

Union Calendar No. 306

111TH CONGRESS
2^D SESSION

H. R. 2555

[Report No. 111-534]

To ensure the availability and affordability of homeowners' insurance coverage for catastrophic events.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. KLEIN of Florida (for himself, Mr. FRANK of Massachusetts, Mr. GRAYSON, Ms. KOSMAS, Mr. LARSON of Connecticut, Mr. CLYBURN, Mr. CROWLEY, Mrs. TAUSCHER, Mr. HARE, Mr. MEEK of Florida, Mr. WELCH, Ms. CASTOR of Florida, Mr. WEXLER, Mr. DELAHUNT, Mr. KENNEDY, Ms. GINNY BROWN-WAITE of Florida, Mr. ABERCROMBIE, Mr. POSEY, Ms. ROS-LEHTINEN, Mr. BUCHANAN, Mr. GRIFFITH, Mr. MELANCON, Mr. SCHIFF, Mr. WALZ, Ms. BERKLEY, Ms. JACKSON-LEE of Texas, Mr. HASTINGS of Florida, Mr. BRALEY of Iowa, Mr. BOYD, Mr. RYAN of Ohio, Ms. WASSERMAN SCHULTZ, Mr. BERMAN, Mr. CRENSHAW, Mr. INSLEE, Mr. KAGEN, Mr. MCNERNEY, Mr. PERLMUTTER, Ms. CORRINE BROWN of Florida, Ms. HARMAN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ACKERMAN, Mr. YARMUTH, Mr. ROONEY, and Mr. DONNELLY of Indiana) introduced the following bill; which was referred to the Committee on Financial Services

JULY 13, 2010

Additional sponsors: Mr. JOHNSON of Georgia, Mr. CAPUANO, Mr. ELLISON, Ms. HIRONO, Mr. MORAN of Virginia, Mr. PIERLUISI, Mr. MARIO DIAZ-BALART of Florida, Ms. GIFFORDS, Mr. HILL, Mr. SIRES, Mr. CONYERS, Mr. COHEN, Ms. DEGETTE, Mr. CAMPBELL, Mr. MOORE of Kansas, Ms. WOOLSEY, Mr. CHILDERS, Ms. LORETTA SANCHEZ of California, Mr. PAYNE, Mr. ANDREWS, Mr. WEINER, Mr. JACKSON of Illinois, Mr. CUMMINGS, Mr. CLAY, Mr. MEEKS of New York, Mr. COSTA, Mr. BACA, Mr. MILLER of Florida, Mr. YOUNG of Florida, Mr. DAVIS of Illinois, Mr. FILNER, Mr. MICA, Mr. DEUTCH, Mr. BISHOP of Georgia, Ms. RICHARDSON, and Ms. ESHOO

JULY 13, 2010

Deleted sponsor: Mr. SHULER (added September 9, 2009; deleted July 1, 2010)

JULY 13, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on May 21, 2009]

A BILL

To ensure the availability and affordability of homeowners' insurance coverage for catastrophic events.

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

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

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Homeowners’ Defense Act of 2010”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

TITLE I—NATIONAL CATASTROPHE RISK CONSORTIUM

Sec. 101. Establishment; status; principal office; membership.

Sec. 102. Functions.

Sec. 103. Powers.

Sec. 104. Nonprofit entity; conflicts of interest; audits.

Sec. 105. Management.

Sec. 106. Staff; experts and consultants.

Sec. 107. Federal liability.

Sec. 108. Authorization of appropriations.

TITLE II—CATASTROPHE OBLIGATION GUARANTEES

Sec. 201. Purposes.

Sec. 202. Establishment of debt guarantee program.

Sec. 203. Effect of guarantee.

Sec. 204. Full faith and credit.

Sec. 205. Fees for guarantees; amount; collection.

Sec. 206. Payment of losses.

Sec. 207. Regulations.

*TITLE III—REINSURANCE COVERAGE FOR ELIGIBLE STATE
PROGRAMS*

Sec. 301. Program authority.

Sec. 302. Contract principles.

Sec. 303. Terms of reinsurance contracts.

Sec. 304. Maximum Federal liability.

Sec. 305. Federal Natural Catastrophe Reinsurance Fund.

Sec. 306. Regulations.

TITLE IV—MITIGATION GRANT PROGRAM

Sec. 401. Mitigation grant program.

TITLE V—GENERAL PROVISIONS

Sec. 501. Eligible State programs.

Sec. 502. Study and conditional coverage of commercial residential lines of insurance.

Sec. 503. Study of risk-based pricing and State program rates.

Sec. 504. Definitions.

Sec. 505. Regulations.

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

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

3 (1) *the United States has a history of cata-*
4 *strophic natural disasters, including hurricanes, tor-*
5 *nadoes, flood, fire, earthquakes, and volcanic erup-*
6 *tions;*

7 (2) *although catastrophic natural disasters occur*
8 *infrequently, they will continue to occur and are pre-*
9 *dictable;*

10 (3) *such disasters generate large economic losses*
11 *and a major component of those losses comes from*
12 *damage and destruction to homes;*

13 (4) *for the majority of Americans, their invest-*
14 *ment in their home represents their single biggest*
15 *asset and the protection of that investment is para-*
16 *mount to economic and social stability;*

17 (5) *the United States needs to take and support*
18 *State actions to be better prepared for and better pro-*
19 *tected from catastrophes;*

20 (6) *as the risk of catastrophic losses grows, so do*
21 *the risks that any premiums collected by private in-*
22 *surers for extending coverage will be insufficient to*
23 *cover future catastrophes, and private insurers, in an*

1 *effort to protect their shareholders and policyholders*
2 *(in the case of mutually owned companies), have thus*
3 *significantly raised premiums and curtailed insur-*
4 *ance coverage in States exposed to major catastrophes;*

5 *(7) such effects on the insurance industry have*
6 *been harmful to economic activity in States exposed*
7 *to major catastrophes and have placed significant*
8 *burdens on residents of such States;*

9 *(8) Hurricanes Katrina, Rita, and Wilma struck*
10 *the United States in 2005, causing over*
11 *\$200,000,000,000 in total economic losses, and in-*
12 *sured losses to homeowners in excess of*
13 *\$50,000,000,000;*

14 *(9) the Federal Government has provided and*
15 *will continue to provide resources to pay for losses*
16 *from future catastrophes;*

17 *(10) when Federal assistance is provided to the*
18 *States, accountability for Federal funds disbursed is*
19 *paramount;*

20 *(11) the Government Accountability Office or*
21 *other appropriate agencies must have the means in*
22 *place to confirm that Federal funds for catastrophe*
23 *relief have reached the appropriate victims and have*
24 *contributed to the recovery effort as efficiently as pos-*
25 *sible so that taxpayer funds are not misspent and*

1 *citizens are enabled to rebuild and resume productive*
2 *activities as quickly as possible;*

3 *(12) States that are recipients of Federal funds*
4 *must be responsible to account for and provide an ef-*
5 *ficent means for distribution of funds to homeowners*
6 *to enable the rapid rebuilding of local economies after*
7 *a catastrophic event without unduly burdening tax-*
8 *payers who live in areas seldom affected by natural*
9 *disasters;*

10 *(13) State insurance and reinsurance programs*
11 *can provide a mechanism for States to exercise that*
12 *responsibility if they appropriately underwrite and*
13 *price risk, and if they pay claims quickly and within*
14 *established contractual terms;*

15 *(14) making available Federal guarantees to en-*
16 *hance the capability of eligible State programs to*
17 *issue debt will minimize the exposure of State and*
18 *Federal taxpayers who otherwise may bear the con-*
19 *sequences of underfunded programs or under-insured*
20 *communities following catastrophic events, especially*
21 *during today's historic market turmoil; and*

22 *(15) it is the proper role of the Federal Govern-*
23 *ment to prepare for and protect its citizens from ca-*
24 *tastrophes and to facilitate consumer protection, vic-*

1 *tim assistance, and recovery, including financial re-*
2 *covery.*

3 (b) *PURPOSES.*—*The purposes of this Act are to estab-*
4 *lish a program to provide Federal support for State-spon-*
5 *sored insurance programs to help homeowners prepare for*
6 *and recover from the damages caused by natural catas-*
7 *trophes, to encourage mitigation and prevention for such*
8 *catastrophes, to promote the use of private market capital*
9 *as a means to insure against such catastrophes, to expedite*
10 *the payment of claims and better assist in the financial*
11 *recovery from such catastrophes.*

12 **TITLE I—NATIONAL CATAS-**
13 **TROPHE RISK CONSORTIUM**

14 **SEC. 101. ESTABLISHMENT; STATUS; PRINCIPAL OFFICE;**
15 **MEMBERSHIP.**

16 (a) *ESTABLISHMENT.*—*There is established an entity*
17 *to be known as the “National Catastrophe Risk Consor-*
18 *tium” (in this title referred to as the “Consortium”).*

19 (b) *STATUS.*—*The Consortium is not a department,*
20 *agency, or instrumentality of the United States Govern-*
21 *ment.*

22 (c) *PRINCIPAL OFFICE.*—*The principal office and*
23 *place of business of the Consortium shall be such location*
24 *within the United States determined by the Board of Direc-*

1 *tors to be the most advantageous for carrying out the pur-*
2 *pose and functions of the Consortium.*

3 *(d) MEMBERSHIP.—Any State that has established a*
4 *reinsurance fund or has authorized the operation of a State*
5 *residual insurance market entity, or State-sponsored pro-*
6 *vider of natural catastrophe insurance, shall be eligible to*
7 *participate in the Consortium.*

8 **SEC. 102. FUNCTIONS.**

9 *The Consortium shall—*

10 *(1) work with all States, particularly those par-*
11 *ticipating in the Consortium, to gather and maintain*
12 *an inventory of catastrophe risk obligations held by*
13 *State reinsurance funds, State residual insurance*
14 *market entities, and State-sponsored providers of nat-*
15 *ural catastrophe insurance;*

16 *(2) at the discretion of the affected members and*
17 *on a conduit basis, issue securities and other finan-*
18 *cial instruments linked to the catastrophe risks in-*
19 *sured or reinsured through members of the Consor-*
20 *tium in the capital markets;*

21 *(3) coordinate reinsurance contracts between*
22 *participating, qualified reinsurance funds and pri-*
23 *vate parties;*

24 *(4) act as a centralized repository of State risk*
25 *information that can be accessed by private-market*

1 *participants seeking to participate in the transactions*
2 *described in paragraphs (2) and (3) of this section;*

3 *(5) establish a catastrophe risk database to per-*
4 *form research and analysis that encourages standard-*
5 *ization of the risk-linked securities market;*

6 *(6) perform any other functions, other than as-*
7 *suming risk or incurring debt, that are deemed nec-*
8 *essary to aid in the transfer of catastrophe risk from*
9 *participating States to private parties; and*

10 *(7) submit annual reports to Congress describing*
11 *the activities of the Consortium for the preceding*
12 *year, and the first such annual report shall include*
13 *an assessment of the costs to States and regions asso-*
14 *ciated with catastrophe risk and an analysis of the*
15 *costs and benefits, for States not participating in the*
16 *Consortium, of such nonparticipation.*

17 **SEC. 103. POWERS.**

18 *The Consortium—*

19 *(1) may make and perform such contracts and*
20 *other agreements with any individual or other private*
21 *or public entity however designated and wherever sit-*
22 *uated, as may be necessary for carrying out the func-*
23 *tions of the Consortium; and*

1 (d) *PROHIBITION ON ELECTION AND LOBBYING AC-*
2 *TIVITIES.*—

3 (1) *FEDERAL.*—*The Consortium may not—*

4 (A) *make any contribution to a candidate*
5 *for election for Federal office or to a political*
6 *committee;*

7 (B) *employ or retain—*

8 (i) *a registered lobbyist under the Lob-*
9 *bing Disclosure Act of 1995 (2 U.S.C. 1601*
10 *et seq.); or*

11 (ii) *an organization that employs one*
12 *or more lobbyists and is registered under*
13 *section 4(a)(2) of such Act (2 U.S.C.*
14 *1603(a)(2)); or*

15 (C) *provide any thing of value, other than*
16 *educational materials or information, to any*
17 *elected official of the Federal Government.*

18 *For purposes of this paragraph, the terms “contribu-*
19 *tion”, “candidate”, “Federal office”, and “political*
20 *committee” have the meanings given such terms in*
21 *section 301 of the Federal Election Campaign Act of*
22 *1971 (2 U.S.C. 431).*

23 (2) *CONSORTIUM.*—*The Consortium may not—*

24 (A) *make any contribution to a candidate*
25 *for election for any State or local office or to any*

1 committee, club, association, or other group that
2 receives contributions or makes expenditures for
3 the purpose of influencing any such election;

4 (B) employ or retain any person who en-
5 gages in influencing legislating (as such term is
6 defined in section 4911(d) of the Internal Rev-
7 enue Code of 1986 (26 U.S.C. 4911(d))) of any
8 State or local legislative body; or

9 (C) provide any thing of value, other than
10 educational materials or information, to any
11 elected official of any State or local government.

12 **SEC. 105. MANAGEMENT.**

13 (a) *BOARD OF DIRECTORS; MEMBERSHIP; DESIGNA-*
14 *TION OF CHAIRPERSON.—*

15 (1) *BOARD OF DIRECTORS.—The management of*
16 *the Consortium shall be vested in a board of directors*
17 *(referred to in this title as the “Board”)* composed of
18 *not less than 3 members.*

19 (2) *CHAIRPERSON.—The Secretary of the Treas-*
20 *ury, or the designee of the Secretary, shall serve as the*
21 *chairperson of the Board.*

22 (3) *MEMBERSHIP.—The members of the Board*
23 *shall include—*

24 (A) *the Secretary of Homeland Security*
25 *and the Secretary of Commerce, or the designees*

1 *of such Secretaries, respectively, but only during*
2 *such times as there are fewer than two States*
3 *participating in the Consortium; and*

4 *(B) a member from each State partici-*
5 *pating in the Consortium, who shall be ap-*
6 *pointed by such State.*

7 *(b) BYLAWS.—The Board may prescribe, amend, and*
8 *repeal such bylaws as may be necessary for carrying out*
9 *the functions of the Consortium.*

10 *(c) COMPENSATION, ACTUAL, NECESSARY, AND TRANS-*
11 *PORTATION EXPENSES.—*

12 *(1) NON-FEDERAL EMPLOYEES.—A member of*
13 *the Board who is not otherwise employed by the Fed-*
14 *eral Government shall be entitled to receive the daily*
15 *equivalent of the annual rate of basic pay payable for*
16 *level IV of the Executive Schedule under section 5315*
17 *of title 5, United States Code, as in effect from time*
18 *to time, for each day (including travel time) during*
19 *which such member is engaged in the actual perform-*
20 *ance of duties of the Consortium.*

21 *(2) FEDERAL EMPLOYEES.—A member of the*
22 *Board who is an officer or employee of the Federal*
23 *Government shall serve without additional pay (or*
24 *benefits in the nature of compensation) for service as*
25 *a member of the Consortium.*

1 (3) *TRAVEL EXPENSES.*—*Members of the Consor-*
2 *tium shall be entitled to receive travel expenses, in-*
3 *cluding per diem in lieu of subsistence, equivalent to*
4 *those set forth in subchapter I of chapter 57 of title*
5 *5, United States Code.*

6 (d) *QUORUM.*—*A majority of the Board shall con-*
7 *stitute a quorum.*

8 (e) *EXECUTIVE DIRECTOR.*—*The Board shall appoint*
9 *an executive director of the Consortium on such terms as*
10 *the Board may determine.*

11 **SEC. 106. STAFF; EXPERTS AND CONSULTANTS.**

12 (a) *STAFF.*—

13 (1) *APPOINTMENT.*—*The Board of the Consor-*
14 *tium may appoint and terminate such other staff as*
15 *are necessary to enable the Consortium to perform its*
16 *duties.*

17 (2) *COMPENSATION.*—*The Board of the Consor-*
18 *tium may fix the compensation of the executive direc-*
19 *tor and other staff.*

20 (b) *EXPERTS AND CONSULTANTS.*—*The Board shall*
21 *procure the services of experts and consultants as the Board*
22 *considers appropriate.*

23 **SEC. 107. FEDERAL LIABILITY.**

24 *The Federal Government and the Consortium shall not*
25 *bear any liabilities arising from the actions of the Consor-*

1 *tium. Participating States shall retain all catastrophe risk*
2 *until the completion of a transaction described in para-*
3 *graphs (2) and (3) of section 102.*

4 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

5 *There are authorized to be appropriated to carry out*
6 *this title \$20,000,000 for each of fiscal years 2010 through*
7 *2014.*

8 **TITLE II—CATASTROPHE**
9 **OBLIGATION GUARANTEES**

10 **SEC. 201. PURPOSES.**

11 *The purposes of this title are to establish a program—*

12 *(1) to promote the availability of private capital*
13 *to provide liquidity and capacity to State catastrophe*
14 *insurance programs; and*

15 *(2) to expedite the payment of claims under*
16 *State catastrophe insurance programs and better as-*
17 *ist the financial recovery from significant natural*
18 *catastrophes by authorizing the Secretary of the*
19 *Treasury to guarantee debt for such purposes.*

20 **SEC. 202. ESTABLISHMENT OF DEBT GUARANTEE PROGRAM.**

21 *(a) AUTHORITY OF SECRETARY.—The Secretary of the*
22 *Treasury is authorized and shall have the powers and au-*
23 *thorities necessary to guarantee, and to enter into commit-*
24 *ments to guarantee, holders of debt against loss of principal*
25 *or interest, or both, on any such debt issued by eligible State*

1 *programs for purposes of this title, provided that the total*
2 *principal amount of debt obligations guaranteed by the Sec-*
3 *retary—*

4 *(1) for eligible State programs that cover earth-*
5 *quake peril shall not exceed \$3,500,000,000; and*

6 *(2) for eligible State programs that cover all*
7 *other perils shall not exceed \$17,000,000,000.*

8 *(b) CONDITIONS FOR GUARANTEE ELIGIBILITY.—A*
9 *debt guarantee under this section may be made only if the*
10 *Secretary has issued a commitment to guarantee to an eligi-*
11 *ble State program. The commitment to guarantee shall be*
12 *for a period of 3 years and may be extended by the Sec-*
13 *retary for a period of 1 year on each annual anniversary*
14 *of the issuance of the commitment to guarantee. The com-*
15 *mitment to guarantee and each extension of such commit-*
16 *ment may be issued by the Secretary only if the following*
17 *requirements are satisfied:*

18 *(1) The eligible State program submits to the*
19 *Secretary a report setting forth, in such form and in-*
20 *cluding such information as the Secretary shall re-*
21 *quire, how the eligible State program plans to repay*
22 *the debt.*

23 *(2) Based upon the eligible State program's re-*
24 *port submitted pursuant to paragraph (1), the Sec-*
25 *retary determines there is reasonable assurance that*

1 *the eligible State program can meet its repayment ob-*
2 *ligation under the debt.*

3 (3) *The eligible State program enters into an*
4 *agreement with the Secretary, as the Secretary shall*
5 *require, that the eligible State program will not use*
6 *Federal funds of any kind or from any Federal source*
7 *(including any disaster or other financial assistance,*
8 *loan proceeds, and any other assistance or subsidy) to*
9 *repay the debt.*

10 (4) *The commitment to guarantee shall specify*
11 *the fees for debt guarantee coverage.*

12 (5) *The maximum term of the debt that shall be*
13 *specified in a commitment issued under this section*
14 *may not exceed 30 years.*

15 (6) *The Secretary determines that the eligible*
16 *State program does not cover losses arising from*
17 *floods to properties located in areas having special*
18 *flood hazards (as such term is defined for purposes of*
19 *the National Flood Insurance Act of 1968 and the*
20 *Flood Disaster Protection Act of 1973).*

21 (c) *MANDATORY ASSISTANCE FOR ELIGIBLE STATE*
22 *PROGRAMS.—The Secretary shall upon the request of an eli-*
23 *gible State program and pursuant to a commitment to*
24 *guarantee issued under subsection (b), provide a guarantee*
25 *under subsection (d) for such eligible State program in the*

1 *amount requested by such eligible State program, subject*
2 *to the limitation under subsection (d)(2).*

3 *(d) CATASTROPHIC DEBT GUARANTEE.—A debt guar-*
4 *antee under this subsection for an eligible State program*
5 *shall be subject to the following requirements:*

6 *(1) PRECONDITIONS.—The eligible State pro-*
7 *gram shows to the satisfaction of the Secretary that*
8 *insured losses in the State to the eligible State pro-*
9 *gram arising from the event or events covered by the*
10 *commitment to guarantee are likely to exceed the eli-*
11 *gible State program's available cash resources, as cal-*
12 *culated on the date of the event.*

13 *(2) AMOUNT.—The aggregate principal amount*
14 *of the debt guaranteed following an event or events re-*
15 *ferred to in paragraph (1) may not exceed the*
16 *amount by which the insured losses expected to be sus-*
17 *tained by the State program as a result of such event*
18 *or events exceed 80 percent of the qualifying assets of*
19 *the eligible State program as stated in the most recent*
20 *quarterly financial statement filed with the domi-*
21 *ciliary regulator of the program prior to the event or*
22 *events, except that, for eligible State programs that*
23 *are not required to file such quarterly financial state-*
24 *ments, the aggregate principal amount of the debt*
25 *guaranteed may not exceed the amount by which in-*

1 *sured losses sustained by the State program as a re-*
2 *sult of such event or events exceed 80 percent of the*
3 *unrestricted net assets as stated in the annual finan-*
4 *cial statement for the program's fiscal year ending*
5 *immediately prior to the event or events.*

6 (3) *USE OF FUNDS.—Amounts of debt guaran-*
7 *teed under this section shall be used only to pay the*
8 *costs of issuing debt and to pay the insured losses and*
9 *loss adjustment expenses incurred by an eligible State*
10 *program. Such amounts shall not be used for any*
11 *other purpose.*

12 (e) *FUNDING.—There are authorized to be appro-*
13 *priated such sums as may be necessary to carry out this*
14 *section.*

15 **SEC. 203. EFFECT OF GUARANTEE.**

16 *The issuance of any guarantee by the Secretary under*
17 *this title shall be conclusive evidence that—*

18 (1) *the guarantee has been properly obtained;*

19 (2) *the underlying debt qualified for such guar-*
20 *antee; and*

21 (3) *the guarantee is valid, legal, and enforceable.*

22 **SEC. 204. FULL FAITH AND CREDIT.**

23 *The full faith and credit of the United States is pledged*
24 *to the payment of all guarantees issued under this title with*
25 *respect to principal and interest.*

1 **SEC. 205. FEES FOR GUARANTEES; AMOUNT; COLLECTION.**

2 *The Secretary shall charge and collect fees for each*
3 *guarantee in amounts specified in the commitment to guar-*
4 *antee, which shall be in amounts sufficient in the judgment*
5 *of the Secretary at the time of issuance of the commitment*
6 *to guarantee to cover applicable administrative costs and*
7 *probable losses on the guaranteed obligations covered by the*
8 *commitment to guarantee, but in any event not to exceed*
9 *one-half of 1 per centum per annum of the outstanding in-*
10 *debtedness covered by each guarantee.*

11 **SEC. 206. PAYMENT OF LOSSES.**

12 *(a) IN GENERAL.—The Secretary agrees to pay to the*
13 *duly appointed paying agent or trustee (in this section re-*
14 *ferred to as the “Fiscal Agent”) for the eligible State pro-*
15 *gram that portion of the principal and interest on any debt*
16 *guaranteed under this title that shall become due for pay-*
17 *ment but shall be unpaid by the eligible State program as*
18 *a result of such program having provided insufficient funds*
19 *to the Fiscal Agent to make such payments. The Secretary*
20 *shall make such payments on the date such principal or*
21 *interest becomes due for payment or on the business day*
22 *next following the day on which the Secretary shall receive*
23 *notice of failure on the part of the eligible State program*
24 *to provide sufficient funds to the Fiscal Agent to make such*
25 *payments, whichever is later. Upon making such payment,*
26 *the Secretary shall be subrogated to all the rights of the ulti-*

1 *mate recipient of the payment. The Secretary shall be enti-*
2 *tled to recover from the eligible State program the amount*
3 *of any payments made pursuant to any guarantee entered*
4 *into under this title.*

5 (b) *ROLE OF THE ATTORNEY GENERAL.*—*The Attor-*
6 *ney General shall take such action as may be appropriate*
7 *to enforce any right accruing to the United States as a re-*
8 *sult of the issuance of any guarantee under this title.*

9 (c) *RIGHT OF THE SECRETARY.*—*Notwithstanding*
10 *any other provision of law relating to the acquisition, han-*
11 *dling, or disposal of property by the United States, the Sec-*
12 *retary shall have the right in the discretion of the Secretary*
13 *to complete, recondition, reconstruct, renovate, repair,*
14 *maintain, operate, or sell any property acquired by the Sec-*
15 *retary pursuant to the provisions of this title.*

16 **SEC. 207. REGULATIONS.**

17 *The Secretary shall issue any regulations necessary to*
18 *carry out the debt-guarantee program established under this*
19 *title.*

1 **TITLE III—REINSURANCE COV-**
2 **ERAGE FOR ELIGIBLE STATE**
3 **PROGRAMS**

4 **SEC. 301. PROGRAM AUTHORITY.**

5 *The Secretary of the Treasury, shall make available*
6 *for purchase, only by eligible State programs, contracts for*
7 *reinsurance coverage under this title.*

8 **SEC. 302. CONTRACT PRINCIPLES.**

9 *Contracts for reinsurance coverage made available*
10 *under this title—*

11 *(1) shall be priced on an actuarially sound basis;*

12 *(2) shall minimize the administrative costs of the*
13 *Federal Government; and*

14 *(3) shall provide coverage based solely on insured*
15 *losses covered by the eligible State program pur-*
16 *chasing the contract.*

17 **SEC. 303. TERMS OF REINSURANCE CONTRACTS.**

18 *(a) MINIMUM ATTACHMENT POINT AND LEVELS OF*
19 *COVERAGE.—The Secretary shall establish attachment*
20 *points at which reinsurance coverage under this title is pro-*
21 *vided to eligible State programs. In setting attachment*
22 *points and in determining the levels of reinsurance coverage*
23 *provided, the Secretary shall take into consideration—*

24 *(1) the coverage available through eligible State*
25 *programs;*

1 (2) *the availability and accessibility of reinsur-*
2 *ance in the private market; and*

3 (3) *other factors as deemed appropriate by the*
4 *Secretary.*

5 (b) *NINETY PERCENT COVERAGE OF INSURED LOSSES*
6 *IN EXCESS OF RETAINED LOSSES.—Each contract for rein-*
7 *surance coverage under this title shall provide that the*
8 *amount paid out under the contract shall be equal to 90*
9 *percent of the amount of insured losses of the eligible State*
10 *program in excess of the amount of retained losses that the*
11 *contract requires, pursuant to subsection (a), to be incurred*
12 *by such program.*

13 (c) *MATURITY.—The term of each contract for reinsur-*
14 *ance coverage under this title shall not exceed 1 year or*
15 *such other term as the Secretary may determine.*

16 (d) *PAYMENT CONDITION.—Each contract for reinsur-*
17 *ance coverage under this title shall authorize claims pay-*
18 *ments to the eligible State program purchasing the coverage*
19 *only for insured losses provided under the contract.*

20 (e) *MULTIPLE EVENTS.—The contract shall cover any*
21 *insured losses from one or more events that may occur dur-*
22 *ing the term of the contract and shall provide that if mul-*
23 *tiple events occur, the retained losses requirement under*
24 *subsection (a) shall apply on a calendar year basis, in the*
25 *aggregate and not separately to each individual event.*

1 (f) *TIMING OF CLAIMS.*—*Claims under a contract for*
2 *reinsurance coverage under this title shall include only in-*
3 *surance claims that are reported to the eligible State pro-*
4 *gram within the 3-year period beginning upon the event*
5 *or events for which payment under the contract is provided.*

6 (g) *ACTUARIAL PRICING.*—*The price of coverage under*
7 *a reinsurance contract under this title shall be an amount,*
8 *established by the Secretary at a level that annually pro-*
9 *duces expected premiums that shall be sufficient to pay the*
10 *reasonably anticipated cost of all claims (which may not*
11 *be equal only to average annual costs), loss adjustment ex-*
12 *penses, all administrative costs of reinsurance coverage of-*
13 *fered under this title, and any such outwards reinsurance,*
14 *as described in section 305(c)(3), as the Secretary considers*
15 *prudent taking into consideration the demand for reinsur-*
16 *ance coverage under this title. The anticipated cost of all*
17 *claims shall be comparable to amounts being included in*
18 *the price for similar layers of coverage in the private sector,*
19 *taking into account the savings associated with non-profit*
20 *and tax-exempt status of the Fund established under section*
21 *305.*

22 (h) *INFORMATION.*—*Each contract for reinsurance cov-*
23 *erage under this title shall contain a condition providing*
24 *that the Secretary may require the eligible State program*
25 *that is covered under the contract to submit to the Secretary*

1 *all information on the eligible State program relevant to*
2 *the duties of the Secretary under this title.*

3 (i) *OTHERS.—Contracts for reinsurance coverage*
4 *under this title shall contain such other terms as the Sec-*
5 *retary considers necessary to carry out this title and to en-*
6 *sure the long-term financial integrity of the program under*
7 *this title.*

8 **SEC. 304. MAXIMUM FEDERAL LIABILITY.**

9 (a) *IN GENERAL.—Subject to subsection (b) and not-*
10 *withstanding any other provision of law, the aggregate po-*
11 *tential liability for payment of claims under all contracts*
12 *for reinsurance coverage under this title sold in any single*
13 *year shall be determined by the Secretary based on review*
14 *of the market for reinsurance coverage under this title.*

15 (b) *LIMITATION.—The authority of the Secretary to*
16 *enter into contracts for reinsurance coverage under this title*
17 *shall be effective for any fiscal year only to such extent or*
18 *in such amounts as are or have been provided in appropria-*
19 *tion Acts for such fiscal year for the aggregate potential*
20 *liability for payment of claims under all contracts for rein-*
21 *surance coverage under this title.*

22 **SEC. 305. FEDERAL NATURAL CATASTROPHE REINSURANCE**
23 **FUND.**

24 (a) *ESTABLISHMENT.—There is established within the*
25 *Treasury of the United States a fund to be known as the*

1 *Federal Natural Catastrophe Reinsurance Fund (in this*
2 *section referred to as the “Fund”).*

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

4 (1) *amounts received annually from the sale of*
5 *contracts for reinsurance coverage under this title;*

6 (2) *any amounts appropriated for the aggregate*
7 *potential liability for payment of claims under all*
8 *contracts for reinsurance coverage under this title;*
9 *and*

10 (3) *any amounts earned on investments of the*
11 *Fund pursuant to subsection (d).*

12 (c) *USES.—Amounts in the Fund shall be available*
13 *to the Secretary only for the following purposes:*

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

17 (2) *ADMINISTRATIVE EXPENSES.—To pay for the*
18 *administrative expenses incurred by the Secretary in*
19 *carrying out the reinsurance program under this title.*

20 (3) *OUTWARDS REINSURANCE.—To obtain*
21 *retrocessional or other reinsurance coverage of any*
22 *kind to cover risk reinsured under contracts for rein-*
23 *surance coverage made available under this title.*

24 (d) *INVESTMENT.—The Secretary shall invest such*
25 *amounts in the Fund as the Secretary considers advisable*

1 *in obligations issued or guaranteed by the United States.*
2 *For purposes of the grant mandate in section 401(e) for*
3 *a fiscal year, the Secretary shall disclose the annual net*
4 *investment income available not later than 60 days after*
5 *the conclusion of such fiscal year and disperse appropriate*
6 *funds not later than 90 days after the conclusion of such*
7 *fiscal year.*

8 **SEC. 306. REGULATIONS.**

9 *The Secretary shall issue any regulations necessary to*
10 *carry out the program for reinsurance coverage under this*
11 *title.*

12 **TITLE IV—MITIGATION GRANT**
13 **PROGRAM**

14 **SEC. 401. MITIGATION GRANT PROGRAM.**

15 *(a) ESTABLISHMENT.—The Secretary of Housing and*
16 *Urban Development shall establish and carry out a pro-*
17 *gram to provide grants to eligible entities to develop, en-*
18 *hance, or maintain programs to prevent and mitigate losses*
19 *from natural catastrophes.*

20 *(b) GRANTS.—A grant provided under subsection (a)*
21 *shall be used to reduce loss of life and property by—*

22 *(1) encouraging awareness of risk factors and*
23 *what steps can be taken to eliminate or reduce them,*
24 *including public education campaigns to promote cit-*
25 *izen and community preparedness;*

1 (2) *assisting in the determination of the location*
2 *of risk by giving careful consideration to the natural*
3 *risks for the location of a property;*

4 (3) *providing inspections of homes to identify*
5 *areas to strengthen such homes and reduce exposure*
6 *to natural catastrophes;*

7 (4) *providing financial assistance to homeowners*
8 *to retrofit homes to reduce exposure to natural catas-*
9 *trophes; or*

10 (5) *supporting disaster response readiness pro-*
11 *grams, including initiatives that develop, enhance ,or*
12 *maintain the capacity of a public safety organization*
13 *to be better prepared, equipped, and trained to re-*
14 *spond to natural catastrophes.*

15 (c) *CONSULTATION WITH EXPERTS.*—*In carrying out*
16 *the program established under subsection (a), the Secretary*
17 *of Housing and Urban Development shall consult with—*

18 (1) *disaster preparedness and response organiza-*
19 *tions;*

20 (2) *homebuilders;*

21 (3) *real estate professionals;*

22 (4) *building code enforcement agencies; and*

23 (5) *any other person that the Secretary considers*
24 *appropriate.*

1 (d) *ELIGIBLE ENTITY DEFINED.*—*In this section, the*
 2 *term “eligible entity” means a State or local government,*
 3 *a part or program of a State or local government, or a*
 4 *nationally recognized, congressionally chartered disaster re-*
 5 *sponse non-profit organization.*

6 (e) *GRANT MANDATE.*—*The Secretary shall, to the ex-*
 7 *tent provided in advance in appropriation Acts, use not*
 8 *less than 35 percent of the net investment income from the*
 9 *Federal Natural Catastrophe Reinsurance Fund earned in*
 10 *each fiscal year pursuant to section 305(d) for grants under*
 11 *this section.*

12 **TITLE V—GENERAL PROVISIONS**

13 **SEC. 501. ELIGIBLE STATE PROGRAMS.**

14 (a) *ELIGIBLE STATE PROGRAMS.*—*A State program*
 15 *shall be considered an “eligible State program” for purposes*
 16 *of this Act if the Secretary certifies, in accordance with the*
 17 *procedures established under subsection (c), that the State*
 18 *program complies with the following requirements:*

19 (1) *STATE PROGRAM DESIGN.*—*The State pro-*
 20 *gram is established and authorized by State law as*
 21 *an insurance program or a reinsurance program that*
 22 *is designed to improve private insurance markets and*
 23 *that offers residential property insurance coverage for*
 24 *losses arising from any personal residential line of in-*
 25 *surance, as defined in the Uniform Property and Cas-*

1 *ualty Product Coding Matrix of the National Associa-*
2 *tion of Insurance Commissioners.*

3 (2) *OPERATION.*—*The State program shall meet*
4 *the following requirements:*

5 (A) *A majority of the members of the gov-*
6 *erning body of the State program shall be public*
7 *officials or appointed by public officials.*

8 (B) *The State shall have a financial interest*
9 *in the State program.*

10 (C) *If the State has at any time appro-*
11 *priated amounts from the State program’s funds*
12 *for any purpose other than payments for losses*
13 *insured under the State program, or payments*
14 *made in connection with any of the State pro-*
15 *gram’s authorized activities, the State shall have*
16 *returned such amounts to the State fund, to-*
17 *gether with interest on such amounts.*

18 (3) *TAX STATUS.*—*The State program shall have*
19 *received from the Secretary (or the Secretary’s des-*
20 *ignee) a written determination, within the meaning*
21 *of section 6110(b) of the Internal Revenue Code of*
22 *1986, that the program either—*

23 (A) *constitutes an “integral part” of the*
24 *State that has created it; or*

1 (B) is otherwise exempt from Federal in-
2 come taxation.

3 (4) *EARNINGS.*—The State program may not
4 provide for any distribution of any part of any net
5 profits of the State program to any insurer that par-
6 ticipates in the State program.

7 (5) *PREVENTION AND MITIGATION.*—

8 (A) *MITIGATION OF LOSSES.*—The State
9 program shall include provisions designed to en-
10 courage and support programs to mitigate losses
11 from natural catastrophes for which the State in-
12 surance or reinsurance program was established
13 to provide insurance coverage.

14 (B) *OPERATIONAL REQUIREMENTS.*—The
15 State program shall operate in a State that—

16 (i) requires that an appropriate public
17 body within the State shall have adopted
18 adequate mitigation measures with effective
19 enforcement provisions which the Secretary
20 finds are consistent with the criteria for
21 construction described in the International
22 Code Council building codes;

23 (ii) has taken actions to establish an
24 insurance rate structure that takes into ac-

1 *count measures to mitigate insured losses;*
2 *and*

3 *(iii) ensures, to the extent that reinsur-*
4 *ance coverage made available under the eli-*
5 *gible State program results in any cost sav-*
6 *ings in providing insurance coverage for*
7 *risks in such State, such cost savings are re-*
8 *flected in premium rates charged to con-*
9 *sumers for such coverage.*

10 (6) *REQUIREMENTS REGARDING COVERAGE.—*

11 *The State program—*

12 *(A) may not, except for charges or assess-*
13 *ments related to post-event financing or bonding,*
14 *involve cross-subsidization between any separate*
15 *property and casualty insurance lines covered*
16 *under the State program pursuant to paragraph*
17 *(1);*

18 *(B) shall be subject to a requirement under*
19 *State law that for any insurance coverage made*
20 *available under the State insurance program or*
21 *for any reinsurance coverage for such insurance*
22 *coverage made available under the State reinsur-*
23 *ance program, the premium rates charged shall*
24 *cover the expected value of all future costs associ-*
25 *ated with insurance policies or reinsurance con-*

1 *tracts written by such program, in accordance*
2 *with the principles under section 303(g);*

3 *(C) shall make available to all qualifying*
4 *policyholders insurance or reinsurance coverage,*
5 *as applicable, and mitigation services on a basis*
6 *that is not unfairly discriminatory; and*

7 *(D) publishes, and displays in a prominent*
8 *location on a Website for the State insurance*
9 *program, information for the State insurance*
10 *program of estimated assessments and surcharges*
11 *on policyholders, in accordance with State laws,*
12 *regulations, or other requirements, for a range of*
13 *natural disaster or catastrophic events having a*
14 *varying magnitude of losses, including an event*
15 *projected to result in losses of such magnitude*
16 *that they have a 1 percent chance of being*
17 *equaled or exceeded in any single year, based on*
18 *the current year estimated aggregate funding ca-*
19 *capacity of the State insurance program and State*
20 *reinsurance program.*

21 *(7) LAND USE AND ZONING.—The State pro-*
22 *gram, to the extent possible, seeks to encourage appro-*
23 *priate State and local government units to develop*
24 *comprehensive land use and zoning plans that include*
25 *natural hazard mitigation.*

1 (8) *RISK-BASED CAPITAL REQUIREMENTS.*—*The*
2 *State program—*

3 (A) *complies with such risk-based capital*
4 *requirements as applicable State law may im-*
5 *pose and shall take into consideration asset risk,*
6 *credit risk, underwriting risk, and such other*
7 *relevant risk as determined by the Secretary; and*

8 (B) *for each calendar year, prepares and*
9 *submits to the Secretary a report identifying its*
10 *claim-paying capacity at such time after the*
11 *conclusion of such year, and containing such in-*
12 *formation and in such form, as the Secretary*
13 *shall require.*

14 (9) *OTHER REQUIREMENTS.*—*The State program*
15 *complies with such additional organizational, under-*
16 *writing, and financial requirements as the Secretary*
17 *shall, by regulation, provide to carry out the purposes*
18 *of this Act.*

19 (b) *CERTIFICATION.*—*The Secretary shall establish*
20 *procedures for initial certification and recertification as an*
21 *eligible State program.*

22 (c) *TRANSITIONAL MECHANISMS.*—*For the 5-year pe-*
23 *riod beginning on the date of the enactment of this Act,*
24 *in the case of a State that does not have an eligible State*
25 *program for the State, a State residual insurance market*

1 *entity, or State-sponsored provider of natural catastrophe*
2 *insurance, for such State shall be considered to be an eligi-*
3 *ble State program, but only if such State residual insurance*
4 *market entity, or State-sponsored provider of natural catas-*
5 *trophe insurance, was in existence before such date of enact-*
6 *ment.*

7 (d) *REINSURANCE TO COVER EXPOSURE.—This sec-*
8 *tion may not be construed to limit or prevent any eligible*
9 *State program from obtaining reinsurance coverage for in-*
10 *sured losses retained by insurers pursuant to this section.*

11 **SEC. 502. STUDY AND CONDITIONAL COVERAGE OF COM-**
12 **MERCIAL RESIDENTIAL LINES OF INSUR-**
13 **ANCE.**

14 *The Secretary shall study, on an expedited basis, the*
15 *need for and impact of expanding the programs established*
16 *by this Act to apply to insured losses of eligible State pro-*
17 *grams for losses arising from all commercial insurance poli-*
18 *cies which provide coverage for properties that are composed*
19 *predominantly of residential rental units. The Secretary*
20 *shall consider the catastrophic insurance and reinsurance*
21 *market for commercial residential properties, and specifi-*
22 *cally the availability of adequate private insurance cov-*
23 *erage when an insured event occurs, the impact any such*
24 *capacity restrictions have on housing affordability for rent-*
25 *ers, and the likelihood that such an expansion of the pro-*

1 *gram would increase insurance capacity for this market*
2 *segment.*

3 **SEC. 503. STUDY OF RISK-BASED PRICING AND STATE PRO-**
4 **GRAM RATES.**

5 *The Comptroller General of the United States shall*
6 *conduct a study to analyze—*

7 *(1) risk-based rate pricing, to determine the use*
8 *of actuarially sound pricing for State insurance, re-*
9 *insurance, or residual market programs, including*
10 *what measures States are taking to implement actu-*
11 *arially sound rates; and*

12 *(2) rates for State insurance, reinsurance, or re-*
13 *sidual market programs that fail to cover the expected*
14 *value of all future costs, including the cost of capital,*
15 *associated with insurance policies or reinsurance con-*
16 *tracts written by such programs or fail to have suffi-*
17 *cient assets above their indebtedness to meet their ob-*
18 *ligations.*

19 *Not later than 6 months after the date of the enactment*
20 *of this Act, the Comptroller General shall submit a report*
21 *to the Congress on the results of the study under this section.*

22 **SEC. 504. DEFINITIONS.**

23 *In this Act:*

24 *(1) COMMITMENT TO GUARANTEE.—The term*
25 *“commitment to guarantee” means a commitment to*

1 *make debt guarantees to an eligible State program*
2 *pursuant to section 202(c).*

3 (2) *ELIGIBLE STATE PROGRAM.*—*The term “eli-*
4 *gible State program” means a State program that the*
5 *Secretary certifies as an eligible State program under*
6 *section 501.*

7 (3) *INSURED LOSS.*—*The term “insured loss”*
8 *means any loss that is determined by an eligible*
9 *State program as being covered by insurance or rein-*
10 *surance made available under that eligible State pro-*
11 *gram.*

12 (4) *QUALIFYING ASSETS.*—*The term “qualifying*
13 *assets” means the policyholder surplus of the eligible*
14 *State program as stated in the most recent quarterly*
15 *financial statement filed by the program with the*
16 *domiciliary regulator of the program in the last quar-*
17 *ter ending prior to the event or events.*

18 (5) *SECRETARY.*—*The term “Secretary” means*
19 *the Secretary of the Treasury.*

20 (6) *STATE.*—*The term “State” includes the sev-*
21 *eral States, the District of Columbia, the Common-*
22 *wealth of Puerto Rico, Guam, the Commonwealth of*
23 *the Northern Mariana Islands, the United States Vir-*
24 *gin Islands, and American Samoa, and any other ter-*
25 *ritory or possession of the United States.*

1 **SEC. 505. REGULATIONS.**

2 *The Secretary shall issue such regulations as may be*
3 *necessary to carry out this Act.*

Union Calendar No. 306

11TH CONGRESS
2^D SESSION

H. R. 2555

[Report No. 111-534]

A BILL

To ensure the availability and affordability of homeowners' insurance coverage for catastrophic events.

JULY 13, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed