commission shall meet for the sole purpose of advising the Secretary regarding the estimated loss costs associated with the contracts for reinsurance coverage available under this Act and carrying out the functions specified in this Act.

(c) MEMBERS.—The Commission shall consist of not more than 5 members, who shall be appointed by the Secretary and shall be broadly representative of the public interest. Members shall have no personal, professional, or financial interest at stake in the deliberations of the Commission. The membership of the Commission shall at all times include at least 1 representative of a nationally recognized consumer organization.

(d) TREATMENT OF NON-FEDERAL MEMBERS.—Each member of the Commission who is not otherwise employed by the Federal Government shall be considered a special Government employee for purposes of sections 202 and 208 of title 18, United States Code.

(e) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at a rates not in excess of the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule, for each day during which the individual procured is performing such services for the Commission.

(f) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate of basic pay payable for level V of the Executive Schedule, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(g) OBTAINING DATA.—The Commission and the Secretary may solicit loss exposure data and such other information either deems necessary to carry out its responsibilities from governmental agencies and bodies and organizations that act as statistical agents for the insurance industry. The Commission and the Secretary shall take such actions as are necessary to ensure that information that either deems is confidential or proprietary is disclosed only to authorized individuals working for the Commission or the Secretary. No company which refuses to provide information requested by the Commission or the Secretary may participate in the program for reinsurance coverage authorized under this Act, nor may any State participate if any governmental agency within that State has refused to provide information requested by the Commission or the Secretary.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(A) $1,000,000 for fiscal year 1999 for the initial expenses in establishing the Commission and the initial activities of the Commission that cannot timely be covered by amounts obtained pursuant to sections 6(b)(6)(B)(iii) and 7(a)(4)(C), as determined by the Secretary; and

(B) such additional sums as may be necessary to carry out subsequent activities of the Commission.

(2) OFFSET.—The Secretary shall provide, to the maximum extent practicable, that an amount equal to any amount appropriated under paragraph (1) is obtained from purchasers of reinsurance coverage under this Act and deposited in the Fund established under section 9. Such amounts shall be obtained by inclusion of a provision for the Commission's expenses incorporated into the pricing of the contracts for such reinsurance coverage, pursuant to sections 6(b)(6)(B)(iii) and 7(a)(4)(C).

(i) TERMINATION.—The Commission shall terminate upon the effective date of the repeal under section 12(c).

SEC. 11. DEFINITIONS.

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

(1) COMMISSION.—The term "Commission" means the National Commission on Catastrophe Risks and Insurance Loss Costs established under section 10.

(2) COVERED PERILS.—The term "covered perils" means the natural disaster perils under section 5.

(3) COVERED PURCHASER.—The term "covered purchaser" means—

(A) with respect to reinsurance coverage made available under a contract under section 6, the eligible State-operated insurance or reinsurance program that purchases such coverage; and

(B) with respect to reinsurance coverage made available under a contract under section 7, the purchaser of the contract auctioned under such section or any subsequent holder or holders of the contract.

(4) DISASTER AREA.—The term "disaster area" means a geographical area, with respect to which—

(A) a covered peril specified in section 5 has occurred; and

(B) a declaration that a major disaster exists, as a result of the occurrence of such peril—

(i) has been made by the President of the United States; and

(ii) is in effect.

(5) ELIGIBLE LOSSES.—The term "eligible losses" shall be defined by the Secretary, after consultation with the Commission.

(6) ELIGIBLE STATE PROGRAM.—The term "eligible State program" means a State program that, pursuant to section 6(a), is eligible to purchase reinsurance coverage made available through contracts under section 6.

(7) PRICE GOUGING.—The term "price gouging" means the providing of any consumer good or service by a supplier for a price that the supplier knows or has reason to know is greater, by at least the percentage set forth in a State law or regulation prohibiting such act (notwithstanding any real cost increase due to any attendant business risk and other reasonable expenses that result from the major disaster involved), than the price charged by the supplier for such consumer good or service immediately before the disaster.

(8) QUALIFIED LINES.—The term "qualified lines" means lines of insurance coverage for which losses are covered under section 4 by reinsurance coverage under this Act.

(9) REINSURANCE COVERAGE.—The term "reinsurance coverage under this Act" includes coverage under contracts made available under sections 6 and 7.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(11) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

SEC. 12. TERMINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not provide any reinsurance coverage under this Act covering any period after the expiration of the 10-year period beginning on the date of the enactment of this Act.

(b) EXTENSION.—If upon the expiration of the period under subsection (a) the Secretary, in consultation with the Commission, determines that continuation of the program for reinsurance coverage under this Act is necessary to carry out the purpose of this Act under section 3(b) because of insufficient growth of capacity in the

private homeowners' insurance market, the Secretary shall continue to provide reinsurance coverage under this Act until the expiration of the 5-year period beginning upon the expiration of the period under subsection (a).

(c) REPEAL.—Effective upon the date that reinsurance coverage under this Act is no longer available or in force pursuant to subsection (a) or (b), this title (except for this section) is repealed.

(d) DEFICIT REDUCTION.—The Secretary shall cover into the General Fund of the Treasury any amounts remaining in the Fund under section 9 upon the repeal of this title.

SEC. 13. ANNUAL STUDY OF COST AND AVAILABILITY OF DISASTER INSURANCE AND PROGRAM NEED.

(a) IN GENERAL.—The Secretary shall, on an annual basis, conduct a study and submit to the Congress a public report on the cost and availability of homeowners' insurance for losses resulting from catastrophic natural disasters covered by the reinsurance program under this Act.

(b) CONTENTS.—Each annual study under this section shall determine and identify, on an aggregate basis—

(1) for each State or region, the capacity of the private homeowners' insurance market with respect to coverage for losses from catastrophic natural disasters;

(2) for each State or region, the percentage of homeowners who have such coverage, the disasters covered, and the average cost of such coverage;

(3) for each State or region, the progress that private reinsurers and capital markets have made in providing reinsurance for such homeowners' insurance;

(4) for each State or region, the effects of the Federal reinsurance program under this Act on the availability and affordability of such insurance; and

(5) the appropriate time for termination of the Federal reinsurance program under this Act.

(c) TIMING.—Each annual report under this section shall be submitted not later than March 30 of the year after the year for which the study was conducted.

(d) COMMENCEMENT OF REPORTING REQUIREMENT.—The Secretary shall first submit an annual report under this section 2 years after the date of the enactment of this Act.

EXPLANATION OF THE LEGISLATION

H.R. 219, the "Homeowners' Insurance Availability Act of 1998" creates a voluntary temporary Federal complement to efforts by states and the private market to make catastrophic insurance for homeowners living in disaster-prone regions of the country more available and affordable.

FINDINGS AND PURPOSES

The availability of homeowners' insurance can no longer be taken for granted. Major catastrophes in recent years, including Hurricane Andrew (1992), Hurricane Iniki (1992) and the Northridge Earthquake (1994) have led to a shortage of insurance coverage in many risk-prone areas.

Testimony before the Committee in the 105th Congress has shown evidence of such availability problems in coastal regions, particularly North Carolina, Florida, Texas and New Jersey, but also in other areas prone to hurricane losses. Similarly, the availability and scope of coverage for damage from earthquakes is a significant problem in California, Missouri and other seismic-prone states. Evidence presented to the Committee indicates that such availability problems at the consumer level have been worsening.

According to a 1997 study undertaken by the Independent Insurance Agents of America (IIAA), for example, 96% of the agents surveyed indicated that it was more difficult to underwrite homeowners' insurance coverage in disaster prone regions during the last five years. This same survey indicated that the lack of ade-

quate reinsurance[1] was the primary reason insurance companies were unwilling to continue expanding coverage in risk-prone areas. As further evidence, U.S. RE Corporation, one of the nation's leading insurance intermediaries, has publicly stated that the total supply of available reinsurance in any single region of the United States is approximately $7 billion for both residential and commercial losses, a figure which is less than 10% of the potential loss which might occur from a worst-case natural event.

In California, although the state earthquake authority recently secured the largest private reinsurance contract in history ($1.8 billion), the additional coverage will protect less than 10% of potential losses in a major earthquake, while costing the state program 50 cents out of every dollar collected from California homeowners. In the event a natural disaster exceeds the capacity of a particular state's insurance program, homeowners would receive only partial claims for losses, bankrupting the state insurance fund, damaging state real estate and insurance industries, and ultimately endangering the health of local economies.

Should the recent trend of larger losses from natural disaster continue in the future, together with reduced insurance capacity in the private marketplace, the consequences could be serious for the Federal government. Since 1983, the Federal government has spent over $75 billion for disaster assistance. Forecasters who have testified before the Committee predict that the East and Gulf Coasts are entering what is likely to be an even more damaging period of frequent storms. Considering that 75% of the U.S. population will be living within 100 miles of a U.S. coastline by the year 2010, according to Commerce Department estimates, these events could cause even further erosion in the insurance safety net.

In several States, including Florida, California and Hawaii, government has intervened to prevent a near total collapse in private insurance markets. Florida created the Florida Catastrophe Reinsurance Fund in 1993, followed soon thereafter by the Hawaii Hurricane Relief Fund (1994) and the California Earthquake Authority (1996). These programs stabilized local insurance markets and provided a source of coverage for homeowners who could otherwise not obtain it. All are capable of paying loss claims from events of medium severity, but cannot be reasonably expected to handle worst case events that are likely to occur infrequently.

Many other higher risk states, such as Texas, Louisiana, North Carolina, Virginia, New Jersey, New York, Maryland, Delaware, Rhode Island, Connecticut and Massachusetts, as well as Tennessee, Missouri, Arkansas, Illinois, Indiana, Washington and Oregon do not have state insurance programs. However, a worst-case catastrophe would likely cause considerable insolvencies among private insurers. No matter where a worst-case disaster may occur, it is reasonable to expect that under-protected states and unprotected

[1] Reinsurance is a risk transfer mechanism that traditionally has come in the form of insurance for insurance companies. In the property casualty business, in particular, the more risk an insurance company accumulates, the more capital it needs and the more volatile its earnings become, and the more the need to transfer risk. For example, in a typical excess of loss reinsurance contract, the reinsurer agrees to indemnify an insurance company for all or part of losses in excess of a fixed dollar amount called an attachment point. Once the attachment point, or trigger, is reached, losses would be covered by reinsurance purchased by the primary insurance company.

homeowners will look to the Federal government for the sort of emergency supplemental relief that history has shown they are likely to receive.

LEGISLATIVE HISTORY

Early in the 104th Congress, in an effort to address the rising Federal costs of natural disasters and the growing lack of available homeowners' insurance in vulnerable areas, the late Representative Bill Emerson (R–MO), Senator Ted Stevens (R–AL), Representative Norman Mineta (D–CA), Senator Daniel Inouye (D–HI) and more than 220 Members of Congress sponsored comprehensive natural disaster protection legislation. That legislation ultimately did not proceed to markup, in part because of the bill's all-encompassing approach and the perception that the legislation would create many disincentives for the insurance industry to properly assume risks in a disciplined fashioned at the right price.

On the first day of the 105th Congress, Housing Subcommittee Chairman Rick Lazio joined with Representatives Bill McCollum (R–FL) and Vic Fazio (D–CA) to introduce H.R. 219, the "Homeowners' Insurance Availability Act of 1997." The legislation was originally designed to complement only state efforts to address rising natural disaster costs and the growing lack of available homeowners' insurance with minimal Federal involvement to encourage the resuscitation of the industry. The Housing Subcommittee held hearings on the legislation on June 25, 1997, and August 25, 1997. On February 4, 1998, H.R. 219 was marked up and passed the Housing Subcommittee by a vote of 16 to 6. The full Committee heard testimony on the legislation on April 23, 1998, including testimony from U.S. Department of Treasury Deputy Secretary Lawrence Summers.

I. Background and Need for Legislation

Extensive market evidence and Congressional testimony during the 1990s have shown that there is a significant lack of available homeowners' catastrophe insurance in disaster-prone areas across the country.

Following the Northridge earthquake in 1994, 95% of the homeowners' insurance market in the state was not providing new coverage according to the California Insurance Department. The Hawaii and Florida markets were similarly affected following catastrophes in 1992. Besides California, Hawaii, and Florida, homeowners' insurance availability continues to be a problem in the coastal areas of Texas, Louisiana, North Carolina, Virginia, New Jersey, Maryland, Delaware, New York, Rhode Island, Connecticut and Massachusetts. Homeowners' insurance is becoming extremely difficult to obtain in the New Madrid earthquake region (Tennessee, Missouri, Arkansas, Illinois, Indiana) and the Pacific Northwest. As evidence, applications to state FAIR (Fair Access Insurance Requirements) plans and beach plans (so-called markets of last resort for homeowners' insurance which generally provide less coverage at a greater price) have increased dramatically over the last five years (California +309%, Louisiana +741%, Massachusetts

+66%, New York +31%, Mississippi +75%, Florida +533%, South Carolina +213%).

According to a December 1996 study of states by Insurance Services Office (ISO), a non-profit corporation that makes available advisory rating, statistical, actuarial and related services to U.S. property/casualty insurers, in the last ten years, the number of insurers writing homeowners' insurance has dropped by 31% in Florida, by 29% in Texas, and by 23% in California. That same study concluded that "[u]ntil society * * * creates the necessary financial mechanism, homeowners' insurers will remain in a precarious situation, and insurance availability may remain a problem in catastrophe-prone areas."

During testimony before the House Subcommittee in 1997, Gregory Butler, CEO of the California Earthquake Authority stated "[following the Northridge Earthquake] insurers * * * simply walked away from the market * * * it was nearly impossible to find insurance for a new home buyer." At that same hearing, Daniel Sumner, General Counsel of the Florida Department of Insurance testified that "[even with the creation of the state fund] there are areas of the state of Florida where the private insurance capacity is such that there is simply not adequate private insurance to cover those who are in need of insurance * * * the shock of [Hurricane Andrew] claims and risk of further claims * * * created an environment where massive cancellations of homeowners' policies and retreat from the state by insurance companies were at hand."

Dr. Robert Klein, Director for the Center for Risk Management at Georgia State University testified before the Housing Subcommittee that "reinsurers do not have the financial resources to cover losses from a mega-catastrophe. Catastrophe reinsurance is difficult and expensive to obtain." In that same hearing, Jerry Thomas, Chairman of the Quaker City BanCorp, California stated that "[t]he flight of property and casualty insurers and the limited and expensive coverage offered by the [state program] leave depository institutions which lend in seismically active areas exposed to potentially devastating losses."

Steven Bupp, President of Condominium Venture, Inc., Maryland stated in testimony before the House Subcommittee that "[following the disasters of the early 1990s] insurance companies went bankrupt, policies were canceled, the availability of new coverage vanished * * * and existing coverage shrank * * * locating and affording adequate insurance coverage remains a significant challenge * * * availability is scarce or virtually nonexistent in some areas." In that same hearing, James R. Klagholz, Secretary-Treasure of C.N. Sterling Associates, New Jersey stated that "there are very big problems * * * in the insurance market and * * * they are growing worse * * * insurance company after insurance company [has] withdrawn from the market * * * there are few if any, insurance companies that will write * * * coverage [on the New Jersey shore]."

During testimony before the Housing Subcommittee at a field hearing in Miami, Florida on the 5 year anniversary of Hurricane Andrew, Alex Soto, President of Pennekamp and Soto Insurance Agency testified that "[f]ive years after Hurricane Andrew, the Florida insurance market still struggles as though the wind never

stopped blowing * * * Most companies are not only refusing new business, they are still actively non-renewing as many customers as the law will allow. This is not a trend which is slowly reversing. It has been a full-scale retreat that started immediately after Hurricane Andrew and continues unabated to this day." At that same hearing, Bill Nelson, Insurance Commissioner of the State of Florida testified that "[a]fter [Hurricane] Andrew ripped through the state, Florida's property insurance market collapsed * * * for all our progress * * * it is not enough * * * It remains difficult to find additional or new private-market coverage in South Florida." Also testifying at that hearing Stan Bainter, Representative of the Florida State House stated that "[t]oday, the voluntary, private sector homeowners' insurance market does not work well anywhere in Florida, and does not work at all in some parts of Florida." Dr. Jack Nicholson, CEO of the Florida Catastrophic Fund also testified that "[following Hurricane Andrew] insurers and reinsurers began to reduce their exposure in Florida. The result for Florida were that thousands of Floridians found themselves unable to find coverage."

In 1998, in testimony before the full Committee, Deputy Treasury Secretary Lawrence Summers stated that there is an "urgent need for moving forward on a timely basis [with Federal disaster reinsurance legislation, and that] we see great promise in [H.R. 219] as a means of addressing many of the problems related to the availability and price of insurance and reinsurance for disaster risks." He went on to note that the capital market solutions to natural disaster exposure are "in a relatively early stage of development, [and] clearly, a serious problem remains in the interim." He concluded that "[p]rogress on this issue has been too long in coming [and that] we all share a clear recognition of the urgent need to move forward on a timely basis."

Also testifying before the full Committee, Babette Heimbuch, President and CEO of the First Federal Bank of California, stated that depository institutions located in disaster-prone areas "face the potential of crippling losses should the traditional safety net of private homeowners' insurance fail [and] that system is indeed failing." She noted that "it is not an exaggeration to say that the greatest risk to the funds protecting America's financial institutions is not a financial collapse but a large-scale natural disaster [and] if a major earthquake and a major hurricane were to occur in the same year the total gross real estate losses for depository institutions could force many lenders across the nation into insolvency."

Roger Joslin, Chairman of the Board of the State Farm Fire and Casualty Company, the largest writer of homeowners' insurance in the United States also testified before the Committee that "insured losses from major natural catastrophes in several regions of the country * * * could reach as high as $75 billion to $100 billion," and that "[e]vents of this magnitude far exceed the claims paying capacity of most private insurers and all existing state funds."

Also testifying before the Committee, Robert W. Pike, Senior Vice President, Secretary and General Counsel of the Allstate Insurance Company, stated that although state-operated insurance programs "have sufficient capacity to cover the majority of catastrophes,

[they] could not cover the losses from worst-case disaster * * * if [Hurricane Andrew] had hit just 50 miles north in Miami, the cost of that hurricane, it is estimated, would have exceeded $50 billion in insured losses." He concluded that "Allstate believes that H.R. 219 will make state natural disaster plans much more stable, thereby increasing the likelihood of sustaining a viable insurance market after a substantial catastrophe."

II. Purpose and Summary

A. Overview

H.R. 219, the "Homeowners' Insurance Availability Act of 1998" requires the Department of the Treasury to offer voluntary, single-year, single peril (hurricane, earthquake or volcano), multiple event Federal reinsurance contracts for (1) direct sale to eligible state-operated insurance programs (existing and future); and (2) auction by region to private market participants as well as state-operated insurance programs for residential loss coverage in the event of a natural disaster. In the event Federal reinsurance under a particular contract is exhausted due to payment for event losses, the purchaser has a single opportunity to purchase additional coverage within 15 days of the event which exhausts the original contract.

Reinsurance coverage offered by the federal government would cover only a percentage of losses above a deductible, or trigger, set by state or region by the Secretary of the Treasury in consultation with the National Commission on Catastrophe Risks and Insurance Loss Costs established in the legislation. It is intended that these trigger levels are the minimum required levels and that Treasury may set the trigger as high as necessary to achieve program goals.

The trigger levels are as follows:

State programs	Regional auctions
Triggers are the greater of: 1. $2 billion in residential losses, or 2. State program claims-paying capacity, or 3. An amount sufficient to cover residential losses resulting from an event that has a likelihood of occurring once every 100 years.	Triggers are the greater of: 1. $2 billion in residential losses, or 2. An amount sufficient to cover residential losses by region resulting from an event that has a likelihood of occurring once every 100 years.

The trigger amount for State insurance programs in most instances will be the one-in-one hundred-year event figure. For existing State programs with claims paying capacity below this level, the Secretary would have authority to set interim trigger levels over a five year period to permit the program to achieve the required level of claims-paying capacity. If necessary, the Secretary could provide two additional one-year extensions should the State sustain significant unforeseen losses from covered claims.

For state programs, Treasury may reduce the required minimum deductible if a state's claims-paying capacity has been reduced from a natural disaster. Such reduction is allowed only for a period of up to five years, after which the state program must return to its original deductible level. Additionally, the Secretary has the discretion, in consultation with the National Commission on Catastrophic Risks and Insurance Loss Costs, to set trigger levels below $2 billion for new state programs, for those states that have a one in 100

year event that is less than $2 billion in residential losses and at a level sufficient to cover eligible losses. However, such state programs are required to transition to a level at least as high as $2 billion over a period of five years.

In establishing program trigger levels, the Treasury is prohibited from offering Federal coverage at levels that would compete or displace the private insurance or reinsurance markets.

Once the trigger level has been exceeded (i.e., a state program or the insurance industry by region pays out losses equal to the deductible level), Federal reinsurance pays 50 cents for every dollar of eligible losses above the deductible level up to $25 billion, depending on the amount of Federal coverage purchased. In the event there are total eligible claims exceeding $25 billion in any one year, claims are prorated. participating state programs and private market entities pay premiums established by the Secretary based upon the recommendations of the Commission of at least twice the actuarial risk of the coverage. Auction participants competitively bid for contracts above the minimum premium established by Treasury that includes the above minimum requirement as well as a component taking into account mitigation efforts in the particular region. Such premiums are designed to provide for program self-sufficiency.

H.R. 219 imposes reasonable consumer safeguards as a condition for State participation in the federal reinsurance program. It instructs the Secretary to develop regulations to insure that state programs have public members on their board of directors. Insurance policies covering the peril insured by the program must be generally unavailable elsewhere in the private market. Insurance policies available from state programs should be reasonably available and affordable to consumers and made available on a nondiscriminatory basis. States and localities covered by a state program must implement mitigation measures, such as effective building fire and safety codes, for all new construction insured by the program and insurance policies must be priced to reflect these mitigation efforts.

Two years after enactment and annually thereafter throughout the life of the program, Treasury must conduct and submit to Congress a study on the cost and availability of catastrophic homeowners' insurance, including an identification of an appropriate time for program termination.

The program sunsets after 10 years unless Treasury determines there has been insufficient growth in private market capacity. In such a case, Treasury may extend the program for up to five additional years. Any revenue remaining in the program is transferred into the General Fund of the Treasury for purposes of deficit reduction.

B. Minimal Federal complement to State and private sector efforts

Paramount among the Committee's concerns has been developing a solution to a very real and urgent need for available and affordable catastrophic homeowners' insurance without excessive or unnecessary Federal involvement. The Committee believes such balance has been achieved in H.R. 219 by establishing prohibitions against offering Federal coverage at levels that would compete or

displace the private sector, by requiring that program participants either self-insure or purchase private reinsurance for an amount equal to the total of Federal coverage purchased, and by terminating the Federal program after 10 years unless the Secretary determines that there has been insufficient growth in private market capacity, in which case, the program may be extended for a period of up to five years.

Section 3(c) of the Committee bill provides that the contracts of Federal reinsurance provided under the bill for either state programs under Section 6, or as auctioned by Treasury under Section 7, not displace or compete with insurance, reinsurance or capital markets, but instead provide catastrophe capacity above the levels the private sector already provides.

Consistent with this provision, Section 8 of the Committee bill provides that the stated retained losses at which the Federal reinsurance attaches or triggers are minimums. The Committee expects that the Secretary would first determine the private market's capacity to retain risk and then set the attachment points above those minimums, consistent with the analysis of private market capacity.

Since the capacity of insurers, reinsurers and capital markets to absorb natural catastrophe losses fluctuates with market conditions, the contracts of reinsurance are to be entered into on an annual basis. Section 8(b)(2) provides that the Secretary shall adjust the attachment points based on a number of criteria, including an assessment of capacity to retain catastrophe risk in the private insurance, reinsurance and capital markets or in the state programs, and the requirement that the Federal program not displace or compete with those markets.

In Section 8(d) of the Committee bill, Treasury is restricted from offering Federal coverage for more than 50% of the risk of insured losses in excess of minimum retained losses. More simply, the Federal reinsurance will pay only 50 cents for every dollar in eligible losses. The Committee agreed to this limitation at the request of the Administration and in recognition of the need to avoid discouraging the continued development of private market capacity to absorb catastrophic losses. The Committee believes that the risk-sharing/co-payment requirement will, in fact, encourage and accelerate the development of private market financing mechanisms.

Additionally, the Committee approved an amendment to sunset the Federal program after 10 years unless Treasury determines there has been insufficient growth in private market capacity. In such a case, Treasury may extend the program for up to five additional years. The Committee included this provision to clearly establish that the most effective and efficient mechanisms for protecting against catastrophic loss ultimately reside in the private market. It is intended that the temporary Federal presence envisioned in H.R. 219 simply provide for continuity and relative calm through the present private market disruption, and in no way replace or compete with the private sector.

C. Protections against price gouging

The Committee recognizes that one reason for the high cost of natural catastrophes is due to temporary increases in labor and

materials because of high demand. While some increases are a normal market function, unreasonable increases can lead to price gouging and other behaviors which are not in the public interest. Therefore, in an effort to reduce price gouging, the Committee directs the Treasury to offer Federal reinsurance contracts only in states that have laws or regulations sufficient to prohibit these practices.

D. States with less risk exposure

The Committee would note that while the legislation requires Treasury to conduct no less than six regional auctions of Federal reinsurance contracts across the country, the Committee does not intend to require that each and every state be included in one region or another. In particular, for those few states in the northern Great Plains, including Nebraska, Montana, North Dakota and South Dakota, among others, that suffer from relatively small risk of hurricane, earthquake or volcano exposure, the Committee would not expect that Treasury would determine such states necessarily be included in the regional auction component of the legislation.

During Committee markup, the Committee approved an amendment providing the Secretary discretion to allow new state-operated insurance programs five years to reach a minimum trigger level of $2 billion if, according to the National Commission on Catastrophe Risks and Insurance Loss Costs, an event likely to occur in the state once every 100 years causes losses which are less than $2 billion. It should be noted that in considering such a reduction in minimum triggers as set forth in the legislation, the Secretary should not displace or otherwise compete with reinsurance coverage available in the private reinsurance market. The purpose of the amendment is to assure that all states are treated fairly and equitably by the federal program, considering differences in the frequency and severity of natural catastrophes among states as well as the relative size and financial capacity of the local insurance and reinsurance markets.

E. Regional auctions to private market participants

An excess-of-loss contract is a layer of reinsurance at a defined level. The purpose behind the excess-of-loss is to stimulate the private market. In no way should it supplant coverage that is readily available through the private sector. By offering high level coverage, the Federal contracts can free up capital currently dedicated to high level coverage so that it may be used to fill in a spotty market at lower levels of coverage. Furthermore, the capital markets, although immature now, look promising. In this regard, the Committee designed H.R. 219 to provide a temporary complement to those growing private market mechanisms to encourage continued development.

Despite the several different versions of excess-of-loss legislation since the Administration's policy paper, the base philosophy behind the excess-of-loss has remained the same. It remains intact in H.R. 219 as reported by the Committee. Essentially, Treasury would conduct an auction of a limited number of contracts. The contracts will be available to a given set of purchasers. The Committee believes that the coverage needed in an excess-of-loss contract should

begin at the greater of $2 billion or what is determined to be a "one in one hundred year event" by the Commission. However, the Committee has given Treasury the authority to increase the "trigger" based on the dynamics of the private market. Therefore, the trigger may go higher than either $2 billion or the 1-in-100 event, if necessary, to avoid encroaching on the private market.

Under the bill, the Treasury shall create at least six regions in which Federal reinsurance will be auctioned. The Committee believes that by dividing the country into regions, the auctions will attract more bidders, especially among the smaller, regionally-based underwriters, and be more likely to provide uniform benefits to all parts of the Nation. All or part of Florida would exclusively comprise at least one region and all or part of California would comprise another. The size of potential hurricane or earthquake losses in these two areas is so large that including them in any other region would distort the minimum trigger levels for other states. This would be a serious disadvantage to potential bidders who do not operate in Florida or California.

The Committee expects the price of the excess-of-loss contract to be actuarially sound. The program is designed so the Federal government, and therefore taxpayers, suffer no net loss from the program. The auction of excess-of-loss contracts is based on a reserve price determined by the Secretary according to recommendations from the Advisory Commission. The reserve price reflects the risk posed by a given region, a risk load to represent a "cushion" against a miscalculation of risk, and administrative costs. The reserve price shall also take into account other factors, such as mitigation programs in various states designed to reduce future losses from natural disasters.

F. Transferability of reinsurance contracts

The Committee strongly believes that Federal reinsurance contracts should be fully transferable, assignable and divisible so that a secondary market for these instruments will develop. This secondary market should allow a more efficient distribution of reinsurance contracts, particularly among insurers too small to bid in the primary auction. It will also guide the Secretary in gauging the true value of Federal contracts and setting the reserve prices for future auctions.

It is the Committee's intent for this provision to be broadly interpreted. In section 7(b)(2), the words "at all times" mean that a contract holder may transfer ownership of any or all of a contract to another owner either before or after any catastrophic loss event. It is to be understood that "transferable" means that the new owner(s) of a contract accede to the same rights under the contract, as required by and vested in the original owner. It is further understood that "assignable" provides that an owner of a contract may transfer all or any part of its interest or rights in a contract over to another. It is still further understood that "divisible" allows for any division, partition or apportionment of contracts as may be agreed upon by the buyer and seller.

G. Premium collection—revenue generation

While formal CBO scoring is pending, the program is designed to create a self-sustaining, self-financing fund. According to risk modeling done by Risk Management Solutions, Inc. (one of the world's leading authorities on earthquake and hurricane risk models), H.R. 219 would actually generate significant revenues over a ten-year period assuming both claims paid out and premiums collected. To assure that the model considered all likely scenarios, the 10-year cash flow was simulated 50,000 times. Stated another way, the simulation analyzed the effects of hurricanes and earthquakes occurring over 500,000 years (10-year cash flows multiplied by 50,000 simulations).

According to this study, H.R. 219, on average, creates an operating surplus after ten years of approximately $9 billion. On average, the program sustains no claims in between 88.5% and 95.7% of all years in which the program operates. The analysis further shows that the likelihood of the program requiring a loan from the Federal government to cover any revenue shortfall ranged from 2.4% to 3.1%.

H. Commission expertise and membership

The Committee would note that the bill does not require all members of the Commission to be qualified in a field related to natural disaster risk assessment or insurance. The Committee intends for the Commission to be broadly representative of the public interest and serve as an independent advisory body that is answerable to a strong code of conduct regarding conflicts of interest which is currently applicable to all Federal officials and employees. The Committee would expect that a majority of the five Commission members have such expertise and serve more in a technical advisory capacity to the Secretary and less as a broad public policy board.

The Commission also has authority to seek outside expertise and retain temporary and intermittent services of experts and consultants. H.R. 219, as originally introduced January 1, 1997, included requirements that the Commission be made up of professional actuaries, representatives of state insurance departments, and experts in the field of disaster modeling, structural engineering, meteorology and seismology. The Committee continues to believe that such expertise is appropriate. The Committee would also recommend that if a state prone to loss from volcanic eruptions creates a qualifying state-operated insurance program, or Treasury provides for the auction of contracts covering volcanic eruption loss, the Commission seeks the consultation of experts in the field of geology and related sciences.

The Committee would also strongly urge Treasury to protect the public interest by ensuring that Commission members have no personal or professional conflict of interest in the deliberations of the Commission.

I. Data collection

Section 10(h) of the Committee bill authorizes the Commission and Treasury to solicit loss exposure data, and such other information deemed necessary to carry out the program responsibilities

under this Act, from governmental agencies and bodies and organizations that act as statistical agents for the insurance industry. It is anticipated that the data will be solicited from statistical agents, which collect data on the insurance industry, such as the Insurance Services Office, the National Association of Independent Insurers and the American Association of Insurance Services. These data are maintained in aggregate form to preserve individual company confidentiality. The Committee recognizes that individual company loss data and related information constitute trade secrets and their disclosure is prohibited by law. Section 10(h) of the bill contains language intended to protect even the aggregate data to be solicited from statistical agents by specifically requiring the Secretary and the Commission to take such steps as are necessary to ensure that the information remains confidential and is not disclosed to any one other than authorized individuals working for the Commission or Treasury.

Section 10(h) also provides that if a company or a state refuses to provide information requested by the Commission or Treasury, it shall be ineligible to participate in the programs authorized by the Act. It is anticipated that this section would be enforced in situations where a statistical agent, which has collected industry information and provided it in an aggregate form to the Commission of the Treasury, notifies either of these bodies that a company or other entity had refused to provide the needed information for transmission, in an aggregate form, to the Commission or Treasury.

HEARINGS

The Subcommittee on Housing and Community Opportunity held two hearings on the "Homeowners' Insurance Availability Act of 1998."

The first hearing was held on June 24, 1997 in Room 2128, Rayburn House Office Building. Testifying before the Subcommittee were: Bill Gray, Ph.D., Professor of Atmospheric Science, Colorado State University; Bob Klein, Ph.D., Director, Center for Risk Management and Insurance Research, Georgia State University; Greg Butler, Chief Executive Officer, California Earthquake Fund; Daniel Sumner, General; Counsel, Department of Insurance, State of Florida; Jerry Thomas, Chairman, Quaker City Savings Bank, Whittier, CA; James Klagholz, Insurance Agent and Secretary-Treasurer, C.N. Sterling Associates, Inc.; Steve Bupp, President, Condominium Venture, Inc., Greenbelt, MD.

The second hearing was held on August 25, 1997 at The National Hurricane Center at Florida International University, Miami, Florida. Testifying before the Subcommittee were: Bryan Norcross, Director of Meteorology and News Anchor, WFOR–TV, Channel 4—South Florida; the Honorable Bill Nelson, Commissioner, Department of Insurance, Office of the Treasurer, State of Florida; The Honorable Stan Bainter, Member, Committee on Financial Services, Economic Impact Council, Florida State House of Representatives, and Immediate Past President of the National Conference of Insurance Legislators; Jack Nicholson, Ph.D., Chief Operating Officer, Florida Hurricane Catastrophe Fund; Frank Nutter, President, Reinsurance Association of America; Alex Soto, President,

Pennekamp and Soto Insurance Agency—Miami, Florida, and former Chairman of the Florida Association of Insurance Agents.

The Committee on Banking and Financial Services held one hearing on April 23, 1998 in Room 2128, House Office Building. Testifying before the Committee were: The Honorable Vic Fazio (D–CA); the Honorable Jo Ann Emerson (R–MO); The Honorable Donna M. Christian-Green (D–VI); The Honorable Lawrence Summers, Deputy Secretary, U.S. Department of Treasury; The Honorable Donald A. Dowdell, Deputy General Counsel, Department of Insurance, State of Florida; The Honorable David Knowles, Chief Deputy Insurance Commissioner, Department of Insurance, State of California; Kevin Campion, Senior Vice President, Paragon Reinsurance Risk Management Services, Inc.; Joel Freedman, Sr. Vice President, Government Affairs, Hartford Financial Services Group; Robert W. Pike, Senior Vice President, Secretary and General Counsel, Allstate Insurance Company; Rade Muslin, Vice President and Actuary, Florida Farm Bureau Insurance Company; Roger Joslin, Chairman of the Board, State Farm Fire and Casualty Company; Sylvia Bouriaux Group Manager, Financial Products, Chicago Board of Trade; Frank Nutter, President Reinsurance Association of America; Isolde G. O'Hanlon, Managing Director, Global Insurance Group, Chase Securities, Inc.; Jack Weber, President, Home Insurance Federation of America; Babette Hembuch, President and CEO, First Federal Bank of California on behalf of Western League of Savings Institutions; Christopher Lewis, Senior Manager, Risk Management Group, PEQA Group, Ernst & Young LLP; Cathy Whatley, President, Buck & Buck, Inc., Florida on behalf of the National Association of Realtors; Pierre B. Lanaux, President, Lanaux Construction, Louisiana on behalf of the National Association of Homebuilders; J. Robert Hunter, Director of Insurance, Consumer Federation of America (joint statement with the Consumers Union); Charles T. Brown, Vice-President, Baker Welman Brown Insurance and Financial Services, Missouri on behalf of the Independent Insurance Agents of America; and, Jordan Clark, President, United Homeowners Association.

COMMITTEE CONSIDERATION AND VOTES (RULE XI, CLAUSE 2(L)(2)(B)

The Committee met in open session to mark up H.R. 219, "Homeowners' Insurance Act of 1998" on June 25 and July 15, 1998. The Committee considered, as original text for purposes of amendments, a Committee Print which incorporated a modified version of H.R. 219 as reported by the Subcommittee on Housing and Community Opportunity.

During the markup, the Committee approved 12 amendments including a managers amendment by voice vote. The Committee also defeated 4 amendments by voice vote. Seventeen amendments were withdrawn. The Committee approved 1 amendment by recorded vote. The Committee defeated 7 amendments by recorded vote. Pursuant to the provisions of clause 2(l)(2)(B) of rule XI of the House of Representatives, the results of each rollcall vote and the motion to report, together with the names of those voting for and those against are printed below:

Rollcall No. 1

Date: June 25, 1998.

Measure: Homeowners' Insurance Availability Act of 1997.

Motion by: Mr. Kanjorski.

Description of motion: Makes the Secretary's authority to reduce the trigger level if the claims-paying capacity of the state has been reduced due to losses from a covered event optional instead of mandatory.

Results: Passed: Ayes 30, Nays 12.

YEAS	NAYS
Mr. Leach	Mr. McCollum
Mr. Bereuter	Mrs. Roukema
Mr. Castle	Mr. Baker, R.
Mr. Campbell	Mr. Lazio
Mr. Royce	Mr. Lucas
Mr. Metcalf	Mrs. Kelly
Mr. Ehrlich	Dr. Weldon
Mr. Fox	Mr. LaTourette
Dr. Paul	Mr. Manzullo
Mr. Ryun	Mr. Foley
Mr. Snowbarger	Mr. Redmond
Mr. Riley	Mr. Fossella
Mr. LaFalce	
Mr. Vento	
Mr. Frank	
Mr. Kanjorski	
Ms. Waters	
Mrs. Maloney	
Ms. Roybal-Allard	
Mr. Barrett, T.	
Mr. Watt	
Mr. Hinchey	
Mr. Bentsen	
Ms. Kilpatrick	
Mr. Maloney	
Ms. Hooley	
Mr. Weygand	
Mr. Sherman	
Mr. Sandlin	
Ms. Lee	

Rollcall No. 2

Date: June 25, 1998.

Measure: Homeowners' Insurance Availability Act of 1997.

Motion by: Mr. LaFalce.

Description of motion: Provides that, as a condition of establishing the Federal program, the Secretary determine that the private market's capacity to cover losses from a major natural catastrophe is inadequate. Requires the Secretary to conduct annual reviews of the program and the private market to determine that the private market cannot provide adequate coverage and to ensure that the Federal program does not compete with development of the private

market. If findings are different, the Secretary may decline to make reinsurance coverage available the following year.

Results: Defeated: Ayes 20, Nays 28.

YEAS	NAYS
Mr. Bachus	Mr. Leach
Mr. Royce	Mr. McCollum
Mr. Hill	Mrs. Roukema
Mr. LaFalce	Mr. Bereuter
Mr. Vento	Mr. Baker, R.
Mr. Frank	Mr. Lazio
Mr. Kanjorski	Mr. Castle
Mr. Kennedy	Mr. King
Mrs. Maloney	Mr. Campbell
Ms. Roybal-Allard	Mr. Lucas
Mr. Barrett, T.	Mr. Metcalf
Mr. Watt	Mr. Ehrlich
Mr. Hinchey	Mr. Fox
Mr. Ackerman	Mrs. Kelly
Mr. Bentsen	Dr. Weldon
Ms. Kilpatrick	Mr. Ryun
Ms. Hooley	Mr. Cook
Mr. Sandlin	Mr. Riley
Mr. Meeks, G.	Mr. Sessions
Ms. Lee	Mr. LaTourette
	Mr. Manzullo
	Mr. Foley
	Mr. Jones
	Mr. Redmond
	Mr. Fossella
	Mr. Maloney
	Mr. Weygand
	Mr. Sherman

Rollcall No. 3

Date: June 25, 1998.

Measure: Homeowners' Insurance Availability Act of 1997.

Motion by: Mr. Hinchey.

Description of motion: Requires any insurance company that participates in the Federal program, either through a State program or an auction, to provide insurance coverage for covered perils in the areas for which the Federal reinsurance is provided.

Results: Defeated: Ayes 15, Nays 29.

YEAS	NAYS
Mr. LaFalce	Mr. Leach
Mr. Vento	Mr. McCollum
Mr. Kanjorski	Mrs. Roukema
Mr. Kennedy	Mr. Bereuter
Mr. Sanders	Mr. Baker, R.
Mrs. Maloney	Mr. Lazio
Ms. Roybal-Allard	Mr. Bachus
Mr. Barrett, T.	Mr. Castle
Mr. Hinchy	Mr. King
Ms. Kilpatrick	Mr. Campbell

Ms. Hooley
Mr. Weygand
Mr. Sandlin
Mr. Meeks, G.
Ms. Lee

Mr. Lucas
Mr. Metcalf
Mr. Ehrlich
Mr. Fox
Mrs. Kelly
Dr. Weldon
Mr. Ryun
Mr. Cook
Mr. Riley
Mr. Hill
Mr. Sessions
Mr. LaTourette
Mr. Manzullo
Mr. Foley
Mr. Jones
Mr. Redmond
Mr. Fossella
Mr. Maloney
Mr. Sherman

Rollcall No. 4

Date: June 25, 1998.

Measure: Homeowners' Insurance Availability Act of 1997.

Motion by: Mr. Bentsen.

Description of motion: Sets the trigger level for both new and existing programs at an amount which will cover eligible losses in the State that have a likelihood of occurrence of once every one hundred years.

Results: Defeated: Ayes 13, Nays 25.

YEAS	NAYS
Mr. Castle	Mr. Leach
Mr. Vento	Mr. McCollum
Mr. Frank	Mrs. Roukema
Mr. Kanjorski	Mr. Baker, R.
Mr. Kennedy	Mr. Lazio
Mr. Sanders	Mr. Bachus
Ms. Roybal-Allard	Mr. Campbell
Mr. Watt	Mr. Royce
Mr. Hinchey	Mr. Lucas
Mr. Bentsen	Mr. Metcalf
Ms. Kilpatrick	Mr. Fox
Ms. Hooley	Mrs. Kelly

Ms. Lee	Dr. Paul
	Dr. Weldon
	Mr. Ryun
	Mr. Snowbarger
	Mr. Riley
	Mr. Hill
	Mr. Manzullo
	Mr. Foley
	Mr. Redmond
	Ms. Waters
	Mr. Barrett, T.
	Mr. Maloney
	Mr. Sherman

Rollcall No. 5

Date: July 15, 1998.

Measure: Homeowners' Insurance Availability Act of 1997.

Motion by: Mr. Kennedy.

Description of motion: Requires that each State insurance commission for each state participating in the program and holders of auction contracts submit information to Treasury. Such information is similar to HMDA data, including race and gender area for metropolitan statistical areas.

Results: Defeated: Ayes 18, Nays 30.

YEAS	NAYS
Mr. LaFalce	Mr. Leach
Mr. Vento	Mr. McCollum
Mr. Kanjorksi	Mrs. Roukema
Mr. Kennedy	Mr. Bereuter
Mrs. Maloney	Mr. Baker, R.
Mr. Gutierrez	Mr. Lazio
Ms. Roybal-Allard	Mr. Bachus
Mr. Barrett, T.	Mr. Castle
Mr. Watt	Mr. King
Mr. Bentsen	Mr. Campbell
Ms. Kilpatrick	Mr. Royce
Mr. Maloney	Mr. Lucas
Ms. Hooley	Mr. Metcalf
Ms. Carson	Mr. Ney
Mr. Weygand	Mr. Ehrlich
Mr. Sherman	Mr. Barr
Mr. Sandlin	Mr. Fox

Ms. Lee	Mrs. Kelly
	Dr. Paul
	Dr. Weldon
	Mr. Ryun
	Mr. Cook
	Mr. Snowbarger
	Mr. Riley
	Mr. Hill
	Mr. LaTourette
	Mr. Manzullo
	Mr. Foley
	Mr. Jones
	Mr. Redmond

Rollcall No. 6

Date: July 15, 1998.

Measure: Homeowners' Insurance Availability Act of 1997.

Motion by: Mr. Kanjorski.

Description of motion: Deletes coverage for perils ensuing from earthquakes, including fires.

Results: Defeated: Ayes 11, Nays 21.

YEAS	NAYS
Dr. Paul	Mr. Leach
Mr. Ryun	Mr. McCollum
Mr. Hill	Mrs. Roukema
Mr. LaFalce	Mr. Bereuter
Mr. Vento	Mr. Baker, R.
Mr. Kanjorski	Mr. Lazio
Mr. Kennedy	Mr. King
Ms. Roybal-Allard	Mr. Campbell
Mr. Barrett, T.	Mr. Royce
Mr. Hinchey	Mr. Lucas
Mr. Bentsen	Mr. Metcalf
	Mrs. Kelly
	Dr. Weldon
	Mr. Cook
	Mr. Snowbarger
	Mr. Riley
	Mr. Jones
	Mr. Fossella
	Mr. Maloney
	Ms. Hooley
	Mr. Sherman

Rollcall No. 7

Date: July 15, 1998.

Measure: Homeowners' Insurance Availability Act of 1997.

Motion by: Mr. Hill and Mr. Hinchey.

Description of motion: Raises the trigger level to the amount that is equal to 7% of the aggregate surplus and capital of the insurance industry, and raises the copayment level to 90%.

Results: Defeated: Ayes 6, Nays 25.

YEAS	NAYS
Mr. Ryun	Mr. Leach
Mr. Hill	Mr. McCollum
Mr. Vento	Mrs. Roukema
Mr. Kanjorksi	Mr. Bereuter
Mr. Barrett, T.	Mr. Baker, R.
Mr. Hinchey	Mr. Lazio
	Mr. Bachus
	Mr. Campbell
	Mr. Lucas
	Mr. Metcalf
	Mr. Ney
	Mrs. Kelly
	Mr. Cook
	Mr. Snowbarger
	Mr. Riley
	Mr. Manzullo
	Mr. Foley
	Mr. Jones
	Mr. Redmond
	Mr. LaFalce
	Mrs. Maloney
	Mr. Bentsen
	Mr. Maloney
	Ms. Hooley
	Mr. Sherman

Rollcall No. 8

Date: July 15, 1998.

Measure: Homeowners' Insurance Availability Act of 1997.

Motion by: Mr. Kennedy.

Description of motion: Replaces the text of the bill with a requirement that Treasury conduct a study of the availability and affordability of homeowners insurance for natural disasters, including an analysis of legislative proposals and recommendations on mitigation.

Results: Defeated: Ayes 15, Nays 28.

YEAS	NAYS
Mr. Royce	Mr. Leach
Dr. Paul	Mr. McCollum
Mr. Ryun	Mrs. Roukema
Mr. LaTourette	Mr. Bereuter
Mr. LaFalce	Mr. Baker, R.
Mr. Vento	Mr. Lazio
Mr. Kanjorski	Mr. Bachus
Mr. Kennedy	Mr. King
Ms. Waters	Mr. Campbell
Mr. Gutierrez	Mr. Lucas
Mr. Barrett, T.	Mr. Metcalf
Mr. Hinchey	Mr. Ney
Ms. Kilpatrick	Mr. Barr
Ms. Carson	Mr. Fox

Ms. Lee

Mrs. Kelly
Dr. Weldon
Mr. Cook
Mr. Snowbarger
Mr. Riley
Mr. Manzullo
Mr. Foley
Mr. Jones
Mr. Frank
Mr. Bentsen
Mr. Maloney
Ms. Hooley
Mr. Weygand
Mr. Sherman

After the Committee Print, as amended, was adopted by voice vote, H.R. 219 was called up for Committee consideration. A motion to strike everything after the enacting clause in H.R. 219 and insert in lieu thereof the Committee Print as amended, was approved by voice vote.

A motion to adopt H.R. 219 and favorably report the bill, as amended, to the House was approved by a recorded vote of 33–12 on July 15, 1998.

YEAS

Mr. Leach
Mr. McCollum
Mrs. Roukema
Mr. Bereuter
Mr. Baker, R.
Mr. Lazio
Mr. Bachus
Mr. King
Mr. Campbell
Mr. Lucas
Mr. Metcalf
Mr. Ney
Mr. Ehrlich
Mr. Fox
Mrs. Kelly
Dr. Weldon
Mr. Cook
Mr. Snowbarger
Mr. Riley
Mr. LaTourette
Mr. Manzullo
Mr. Foley
Mr. Jones
Mr. LaFalce
Mr. Vento
Mr. Frank
Mr. Ackerman
Mr. Bentsen
Mr. Maloney
Ms. Hooley

NAYS

Mr. Royce
Mr. Barr
Dr. Paul
Mr. Ryun
Mr. Kanjorski
Mr. Kennedy
Ms. Waters
Mr. Gutierrez
Mr. Barrett, T.
Mr. Watt
Mr. Hinchey
Ms. Lee

Mr. Weygand
Mr. Sherman
Mr. Sandlin

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings and recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI (and clause 4(c)(2) of rule X) of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the constitutional authority for Congress to enact this legislation is derived from the general welfare clause (Article I, Sec. 8).

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority for increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COSTS ESTIMATES

The cost estimate pursuant to Clause 2(l)(3)(C) of rule XI, of the Rules of the House of Representatives and Section 403 of the Congressional Budget Act of 1974 has been requested, but had not been prepared as of the filing of Part I of this report. The estimate will be included in Part II of this report to be filed at a future date.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of Section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONGRESSIONAL ACCOUNTABILITY ACT

The reporting requirement under Section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1) is inapplicable because this legislation does not relate to terms and conditions of employment or access to public services or accommodations.

CONGRESSIONAL BUDGET OFFICE FEDERAL MANDATE COST ESTIMATE

The cost estimate pursuant to Section 424 of the Unfunded Mandates Reform Act (P.L. 104–4) has been requested, but had not been prepared as of the filing of this report. The estimate will be filed at a future date.

SECTION-BY-SECTION

Section 1: Title: cited as "Homeowners' Insurance Availability Act of 1998".

Section 2: Congressional Findings that homeowners' insurance is becoming increasingly difficult to purchase, due to increased natural disasters and that there is a temporary federal role in providing a reinsurance program for states that meet those needs beyond the capacity of the state's claims paying capacity, so long as such intervention is founded upon sound actuarial principles, priced to minimize the impact to the U.S. Treasury, and remain in effect only long enough to allow private entities or the capital markets to provide adequate reinsurance capacity.

Section 3: Program Authority to the Secretary of Treasury to provide a federal reinsurance program thought reinsurance contracts to eligible purchasers under section 6 (state programs) and section 7 (regional contracts) so long as the private sector is not displaced.

Section 4: Qualified Lines of Coverage provide specifically for residential property losses to homes, condominiums, cooperatives and contents of apartment buildings.

Section 5: Covered Perils include (i) earthquakes, (ii) perils ensuing from earthquakes (fire and tsunami), (iii) tropical cyclones (including hurricanes and typhoons) where the maximum sustained winds are equal to or greater than 74 miles per hour, and (iv) volcanic eruptions.

Section 6: Contracts for Reinsurance Coverage for Eligible State Programs are made available to state-operated insurance and reinsurance programs if the state program covers residential losses; is structured to be exempt from Federal taxation; covers a single peril; does not provide for profit to any insurer; and, includes a mitigation investment of not less than 10% of the program's net investment income (5% if the Secretary determines, pursuant to a request from the state insurance commissioner, that a 10% requirement would jeopardize the actuarial soundness of the state program). For state programs beginning after January 1, 1998 (all other state programs two years after date of enactment) all state programs must not cross-subsidize between separate property and casualty lines; must provide that for coverage under the program, premium rates must be, at a minimum, sufficient to cover the full actuarial costs of such coverage; and, must provide authorization to the State insurance commissioner to terminate the state program when it is no longer necessary to ensure availability of homeowners' insurance.

The state programs shall be certified and follow regulations promulgated by the Secretary, in consultation with the National Commission. The regulations shall include requirements that state programs have public members on its board of directors or advisory board; ensure that state coverage does not supplant the private insurance market; provide adequate deductibles; provide a non-discriminatory clause; provide that new construction meet applicable building, fire, and safety codes; ensure consistency with the Federal Emergency Management Agency guidelines; programs take into account mitigation efforts; and other requirements considered necessary by the Secretary.

Terms of the contracts may not exceed one year, with claim payments only to eligible state programs and a payout at the occurrence and level where disaster costs exceed the retained losses noted in Section 8.

The contract shall cover eligible losses from multiple events during the term of the contract. Qualified losses include only property covered under the contract that are paid within a 3 year period from the natural disaster event. Pricing is established by the Secretary, in consultation with the National Independent Commission on Catastrophe Risks and Insurance Loss Costs, established at a level designed to fairly compensate taxpayers for the risks borne, taking into consideration the developmental stage of models and private market capacity, and designed to provide for program self-sufficiency. The price of the contracts shall consist of a risk-based price not less than the anticipated payout of the contract according to the Commission's actuarial analysis and recommendations, a risk load at least equal to the risk-based price and administrative costs. In cases where Treasury borrowing occurs, covered purchasers receiving payments for qualifying claims derived from borrowed funds are required to continue purchasing contracts until borrowed funds are repaid. The contract shall provide purchasers the single opportunity to purchase identical coverage for the remaining term of the initial contract if the coverage under the initial contract is exhausted.

Section 7: Auction of Contracts for Reinsurance Coverage shall be carried out by Treasury to provide for auctioning of contracts to private insurers, reinsurers and state insurance and reinsurance programs. Auctions shall provide for coverage on a regional basis, in no less than six, with separate regions including all or part of Florida, and all or part of California.

In auctioning the contracts, Treasury shall set a reserve price as the lowest base price of the contract based on the Commission's recommendations to include a risk-based price not less than the anticipated payout of the contract according to the Commission's actuarial analysis and recommendations, a risk load at least equal to the risk-based price and administrative costs also taking into account administrative costs and mitigation efforts.

Terms of the contract may not exceed one year, are fully transferable and divisible, cover eligible losses from multiple events during the term of the contract, provide for payment above the minimum level of retained losses by region as specified in section 8, and provide purchasers the single opportunity to purchase identical coverage for the remaining term of the initial contract if the coverage under the initial contract is exhausted.

Section 8: Minimum Level of Retained Losses and Maximum Federal Liability require minimum levels of retained losses for state programs at a level that is not less than the greater of $2 billion in residential losses, the current claims paying capacity or an amount equal to a loss associated with an event occurring one in 100 years. In cases of existing state programs that have a claims paying capacity greater than $2 billion but less than an amount equal to a loss associated with a one in 100 year event, the state shall provide a written agreement to transition an increase of re-

tained losses during a five year period, with an extension for 2 additional one year periods.

For state programs created after January 1, 1998, the Secretary, in consultation with the National Commission on Catastrophe Risks and Insurance Loss Costs, may establish minimum retained loss levels below $2 billion in an amount equal to losses associated with a one in 100 year event, except adjustments shall be made for a five year period to increase to the minimum level of $2 billion.

In cases where a state program experiences an accumulation of events that exceed the claims paying capacity in that state, the Secretary may reduce retained loss triggers, but not less than $2 billion, so long as the retained loss levels are increased within 5 years.

Auction contracts will not be available through any region unless the auction conducted sustains a cumulative amount of losses greater than $2 billion or an amount equal to a loss associated with a one and 100 year event.

Treasury may annually raise the minimum level of retained losses for state programs or regions to reflect the growth in a state program's claims paying capacity or the growth of capacity in the private market.

The claims paying capacity is defined as the consideration of retained losses to private insurers assigned by the State insurance commissioner; the cash surplus of the program; and the lines of credit, reinsurance, and other financing mechanisms of the program established by law.

In all cases, where total maximum losses exceed $25 billion, payouts will be prorated. The Secretary is authorized to phase-in maximum yearly liability during the initial 4 years of the program. Annual adjustments are at the Secretary's discretion based on an annual rate of inflation for state and auction programs' retained losses. For maximum federal liability, the $25 billion limitation may be adjusted for inflation.

Treasury may not make available for purchase reinsurance contracts that represents more than 50 percent of insured losses for state programs or by region.

Section 9: Disaster Reinsurance Fund is established within the Treasury Department to accept proceeds from the sale of contracts, borrowed funds, investments or other amounts.

Section 10: National Commission of Catastrophe Risks and Insurance Loss Costs is established with the sole purpose of advising the Secretary regarding estimating the loss costs associated with reinsurance contracts under the Act. The Act provides an appropriation of $1 million for initial start-up costs, with cost offsets derived from contract proceeds. Five (5) members are to be appointed to the Commission, by the Secretary. Commission members will have no personal, professional, or financial interest at stake in the deliberations of the Commission. At least one member shall represent a nationally recognized consumer organization.

Section 11: Definitions.

Section 12: Termination is required of this Act after 10 years from enactment. In the event that the Secretary, in consultation with the National Commission, determines that there is insuffi-

cient growth of capacity in the private homeowners' insurance market, this Act may be extended for an additional five year term.

Section 13: Annual Study of Cost and Availability of Disaster Insurance and Program Need is required of the Secretary on an annual basis reporting the cost and availability of homeowners' insurance for losses resulting from catastrophic natural disasters. The first report shall be due two years after the date of this Act's enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL

This bill does not contain changes to existing law and therefore no comparative print of how this bill affects current law is included, pursuant to Clause 3 of Rule XIII of the Rules of the House of Representatives.

ADDITIONAL VIEWS OF CONGRESSMAN MICHAEL N. CASTLE

I want to express my support for the hard work Chairman Leach, Chairman Lazio, Congressman McCollum and the Banking Committee staff have put into H.R. 219. The lack of affordable disaster relief for homeowners had not received adequate regulatory or legislative attention prior to their efforts.

This legislation has been significantly improved after both the Housing Subcommittee markup and the Banking Committee markup. In particular, the legislation has made significant gains in protecting the American taxpayer from responsibility for excessive losses by reducing the federal government's cost share to fifty percent of the uninsured residential losses. The legislation has also displayed great wisdom in allocating funds toward mitigation efforts that reduce the overall cost of future disasters. This type of forward thinking has been absent from disaster insurance debates for too long.

Finally, I appreciate the willingness of all the committee members to continue to develop a trigger mechanisms that is actuary sound, protects federal taxpayer funds, and provides equitable treatment for all states. I recognize the need for a minimum trigger level to protect the Treasury Department from undue influence. However, I have concerns that the $2 billion minimum trigger level may be too high for small coastal states such as Rhode Island and Delaware. Actuary analysis of one in one hundred year events have traditionally estimated combined commercial and residential losses. Before the Banking Committee makes a final determination on the minimum trigger level, it is essential that we isolate the expected residential loss data on a state-by-state and region-by-region basis for a one in one hundred year event. I took forward to working with my fellow Banking Committee Members on this issue in the coming months.

MICHAEL N. CASTLE.

IN STRONG SUPPORT OF DISASTER RELIEF LEGISLATION

I voted in support of this disaster relief legislation, H.R. 219, because I believe we should ensure that consumers have access to property insurance that is affordable and available. As the representative for the State of Texas where many of these disasters may strike, I believe it is critically important that we establish a new federal disaster reinsurance program for American homeowners. This legislation would provide cost-effective, reasonably priced residential property insurance in those areas where the private sector reinsurance industry is no longer meeting homeowners' needs.

This legislation would establish a federal disaster reinsurance program to provide residential property insurance for all Americans. In the current market, there are parts of the country where residential disaster insurance is no longer available, or is cost-prohibitive for many individuals. This legislation would provide a new federal reinsurance policy that is reasonable and fair. In order to protect taxpayers and ensure that this program is financially sound, this program would only be available in cases where the private sector is no longer serving a state or region. This legislation would also require that the federal reinsurance would only cover 50 percent of losses that resulted from catastrophic natural disaster. This legislation also provides reinsurance at the greater of three thresholds: the capacity of an existing states' or regional risk pool capacity, a one in 100-year storm, or a $2 billion threshold. I am pleased that the House Banking Committee adopted an amendment that would require existing state programs to gradually increase their trigger to the one in the 100-year storm level over five years.

I also want to highlight a critical amendment that the House Banking Committee adopted which I offered to ensure that all states can equally benefit from this legislation. The Bentsen amendment would provide a lower threshold level for those states whose one in 100-year storm would be below the $2 billion threshold in this bill if, in fact, such reinsurance was not available through the private market. It is estimated that only 8 states would have access to the federal reinsurance program at the current $2 billion level. My amendment would provide a five-year transition period for states to reach their $2 billion trigger level. My amendment would allow each state to initially access this program at the one in 100-year storm level and proportionately increase their trigger level to $2 billion over five years.

Originally, I offered an amendment to make this threshold uniform to the one in 100-year storm level. Regrettably, this amendment failed. My second amendment would provide the same type of transition rules that existing plans would receive. For example, in Texas, a one in 100-year storm is estimated to cost $1.7 billion.

Under the original bill, Texas would have a 125-year event in order to benefit from the federal program. My amendment ensures that the Secretary of the Treasury would be required to lower the threshold for Texas to $1.7 billion in order to cover a natural disaster in consultation with the National Commission on Catastrophic Risks and Insurance Loss Costs. Over five years, the state of Texas' trigger would increase from $1.7 billion to the $2 billion level.

I also offered an amendment in conjunction with Rep. Roukema of New Jersey that requires the Secretary of the Treasury to conduct an annual study to be submitted to Congress on this federal reinsurance program. This amendment would ensure that Congress is provided accurate information about how the reinsurance program is serving those consumers who need it. This study would also require the Secretary of the Treasury to provide information on the capacity of the private homeowners' insurance market in each State with respect to coverage for losses from catastrophic natural disasters, the percentage of homeowners with such coverage, the disasters covered and the average cost of such coverage. This study would also describe how the Federal reinsurance program is affecting the price and availability of such insurance in each state or region.

I believe that the bill reported by the House Banking Committee is appropriate and reasonable. I am pleased that the House Banking Committee has acted to protect the availability of homeowners' insurance in disaster-prone areas. I look forward to working with the Committee to ensure that all states equally benefit from this program and we work to reduce the need for federal reinsurance by encouraging the private sector to meet the needs of homeowners.

KENNETH E. BENTSEN, Jr.

DISSENTING VIEW OF RON PAUL AND JIM RYUN

Federal reinsurance should not be viewed as the only option for reforming the market for natural disaster insurance. Unfortunately, very little attention has been paid to alternative approaches. Federal reinsurance fails to address underlying regulatory and tax policies that have limited the amount of coverage that can be offered and underwritten by natural disaster insurers in the private market. This initial government intervention in the private market is the cause of much of the problem, and it is what must be addressed.

Florida, for example, restricts the premium rates that insurers may charge for homeowners insurance. Though perhaps intended to benefit consumers living in disaster-prone areas, this type of governmental rate regulation often discourages insurers from offering greater coverage to potential policyholders. Federal reinsurance would only help states disguise some of the consequences of such adverse regulatory policies. Congress should, of course, recognize Constitutional restraints and not interfere in state regulation of insurance. It should also resist the impulse to relieve these same states from the consequences of their own misguided regulation.

Federal tax policies have likewise added to the funding problems for private insurers covering natural disaster risks. Federal tax policy ignores the nature of disasters as long-term risks. Currently, all insurer income in excess of annual expenses is considered profit and is subject to federal income tax. This undermines the ability of insurers to set aside money for that very rainy day when a hurricane causes unusually costly damages.

This bill would not be enforced uniformly throughout the country and, in effect, permanently makes Texans and Kansans second class citizens who would be forced to subsidize the greater benefits reserved only to California, Florida and Hawaii. In addition, by subsidizing insurance in high risk areas, the bill would have unintended consequences both environmental and human. High risk areas are often in environmentally fragile areas which would be put in greater environmental jeopardy under this bill than under a free market. The human toll could be great: since people judge the risks they will take using insurance rates as a guide, the distortion of this pricing system would have the effect of encouraging families to remain in or move to high risk areas and add a marginal disincentive to move to or remain in lower risk areas; thus, when the next natural disaster hits, more people will be put in danger and the casualties will likely be higher. A situation which will undoubtedly be used to justify the next "round" of intervention!

A better solution to the problem that government intervention caused would be to reduce or remove the initial artificial intervention in the market. One way would be to allow insurance companies to accumulate funds on a tax-deductible basis over time to pay

for these long-term risks. Improved tax treatment would allow private insurers to accumulate reserves more quickly, and enhance private insurers' capacity to pay for the costs of natural disasters. Such reserves would also allow a greater share of natural disaster risks in catastrophe-prone areas to remain with the private insurance sector, instead of shifting those risks to other taxpayers.

In addition, greater private disaster reserves could lead to lower insurance premiums and a more consistent supply of insurance coverage in disaster-prone areas. Consumers would benefit most under such an approach with lower costs and greater availability. For the private sector to function best, the government cannot restrict the tools necessary to maintain and accumulate the funds needed to pay for natural disaster risks. Tax-deductible reserves are just this sort of tool.

Several studies have addressed the issue of disaster reserves. These include "Tax-Deductible, Pre-Event Catastrophe Reserves," authored by Ross J. Davidson Jr. and published in the Winter 1996 edition of the Journal of Insurance Regulation, a publication of the National Association of Insurance Commissioners; and "Insuring Against Natural Disasters: Possibilities for Market-Based Reform," by Catherine England and Jeffrey R. Yousey, recently published by the Competitive Enterprise Institute.

Encouraging the further growth and development of the private insurance markets would, in the end, be the best way to address the problems currently facing homeowners in disaster-prone areas. To improve the private market for disaster insurance, one must alleviate or eliminate the governmental regulatory intervention distorting the conditions under which private insurers must operate. A new federal reinsurance program goes in the wrong direction. Such a new federal regulatory intervention would only distort the market further and exacerbate the problems presented by natural disasters.

RON PAUL.
JIM RYUN.

DISSENTING VIEWS OF MR. KANJORSKI, MR. KENNEDY, DR. PAUL, MR. BARRETT, MR. SANDERS, MS. ROYBAL-ALLARD, MR. HINCHEY, MR. GUTIERREZ, AND MS. LEE

This legislation is fatally flawed for numerous reasons:

It exposes federal taxpayers to $25 billion in unnecessary liability.

It does not treat all states equally and will result in the vast majority of taxpayers in low-risk areas subsidizing several large insurance companies that serve high risk areas.

It will impede, rather than encourage, the development of the private insurance market.

It encourages development in high-risk areas.

It contains a mitigation program with virtually no standards or federal oversight that can be used to subsidize existing services.

It insures against fire following an earthquake, a peril that is already covered by traditional homeowners' insurance. In a one-in-one hundred year event in California alone, this will shift more than $10 billion in losses from private insurance companies to federal taxpayers.

There is no basis on which to accurately predict the probability of events of this nature, or the damage that will be done by them. Consequently the "actuarial basis" of this legislation is nothing more than "smoke and mirrors." The Treasury has no expertise in this field, and there is no guarantee that the Commission which this legislation establishes will be able to accurately predict either the probability of events or the magnitude of damage.

It allows state programs to have unreasonably high deductibles, thus providing protection only for insurers and lenders, not homeowners.

There are no provisions to ensure that the program will benefit low- and moderate-income families, and not just affluent families in Malibu and Palm Beach.

The legislation is opposed by:

Taxpayers for Common Sense;
Consumers Union;
Coast Alliance;
National Taxpayers' Union;
Consumer Federation of America;
Center for Marine Conservation;
U.S. Public Interest Group;
Friends of the Earth;
Alliance of American Insurers;
National Association of Mutual Insurance Companies;
Cincinnati Insurance Companies; and
Frankenmuth Mutual Insurance Company.

Here is what experts are saying about H.R. 219.

The National Taxpayers Union—"The issue of a federal role in this area, if any, is highly complex and controversial and in our view requires much more additional study before approval of legislation."

Citizens for a Sound Economy—"There is ample reason to believe that H.R. 219 would promote risky behavior by encouraging further development in disaster-prone areas. Moreover, taxpayers across the country * * * would be forced to subsidize such behavior." * * * "There can be little doubt that a $2 billion trigger will bring the Disaster Reinsurance Fund into direct competition with private reinsurance firms. Thus, instead of casting the federal government as the 'reinsurer of last resort,' as proponents claim, H.R. 219 will simply transfer disaster-related risk from the private sector to the federal government." * * * "Congress will do them [private insurance companies] and the entire country a disservice if it allows the federal government to become the Great Enabler of risk-seeking behavior. H.R. 219 sets the federal government on that course."

Competitive Enterprise Institute—"* * * the legislation's emphasis on a new program of federal reinsurance is ill-advised, and the specific measures proposed for its implementation remain problematic at best." * * * "Given current political realities, there is every reason to believe that such reinsurance coverage will be underpriced. * * * Federal reinsurance could very quickly become a federal subsidy." * * * "this bill would concentrate risk in government hands, while discouraging a greater role for the private sector."

Consumers Union & The Consumer Federation of America—"In general, the program fails to ensure access to adequate and affordable insurance for consumers; fails to incorporate mitigation standards; increases dramatically the exposure of the federal government to liability for disasters * * *; fails to capitalize on the capacity of the private market; expands the scope of disaster insurance coverage provided by the state pools and the federal government; lacks adequate federal oversight of the pools and the industry that will benefit from the program."

The Cincinnati Insurance Companies—"First and foremost, natural disaster legislation should not complete with private sector capacity to provide insurance. But this is exactly what H.R. 219 does. With trigger levels as low as $2 billion, H.R. 219 will transfer risk to the federal government at levels far below industry capacity. * * * At such low trigger levels the federal government will not only compete with and displace private markets for reinsurance, it will also be exposed to losses which could exceed $25 billion, which has the potential of creating a crisis similar to what we saw in the savings and loan industry not too many years ago." * * * "H.R. 219 also sets a dangerous precedent by offering federal reinsurance to state residual market pools at very low trigger levels."

Alliance of American Insurers—"* * * overall we believe that this legislation does not address the crux of the problem." * * * "Because we are opposed to the underlying premise that state pools need federal reinsurance, our position on the bill remains unchanged. We believe that this only continues to perpetuate the

cycle of insurance rate suppression, rate subsidization, and overbuilding, particularly in coastal areas."

National Association of Mutual Insurance Companies—"NAMIC does not believe that federal government involvement in the catastrophe insurance or reinsurance market is warranted at this time." * * * "federal government involvement at this time could have the unintended effect of stifling innovation and leaving companies with fewer options to address their individual needs."

Frankenmuth Mutual Insurance Company—"The Federal Government would find itself competing with the private industry—not a desired objective. State regulation is not supported—again the wrong result. The impact on insurance carriers differs—not in the public's best interest."

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