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Telephone

November 19, 1993

VIA FACSIMILE & HAND DELIVERY

Ms. Kathi Way
Special Assistant to the President
for Domestic Policy
Old Executive Office Building
Room 218
The White House
Washington, D.C. 20500

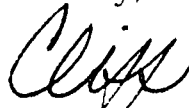
Dear Ms. Way:

On behalf of the Natural Disaster Coalition, I am contacting you to follow up on the information the Coalition sent to you earlier this fall regarding H.R. 2873 and S. 1350, the **Natural Disaster Protection Act of 1993**.

Just before August recess, Senator Daniel Inouye and Representative Norman Mineta introduced this legislation which provides for expanded federal participation in hazard mitigation programs and reinsurance coverage against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and tornadoes. To date, the legislation has over 70 co-sponsors in Congress. The first Congressional hearing by the Senate Commerce Committee was held on November 17, 1993 and Senator Inouye, who chaired the hearing, said he intends to bring the legislation to the Senate floor early next year.

The Natural Disaster Coalition's Executive Director, Jack Weber, and I would be very interested in meeting with you to brief you on the legislation in greater depth and address any questions or concerns the Administration may express. I will contact your office the week of November 29 to see if we can schedule a meeting.

Sincerely,



Clifford S. Gibbons

c.c. Jack Weber

CLINTON LIBRARY PHOTOCOPY



Current Co-Sponsors of The Natural Disaster Protection Act of 1993

S. 1350 - 13 Co-Sponsors:

Daniel Inouye (D-HI), Sponsor
Christopher Dodd (D-CT)
Ted Stevens (R-AK)
Daniel K. Akaka (D-HI)
Slade Gorton (R-WA)
Frank Murkowski (R-AK)
Paul Simon (D-IL)
Harlan Mathews (D-TN)

Trent Lott (R-MS)
John B. Breaux (D-LA)
Thad Cochran (R-M)
Wendell H. Ford (D-KY)
Harry Reid (D-NV)
David Pryor (D-AR)

H.R. 2783 - 58 Co-Sponsors:

Norman Mineta (D-CA), Sponsor
Sherwood Boehlert (R-NY)
Sam Gibbons (D-FL)
Don Young (R-AK)
E. Clay Shaw, Jr. (R-FL)
Jim Bacchus (D-FL)
John E. Porter (R-IL)
James H. Quillen (R-TN)
Arthur Ravenel, Jr. (R-SC)
Don Sundquist (R-TN)
Corrine Brown (D-FL)
John Mica (R-FL)
Bill McCollum (R-FL)
Robert Underwood (D-GU)
Harry Johnston (D-FL)
Pete Peterson (D-FL)
Earl Hutto (D-FL)
Charles Canady (R-FL)
Joseph Knollenberg (R-MI)
William O. Lipinski (D-IL)
Thomas Ewing (R-IL)
Peter Deutsch (D-FL)
Peter A. DeFazio (D-OR)
Jim Cooper (D-TN)
George E. Brown, Jr. (D-CA)
Dan Burton (D-IN)
Alcee Hastings (D-FL)
Dan Miller (D-FL)
Charles H. Taylor (R-NC)
David Hobson (R-OH)

Bob Filner (D-CA)
Pete Stark (D-CA)
Bart Gordon (D-TN)
Michael Bilirakis (R-FL)
Tom Lewis (R-FL)
William F. Clinger, Jr. (R-PA)
David Levy (R-NY)
Jerry Lewis (R-CA)
Gerald D. Kleczka (D-VI)
Gene Green (D-TX)
Al Swift (D-WA)
Susan V. Molinari (R-NY)
Nick Joe Rahall, II (D-WV)
Sonny Callahan (R-AL)
Marilyn Lloyd (D-TN)
Spencer Bachus (R-AL)
Charles W. Stenholm (D-TX)
Carrie Meek (D-FL)
Butler Derrick (D-SC)
David Minge (D-MN)
John S. Tanner (D-TN)
Jennifer Dunn (R-WA)
Ken Calvert (R-CA)
Harold L. Volkmer (D-MO)
Ileana Ros-Lehtinen (R-FL)
Robert G. Torricelli (D-NJ)
James L. Oberstar (D-MN)
Eddie Bernice Johnson (D-TX)
Greg Laughlin (D-TX)

Congress of the United States

House of Representatives

Washington, DC 20515

October 5, 1993

Dear California Colleague:

We are writing to urge your co-sponsorship for legislation of great importance to California – The Natural Disaster Protection Act (H.R. 2873).

Recent events, such as the Midwest floods and Hurricane Andrew, serve as a vivid reminder of the destructive forces of nature. However, these events pale in comparison to what could occur in our State from a catastrophic earthquake. Experts predict that a major quake in Northern or Southern California could cause \$60 to \$80 billion in losses, not including damage to roads, bridges and the State's infrastructure. These damage estimates are three to four times greater than the recent destruction in South Florida. Even worse, the vast majority of Californians are unprotected against earthquake risks because they fail to buy supplementary earthquake coverage.

California's huge exposure to potential catastrophe, as well as the risks other States face from hurricanes, floods and natural perils, led to the introduction of H.R. 2873.

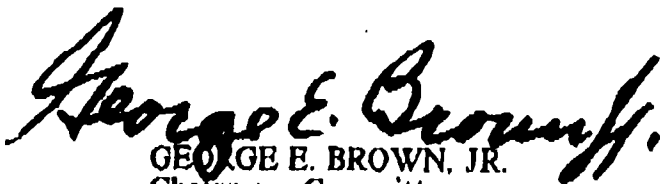
It is a comprehensive measure which seeks to anticipate natural disasters before they occur and consists of four basic elements. The proposal would:

- o Establish incentives for States and communities to adopt model building codes designed to make new structures safer and less prone to forces of nature;
- o Create a privately-funded Federal Loss Mitigation Trust Fund which would provide badly needed resources to local and State governments to improve hazard mitigation activities, disaster planning and response (the largest recipient of these mitigation funds will be California);
- o Broaden standard homeowner's insurance policies to include perils not routinely covered, particularly earthquakes; and
- o Discourage insurers from seeking to withdraw from disaster-prone regions through the creation of an industry-financed Federal Catastrophic Reinsurance Program.

This legislation is supported by a broad-based coalition including The National Emergency Managers Association, The National Coordinating Council of Emergency Managers, The National Association of State Fire Marshals, The National Consumers League, The National Council of Senior Citizens, as well as trade groups representing insurers and insurance agents, realtors and many others.

We would welcome your support for this important legislation. If you have any questions or would like a more detailed summary, please contact Sante Esposito with the Public Works and Transportation Committee staff at Ext. 5-4472. If you wish to co-sponsor, please call Sheila Lockwood, also Committee staff, at Ext. 5-4472.

Sincerely,


GEORGE E. BROWN, JR.
Chairman, Committee on
Science, Space, and Technology


NORMAN Y. MINETA
Chairman, Committee on Public
Works and Transportation

United States Senate

WASHINGTON, DC 20510

October 5, 1993

Dear Colleague:

We are writing to urge you to cosponsor S. 1350, the Natural Disaster Protection Act of 1993, which will improve United States policy on natural disasters.

Our modern society has become increasingly vulnerable to the destructive whims of nature. The near miss of Hurricane Emily was the most recent reminder of this fact. The Midwest is just starting to recover from this summer's unprecedented flooding. Communities in South Florida and Hawaii are still rebuilding in the wake of last year's devastating hurricanes, while many wonder whether the "World Series" earthquake of 1989 is a precursor of things to come.

No part of the country appears immune from this type of tragedy, yet our record for anticipating them is woefully inadequate. The nation needs a better approach to natural disasters. We must employ more aggressive loss reduction and planning measures, as well as initiatives that will limit the growing reliance on federal disaster assistance to pay for recovery and rebuilding efforts.

Consequently, on August 4th, we introduced S. 1350 which seeks to anticipate damage risks before natural disasters occur. The Act would:

- establish incentives for states and communities to adopt model building codes designed to make new structures safer and less prone to forces of nature;
- create a privately-funded Federal Loss Mitigation Trust Fund which would provide badly needed resources to local and state governments to improve disaster planning and response;
- broaden homeowner's insurance policies to include perils not routinely covered (e.g., earthquakes); and
- discourage insurers seeking to withdraw from disaster-prone regions through the creation of an industry-financed Federal Catastrophic Reinsurance Program.

October 5, 1993
Page 2

S. 1350 also includes a provision to improve compliance with the Federal Flood Insurance Program so that homeowners at risk to flooding do not rely exclusively on federal disaster assistance.

This legislation is supported by a broad-based coalition including the National Emergency Managers Association, the National Coordinating Council of Emergency Managers, the National Association of State Fire Marshals, the National Consumers League, the National Council of Senior Citizens, as well as trade groups representing insurers and insurance agents, realtors and many others.

We would welcome your support on this important legislation. If you wish to cosponsor S. 1350, or require a more detailed summary of the bill, please contact Marie Blanco of Senator Inouye's staff at 4-3934.

Sincerely,

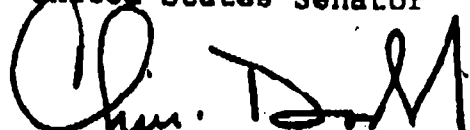

DANIEL K. INOUE
United States Senator

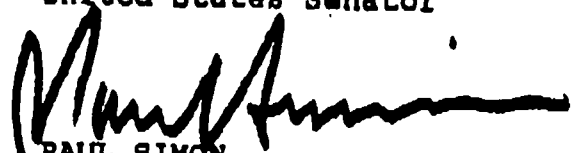

DANIEL K. AKAKA
United States Senator

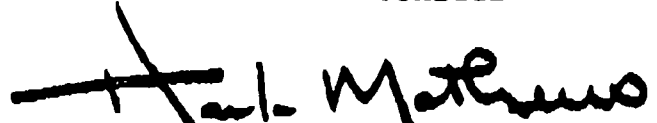

SLADE GORTON
United States Senator


FRANK H. MURKOWSKI
United States Senator


TED STEVENS
United States Senator


CHRISTOPHER J. DODD
United States Senator


PAUL SIMON
United States Senator


HARLAN MATHEWS
United States Senator

JAMES L. OBERSTAR, Minnesota
NICK JOE RAHALL, West Virginia
DOUGLAS APPLEGATE, Ohio
RON DI LUOGO, Virgin Islands
ROBERT A. BORSARI, Pennsylvania
TIM VALENTINE, North Carolina
WILLIAM D. LIPINSKI, Illinois
ROBERT E. WISE, Jr., West Virginia
JAMES A. TRAFICANT, Jr., Ohio
PETER A. DIFAZIO, Oregon
JIMMY HAYES, Louisiana
BOB CLEMENT, Tennessee
JERRY F. COSTELLO, Illinois
MIKE PARKER, Mississippi
GREG LAUGHLIN, Texas
PETE GRIN, Texas
GEORGE E. SANCHESTER, Illinois
GLENN FOSHARD, Illinois
DICK SWETT, New Hampshire
BUD CRAMER, Alabama
BARBARA ROSE COLLINS, Michigan
ELEANOR HOLMES NORTON,
District of Columbia
LUCIEN E. BLACKWELL, Pennsylvania

JERROLD NADLER, New York
SAM COPPERSMITH, Arizona
LESLIE L. BYRNE, Virginia
MARIA CANTWELL, Washington
PAT (PATSY) ANN DANNER, Missouri
KAREN SHEPHERD, Utah
ROBERT MENENDEZ, New Jersey
JAMES E. CLYBURN, South Carolina
CORRIE BROWN, Florida
NATHAN DEAL, Georgia
JAMES A. BARCIA, Michigan
DAN HAMBURG, California
BOB FILNER, California
WALTER R. TUCKER, California
EDDIE BERNICE JOHNSON, Texas
PETER W. BARCA, Wisconsin

PAUL SCHOLLHAMER, Chief of Staff
SANTI ESPOSITO, Chief Counsel

U.S. House of Representatives COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

SUITE 2165 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

(202) 225-4472

September 29, 1993

WILLIAM F. CLINGER, Jr., Pennsylvania
THOMAS E. PETRI, Wisconsin
SHERWOOD BOEHLERT, New York
JAMES M. INHOFE, Oklahoma
BILL EMERSON, Missouri
JOHN J. DUNCAN, Jr., Tennessee
SUSAN MOLINARI, New York
WILLIAM H. ZELIFF, Jr., New Hampshire
TOM EWING, Illinois
WAYNE T. GILCHREST, Maryland
JENNIFER DUNN, Washington
TIM HUTCHINSON, Arkansas
BILL BAKER, California
MAC COLLINS, Georgia
JAY C. KIM, California
DAVID A. LEVY, New York
STEVE HORN, California
BOB FRANKS, New Jersey
PETER I. BLUTE, Massachusetts
HOWARD P. "BUCK" MCKEON, California
JOHN L. MICA, Florida
PETER HOEKSTRA, Michigan
JACK QUINN, New York

JACK SCHENBERGER, Minority Staff Director

Dear Colleague:

I am writing to urge your co-sponsorship for an important initiative which will improve U.S. policy on natural disasters - H.R. 2873, the Natural Disaster Protection Act.

Our modern society has become increasingly vulnerable to the destructive whims of nature. The near miss of Hurricane Emily was the most recent reminder. The Midwest is just starting to clean up and recover from this summer's unprecedented flooding. Residents of South Florida and Hawaii are still rebuilding in the wake of last year's devastating hurricanes, while many wonder whether the "World Series" earthquake of 1989 is a precursor of things to come.

No part of the country appears immune from this type of tragedy, yet our record for anticipating them is woefully inadequate. The Nation needs a better approach to natural disasters than simply waiting to pick up the pieces after events occur. We must employ more aggressive loss reduction and planning measures, as well as initiatives that will limit the growing reliance on Federal Disaster Assistance to pay for recovery and rebuilding efforts.

That is why I introduced the Natural Disaster Protection Act (H.R. 2873) just before the August recess. It is a comprehensive measure which seeks to anticipate natural disasters before they occur and consists of four basic elements. The proposal would:

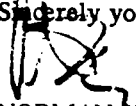
- o Establish incentives for States and communities to adopt model building codes designed to make new structures safer and less prone to forces of nature;
- o Create a privately-funded Federal Loss Mitigation Trust Fund which would provide badly needed resources to local and State governments to improve disaster planning and response;
- o Broaden homeowner's insurance policies to include perils not routinely covered (e.g., earthquake); and
- o Discourage insurers from seeking to withdraw from disaster-prone regions through the creation of an industry-financed Federal Catastrophic Reinsurance Program.

My bill also includes a provision to improve compliance with the Federal Flood Insurance Program so that homeowners at risk to flooding do not rely exclusively on federal disaster assistance.

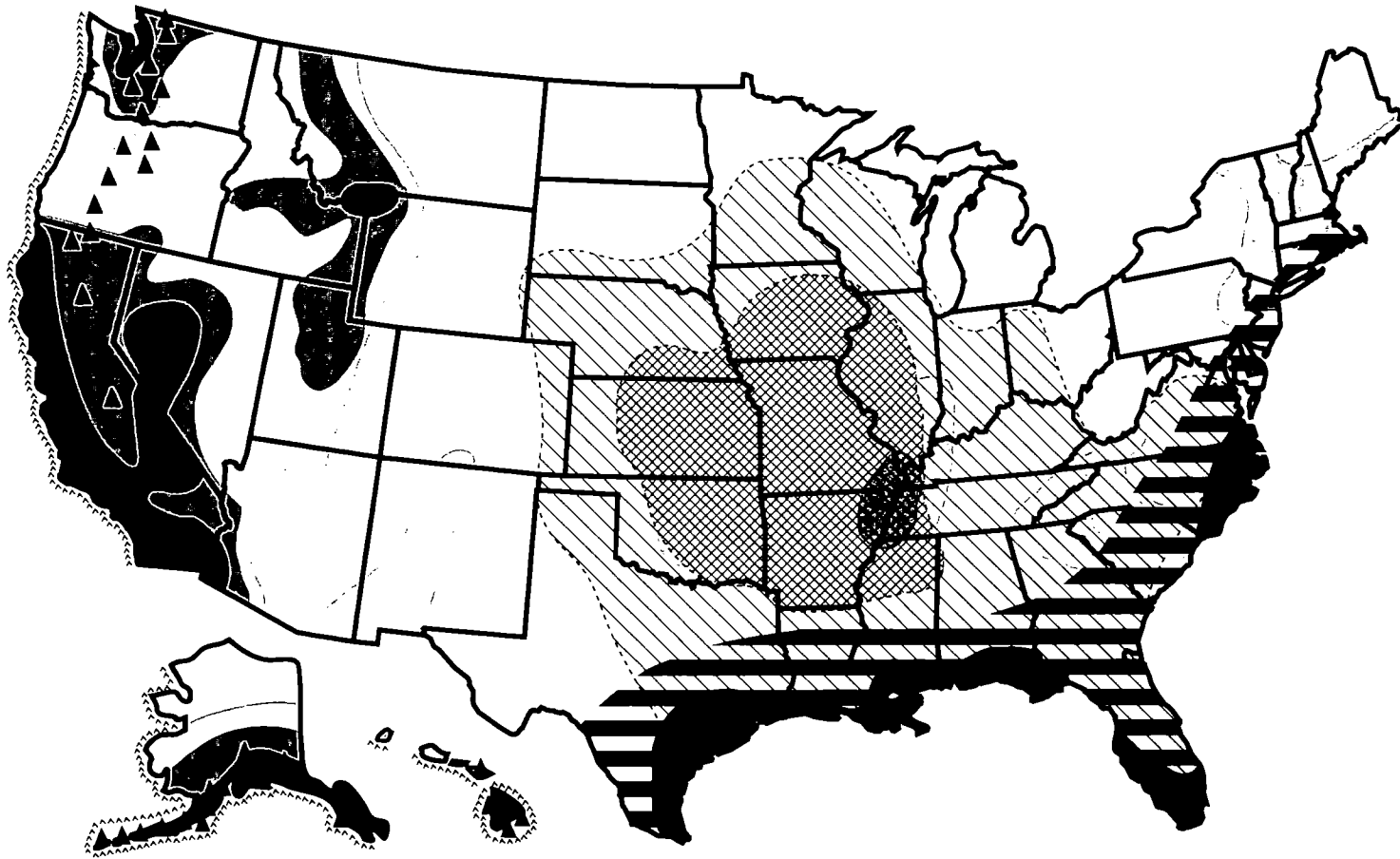
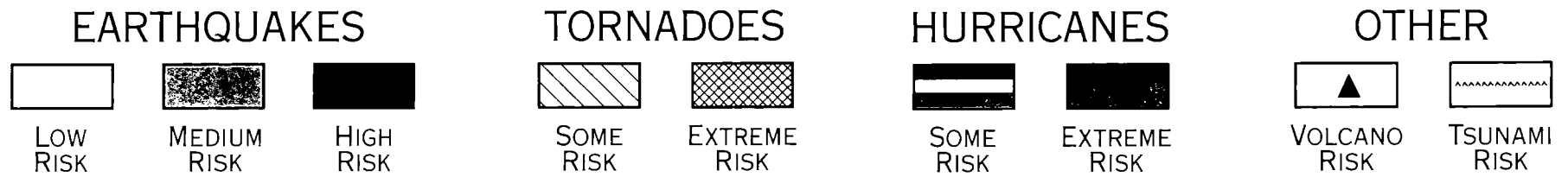
This legislation is supported by a broad-based coalition including The National Emergency Managers Association, The National Coordinating Council of Emergency Managers, The National Association of State Fire Marshals, The National Consumers League, The National Council of Senior Citizens, as well as trade groups representing insurers and insurance agents, realtors and many others.

I would welcome your support for this important legislation. If you have any questions or would like a more detailed summary, please contact Sante Esposito with the Public Works and Transportation Committee staff at Ext. 5-4472. If you wish to co-sponsor, please call Sheila Lockwood, also Committee staff, at Ext. 5-4472.

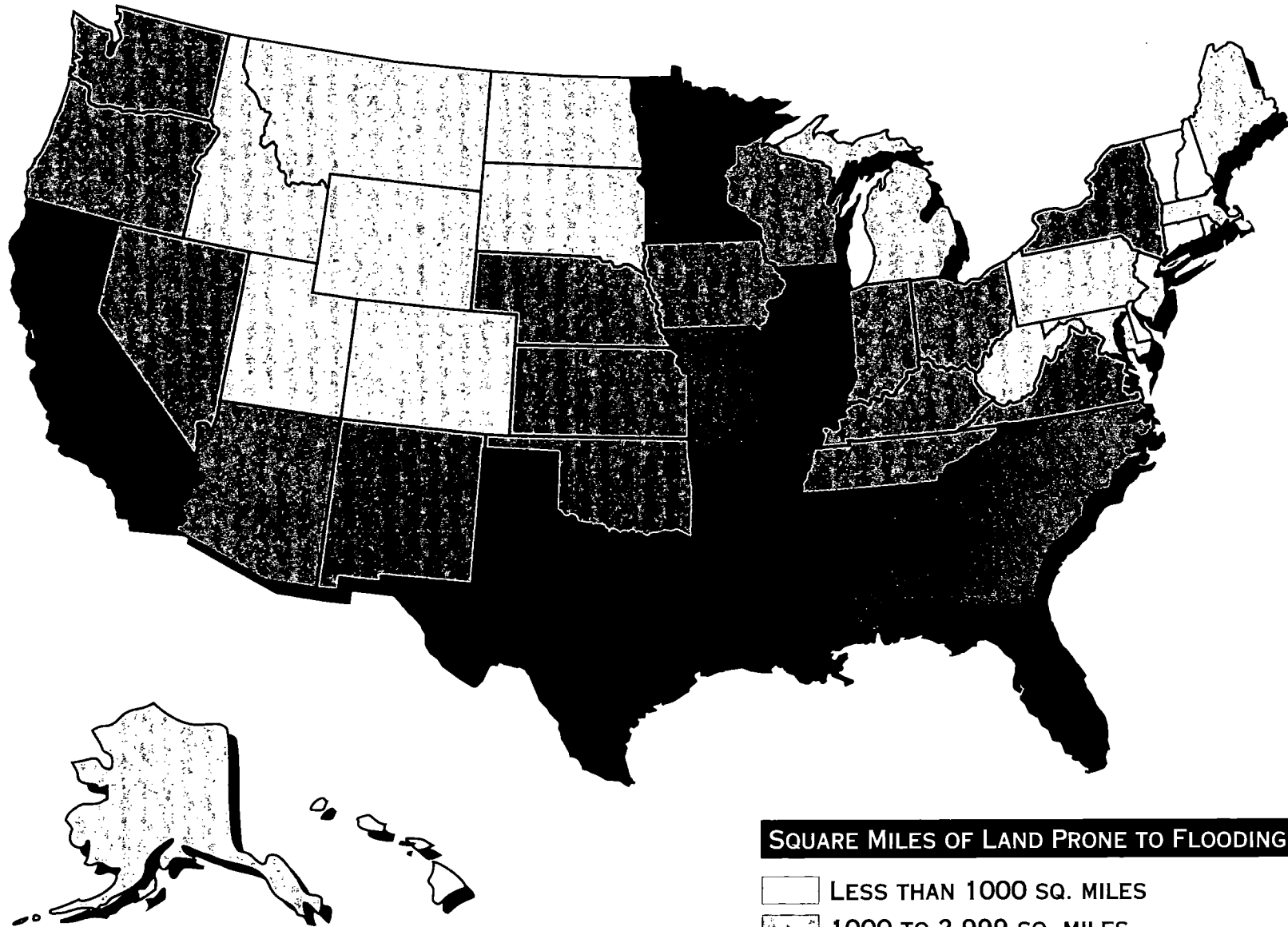
Sincerely yours,


NORMAN Y. MINETA
Chair, Committee on
Public Works and Transportation

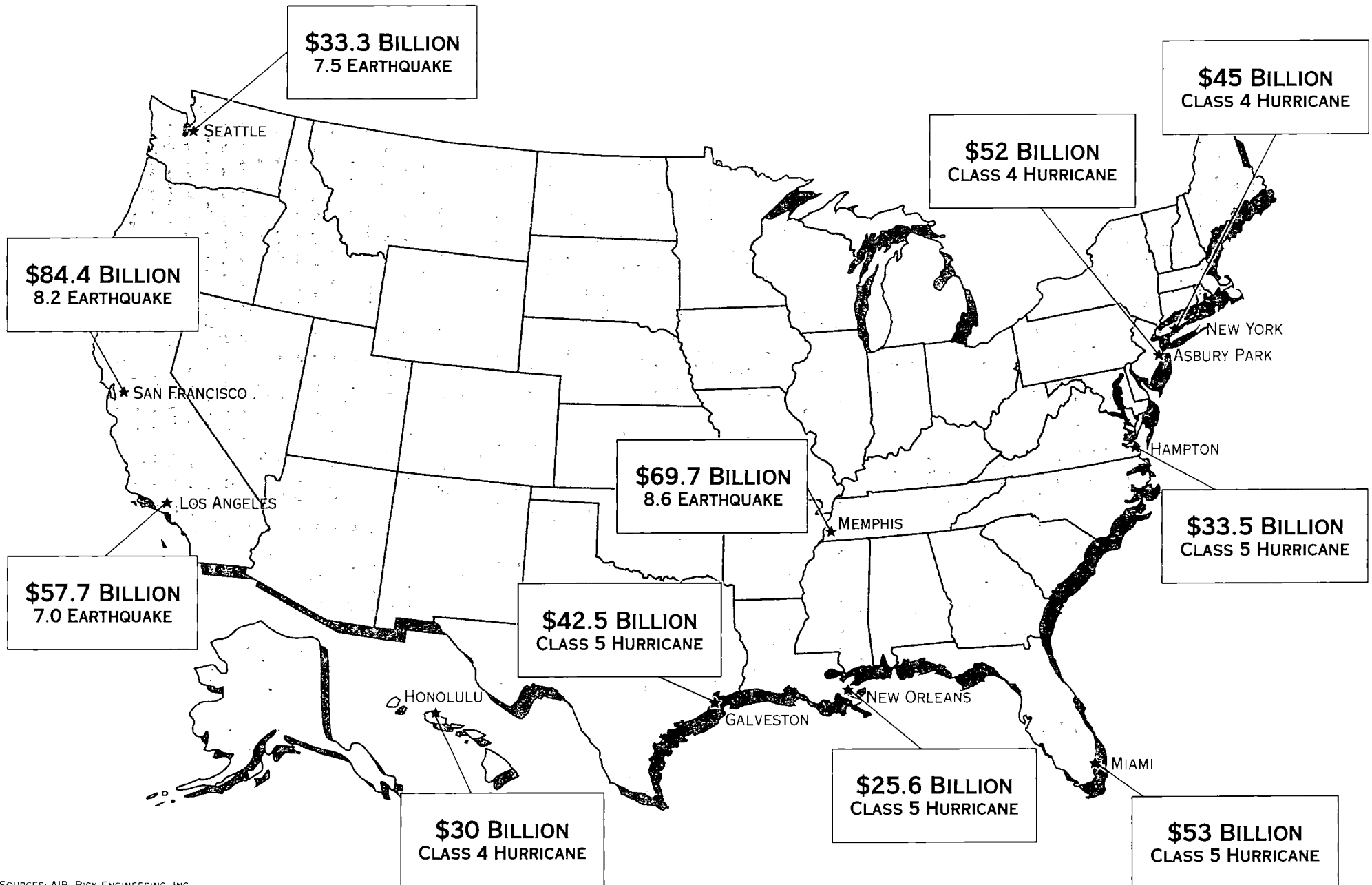
NATURAL DISASTER RISK PROFILE



FLOOD RISK IN THE UNITED STATES

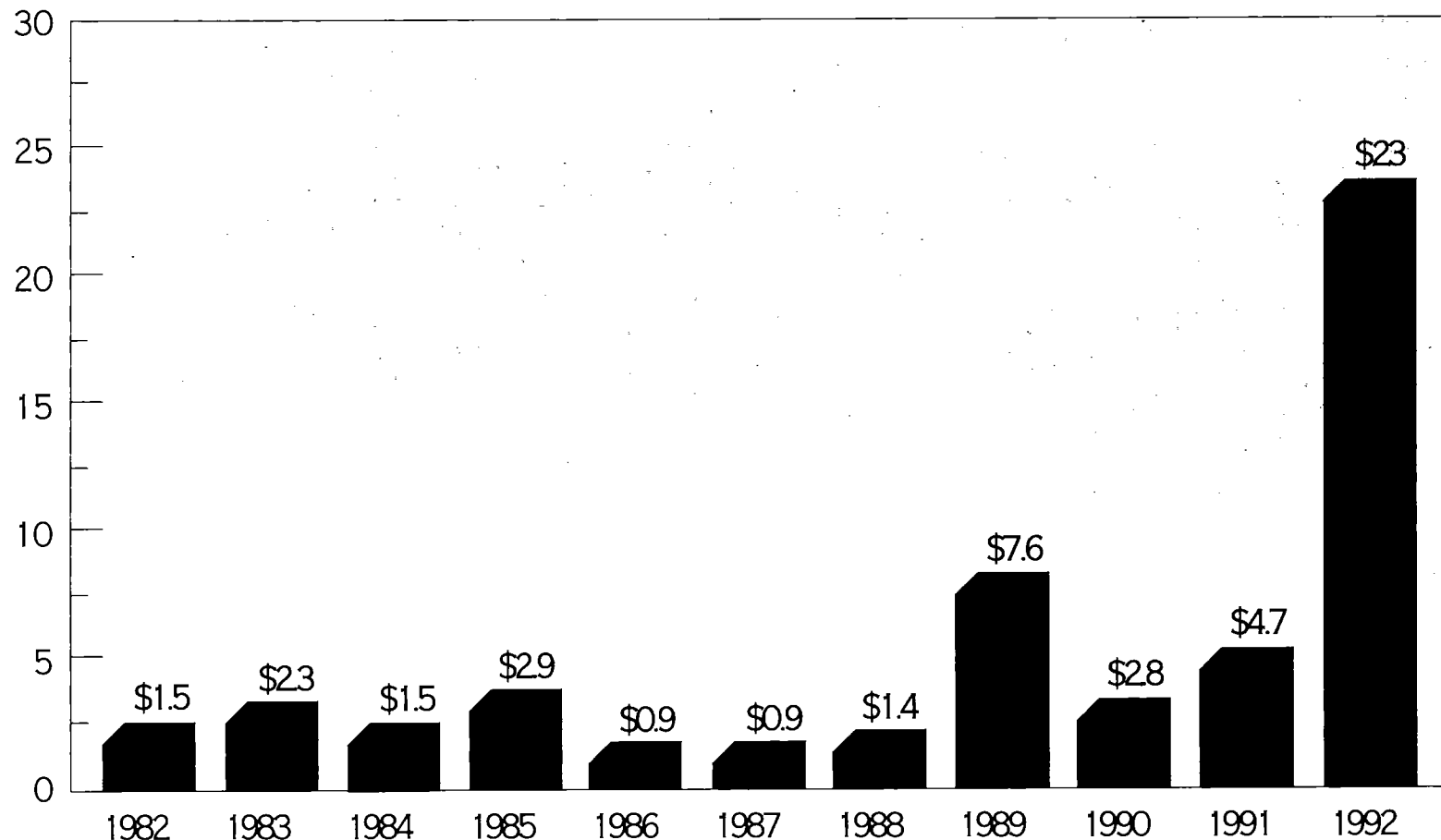


PROBABLE COSTS OF FUTURE NATURAL DISASTERS



THE RISING COST OF NATURAL DISASTERS IN THE UNITED STATES

(\$ BILLIONS)



Nation needs insurance fund for 'big ones'

Hurricane Andrew and Midwest floods show how inadequate our disaster-response system is, says Florida's insurance commissioner.

Has the time come for a national Natural Disaster Fund? A "big one" trust fund — to help victims of floods, earthquakes and hurricanes and protect the taxpayers as well?

Midwest officials hope to get as much federal help as Florida got after Hurricane Andrew last year. They are going to get much more.

The Federal Emergency Management Agency is expected to be far more efficient and generous to the victims of the great flood of '93 than it was to those affected by Florida's great hurricane of '92.



By Tom Gallagher, Florida state insurance commissioner and treasurer.

Andrew was the most expensive natural disaster in U.S. history. The insurance industry picked up the tab — over \$16 billion in claims — more than all the combined homeowner premiums paid in Florida in the 23 years. A few small insurers went under. Others had to borrow from parent companies. Many paid claims, but belly-

ached; most paid their bills.

Now, in Florida, they say "never again." Fearing "the big one," the insurance big boys, led by Allstate, Travelers and Prudential, have threatened to cancel, cut back and raise rates on policies.

The big boys have a point. If Andrew had struck 20 miles farther north, through the heart of Miami, it could have been a \$50 billion hit. The industry's desperate response has been to make hurricane insurance often impossible to buy, just as it made private flood insurance impossible to buy along the Mississippi River and earthquake insurance sky high on the West Coast.

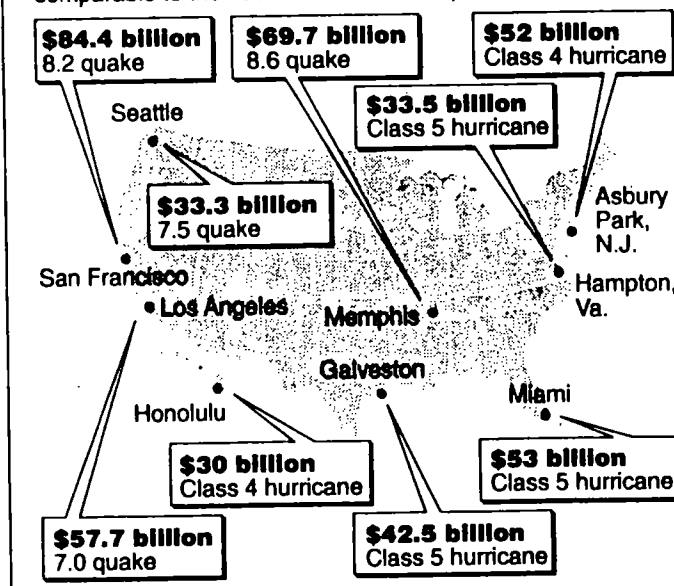
Andrew's lesson is one for the entire nation. The United States' response to enormous disasters is fragmented, unthinking and unresponsive to citizens' needs.

Americans are compassionate; they won't leave fellow citizens in the lurch. So, often, taxpayers will pay the bill — for this year's flood and for next year's hurricane if homeowners can't buy insurance. But it doesn't need to be that way.

We need a national Natural Disaster Reinsurance Trust Fund to meet this evident need.

Gauging future natural disasters

Here are estimated costs if major disasters were to strike in selected cities. A Class 5 hurricane is the most intense; Andrew was a 4. An 8.2 earthquake on the Richter scale is comparable to the 1906 San Francisco quake.



Source: Natural Disaster Coalition

By Elys A. McLean, USA TODAY

The funds would come from the insurance industry via a percentage of all property-insurance premiums. The fund would be tapped only in case of the "big one" — a giant flood, hurricane or earthquake.

The industry would be required to offer insurance. To benefit from the fund, property owners must buy insurance.

Today, only 17% of property

eligible for flood insurance has it. Barely one-third of the farmers in the flood plain carry crop insurance. In California, earthquake insurance is offered but generally not bought. And now, for many, hurricane insurance won't be available. Who's left to pay the bills? The taxpayers.

Instead, it's time we said to the insurance industry: You simply can't cover the easy

ones and take a walk on the tough ones. We know you need reinsurance and so we'll create a "Big One Reinsurance Trust Fund." But to take part in this, you have to offer the insurance.

And it's time we said to the politicians: We know disaster relief is inevitable and necessary. But there is such a thing as personal responsibility and accountability. If your property is subject to natural disasters, you should buy insurance. There should be no automatic federal handout if insurance has been available.

A national Natural Disaster Reinsurance Trust Fund won't mean an end to all other relief. We're too caring a people for that. And, it won't guarantee a risk-free world for the insurance industry. But it will assure that natural-disaster insurance at reasonable rates is available to all property owners. It will assure immediate aid to all insured property owners in the case of disasters. It will provide reinsurance to the industry to ensure solvency in the case of a historic disaster. And it will minimize the taxpayers' burden of disaster relief.

Regional disasters always end up a national problem. Why not start with a national policy in the first place? Why not a Natural Disaster Reinsurance Trust Fund? And why not now?

The Washington Post

TUESDAY, DECEMBER 1, 1992

Southern California Faces 1-in-8 Chance of 'Big One'

Report Says Odds of Magnitude-7 or Stronger Quake in Five Years Have Greatly Increased

Associated Press

LOS ANGELES, Nov. 30—Southern California may face a 1-in-8 chance of another major earthquake by next fall—triple the odds cited before a magnitude-7.5 jolt last summer, the federal government said today.

A new report also said the region faces a 47 percent chance of another magnitude-7 or stronger quake within five years, nearly quadruple the previously cited five-year risk of 12 percent.

Future quakes exceeding 7 on the Richter scale could shake the sparsely populated Mojave Desert as the Landers quake did June 28. But they also might rupture the San Andreas or San Jacinto faults, causing "much stronger shaking in urbanized areas," said the report by the U.S. Geological Survey and other agencies.

"The conclusions of this report underscore the plausibility of large, damaging earthquakes affecting metropolitan areas of Southern California."

Ever since the Landers quake and its magnitude-6.6 Big Bear aftershock killed a child and injured more than 400 people, scientists have said that changes in underground stresses increased the risk of "the Big One"—a disastrous quake measuring 7.5 or more on the nearby San Andreas fault.

A decade-old federal study estimated that a magnitude 8.3 quake on the part of the fault nearest Los Angeles could kill as many as 14,000 people and hospitalize another 55,000. That estimate is now considered high.

The new report is the government's first attempt to assign odds to the increased seismic risk since

the Landers quake. It addresses the chance of a variety of quakes stronger than magnitude 7, not specifically "the Big One."

The study was written by a 12-member panel representing the Geological Survey, several universities and California's Office of Emergency Services and Division of Mines and Geology. The conclusions were endorsed by the National Earthquake Prediction Evaluation Council and its California counterpart.

The report reflects the great uncertainty about quake forecasting. It says several factors "raise concern that a large earthquake might soon occur in Southern California." But another section adds: "The most likely case is that no large (magnitude over 7) earthquake will occur" within the next few years.

The report said that, for the 12 months that started Sept. 1, another magnitude-7 or larger quake within about 60 miles of the Landers epicenter is 2 percent to 5 percent likely. The annual risk of a quake that strong anywhere in Southern California is between 5 percent and 12 percent, it added.

The 12 percent per year chance of another big jolt—about one-in-eight annual odds—is triple the previously cited 4 percent annual probability listed in the report.

The report said concern about major earthquakes was raised because:

- The Landers quake increased stress on two segments of the southern San Andreas fault nearest San Bernardino and Palm Springs, although it slightly reduced stress on a still-hazardous third segment, which is closest to Los Angeles.
- All three segments appear over-

due for big quakes, a concern researchers have cited for years. If all three segments ruptured together, the quake would measure about magnitude 8.

- The rate of earthquake activity in Southern California is higher since 1985 than during the preceding four decades. A similar buildup preceded San Francisco's magnitude-8.3 quake of 1906.
- Some Landers aftershocks happened directly on the San Andreas.

The new report is the first phase of a two-part study and dealt only with "intermediate-term" quake odds. It did not update a 1988 Geological Survey study that found at least a 60 percent chance of a magnitude-7.5 or larger quake on the southern San Andreas fault within 30 years.

However, the report said the chance of such a quake "may be substantially higher than that estimated in 1988."

FLORIDA EDITION

The Miami Herald

SUNDAY, MARCH 14, 1993

\$1.25

Insurance mayhem

Andrew blew away industry's notion of the cost of a storm



**INSURANCE:
ANDREW'S
IMPACT**

IS CONT'D ON FOUR PAGES

By DAVID SATTEPFIELD
Senior Business Writer

In just five hours, Hurricane Andrew forever changed the way property insurance will be bought and sold in South Florida.

For the next few years, homeowners and renters insurance will be:

- Harder to find.
- More expensive.
- More restrictive than ever before.

Andrew's wrath also could have long-lasting implications: Florida residents in coastal areas may be forced to buy three different insurance policies:

■ BATTLES OVER CLAIMS DRAG ON, 17A
■ ALTERNATIVE COVERAGE PRICIER, 17A

one for flood, one for fire and a third for wind damage.

Changes won't strike Florida alone. Any region prone to disasters will see similar shifts.

The reason: Hurricane Andrew blew away the insurance industry's notions about how costly a hurricane can be.

"The industry thought it had a good handle on predicting the cost of any hurricane," said Jack Snyder, a senior vice president at A.M. Best, a New

York firm that rates the health of insurance companies. "The industry turned out, for the most part, to be wrong."

Insurance companies aren't accustomed to being so wrong. Insurance is a complex business rooted in taking risks.

Insurers rely on past events to predict what might happen in the future. And they set insurance prices based on those expectations.

In other words, if a community had an average of 10 fires a year for the past

PLEASE SEE INSURANCE, 17A

HOW ANDREW'S LOSSES COMPARE

The magnitude of damage inflicted by Andrew greatly overshadows the amount of insured losses from other major disasters.

IN BILLIONS 0 2 4 6 8 10 12 14 16

Hurricane Andrew, 1992

Hurricane Iniki, 1992

Los Angeles riots, 1992

Berkeley fires, 1991

Hurricane Hugo, 1989

San Francisco earthquakes, 1989

SOURCE: Department of Insurance



DAN CLIFORD/MIAMI HERALD

Andrew bashed insurance world

Homeowners, firms will feel effects for years to come

INSURANCE FROM 1A

10 years, insurers might expect a similar record in the future. Prices would reflect the cost of rebuilding one home every year for the next decade.

Predicting the impact of hurricanes, however, is much more difficult because so few have struck populated regions in the past 10 years. And Hurricane Andrew surprised everyone.

Andrew is expected to cost insurance companies at least \$16.3 billion. More than \$10 billion of that will go to homeowners, which is 10 times the \$1 billion insurers collected in Florida homeowner premiums last year.

The \$16.3 billion overall tab is more than double the \$7.3 billion in damage estimated a week after the storm, and on par with what many insurance experts had considered a "worst-case storm."

Because its fury was concentrated in less-populated South Dade, Andrew was not a worst-case storm.

Big profits a cushion

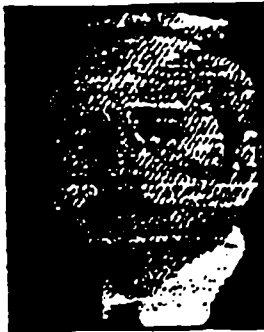
It did, however, come at a fortunate time for insurance companies.

Falling interest rates in recent years produced big profits in the nation's bond markets, and insurance companies are big buyers of bonds. Big companies simply sold their bond investments, pocketing some \$3 billion to help foot the bill for Andrew.

But the industry's "capital and surplus," which is its cushion against losses, did take a hit. Andrew wiped out the cushion for at least a dozen companies. Even big companies, such as State Farm and Allstate, had to rely on their parent companies to provide money to pay Andrew's losses.

Yet the property insurance industry had a respectable year. Overall capital and surplus — that key cushion against losses — rose slightly to about \$162 billion.

But fears that hurricane activity is on the rise, along with a sudden shortage of much-needed reinsurance, have changed the industry's notions about doing business in hurricane-prone areas. Suddenly, companies are backpedaling from their aggressive, grow-the-business attitude



'You shouldn't be surprised when there's a hurricane in Miami. Don't they call the football team there the Hurricanes?'

ROBERT HUNTER,
Director, National Insurance Consumer Organization

of the past decade.

Major underwriters such as State Farm, Allstate, Prudential and Travelers suddenly are shrinking, not expanding, their Florida operations. Companies are restricting the kinds of homes they'll insure, backing away from coastal areas and older homes.

So, just like homeowners buying hurricane safters, insurers are bracing for another big storm.

"There was a complacency throughout the state, whether you're talking about builders, insurance companies or citizens," said Harold Covey, president of State Farm Fire and Casualty, the state's biggest insurer of homes. "I really do believe, that for the foreseeable future, Andrew has changed the attitudes toward how much exposure you can accommodate. Not only financially, but as we found, it puts a tremendous demand on your people."

Some 20 companies are packing their bags and leaving the state. Eight companies failed as a direct result of Andrew, State Farm is dramatically restricting the amount of new business its agents can write. No. 2 Allstate is considering a plan to eliminate one of every three homeowner policyholders. Prudential already announced such a plan.

And Florida residents are left in the lurch.

"I have a hard time understanding the mentality of these insurance companies," said Dade insurance agent Joe Vaccaro. "For 20 years, they col-

lected premiums and most have known a hurricane eventually would hit. Once Andrew hits, they all turn tail and run."

"What did they do with all that money for all those years?"

Shouldn't be surprised

Robert Hunter, director of the National Insurance Consumer Organization, said insurers are badly overreacting to Andrew.

"You shouldn't be surprised when there's a hurricane in Miami," he said. "Don't they call the football team there the Hurricanes?"

Nothing requires insurance companies to write coverage in Florida. Residents simply will have to wait until insurance companies feel comfortable about their exposure in the state.

"The basic consumer out there has a legitimate gripe," said A.M. Best's Snyder. "You pay premiums for all those years, along comes a storm and the industry runs like a dog with its tail between its legs."

To understand what's happening requires some basic understanding of the property insurance business.

More than 1,000 companies are allowed to sell property-casualty insurance in Florida. About 300 sell homeowner coverage.

For insurance companies, homeowners coverage is just part of their business, and not as overwhelming part. It makes up only 9 percent of the total premiums paid to property-casualty insurers.

Auto insurance, by comparison, makes up nearly half of the pie. Workers' compensation insurance brings in more money each year than homeowners coverage.

Until Andrew, competition had been fierce in fast-growing Florida. Companies battled for market share in a state that hadn't taken a major catastrophe in more than two decades.

With 300 companies jockeying

for customers, prices remained stable and relatively inexpensive. Some years, prices for homeowner coverage actually dropped.

Car insurance higher

The average price of homeowner coverage in Florida — \$366 a year — ranks 29th among states. Auto insurance in Florida, by comparison, ranks 12th, with an average premium of \$668.

Insurance companies are in business to make profits. And homeowner insurance has been among the least profitable lines of business for insurers in the past decade.

Every year since 1978, the industry nationally has spent more money on claims and expenses than it collected from policyholders. But insurance companies offset those losses with profits earned on the money collected from customers.

In 1991, however, the industry actually lost money selling homeowners insurance, according to the Insurance Information Institute. That year, for instance, insurers spent \$1.17 for every \$1 they collected in premiums. That \$1.17 includes payment of claims and administrative expenses.

Insurers then earned 11 cents on investments for every \$1 they collected, resulting in a net loss of about 6 cents per \$1 collected.

Because of Andrew, 1992's results are expected to be worse.

"No doubt, 1992 will be horrendous, no matter how you slice it," said Alan Levin, director of insurance rating services for Standard & Poor's, another firm that gauges the health of insurance companies.

Andrew not only caused more devastation than imagined, but the cost of rebuilding that devastation is far exceeding what insurers had calculated.

Initial estimates figured the average claim would be about \$10,000. Now, the average claim is about \$21,000, said Gary Kenney, director of catastrophes at Property Claim Services, an industry trade group.

Poor construction an issue

Companies say they underestimated Andrew's impact primarily on three fronts:

■ **Quality of construction:** Major insurers said they were surprised by what they perceive as shoddy construction in many South Dade communities.

■ **Cost of rebuilding:** Rising prices for labor and materials pushed rebuilding costs higher than anticipated.

■ **Post-storm damage:** Heavy August and September rains worsened damage caused by Andrew, leading to greater losses.

Now — after a decade of aggressively recruiting new non-owners — insurance companies are looking at all of their customers and wondering: Can we pay these claims again if another hurricane strikes?

Most are saying no. "The industry truly did not realize the magnitude of the exposure they had in Florida," said A.M. Best's Snyder.

So, companies are eliminating customers or scaling back their growth.

And getting plenty of criticism for it.

"Big hurricanes are possible and insurance companies know that," said Hunter, the consumer advocate. "You don't abandon a market after one event."

As a result of Andrew, big insurers now are pushing for a federal catastrophe fund that would cap the industry's losses in a major disaster.

Federal fund discussed

For years, California legislators have talked about a federal fund that would pay claims in a major earthquake. (Most homeowner policies in California do not cover earthquake losses.)

But the proposal never much momentum, primarily because earthquakes are seen as a California hazard.

Now, however, legislators are talking about a fund that would pay losses above a certain level in any major disaster. Under consideration: policyholders would pay a set amount each year into a tax-free fund. After a disaster, the fund would pay losses above the pre-set level.

Insurers say such a fund encourage them to write more business in states such as Florida.

"It helps if you know your exposure is a certain number rather than an unknown," State Farm's Covey.

But Hunter, who administered the federal flood program, said a similar catastrophe fund would only be set up in conjunction with a program aimed at improving building standards and other measures that would reduce damage in a catastrophe.

"Before you do this, you need a much more careful analysis than anyone's ever done," he said.

Last week, Port Lauderdale Congressman E. Clay Shaw introduced legislation creating a federal hurricane fund that would pay for hurricane losses on certain insured property. The measure also would create new construction standards and set guidelines on reducing losses from windstorms.

Similar legislation is expected in coming weeks.

BY THE NUMBERS

- Number of property insurers in Florida: 1,300
- Claims paid after Andrew: \$25,300
- Amount paid by insurers: \$15 billion to \$16.3 billion
- Average claim: \$23,300
- Number of insurers that

- failed as a result of storm: Eight
- Number of insurers who up Florida after Andrew: More than 20
- Number of policyholders subjected to buy coverage from joint underwriting association: 500,000

The State

South Carolina's Largest Newspaper

January 17, 1993 1A

Lack of standards costs homeowners

By JIM DAVENPORT
Business Writer

The next time a natural disaster like Hurricane Hugo strikes South Carolina, the state's residents can expect higher taxes and homeowner's insurance premiums.

Why?

Because the state still hasn't adopted state-wide building standards that would help limit damage, according to a study by a professor at the University of California at Los Angeles.

Three years after Hugo crashed ashore in

Charleston, causing \$6 billion in damage, South Carolina hasn't learned the lessons of the storm, the study said. As a result, South Carolinians will pay more out of their pockets after future disasters, the study concludes.

The study, conducted by a UCLA management professor, Elliott Mittler, criticizes the state for failing to adopt building standards and a system to enforce those standards after Hugo. The September 1989 hurricane caused

See Insurance, 12A

Insurance

From 1A
heavy damage in Charleston, Sumter and Charlotte.

South Carolina is no more ready for the next disaster than it was for Hugo, Mittler's report says. He spent two years studying state government's response to Hugo and its readiness for the next disaster.

"There is no change," his report says.

This year, the General Assembly again will consider a bill to establish statewide building codes. But the same bill has failed to pass three times before and it faces stiff opposition.

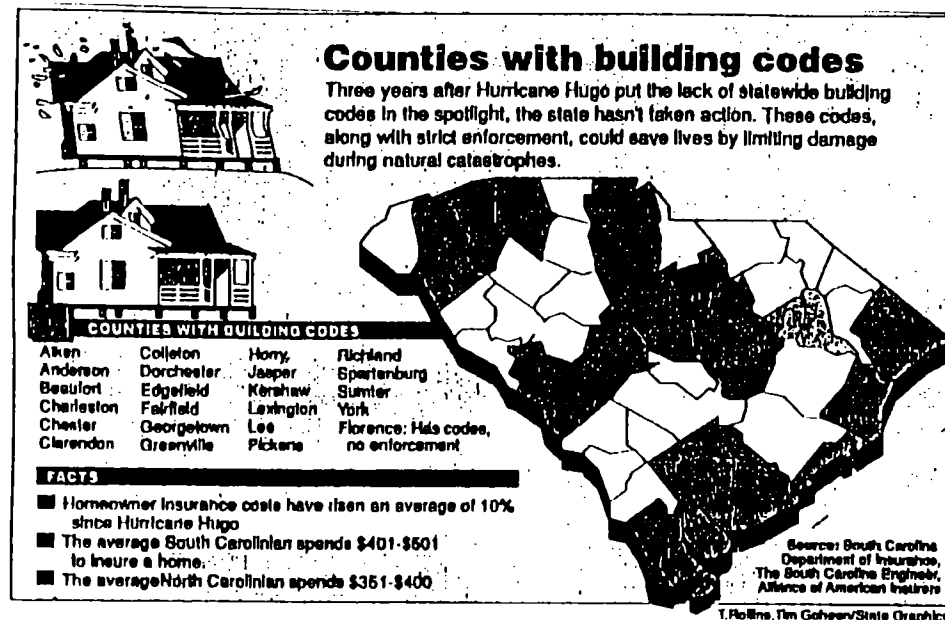
The state's failure to adopt and enforce building codes increases the potential for death, injury and financial loss in future disasters, according to the report.

To recover from future disasters, the state's residents would have to pay higher taxes, the report said. Likewise, insurance companies would raise their rates to recoup losses. In both cases, the costs might be less if a strict building code were in effect.

Inadequate building standards and slipshod inspections have been blamed for running up the cost of damage by Hurricane Andrew, which blasted South Florida and Louisiana in August.

In the wake of Andrew, several major insurers — including State Farm, The Travelers and Allstate — have said they won't sell new homeowner's insurance policies in some hurricane-prone areas, including Florida and coastal New York.

After Hugo, several insurers pulled out of South Carolina, notably The Travelers. Homeowner's insurance rates also have increased an av-



erage of 10 percent.

No insurers have left the state since Andrew. But insurers are worried about future disasters and are taking a closer look at what they charge consumers in areas that don't closely monitor building practices.

"In the next year, you will see (homeowner's insurance) availability problems begin to build, particularly in coastal regions, particularly in the South," said John H. Snyder, a senior vice president of A.M. Best Co., an insurance rating firm in Oldwick, N.J. "It is going to take a lot more shopping around to find more coverage," Snyder told The New York Times last week.

South Carolina's failure to adopt

and enforce building codes is of particular concern because climatologists expect major hurricanes through the rest of the century.

Half the state's counties, including a half-dozen ravaged by Hurricane Hugo, lack minimum building standards outlined in the Southern Building Code Congress International.

At the same time, new maps depicting likely areas for severe earthquakes cut through counties that don't have building standards.

A battle brewing

Hurricane Andrew's damage has created pressure for tougher building codes and enforcement nationwide.

This year, the General Assembly again will consider a bill to establish statewide building codes. But the same bill has failed to pass three times before and it faces stiff opposition. The state's failure to adopt and enforce building codes increases the potential for death, injury and financial loss in future disasters, according to the report.

want to pick up the cost of a new program," said Bob Lyon, the association's lawyer.

But McConnell says a building code program would pay for itself through fees that would be collected.

Tough lesson

The insurance industry has been pushing for tougher building codes for 10 years. However, the \$16 billion in damage that Hurricane Andrew did to South Florida has given increased urgency to those calls.

"It's been a real eye opener," said Bill Davis, a spokesman for the Hurricane Insurance Information Center in Miami.

Florida grand juries are investigating allegations of substandard building practices and lax building code enforcement.

"Andrew was not nearly as severe as the dollar value indicates," said Terri Fritsch, State Farm's spokeswoman in Jacksonville, Fla.

Instead, Fritsch said, the losses were more the result of poor construction practices. "The homes were not built appropriately," she said.

State Farm, the nation's largest home insurer, has said a significant part of the \$4 billion it expects to pay to Florida customers will be used to bring damaged homes up to existing building standards.

In an effort to cut the losses from

future hurricanes, floods and earthquakes, insurers will increase the pressure on states to toughen building codes and enforcement.

"Consideration (also) will be given to implementation and enforcement of codes" when insurers ask for rate increases, said Eugene Lecomte, president of the National Committee on Property Insurance.

In South Carolina, insurers have not attributed increases in homeowner's insurance premiums to the lack of statewide building standards, said John Richards, the state's chief insurance commissioner.

South Carolinians pay up to \$100 more on average for their home insurance than residents of North Carolina, which has tough statewide building codes.

More increases can be expected as insurers spread the costs of hurricanes Andrew and Iniki, in Hawaii, and other natural disasters, Richards said.

State Farm, the state's No. 1 insurer with a quarter of South Carolina's homes, says it's looking more closely at the role that building codes play in the amount of money paid out after natural disasters.

"They (insurers) finally have come to see that they should be working to mitigate the potential for this damage to occur," said Lindbergh, The Citadel engineering professor.

The New York Times

September 6, 1992

Amid the Fallen Buildings, a Host of Questions

By PETER APPLEBOME

Special to The New York Times

CUTLER RIDGE, Fla. Sept. 2 — Along with a moonscape of devastation, Hurricane Andrew has exposed a record of shoddy construction and inadequate oversight throughout the ravaged areas south of Miami.

Experts, shocked by the wreckage in an area that has been known for some of the nation's toughest building standards, said the multibillion-dollar damage toll here reflected many factors. Beyond the unusual ferocity of the storm, they included inadequacies in the South Florida building codes, changes in the kinds of buildings constructed and, perhaps most important, widespread construction, design and material deficiencies that apparently left thousands of buildings in South Florida below code standards.

For South Florida, the storm has become a bitter indicator that its building standards, particularly during the coastal boom of the past decade, were not nearly so stringent as many believed. For the nation, it is a pointed warning about the vulnerability of coastal buildings from New England to

the Gulf Coast. To engineers and the American National Standards Institute as a guide to minimum design standards. Many of the guidelines are incorporated into model building codes that are widely used by municipalities and counties.

But many local communities, balancing safety with cost, pick and choose the standards they want to be held to, and it's estimated there are 5,000 building codes in use in this country. Some communities have no codes at all.

How Strong a Storm?

The South Florida Building Code, used in Dade and Broward Counties, has a reputation as one of the nation's toughest codes, written to insure that buildings withstand winds of at least 120 miles an hour, as against the 110-m.p.h. standard that most other codes strive for.

Winds speeds on the ground are lower than those reported by meteorologists measuring at higher altitudes, and experts are still trying to determine Andrew's actual force. Some who have looked at the devastation, particularly the destruction of Homestead Air Force Base, say the sustained winds of the storm at peak intensity may have been stronger than the standards were meant to withstand.

"When you have a storm like this, where there's a 15-mile path where nothing stood in its way," said Terry Lunn, a spokesman for the Dade County Building and Zoning Department. "I don't care what your code is or how you build: you're going to have destruction."

But although wind speeds for Hurricane Andrew have been estimated at 140 to 165 miles an hour, a team of scientists studying the storm for the Wind Engineering Research Council this week said an inspection of the storm area suggests "wind speeds converted to standard engineering reference conditions of between 110 and 125 miles per hour," within a range that should have been covered by the code.

Many experts say that if the storm had hit almost any other densely populated coastal community, particularly the Gulf Coast Texas, Mississippi or Alabama, the damage would have been even worse.

"I can say categorically those areas would be in much worse shape if they were hit with this type of a storm," said Herbert Saffir, a Florida civil engineer and co-developer of the Saffir-Simpson scale, which is used to measure hurricane strength.

But Florida's code requirements and its code enforcement have been the subject of questions in the past. In 1935 the Florida Legislature passed a law requiring that buildings directly along

the coast be designed to withstand winds of 140 miles an hour. Faced with fierce opposition from builders, it was rewritten a year later, dropping the standard to 110 miles an hour.

And whatever the code standards, there have been questions for years whether they were being adequately enforced amid the easy-money building boom of the 1980's. In 1987, a four-month investigation of payoffs in the Miami-area building industry led to the indictment of a building inspector and of 21 developers, contractors and homeowners. In 1990, a grand jury found numerous irregularities in building inspections, including inspectors routinely away from their jobs during

work hours and inadequate enforcement of laws regulating contractors.

Many here suspect the inspection problems were not isolated ones.

"In general, especially in one-story housing and places like Homestead and Florida City, the push is for affordable housing," Mr. Saffir said. "My feeling is there's always a push to knock out red tape and get the stuff done quickly, and when you do that you're bound to have defects."

Joe Belcher, a former building inspector who is now manager of codes and standards for the Florida Concrete and Products Association, said Dade County never hired enough inspectors to deal with its construction boom. Dade County, which approved 20,000 building permits last year, has 60 building inspectors.

"I've been told the average load for an inspector was 25 to 30 inspections a day," he said. "It's not humanly possible for them to do a thorough job with that kind of load."

A Different Kind of House

Problems with building inspection go far beyond Miami. When the Southern Building Code Congress International, whose standard is used in most coastal areas on the Gulf and South Atlantic coasts, tested inspectors a few years ago, many simply did not understand the details of hurricane-resistant construction.

"We did a study of 12 coastal building departments from North Carolina to Texas, and on a test with a maximum score of 20, we got some scores as low as 4," said Billy Manning, director of engineering and education. "Even the ones who scored well were really not that familiar with hurricane-resistant construction."

Gene Sanders, a consulting engineer with Jenkins & Charland in Fort Lauderdale, who toured the devastated area with a reporter on Wednesday, said five days of reviewing the wreckage showed a widespread pattern of glaring, in some cases almost astounding, construction inadequacies that would have left buildings vulnerable to even a moderate hurricane.

Most focus on routine construction details, like the screws holding on the walls at Mr. Gonzalez's apartment, or the kind of nails used to attach a hurricane strap anchoring a roof.

"You've got some people doing engineering on these buildings whose only concern is that it's still standing when they walk away from it," Mr. Sanders said.

Another factor in the devastation

A storm casualty: Florida's reputation for tough standards.

Texas, most of them in areas with building codes far more lax than the ones here.

"The question that's making my mind crazy is what government gives a permit to a building like this?" said Manuel Gonzalez, as he looked out from his five-story, three-year-old apartment building for the elderly that had most of its exterior walls blown off during the storm.

He leaned down and picked in disbelief at the flimsy No. 8 screws that had anchored the building's now nonexistent polystyrene exterior to its concrete frame.

"Look at this," he said. "The walls were supported by a lousy screw. Can you believe this?"

Building standards in Florida as elsewhere result from a distinctly American process that combines local politics, commerce and engineering.

Most industrialized nations have a single national code used to set standards for construction. In the United States, there is no such thing.

The closest thing to a national standard is the guidelines known as ASCE 7-88, developed by the American Society

The New York Times

When inspectors cut red tape, did builders cut corners?

From Hurricane Andrew was a shift in the kind of building that occurred over the past three decades, when Florida was largely spared by major hurricanes.

In the 1950's, Florida homes were mostly compact one-story concrete cottages with low-pitched roofs. But with the building boom of the 1970's and 80's, construction became more diverse.

As housing costs soared, there was a boom in mobile homes, which are most vulnerable to storms but are also the only kind of detached housing many people can afford.

And many newer houses, including many of the ones most devastated by Andrew, were two stories high and built of wood. Similarly, many of the ones most damaged had high-pitched gable roofs that were subjected to far higher pressures than the old flatter roofs. Other newer amenities, like sliding glass doors, provided hazards not found in older ones.

Some experts say it is a mistake to build frame buildings in a hurricane-

prone area. Others disagree, saying wood buildings can survive a storm if they are built properly.

"Masonry has an inherent strength; you put a block building up, it's going to stand," said Mr. Sanders. "The softer the building material the more certain you have to be that everything works, because if one part goes, the whole thing can go."

He pointed to a subdivision south of Miami where many houses were completely flattened. Picking through the wreckage of homes built in the last two or three years, he found a piece of the soft, wood-like masonite that formed the exterior of what had been a two-story \$100,000 house.

"This is just garbage," he said. "It's almost pressed paper. This has to remain intact. If it doesn't, you lose the whole house, and that's what happened here."

The most common failures came in roofs. Engineers have found a wide range of construction errors: hurricane straps not properly attached to roof trusses, roof tiles attached with dabs of mortar rather than continuous strips, staples used instead of nails and haphazardly inserted into wood, inadequate bracing for gable ends.

Even more shocking, however, was the amount of damage done to larger engineered structures, like Mr. Gonzalez's apartment. There a strip of light-gauge metal with small screws was all that attached the curtain wall to the building frame.

"It didn't stand a prayer," Mr. Sanders said. "It's as if it were designed for the dead load, for gravity, without considering wind loads at all."

Getting In on a 'Gold Rush'

Some experts who have surveyed the damage say that what is most worrisome is not the spectacular failures, but the extent of the damage caused by roof failures or leaks in buildings that withstood the storm.

Building experts say some of the standards can be upgraded at modest cost. Engineers say it adds 3 to 5 percent to the cost of a house to brace it for a hurricane. And some of the damage probably reflects poor workmanship rather than cost considerations.

But few doubt that higher standards mean higher costs — tougher codes, more and better inspectors, higher construction standards. Many experts fear that the rush to rebuild will lead to construction and inspection standards far less rigorous than the ones that failed to protect structures from Hurricane Andrew.

"We've literally got people coming from all over the country to get in on the gold rush, and I say that sarcastically," said Tom Utterback, a member of the Dade County Board of Rules and Appeals, which writes and administers the building code. "How many of them know what they're doing? God knows."

But if South Florida's experience fails to upgrade building standards, it will not be the first time that the soul-searching after a hurricane proved short-lived.

"In South Carolina after Hurricane Hugo, there was a lot of legislation involving upgrading building codes," said Tim Marshall, a damage consultant with Haag Engineering in Carrollton, Tex. "Boy, that sounded great. But when they started looking at how much it was going to take to hire building officials to enforce these things, it got vetoed. People have to realize, if you're going to be living in a very windy environment, you need to have buildings stand up in that environment."



THE NATURAL DISASTER COALITION

ORGANIZATION PROFILE

The Natural Disaster Coalition is a task force comprised of the insurance industry, realtors, lenders, state emergency managers, fire-fighters and homeowners' groups dedicated to reducing property losses and injuries from natural disasters.

The task force continues to add new members as awareness increases concerning the dangers posed by catastrophic hurricanes, earthquakes and other perils. Among the many supporters of the NDC initiative are:

National Emergency Management Association
National Consumers League
Professional Insurance Agents
United Homeowners of America
National Fire Protection Association
National Association of Independent Insurers
National Association of Realtors
Alliance of American Insurers
Savings & Community Bankers of America
Independent Insurance Agents of America
National Council of Senior Citizens
National Association of Mutual Insurance Companies
International Association of Fire Fighters (AFL-CIO)
American Insurance Association
Reinsurance Association of America

The Coalition is working with Members of Congress on Legislation to help solve the current insurance availability crisis now plaguing Florida, Hawaii, and other coastal states through the creation of a Federal catastrophic reinsurance program. The legislation also would provide new funding resources to state governments to promote mitigation, disaster planning, and more effective building code enforcement.



THE 1993 NATURAL DISASTER PROTECTION ACT BILL SUMMARY

The Natural Disaster Protection Act is designed to reduce the loss of life and property, as well as the economic consequences of future natural disasters.

The Natural Disaster Protection Act accomplishes this goal through a program which does the following:

- Promotes loss reduction through better enforcement of building codes and improved emergency planning;
- Creates a privately-financed mitigation fund to provide states and local governments with additional resources to prepare for future catastrophes;
- Broadens homeowner's insurance to include protection against disasters not presently covered in standard policies; and
- Assures the future availability of homeowners' coverage in all regions of the country, even in the aftermath of a major disaster.

These initiatives are significant steps toward a new national policy for natural disasters that emphasizes a partnership between government and the private sector and will ultimately reduce the reliance on federal disaster relief. It will not require any new federal spending.

The following is a summary of the key legislative provisions:

I. DISASTER LOSS REDUCTION

This program provides incentives to state and local governments to enhance their disaster planning and mitigation efforts in coordination with the Federal Emergency Management Agency (FEMA). The incentives include new funding sources for mitigation and improved and more affordable insurance protection for homeowners.

To qualify for the incentives, states would be required to:

- ♦ Adopt one of several model building and safety codes designed to make new construction less vulnerable to hurricanes, floods, earthquakes and other natural perils.
- ♦ Submit a comprehensive disaster plan to FEMA that includes detailed steps for identifying at-risk structures and methods to improve building code enforcement, emergency response and overall disaster preparedness.
- ♦ Comply with the building codes and implement new mitigation plans within five years.

States meeting each of these criteria would be eligible for grants from a Federal Disaster Mitigation Fund, which would be financed by setting aside 5-10% of the funds collected in the programs described in parts II and III of this summary. States not in compliance would be ineligible for these funds and could be denied access to certain types of federal disaster relief.

In addition to the state initiatives, FEMA would expand its efforts to encourage improved disaster training, research, technology transfer and education. To assist FEMA in carrying out this directive, the legislation establishes an advisory committee (comprised of police and fire officials, emergency managers, building code experts, consumers, architects, builders, insurers and others) who will assure that FEMA's policies are both practical and effective.

II. EXPANDED INSURANCE PROTECTION AGAINST NATURAL DISASTERS

In addition to a strong mitigation program, the legislation also creates incentives for insurance companies to provide a more comprehensive homeowners' policy that includes standard coverage for earthquake and several other perils not currently included in basic coverage. In flood prone areas where homeowners are currently required to purchase insurance through the National Flood Insurance Program, insurance agents will now be required to inform FEMA of those who refuse to participate. FEMA has six (6) months to assure compliance.

Rates for this coverage would be risk-based so that homeowners in areas prone to such hazards would not be subsidized by residents from low-risk areas. In addition, homeowners would still have a choice of deductibles, type of coverage and additional endorsements.

FEMA would set the premiums and deductibles for these expanded lines of coverage. Insurance companies would collect the premiums and remit them to a Federal Trust Fund which would be used to pay claims.

III. REINSURANCE PROGRAM

The Natural Disaster Protection Act addresses the homeowners' insurance availability problems which have occurred in the wake of recent disasters and helps to avoid even greater availability problems in the aftermath of a future catastrophe. It also reduces the potential for insurance company insolvencies from exceptionally large disasters.

This would be accomplished through the creation of a new federal disaster Reinsurance Fund that would be financed entirely by the insurance industry. The Reinsurance Fund would provide a source of insurance which insurers could purchase to better manage the risk from highly infrequent, but extremely costly disasters.

Premiums for the reinsurance program would be set by FEMA, with companies making payments into a National Reinsurance Fund. Over time, the fund will accumulate considerable reserves to be used when a large disaster strikes. If such an event occurs before a sufficient reserve has accumulated, the Treasury would be authorized to borrow additional funds to cover the shortfall and then charge insurers, with interest, to rebuild the fund.

Participating insurers would only be eligible to make claims against the fund if a natural disaster, or series of disasters occurring in a 12 month period, exceeded 15% of the industry's surplus*, currently estimated at \$24.5 billion. If, for example, a catastrophic earthquake caused \$28 billion in insured losses, insurance companies would pay the first \$24.5 billion and could only make reinsurance claims for \$3.5 billion. Individual companies could also make claims if they experienced a 20% reduction in their surplus as a result of a single disaster.

States also would be eligible to participate in the reinsurance program if they create insurance pools or other state-sponsored programs to provide insurance for homeowners who are unable to secure coverage on their own.

* Surplus is the capital of a company acquired from investors or through retained earnings. A company's surplus supports all insurance policies it writes and is not allocated for specific claims. The current industry wide surplus is estimated at \$163 billion.



IMPORTANT FACTS ABOUT NATURAL DISASTERS

Natural disasters are becoming more frequent.

Leading meteorologists, as well as the National Hurricane Center, predict a sharp rise in the number and severity of hurricanes over the next decade.

A 1992 report by the U.S. Geological Service predicts a 50-50 chance of a severe earthquake on the West coast within five years.

In the last two years, the midwest has endured the worst tornado and flooding season in its history and the East suffered the worst winter storm in 100 years.

Natural disasters are becoming more costly.

Prior to 1987, the United States never experienced a natural disaster with insured losses greater than \$1 billion. In 1992, insured losses from Hurricanes Andrew and Iniki alone exceeded \$20 billion.

Though not yet over, the Midwest floods have claimed 45 lives and inflicted an estimated \$10 billion in losses.

New studies project higher losses from future hurricanes: \$53 billion for a class 5 hurricane striking Miami and \$51 billion for a class 4 storm striking New Jersey, New York, Connecticut and Massachusetts.

A catastrophic earthquake striking Los Angeles or San Francisco, or a similar quake in the New Madrid Zone of the Mississippi River Valley, could cause insured damage of \$50-80 billion.

Insured losses from catastrophic events in the first quarter of 1993 reached a record \$2.8 billion --- three times greater than the previous record set in 1992.

Proper planning could save lives and substantially reduce property loss.

- Many states and localities have not adopted building codes designed to reduce damage caused by wind, flood and earthquakes -- and where codes are in place, they are not always enforced adequately.
- In the aftermath of Hurricane Andrew, experts found that losses could have been reduced by as much as 30%-40% had existing building codes been properly enforced.
- The United States spends less than \$4 million annually on wind-hazard mitigation, even though wind losses exceed hundreds of millions of dollars every year.

The enormous potential for future losses is causing insurance availability problems.

- A.M. Best, the independent insurance rating service, recently announced it will lower the financial ratings of at least 14 major insurers if they do not reduce their exposure to natural disasters.
- Approximately 40% of all homeowners in Hawaii will lose their insurance this year because of insurer insolvencies and market withdrawals.
- Florida has recently announced a 6-month moratorium to prevent insurers from canceling policies in the wake of Hurricane Andrew.

Many homeowners are not protected against catastrophic natural disasters and must rely on federal disaster relief.

- In the Midwest, less than 20% of those impacted by the floods purchased flood insurance.
- The Congress is currently considering \$4.7 billion in disaster relief for those affected by the Midwest Floods.
- When Hurricane Andrew struck Florida, more than 18,000 homes were uninsured causing \$350 million in losses.
- Congress appropriated more than \$11 billion dollars to pay for the losses resulting from Hurricanes Andrew and Iniki.
- Less than 20% of California homeowners carry earthquake insurance; in other parts of the country where earthquakes are also a risk, the rate is less than 5%.



THE 1993 NATURAL DISASTER PROTECTION ACT

QUESTIONS & ANSWERS

1. **Why is this legislation needed?**

Because the devastation and expense of natural disasters can be reduced. Flooding in the Midwest, hurricanes Andrew and Iniki, and the Loma Prieta earthquake, all underscore the vulnerability of U.S. homeowners to natural disasters. Despite the unprecedented losses and destruction caused by these disasters, experts predict that homeowners in many states face the risk of even greater catastrophes.

However, by taking preventive action now, we can save lives, dramatically reduce future losses and reduce the rapidly increasing reliance on state and federal disaster relief. We can also prevent a homeowner's insurance availability crisis, which could be far worse than the one currently being experienced in Florida, Hawaii and other coastal states. This legislation is a comprehensive plan to ensure that preventive measures are taken.

2. **How does this legislation address the flooding problems in the Midwest?**

This legislation provides a comprehensive approach to all types of natural disasters, including floods, hurricanes, tidal waves and earthquakes. It improves mitigation and disaster preparedness efforts in disaster prone regions and provides a new source of funding for these activities.

In addition, the legislation addresses the woefully inadequate participation in the National Flood Insurance Program (NFIP). This legislation requires insurance agents to notify FEMA of homeowners who are legally obligated to purchase Federal Flood Insurance and who refuse to do so. The agency has 180 days to assure compliance and can recommend to Congress additional sanctions that may be needed.

The legislation also requires the FEMA Director to recommend to Congress within one year whether the NFIP should be integrated into an-all hazards insurance program.

3. **Why must this initiative involve the federal government?**

Currently, the Federal government pays the bulk of disaster relief and plays an important role in shaping disaster mitigation policy. This legislation aims to reduce the government's financial liability for disaster relief in the long-run, while strengthening mitigation efforts using private sector funds.

A worst case catastrophic disaster could inflict \$50-\$80 billion or more in insured losses. No state government or insurance company is capable of managing this enormous risk alone. This legislation creates a private sector solution, facilitated by the Federal government, that allows insurance companies to pre-fund the vast resources needed for disaster relief.

California, Florida, Hawaii and other states have tried to solve the insurance-related problems on their own. But, without a federal program, their plans are inadequate to deal with a major catastrophe.

4. **How much money will the states receive from the disaster mitigation fund?**

The plan requires the Director of FEMA to set aside 5%-10% of all premiums collected from insurers for state and local assistance. Although FEMA will set the premium rates, the share of money available for state mitigation could be as high as \$100 million.

Assistance would be pro-rated to states based on the premiums collected. States, in turn, would be required to share mitigation funds with local governments.

5. **How will this legislation affect government spending and the deficit?**

The program is self-sustaining and deficit neutral under budget scoring rules, according to Coopers and Lybrand, an independent public accounting firm that uses the same methodologies employed by the Congressional Budget Office and the Office of Management and Budget.

Only in the event of a disaster during the early years of the fund would federal borrowing authority be necessary. Moreover, any shortfall must be repaid, with interest by the insurance industry through increased future reinsurance premiums.

6. **Is this an insurance industry bailout?**

Actually, this legislation is just the opposite of a bailout. This is a private-sector solution intended to prevent a government bailout of the insurance industry after a catastrophic disaster.

This program is targeted for *future* disasters and is paid for entirely by the insurance industry. The insurance industry has already paid homeowners' claims for past disasters, including over \$20 billion resulting from Hurricanes Andrew and Iniki. Companies will only be eligible for reinsurance after absorbing industry-wide losses for large disasters totaling more than \$24.5 billion or 20% of a company's surplus.

7. ***How much can we reduce losses by updating and enforcing building codes?***

In Florida, insurers estimate that 30%-40% of losses from Hurricane Andrew could have been avoided if existing building codes had been properly enforced. Experts who have looked at other disaster-prone areas have drawn similar conclusions.

A study of the damage caused by Hurricane Alicia, which struck the Gulf Coast of Texas in 1983, and Hurricane Diana, which struck the North Carolina coastline in 1984, found that building code standards and enforcement made the difference between a local disaster in one community and minor residential losses in the other.

Both storms made landfall with the same force. Yet, of the 3,000 homes located in the Texas community, 35% were damaged beyond repair and another 35% required major structural repair. In sharp contrast, a comparable number of buildings were subjected to Diana's highest winds, but only 10 homes were damaged beyond repair and only 3% required major structural improvements.

8. ***How much will these programs cost consumers?***

Most homeowners will see little, if any, change in their annual insurance bill. Homeowners who already buy supplemental earthquake coverage will see a substantial rate reduction due to the expanded participation of more households. Property owners who are currently required to purchase flood insurance, but fail to do so, will see a change in premium to reflect this new coverage. **As more people participate in the federal flood program, however, premiums will decrease.** A more complete cost survey is in process and will be available shortly.

9. ***Why are some insurance companies trying to cancel policies in disaster-prone regions?***

Future catastrophic natural disasters can cost between \$50-\$80 billion or more in insured losses. To manage that risk adequately, and ensure payments to homeowners when disaster strikes, insurers must reduce their exposure by raising rates, reducing the number of policies they write, or finding a new source of reinsurance. Currently, because of the lack of reinsurance, insurers really only have a choice of raising rates or reducing the number of policies.

A.M. Best, the independent insurance rating service, has announced it will reduce the financial ratings of more than 14 major insurers if they do not lower their exposure to catastrophic disasters.

This program would provide a reinsurance backstop that would help prevent cancellations and allow companies to better manage higher risks.

10. Doesn't this legislation penalize the entire country for the problems of a few states?

No. Virtually all states are at-risk to natural disasters. Moreover, all taxpayers ultimately pay the cost for the federal disaster relief. Last year, U.S. taxpayers paid the equivalent of \$91 each for disaster aid after hurricanes Andrew and Iniki. Congress has requested \$4.7 billion in relief for the Midwest flooding and more is likely before this tragedy is over. This program will help reduce disaster losses and broaden coverage for homeowners to protect themselves against natural disasters, therefore saving money for taxpayers nationwide.

11. Doesn't this legislation create a new, multi-billion dollar liability for the federal government?

No. The federal government is already exposed to that liability. Consider that in the Midwest, less than 20% of those impacted by the floods purchased federal flood insurance. Absent that coverage, homeowners must rely exclusively on Federal Disaster relief to rebuild. A similar scenario would occur in the wake of a major earthquake, since few homeowners carry supplemental insurance coverage against this peril. In comparison, the vast majority of those who had homeowners insurance were covered when Hurricane Andrew struck as wind storms are included in a standard homeowner's policy.

In addition, should a significant number of insurance companies fail after a major disaster, demands for federal assistance also will increase. A national reinsurance fund, financed by the industry, allows insurance companies to pre-fund the vast resources needed for disaster relief.

Section-by-Section Analysis of the Natural Disaster Protection Act of 1993

H.R. 2873

August 1993

This legislation amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for an expanded federal program of hazard mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions.

Section 1. TITLE. This section entitles the bill the "Natural Disaster Protection Act of 1993".

Section 2. FINDINGS AND PURPOSES. This section amends section 101 of the Stafford Act by modifying the existing congressional findings and purposes. The changes underscore the particular problems posed by catastrophic natural disasters, such as major hurricanes, earthquakes, and volcanic eruptions. The amendments, in particular, augment the Stafford Act by emphasizing the following objectives: promoting hazard mitigation compliance (e.g., enforcement of building codes); improving first responder capabilities; providing a funding mechanism to help states pay for hazard mitigation and emergency planning; providing for a multi-hazard primary insurance program; and creating a federal excess reinsurance program to speed recovery following a catastrophic natural disaster.

Section 3. DEFINITIONS. This section amends section 102 of the Stafford Act by modifying one existing definition and adding 29 new definitions that define important terms used in this bill.

Section 4. DISASTER ASSISTANCE AMENDMENTS. This section makes several changes to title IV of the Stafford Act.

Section 404 of the Stafford Act is amended by directing FEMA to develop and carry out the following multi-hazard mitigation and emergency management initiatives: model building code development; training and licensing of code inspectors and other relevant professionals; expanded research of safer building technologies and technology transfer; additional post-disaster aid; and public education. FEMA would issue federal regulations to implement these hazard mitigation initiatives within 18 months of enactment.

Section 405 of the Stafford Act is amended by requiring all new buildings owned or leased by any federal agency or receiving federal assistance to meet the newest edition of the relevant building code requirements.

Sections 406 and 407 of the Stafford Act are amended by denying public disaster assistance funds to local communities which fail, within five years of enactment, to comply with the building and safety codes standards outlined in section 702 below.

Section 5. MULTI-HAZARD MITIGATION PROGRAM. This section adds a new title VII to the Stafford Act that creates a comprehensive multi-hazard mitigation program.

Section 701. Identification and Designation of Disaster-Prone States. This new Stafford Act section requires the FEMA Director within 1 year of enactment to identify states (defined to include territories) that are prone to damages from hurricanes, windstorms (e.g., tornados), earthquakes, volcanic eruptions, and flooding. Six months after being notified as a state prone to one or more of these disaster perils, the disaster-prone designations become final. Any state disagreeing with its disaster-prone designation has a right to appeal to a local federal district court.

Section 702. Building and Safety Standards. This section requires each hurricane-prone, windstorm-prone, or earthquake-prone state to either adopt one of the three recognized model building codes (and the national consensus fire safety codes) or certify that the local communities within the state have adopted and are enforcing these codes for all new construction or additions which increase the value of the structure by at least 50 percent. Likewise, each flood-prone state must either adopt the relevant flood minimum performance standards under the National Flood Insurance Act or certify that the flood-prone local communities within the state have adopted and are enforcing these standards for new construction or additions which increase the value of the structure by at least 50 percent.

Section 703. State Mitigation Plans. This section requires each disaster-prone state to develop and submit to FEMA within two years a mitigation plan or designate an existing mitigation plan. The mitigation plan must include processes for: verifying compliance with building and safety codes as well as any federal multi-hazard mitigation standards; identifying areas within states, types of structures, and hazard mitigation measures that should be prioritized; improving the emergency response to natural disasters, including better training for first responders; and expediting the rebuilding of lifelines and recovery by individuals and businesses.

Section 704. Compliance by States. This section gives disaster-prone states five years following enactment to substantially comply with the building standards and state mitigation plan requirements outlined above. The

compliance mechanism would be self-certification subject to review by FEMA which would renew compliance certifications every two years. The following penalties would be imposed on states failing to certify compliance: loss of funds from the self-sustaining mitigation fund (discussed in the next section); higher premiums and deductibles for the federal multi-hazard insurance coverage (discussed below); and loss of assistance for any new federal building or new federally-leased, assisted, or regulated building.

Section 705. Self-Sustaining Mitigation Fund. This section requires a percentage of the premiums collected from both the primary and reinsurance programs described below to be deposited into a self-sustaining mitigation fund. The FEMA Director would set the actual percentage which must be between five and ten percent, unless the amounts in the two insurance funds are sufficient to cover losses for any probable maximum natural disaster. The mitigation funds would be allocated to disaster-prone states based on the primary program insurance premiums collected in that state. States could use the funds as they see fit, provided they are used for hazard mitigation activities (subject to FEMA audits) and a portion of the money flows through the affected local communities. Finally, FEMA could allocate a portion of the mitigation fund to support the federal hazard mitigation initiatives described in section 404 above.

Section 706. Natural Disaster Mitigation and Planning Advisory Committee. This section establishes a 20-member independent advisory committee to advise FEMA on hazard mitigation and disaster planning, particularly the programs authorized by this legislation. The FEMA Director would appoint the members who would represent various interests, including: fire fighters and chiefs; emergency medical, search, rescue, and law enforcement personnel; state and local emergency managers and building code officials; architects, builders, and engineers; members of organized labor; wind and seismic mitigation experts; consumers; and insurers.

Section 6. FEDERAL INSURANCE PROGRAMS. This section adds a new title VIII to the Stafford Act that creates two federal insurance programs.

SUBTITLE A CREATES THE PRIMARY INSURANCE PROGRAM.

Section 801. Basic Authority and Program Operations. This section directs FEMA to establish a national multi-hazard insurance program to provide insurance against "shake" losses resulting from earthquakes and related seismic perils. FEMA would also conduct a study to determine whether the existing federal flood insurance program should be integrated into the multi-hazard insurance program and report any recommendations to Congress within one year. Insurance agents and companies participating in the federal flood insurance program would also be required to notify FEMA of policyholders living in flood plains and required to have flood insurance who refuse to purchase the coverage. FEMA would then have six months to take necessary and

appropriate steps to ensure these non-compliant policyholders purchase the coverage. The FEMA Director, moreover, would submit a report to Congress within six months of any additional sanctions needed to improve participation in the federal insurance program.

Section 802. Program Scope. This section makes the multi-hazard coverage available only for residential properties (defined as one-to-four family structures and personal property of those living in apartments and condominiums). Upon a finding that insurance coverage is unavailable in the private sector, the FEMA Director may recommend to Congress that additional types of properties qualify for the multi-hazard coverage.

Section 803. Terms and Limitations of Insurance Coverage. This section authorizes FEMA to establish the terms and conditions of insurability, including: the type, location, and specific insurability definitions of residential properties; damages covered by the insurance; and premiums rates, loss-deductibles, coverage limits, and minimum coverage amounts. The insurance would cover losses (including debris removal, additional living expenses, and ordinance and law coverage) proximately caused by: earthquakes, except for fires caused by earthquakes (which are already covered in homeowners' policies); volcanic eruptions, including fires caused by volcanic lava flows; and tsunamis. Any private insurer can participate in this program by providing to all of its homeowner policyholders living in earthquake and volcanic eruption-prone states either the federal coverage or the identical coverage on its own paper at the same rate. Finally, private insurers electing not to participate in this program must notify all of the homeowner policyholders in at-risk states of their nonparticipation and of the absence of insurance protection for earthquakes and related seismic perils.

Section 804. Actuarially Sound Rates. This section requires FEMA to establish risk-based rates for the multi-hazard coverage by considering the following factors: the severity and frequency of earthquakes, volcanic eruptions, and tsunamis in specified rating zones; the value, age, construction type, and architectural type of the residential structures; and whether hazard mitigation measures have been followed in the construction or subsequent retrofitting of the residential structures. The rates must be actuarial so that, over an extended period of time, expected losses do not exceed premiums collected. The rates established, moreover, must minimize cross-subsidization by reasonably reflecting the risk of losses for each subclassification of policyholder. The rate classification system developed by FEMA must also be cost-effective, simple, and easy to understand by agents and policyholders. Finally, any premiums collected cannot be used to establish highly specific micro-zonation maps for the covered seismic perils.

Section 805. Primary Insurance Program Fund. This section creates within the U.S. Treasury the primary insurance program fund which would be exempt from all tax (except for state insurance premium taxes). Participating insurers would remit to this fund on a quarterly basis all the premiums they collect (including any interest earned) from their homeowner policyholders who purchase the multi-hazard coverage. Following an earthquake, volcanic eruption, or tsunami, insurers would pay the damage claims filed by their homeowners. The insurers would then be reimbursed within 30 days from amounts in the primary insurance program fund for the claims paid plus any loss adjustment expenses. The fund would also pay for the agents' commissions in selling and serving the coverage and for all of the program's administrative and operating expenses. The full faith and credit of the United States would be pledged for full payment of claims.

Section 806. Borrowing from Treasury. This section authorizes FEMA, subject to the availability of congressional appropriations, to borrow from the Treasury to cover any shortfalls that may result in paying the multi-hazard coverage claims and expenses. Amounts borrowed would be deposited in the primary insurance program fund and must be repaid, with interest, from future premiums collected.

Section 807. Insurance Mitigation Incentives. This section requires FEMA to provide the following insurance mitigation incentives: lower premiums or deductibles for residential structures in earthquake-prone states which meet seismic building standards or pass a seismic safety inspection; and lower premiums or deductibles for new residential structures not constructed in high-risk volcanic zones.

SUBTITLE B CREATES THE REINSURANCE PROGRAM.

Section 811. Basic Authority and Program Operation. This section directs FEMA to make excess reinsurance coverage available to the following entities for losses arising from catastrophic hurricanes, earthquakes, volcanic eruptions, and tsunamis: private insurers participating in the primary insurance program described above; private reinsurers that reinsure private insurers participating in the primary program; and state insurance programs such as workers' compensation funds and state residual insurance pooling programs.

Section 812. Levels of Retained Losses. This section establishes the amount of insured losses that must be borne by eligible entities before they can qualify to receive reinsurance claims.

Industry-wide Retained Losses. Reinsurance would be available to companies if the property-casualty industry as a whole is likely to incur gross losses (i.e., losses prior to deducting any anticipated private reinsurance payments) from catastrophic natural disasters occurring during any 12 month period that exceed 15 percent of the industry's

consolidated surplus, except that only separate events which cause at least \$1.5 billion in losses (adjusted for inflation) would be counted. Once the industry has sustained this magnitude of loss (currently estimated to be about \$25 billion), reinsurance would pay 95 percent of a company's losses which exceed 15 percent of that particular company's consolidated surplus.

Individual Company Retained Losses. If the industry-wide retained losses level is not reached, individual companies could receive reinsurance if a single natural disaster resulted in losses that exceed 20 percent of that company's consolidated surplus. At this point, reinsurance would pay 95 percent of the company's losses which exceed 20 percent of the company's consolidated surplus up to a limit of 200 percent of the company's surplus.

State Insurance Programs. Reinsurance would be available to eligible state insurance programs if the insurance industry is likely to incur gross losses in that state arising from natural disasters occurring during any 12 month period that exceed the lesser of 10 times the premiums earned in that state or \$10 billion (adjusted for inflation). This lesser amount, however, must equal at least \$500 million (adjusted for inflation). Once this level of losses has been reached, reinsurance would pay to state insurance programs 95 percent of the losses which exceed the lesser amount described above.

The federal reinsurance claims paid to these eligible entities would be reduced by any reinsurance recovered from private sources. The full faith and credit of the United States would be pledged for full payment of reinsurance claims.

Section 813. Lines of Insurance. This section directs FEMA to provide excess reinsurance coverage for 16 lines of insurance, including fire, multiple peril, workers' compensation, and general liability. Other lines of coverage could be added by the Director of FEMA in consultation with the insurance advisory committee described in section 822.

Section 814. Actuarially Sound Rates. This section requires FEMA to establish risk-based rates for the excess reinsurance coverage so that, over an extended period of time, expected losses do not exceed premiums collected. The rates must also minimize the degree of cross-subsidization among classes of reinsured and the following rating factors must be considered: the premium rate volume of reinsureds and the total expected reinsurance payments by line of insurance; the adequacy of private reinsurance purchased; the payback of losses sustained by the reinsurance fund; and the reinsured's ratio of premiums written to consolidated surplus. Any rate classification system established by FEMA cannot impose disproportionate administrative costs.

Section 815. Reinsurance Fund. This section creates within the U.S. Treasury the reinsurance fund which would be exempt from all tax. Companies and state insurance programs participating in the reinsurance program would pay to this fund quarterly premiums where they would accumulate and be available to pay reinsurance claims.

Section 816. Borrowing from Treasury. This section authorizes FEMA, subject to the availability of congressional appropriations, to borrow from the Treasury to cover any shortfalls that may result in paying the excess reinsurance claims and expenses. Amounts borrowed would be deposited in the reinsurance fund and must be repaid, with interest, from future premiums collected from companies.

SUBTITLE C DESCRIBES THE ADMINISTRATION FOR THE INSURANCE PROGRAMS.

Section 821. Plan of Operation. This section requires the FEMA Director to develop a plan of operation for the administration of the two federal insurance programs. Within one year of enactment, the Director would submit the draft plan of operation to the insurance advisory committee (described in the next section) for review and comment. The Director must consider all recommendations of the advisory committee and must publish in the Federal Register, with an accompanying explanation, any instances in which the Director fails to adopt an advisory committee recommendation. The final plan of operation would be issued as federal regulations within 18 months of enactment. Any lawsuits filed against the Director in connection with the insurance programs must be brought in the relevant federal district court (which would be the D.C. federal district court for actions brought by insurers).

Section 822. Federal Insurance and Reinsurance Advisory Committee. This section establishes a seven-member independent advisory committee to advise FEMA on the operations of the two insurance programs. The members would be appointed by the FEMA Director and must include: a state emergency planner; a state insurance commissioner; a professional actuary; and representatives of consumers, insurers, reinsurers, and insurance agents.

103D CONGRESS
1ST SESSION

H. R. 2873

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1993

Mr. MINETA (for himself and Mr. BOEHLERT) introduced the following bill; which was referred jointly to the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act shall be cited as the "Natural Disaster Pro-
5 tection Act of 1993".

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

2 Section 101 of the Robert T. Stafford Disaster Relief
3 and Emergency Assistance Act (42 U.S.C. 5121) is
4 amended as follows:

5 (a) In subsection (a), by—

6 (1) striking “and” in paragraph (1);

7 (2) inserting “and” following the semicolon in
8 paragraph (2);

9 (3) inserting the following new paragraph be-
10 fore “special measures”:

11 “(3) because catastrophic natural disasters,
12 such as major hurricanes, earthquakes, and volcanic
13 eruptions, pose particular problems in terms of sub-
14 stantial long-term consequences, ill-equipped pre-
15 paredness efforts, lack of hazard mitigation meas-
16 ures (such as enforced building codes), and inad-
17 equate insurance and reinsurance coverage;”;

18 (4) inserting “promoting hazard mitigation
19 compliance and in” after “affected States in”; and

20 (5) inserting “insurance and reinsurance cov-
21 erage,” after “rendering of aid, assistance.”.

22 (b) In subsection (b), by—

23 (1) inserting before the semicolon in paragraph

24 (1) “by including State hazard mitigation compli-
25 ance, Federal primary insurance, and Federal excess
26 reinsurance programs”;

- 1 (2) inserting after “preparedness” in paragraph
2 (2) “, hazard mitigation compliance,”;
3 (3) striking the second “and” in paragraph (3)
4 and inserting in lieu thereof “, hazard mitigation,
5 emergency first response”;
6 (4) striking “insurance coverage” in paragraph
7 (4) and inserting in lieu thereof “multi-hazard pri-
8 mary insurance coverage with premiums based on
9 risk”;
10 (5) inserting before the semicolon in paragraph
11 (4) “and creating a Federal excess reinsurance pro-
12 gram in partnership with the private-sector to speed
13 rebuilding following a catastrophic natural disaster”;
14 (6) inserting before the semicolon in paragraph
15 (5) “and the adoption and enforcement of multi-haz-
16 ard building codes, and improved first responder ca-
17 pabilities”; and
18 (7) inserting after “disasters” in paragraph (6)
19 “and a self-sustaining funding mechanism to help
20 States pay for hazard mitigation.”.

21 **SEC. 3. DEFINITIONS.**

22 Section 102 of the Robert T. Stafford Disaster Relief
23 and Emergency Assistance Act (42 U.S.C. 5122) is
24 amended as follows:

1 (a) In paragraph (7) add “the Federal National
2 Mortgage Association, and the Federal Home Loan Mort-
3 gage Corporation,” following “United State Postal Serv-
4 ice,”.

5 (b) Add at the end the following new paragraphs:

6 “(10) The term ‘critical facilities’ means
7 schools and structures essential to emergency serv-
8 ices necessary for post natural disaster recovery (in-
9 cluding hospitals, fire and police facilities, temporary
10 shelters, and emergency operating and preparedness
11 centers).

12 “(11) The term ‘Director’ means the Director
13 of the Federal Emergency Management Agency.

14 “(12) The term ‘disaster-prone State’ means
15 any State determined by the Director pursuant to
16 section 701 to be a hurricane-prone, windstorm-
17 prone, earthquake-prone, volcanic eruption-prone, or
18 flood-prone State.

19 “(13) The term ‘earthquake’ means any shak-
20 ing or trembling of the crust of the earth caused by
21 underground seismic forces or by breaking and shift-
22 ing of rock beneath the surface.

23 “(14) The term ‘earthquake-prone State’ means
24 a State determined by the Director pursuant to sec-

1 tion 701 to have an exposure to the earthquake
2 peril.

3 “(15) The term ‘Federal assistance’ means any
4 form of financial aid, including grants, loans, loan-
5 guarantees, subsidies, insurance, and payments, pro-
6 vided by a Federal agency.

7 “(16) The term ‘first responder’ means those
8 fire fighting, police, and emergency medical person-
9 nel with the statutory authority to engage in and
10 provide immediate emergency response services.

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

17 “(18) The term ‘flood-prone State’ means a
18 State determined by the Director pursuant to sec-
19 tion 701 to have an exposure to the flood peril.

20 “(19) The term ‘hurricane’ means a non-fron-
21 tal, warm core, low pressure atmospheric system
22 having a definite organized circulation, including any
23 associated windstorm events occurring within 72
24 hours before and after the hurricane, with sustained
25 wind speeds of 74 miles per hour or greater and offi-

1 cially declared to be a hurricane by the National
2 Hurricane Center.

3 “(20) The term ‘hurricane-prone State’ means
4 a State determined by the Director pursuant to sec-
5 tion 701 to have an exposure to the hurricane peril.

6 “(21) The term ‘hurricane zone’ means an area
7 within a State identified by the Director as being
8 subject to major risk from the hurricane peril.

9 “(22) The term ‘insurance industry’ means all
10 private insurers and private reinsurers.

11 “(23) The term ‘lifelines’ means critical public
12 infrastructure, including highways, bridges, water
13 transportation and treatment facilities, electric
14 transmission systems, pipelines, and telecommuni-
15 cations networks.

16 “(24) The term ‘local community’ means a po-
17 litical subdivision of a State which has zoning and
18 building code jurisdiction over a particular area
19 which is exposed to the hurricane, windstorm, earth-
20 quake, volcanic-eruption, or flood peril.

21 “(25) The term ‘multi-hazard coverage’ means
22 policies, riders, or endorsements of insurance issued
23 on Federal paper pursuant to subtitle A of title VIII
24 that provide indemnity, in whole or in part, for the
25 loss, destruction, or damage of residential property.

1 “(26) The term ‘ordinance or law coverage’
2 means insurance coverage for the increased cost of
3 construction to repair or rebuild structures and the
4 cost of demolition due to the enforcement of any
5 ordinance or law, such as building codes.

6 “(27) The terms ‘private insurer’ and ‘private
7 reinsurer’ mean any insurer or reinsurer that is (A)
8 licensed or admitted to write property and casualty
9 insurance or reinsurance within a State, or (B) is a
10 branch of an insurer or reinsurer organized or incor-
11 porated in a country other than the United States
12 that is entered through and licensed by a State to
13 conduct insurance or reinsurance business. In the
14 case of an insurance exchange or group of unincor-
15 porated underwriters, the term means an underwrit-
16 ing syndicate, notwithstanding the licensed or admit-
17 ted status of the insurance exchange or group of
18 unincorporated underwriters.

19 “(28) The term ‘residential property’ means
20 any (A) 1- to 4-family residential structure (includ-
21 ing mobile or manufactured homes) and the personal
22 property therein, and (B) personal property of occu-
23 pants of residential structures (including condomin-
24 iums, cooperatives, and apartment structures).

1 “(29) The term ‘seismic zone’ means an area
2 within a State identified by the Director as being
3 subject to major risk from the earthquake peril.

4 “(30) The term ‘State residual insurance pool-
5 ing program’ means any State-authorized joint un-
6 derwriting or joint reinsurance association, risk pool,
7 residual market mechanism, or other type of State-
8 sanctioned entity providing property insurance cov-
9 erage against hurricanes, earthquakes, volcanic
10 eruptions, or tsunamis.

11 “(31) The term ‘substantially modified building
12 construction’ means additional or improvements to
13 an existing structure which constitute at least a 50
14 percent increase in the overall value of the structure.

15 “(32) The term ‘supplemental losses’ means
16 claim and loss adjustment expense payments for the
17 multi-hazard coverage issued pursuant to subtitle A
18 of title VIII that exceed the accumulated amounts in
19 the Primary Insurance Program Fund.

20 “(33) The term ‘tsunami’ means an ocean wave
21 generated by underwater disturbances in the earth’s
22 crust, primarily earthquakes and submarine volcanic
23 eruptions.

24 “(34) The term ‘volcanic eruption’ means the
25 expulsion, as a result of natural causes, of molten

1 rock, rock fragments, gases, ashes, mud, lava flows,
2 and other natural substances through an opening in
3 the crust of the Earth.

4 “(35) The term ‘volcanic eruption-prone State’
5 means a State determined by the Director pursuant
6 to section 701 to have an exposure to the volcanic
7 eruption peril.

8 “(36) The term ‘volcanic zone’ means an area
9 within a State identified by the Director as being
10 subject to major risk from the volcanic eruption
11 peril.

12 “(37) the term ‘windstorm’ means an atmos-
13 pheric disturbance marked by high velocity move-
14 ments of air, such as a tornado, but does not include
15 a hurricane.

16 “(38) The term ‘windstorm-prone State’ means
17 a State determined by the Director pursuant to sec-
18 tion 701 to have an exposure to the windstorm
19 peril.”.

20 **SEC. 4. DISASTER ASSISTANCE AMENDMENTS.**

21 Title IV of the Robert T. Stafford Disaster Relief and
22 Emergency Assistance Act (42 U.S.C. 5121 et seq.) is
23 amended as follows:

24 (a) In section 404 (42 U.S.C. 7170c), add “(a)
25 HAZARD MITIGATION GRANTS.—” following the sec-

1 tion heading and add the following new subsections
2 at the end:

3 “(b) HAZARD MITIGATION INITIATIVES.—Consistent
4 with this title and other existing Federal law, the Director
5 shall develop programs to carry out the following multi-
6 hazard mitigation and emergency management
7 initiatives—

8 “(1) the development of model building codes
9 and other hazard mitigation measures for cata-
10 strophic natural disasters, such as hurricanes, wind-
11 storms, earthquakes, volcanic-eruptions, or floods,
12 which are based on both preventing personal injuries
13 and mitigating property damage;

14 “(2) adequate training and licensing of archi-
15 tects, engineers building inspectors, building code
16 enforcement personnel, planners, and similar profes-
17 sionals to ensure proper compliance with hazard
18 mitigation standards;

19 “(3) expanded research to strengthen building
20 codes and promote development of cost-effective
21 building technologies and related hazard mitigation
22 measures;

23 “(4) the transfer of hazard mitigation tech-
24 nology to States, local communities, and other per-
25 sons, such as private building contractors, respon-

1 sible for the implementation and enforcement of
2 hazard mitigation measures;

3 “(5) aid for Federal, State, and local emergency
4 response operations following natural disasters which
5 could include the acquisition of additional facilities,
6 equipment, and personnel as well as resources for
7 training and public assistance; and

8 “(6) education to enhance public awareness of
9 the risk of and hazards from natural disasters and
10 ways to mitigate the personal, physical, and eco-
11 nomic losses.

12 “(c) FEDERAL REGULATIONS.—Within 18 months of
13 the date of enactment of the Natural Disaster Protection
14 Act of 1993, the Director, in coordination with other Fed-
15 eral agencies, shall issue final multi-hazard mitigation reg-
16 ulations necessary to carry out the hazard mitigation ac-
17 tivities described in subsection (b). Such regulations shall
18 be issued pursuant to the provisions of subchapter II of
19 chapter 5 of title 5, United States Code.”.

20 (b) In section 405 (42 U.S.C. 5171), add the follow-
21 ing new subsection at the end:

22 “(d) FEDERALLY-CONNECTED BUILDINGS.—All new
23 buildings owned or leased by any Federal agency or receiv-
24 ing Federal assistance shall meet the newest edition of the
25 relevant building code requirements, including relevant

1 building and housing codes and performance building
2 standards. Within 18 months of the date of enactment of
3 the Natural Disaster Protection Act of 1993, the Director,
4 in coordination with other Federal agencies, shall issue
5 final regulations necessary to carry out this subsection,
6 pursuant to the provisions of subchapter II of chapter 5
7 of title 5, United States Code.”.

8 (c) In section 406 (42 U.S.C. 5172), add the follow-
9 ing new subsection at the end:

10 “(g) MITIGATION NON-COMPLIANCE PENALTY.—No
11 public assistance disaster funds under this section shall
12 be provided to any local community which has failed, with-
13 in 5 years from the date of enactment of the Natural Dis-
14 aster Protection Act of 1993, to comply with the multi-
15 hazard building and safety codes described in section
16 702(a) and the flood performance standards described in
17 section 702(b).”.

18 (d) In section 407 (42 U.S.C. 5173), add the follow-
19 ing new subsection at the end:

20 “(e) MITIGATION NON-COMPLIANCE PENALTY.—No
21 public assistance disaster funds under this section shall
22 be provided to any local community which has failed, with-
23 in 5 years from the date of enactment of the Natural Dis-
24 aster Protection Act of 1993, to comply with the multi-
25 hazard building and safety codes described in section

1 702(a) and the flood performance standards described in
2 section 702(b).”.

3 **SEC. 5. MULTI-HAZARD MITIGATION PROGRAM.**

4 The Robert T. Stafford Disaster Relief and Emer-
5 gency Assistance Act (42 U.S.C. 5121 et seq.) is amended
6 by adding at the end the following new title:

7 **TITLE VII—MULTI-HAZARD MITIGATION**
8 **PROGRAM**

9 **“SEC. 701. IDENTIFICATION AND DESIGNATION OF DISAS-**
10 **TER-PRONE STATES.**

11 “(a) INITIAL IDENTIFICATION.—The Director, con-
12 sistent with existing Federal law, shall identify States
13 which are prone to damages from the following natural
14 disaster perils—

15 “(1) hurricanes;

16 “(2) windstorms;

17 “(3) earthquakes;

18 “(4) volcanic eruptions; and

19 “(5) flooding.

20 “(b) DESIGNATION BY PERIL.—The Director shall
21 designate all States identified pursuant to subsection (a)
22 as disaster-prone States, and separately designate States
23 as hurricane-prone, windstorm-prone, earthquake-prone,
24 volcanic eruption-prone, or flood-prone, as appropriate,
25 within 1 year of the date of the enactment of the Natural

1 Disaster Protection Act of 1993. The Director shall cause
2 a listing of such States to be published in the Federal Reg-
3 ister and in widely circulated local newspapers in the ap-
4 plicable States before the expiration of such 1-year period.

5 “(c) FINAL NOTIFICATION.—The designation for
6 each State under subsection (b) shall become final for the
7 purposes of this Act 6 months after such designations are
8 published in the Federal Register. The Director shall
9 notify the chief executive officer of each such State des-
10 ignated, in writing, before the expiration of such 6-month
11 period.

12 “(d) ONGOING DESIGNATION AND NOTIFICATION.—
13 Based upon any additional hurricane, windstorm, seismic,
14 volcanic, or flood information that from time-to-time be-
15 comes available, the Director may designate States (not
16 designated under subsection (b)) having an exposure to
17 hurricane, windstorm, earthquake, volcanic eruption, or
18 flood perils. Any such States shall be designated pursuant
19 to the terms of subsection (b) and notified pursuant to
20 terms of subsection (c).

21 “(e) APPEAL.—Any State aggrieved by a final deter-
22 mination as a disaster-prone State, pursuant to sub-
23 sections (c) or (d), may, after exhausting administrative
24 remedies, appeal such determination to any United States
25 district court for a district located within the State, not

1 more than 60 days after receipt of notice of such deter-
2 mination. The scope of review by the court shall be as pro-
3 vided under chapter 7 of title 5, United States Code. Dur-
4 ing the pendency of any such litigation, all determinations
5 of the Director shall be effective and final for the purposes
6 of this title unless stayed by the court for good cause
7 shown.

8 **"SEC. 702. BUILDING AND SAFETY STANDARDS.**

9 “(a) MULTI-HAZARD BUILDING AND SAFETY
10 CODES.—At a minimum, each State designated as a hurri-
11 cane-prone State, a windstorm-prone State, or an earth-
12 quake-prone State shall either—

13 “(1) for all new and substantially modified
14 building construction in that State, adopt the rel-
15 evant natural disaster hazard mitigation portions of
16 the newest edition of the National Building Code,
17 the Standard Building Code, or the Uniform Build-
18 ing Code and other relevant building and housing
19 codes and standards, including the national consen-
20 sus safety codes of the National Fire Protection As-
21 sociation (specifically the National Electrical Code,
22 the National Fuel Gas Code, the Flammable and
23 Combustible Liquids Code, and the Standard for the
24 Storage and Handling of Liquefied Petroleum
25 Gases); or

1 “(2) certify that the State’s local communities
2 have adopted and are enforcing building codes which
3 meet or exceed the minimum natural disaster hazard
4 mitigation portions of any of the 3 model building
5 codes and other building and housing codes and
6 standards described in paragraph (1) for all new and
7 substantially modified building construction in that
8 State.

9 “(b) FLOOD PERFORMANCE STANDARDS.—At a min-
10 imum, each State designated as a flood-prone State shall
11 either—

12 “(1) adopt the relevant flood minimum per-
13 formance standards, flood-proofing, and other flood
14 protection measures authorized pursuant to the Na-
15 tional Flood Insurance Act of 1968, as amended (42
16 U.S.C. 4001 et seq.), which minimize flood damage
17 for new and substantially modified building con-
18 struction located in flood-prone local communities; or

19 “(2) certify that all the State’s flood-prone local
20 communities have adopted and are enforcing the
21 minimum performance standards described in para-
22 graph (1) for new and substantially modified build-
23 ing construction.

1 **"SEC. 703. STATE MITIGATION PLANS.**

2 “(a) GENERAL AUTHORITY.—Each State designated
3 as a disaster-prone State shall either—

4 “(1) develop a mitigation plan which establishes
5 the State’s plan with accompanying schedules for
6 improving the State’s ability to reduce the hazards
7 of future natural disasters, such as hurricanes,
8 windstorms, earthquakes, volcanic-eruptions, or
9 floods; or

10 “(2) designate an existing mitigation plan
11 which includes the processes described in subsection
12 (b).

13 “(b) CONTENT OF STATE MITIGATION PLANS.—
14 Each State mitigation plan shall include, at a minimum,
15 a process for—

16 “(1) verifying compliance with the multi-hazard
17 building and safety codes described in section 702(a)
18 and the flood performance standards described in
19 section 702(b) to ensure these building standards
20 are being enforced;

21 “(2) identifying, consistent with the National
22 Flood Insurance Act, as amended (42 U.S.C. 4001
23 et seq.), the areas within the State which have some
24 risk from the hazards of natural disasters, including
25 hurricanes, windstorms, earthquakes, volcanic erup-

1 tions, and floods, and further categorizing at-risk
2 areas based on the degree of risk;

3 “(3) establishing priorities by risk and location
4 of which types of structures, including State build-
5 ings, lifelines, and critical facilities, may be in need
6 of hazard mitigation;

7 “(4) identifying which hazard mitigation meas-
8 ures, such as building codes, non-structural mitiga-
9 tion, and retrofitting, for each of the natural disas-
10 ter perils that are most cost-effective and most likely
11 to prevent personal injury and reduce property
12 losses;

13 “(5) improving the emergency response to natu-
14 ral disasters, which shall include capabilities for fire
15 fighting, search and rescue, and the provision of
16 shelters, communications, and medical relief;

17 “(6) expediting the rebuilding of lifelines and
18 the recovery by individuals and the State’s business
19 and commercial sector;

20 “(7) encouraging the development of local com-
21 munity-based hazard mitigation plans;

22 “(8) achieving compliance with and enforcement
23 of the Federal multi-hazard mitigation standards or
24 requirements set forth in regulations promulgated by
25 the Director pursuant to this Act; and

1 “(9) developing standards and guidelines for
 2 the safe staffing, operations, and regular training of
 3 first responders for disaster emergency mitigation.

4 “(c) SUBMISSION OF STATE MITIGATION PLANS TO
 5 FEMA.—Within 2 years of being designated disaster-
 6 prone pursuant to section 701, each disaster-prone State
 7 shall submit its completed mitigation plan to the Director.

8 **“SEC. 704. COMPLIANCE BY STATES.**

9 “(a) DEFINITION OF COMPLIANCE STATE.—A disas-
 10 ter-prone State shall be considered a compliance State for
 11 purposes of this title, if within 5 years of the date of enact-
 12 ment of the Natural Disaster Protection Act of 1993, the
 13 State is certified under subsection (b)(3) as a compliance
 14 State and, where appropriate, if its compliance status has
 15 been renewed pursuant to the terms of subsection (b)(4).

16 “(b) DETERMINATION OF COMPLIANCE.—

17 “(1) STATE SUBMISSION OF CERTIFICATION.—
 18 Within 3 years of being designated disaster-prone
 19 pursuant to section 701, each disaster-prone State
 20 shall submit a certification to the Director stating
 21 whether the State has—

22 “(A) substantially complied with, and is
 23 substantially enforcing, the multi-hazard build-
 24 ing codes provisions of section 702(a) and the

1 flood performance standards of section 702(b);
2 and

3 “(B) started implementing its mitigation
4 plan, including the specific processes described
5 in section 703(b).

6 “(2) REVIEW BY DIRECTOR.—The Director
7 shall review each certification submitted under para-
8 graph (1) to determine whether it is an accurate
9 manifestation of the submitting State’s substantial
10 compliance with, and enforcement of, the hazard
11 mitigation measures described in sections 702 and
12 703.

13 “(3) COMPLIANCE DETERMINATION.—If the
14 Director determines that the State certification is
15 substantially accurate and the State has substan-
16 tially adopted and is substantially enforcing and car-
17 rying out the applicable hazard mitigation measures
18 described in sections 702 and 703, the Director shall
19 promptly certify the State as a compliance State for
20 purposes of subsection (a). If the Director deter-
21 mines that the State certification is substantially in-
22 accurate, the Director shall promptly return the cer-
23 tification submission to the State with suggested
24 changes for obtaining certification as a compliance
25 State.

1 “(4) COMPLIANCE RENEWAL.—The Director
2 shall review the compliance with, and enforcement
3 of, the applicable hazard mitigation measures by
4 each compliance State meeting the requirements of
5 subsection (a) not less than once every 2 years and
6 shall renew compliance certificates under the terms
7 of paragraph (3) as appropriate.

8 “(5) REGULATIONS.—The Director shall issue
9 final regulations not later than 18 months after the
10 date of the enactment of the Natural Disaster Pro-
11 tection Act of 1993 describing the criteria to be used
12 in determining whether a State is a compliance
13 State.

14 (c) PENALTIES FOR NON-COMPLIANCE.—The follow-
15 ing penalties shall become effective 5 years from the date
16 of enactment of the Natural Disaster Protection Act of
17 1993:

18 “(1) NO MITIGATION FUNDS.—Funds from the
19 Self-Sustaining Mitigation Fund under section 705
20 shall not be made available to any State which has
21 not been certified as a compliance State.

22 “(2) HIGHER PREMIUMS AND DEDUCTIBLES.—
23 Premium rates and deductibles assessed under the
24 Primary Insurance Program of subtitle A of title
25 VIII shall be increased, as determined by the Direc-

1 tor under the plan of operation of section 821 and
2 consistent with actuarially sound requirements of
3 section 804, for all policyholders residing in a State
4 which has not been certified as a compliance State.

5 “(3) NO ASSISTANCE OR FEDERAL BUILD-
6 INGS.—No Federal assistance shall be provided to
7 any new Federal building or new Federally leased,
8 assisted, or regulated building covered under Execu-
9 tive Order 11988 (“Floodplain Management”, May
10 24, 1977) and Executive Order 12699 (“Seismic
11 Safety of Federal and Federally Assisted or Regu-
12 lated New Building Construction”, January 5, 1990)
13 which is located in a State which has not been cer-
14 tified as a compliance State.

15 **“SEC. 705. SELF-SUSTAINING MITIGATION FUND.**

16 “(a) ESTABLISHMENT.—

17 “(1) A percentage of the annual multi-hazard
18 coverage premiums collected under the Primary In-
19 surance Program under subtitle A of title VIII and
20 the excess reinsurance premiums collected under the
21 Reinsurance Program under subtitle B of title VIII
22 shall be deposited, on a quarterly basis, in a sepa-
23 rate fund to be known as the Self-Sustaining Mitiga-
24 tion Fund.

1 “(2) The Director shall set the percentage de-
2 scribed in paragraph (1) which shall be at least 5
3 percent, but shall not exceed 10 percent, unless the
4 Director determines that the amounts in the Pri-
5 mary Insurance Program Fund established under
6 section 805 and the Reinsurance Fund established
7 under section 815 are sufficient to provide for any
8 probable expected losses from future hurricanes,
9 earthquakes, and volcanic eruptions.

10 “(3) Interest on amounts in the Self-Sustaining
11 Mitigation Fund shall be credited to the Fund.

12 “(b) USE.—Amounts in the Self-Sustaining Mitiga-
13 tion Fund shall be available, to the extent provided in ap-
14 propriations Acts, to the Director to use as follows:

15 “(1) STATE SUPPORT.—The Director shall pro-
16 vide amounts in the Fund as financial assistance to
17 each disaster-prone State, unless 5 years from the
18 date of enactment of the Natural Disaster Protec-
19 tion Act of 1993 has passed and that State has not
20 been certified as a compliance State under section
21 704.

22 “(A) Each State’s share of such financial
23 assistance shall be based solely on a pro rata
24 formula of the Primary Insurance Program pre-
25 miums collected pursuant to subtitle A of title

1 VIII from the policyholders residing in that
2 State.

3 “(B) Such financial assistance shall be
4 used by disaster-prone States to support hazard
5 mitigation activities described in sections 702
6 and 703 and any activities required by the Fed-
7 eral regulations issued pursuant to section 404.
8 Priority shall be given to those hazard mitiga-
9 tion activities necessary to bring the State into
10 compliance with the building standards of sec-
11 tion 702, including the adequate enforcement of
12 such standards.

13 “(C) Disaster-prone States shall transfer a
14 percentage, as established in Federal regula-
15 tions, of such financial assistance to local com-
16 munities to support activities necessary to en-
17 sure State compliance with the hazard mitiga-
18 tion requirements of this title.

19 “(D) The Director shall from time-to-time
20 conduct audits to ensure that disaster-prone
21 States and local communities are using such fi-
22 nancial assistance to support the hazard mitiga-
23 tion activities described in subparagraphs (B)
24 and (C).

1 “(2) FEDERAL SUPPORT.—A portion of the
2 amounts in the Self-Sustaining Mitigation Fund, as
3 determined by the Director, may be used to support
4 Federal hazard mitigation and emergency manage-
5 ment activities described in section 404.

6 “(c) FEDERAL REGULATION.—Within 12 months of
7 the date of enactment of the Natural Disaster Protection
8 Act of 1993, the Director shall issue final Federal regula-
9 tions, pursuant to the provisions of subchapter II of chap-
10 ter 5 of title 5, United States Code, necessary to carry
11 out this section.

12 **“SEC. 706. NATURAL DISASTER MITIGATION AND PLANNING**
13 **ADVISORY COMMITTEE.**

14 “(a) ESTABLISHMENT.—There is established an inde-
15 pendent advisory committee within the executive branch
16 to be known as the Natural Disaster Mitigation and Plan-
17 ning Advisory Committee (in this section referred to as
18 the ‘Committee’). To the extent not contradicted by the
19 provisions of this section, the Committee shall be subject
20 to the provisions of the Federal Advisory Committee Act
21 (5 U.S.C. Appendix 2). The establishment of the Commit-
22 tee shall not result in the creation of any new permanent
23 staff or new office facilities.

24 “(b) MEMBERSHIP.—The Committee shall be com-
25 posed of 20 members appointed by the Director. The

1 members shall be chosen from among citizens of the
2 United States and shall include—

3 “(1) 1 individual who is a metropolitan fire
4 chief;

5 “(2) 1 individual who is a State fire marshal;

6 “(3) 1 individual who is a volunteer fire fighter;

7 “(4) 1 individual who is an organized labor rep-
8 resentative of the fire services;

9 “(5) 1 individual who is a search and rescue
10 expert;

11 “(6) 1 individual who is a State director of
12 emergency medical services;

13 “(7) 1 individual who represents the interests of
14 the model building code bodies;

15 “(8) 1 individual who is a State emergency
16 manager;

17 “(9) 1 individual who is a local emergency
18 manager;

19 “(10) 1 individual who is a flood plain
20 manager;

21 “(11) 1 individual who represents the interests
22 of law enforcement;

23 “(12) 1 individual who is an architect;

24 “(13) 1 individual who is a builder;

25 “(14) 1 individual who is a structural engineer;

1 “(15) 1 individual who represents a building
2 trades labor union;

3 “(16) 1 individual who is a recognized seismic
4 hazard mitigation expert;

5 “(17) 1 individual who is a recognized wind
6 hazard mitigation expert;

7 “(18) 1 individual who represents the interests
8 of consumers;

9 “(19) 1 individual who represents the private
10 insurers; and

11 “(20) 1 individual who represents the insurance
12 agents.

13 “(c) VACANCIES.—A vacancy on the Committee shall
14 be filled in the manner in which the original appointment
15 was made.

16 “(d) CHAIRPERSON.—The Director shall designate a
17 chairperson of the Committee from among members
18 selected for appointment to the Committee.

19 “(e) SELECTION.—Not later than 180 days after the
20 date of the enactment of the Natural Disaster Protection
21 Act of 1993 and after consulting with the State and local
22 emergency management community, the Director shall ap-
23 point the members of the Committee.

24 “(f) FUNCTIONS OF THE COMMITTEE.—The Com-
25 mittee shall advise the Director on hazard mitigation and

1 disaster planning, including the development and imple-
 2 mentation of the multi-hazard mitigation programs cre-
 3 ated pursuant to this title. The Committee shall review
 4 and comment on all draft Federal regulations issued by
 5 the Director pursuant to this title.

6 “(g) RESPONSIBILITIES OF THE DIRECTOR.—The
 7 Director shall fully cooperate with the Committee and pro-
 8 vide the Committee with access to personnel and informa-
 9 tion as the Committee considers necessary to carry out
 10 its functions. The Director shall request comments from
 11 the Committee on any questions regarding operation of
 12 multi-hazard mitigation programs established under this
 13 title.”.

14 **SEC. 6. FEDERAL INSURANCE PROGRAMS.**

15 The Robert T. Stafford Disaster Relief and Emer-
 16 gency Assistance Act (42 U.S.C. 5121 et seq.) is amended
 17 by adding after title VII as set forth above, the following
 18 new title:

19 **“TITLE VIII—FEDERAL INSURANCE**
 20 **PROGRAMS**

21 **“Subtitle A—Primary Insurance Program**

22 **“SEC. 801. BASIC AUTHORITY AND PROGRAM OPERATION.**

23 “(a) ESTABLISHMENT.—To carry out the purposes of
 24 this subtitle, the Director shall establish and carry out a
 25 national multi-hazard insurance program (in this title re-

ferred to as the 'Primary Insurance Program') to provide insurance against loss resulting from physical damage to or loss of real property or personal property related thereto, in any State or States, arising from any earthquake and volcanic eruption (including any fire proximately caused by such volcanic eruption).

“(b) IMPLEMENTATION.—In carrying out the Primary Insurance Program, the Director shall arrange for participation, on other than a risk-sharing basis, by private insurers, insurance agents and brokers, insurance adjustment organizations, and other persons. The Director may take any actions reasonably necessary and appropriate to carry out this subtitle, including the making of contracts, the employment and compensation of persons, the acquisition of real and personal property, and the reasonable auditing of private insurers participating in the Primary Insurance Program limited to matters directly related to their participation in such program.

“(c) INSURANCE PRACTICES.—Any actions of the Director under this subtitle shall be consistent with standards and insurance practices and generally accepted accounting, actuarial, and underwriting principles.

“(d) FLOOD INSURANCE STUDY.—The Director shall evaluate the feasibility and benefits of including flood as a covered peril under the national multi-hazard insurance

1 program. Such evaluation shall include an examination of
2 whether to integrate existing flood insurance policies is-
3 sued under the National Flood Insurance Act of 1968, as
4 amended (42 U.S.C. 4001 et seq.), into the multi-hazard
5 coverage policy issued under this subtitle. The Director
6 shall submit a report, including any recommendations, to
7 the Congress within 1 year of the date of enactment of
8 the Natural Disaster Protection Act of 1993.

9 “(e) IMPROVED PARTICIPATION IN FEDERAL FLOOD
10 INSURANCE PROGRAM.—

11 “(1) NOTIFICATION REQUIREMENT.—Agents
12 and brokers or private insurers participating in the
13 Federal flood insurance program pursuant to the
14 National Flood Insurance Act, as amended (42
15 U.S.C. 4001 et seq.), shall promptly notify the Di-
16 rector of any policyholder who refuses to purchase
17 Federal flood insurance if such policyholder is re-
18 quired pursuant to such Act to purchase such cov-
19 erage as a condition of receiving any Federal assist-
20 ance for acquisition or construction of the insured
21 property and the agent, broker, or private insurer
22 knows of such requirement.

23 “(2) FEMA OBLIGATION.—

24 (A) GENERAL AUTHORITY.—Within 180
25 days of receiving a notification of any non-com-

1 pliant policholder as described in paragraph (1),
2 the Director shall take necessary and appro-
3 priate steps consistent with the National Flood
4 Insurance Act, as amended (42 U.S.C. 4001 et
5 seq.), to assure said policyholder purchases the
6 required Federal flood insurance coverage.

7 “(B) REPORT TO CONGRESS.—Within 180
8 days of enactment of the Natural Disaster Pro-
9 tection Act of 1993, the Director shall submit
10 a report to Congress of any additional sanc-
11 tions, or other measures, deemed necessary and
12 appropriate to assure policyholders purchase
13 the required Federal insurance coverage under
14 subparagraph (A).

15 “(3) REGULATIONS.—Pursuant to the provi-
16 sions of subchapter II of chapter 5 of title 5, United
17 States Code, the Director shall issue any regulations
18 necessary to carry out this subsection.”.

19 **“SEC. 802. SCOPE OF PROGRAM.**

20 “(a) ELIGIBLE PROPERTIES.—In carrying out the
21 Primary Insurance Program, the Director shall make
22 multi-hazard coverage available only for residential prop-
23 erties that are located in earthquake and volcanic erup-
24 tion-prone States as determined by section 701.

1 “(b) ADDITIONAL TYPES OF PROPERTIES.—If the
 2 Director makes an affirmative finding, in consultation
 3 with the Federal Insurance and Reinsurance Advisory
 4 Committee established pursuant to section 822, that the
 5 private insurance industry cannot adequately provide cov-
 6 erage to other types of properties, the Director may rec-
 7 ommend to Congress that multi-hazard coverage under
 8 this subtitle be made available to cover other types of
 9 properties.

10 **“SEC. 803. TERMS AND LIMITATIONS OF INSURANCE**
 11 **COVERAGE.**

12 “(a) TERMS.—Pursuant to the plan of operation es-
 13 tablished under section 821 and after consultation with
 14 the Federal Insurance and Reinsurance Advisory Commit-
 15 tee established under section 822, the Director shall estab-
 16 lish, by regulation, the general terms and conditions of
 17 insurability for properties eligible for multi-hazard cov-
 18 erage under section 802. Such regulations shall meet the
 19 requirements of this section and may include—

20 “(1) the type and locational classification of
 21 such eligible properties;

22 “(2) specific insurability definitions for eligible
 23 properties;

24 “(3) the specific types of damage that may be
 25 covered by such insurance;

1 “(4) appropriate premium rates consistent with
2 the actuarial requirement of section 804;

3 “(5) appropriate loss-deductibles including vari-
4 able deductibles based on the existence of loss-reduc-
5 tion measures that affect the risk of loss;

6 “(6) appropriate limits on coverage for each
7 classification of eligible properties;

8 “(7) appropriate minimum coverage amounts
9 for each classification of eligible properties, which
10 may not be less than the outstanding principal bal-
11 ance of the mortgage loan securing the property or
12 the maximum coverage limit for the property under
13 paragraph (6), whichever is less; and

14 “(8) any other terms and limitations relating to
15 such residential property insurance coverage that
16 may be necessary to carry out the purposes of this
17 subtitle.

18 “(b) HAZARDS COVERED.—The multi-hazard cov-
19 erage under this subtitle shall cover any damage to cov-
20 ered eligible property, including debris removal, additional
21 living expenses incurred as a result of direct damage to
22 the premises, and ordinance and law coverage up to the
23 policy limits set by subsection (a)(5) with additional ordi-
24 nance and law coverage available pursuant to the plan of
25 operation under section 821, proximately caused by—

1 “(1) an earthquake, except for any fire proxi-
2 mately caused by an earthquake;

3 “(2) a volcanic eruption, including any fire
4 proximately caused by a volcanic eruption; and

5 “(3) a tsunami associated with an earthquake
6 or volcanic eruption.

7 “(c) PROGRAM PARTICIPATION.—Upon the issuance
8 of regulations establishing the plan of operation under sec-
9 tion 821, any private insurer may participate in the Pri-
10 mary Insurance Program regardless of whether such pri-
11 vate insurer provides any insurance to residential property
12 policyholders.

13 “(d) OBLIGATIONS OF PARTICIPATING INSURERS.—
14 Any private insurer electing to participate in the Primary
15 Insurance Program shall provide to all its residential prop-
16 erty policyholders for residential property determined to
17 be eligible under subsection (a) and located in earthquake
18 and volcanic eruption-prone States either—

19 “(1) the multi-hazard coverage under this sub-
20 title, or

21 “(2) coverage on its own behalf that is equiva-
22 lent to the multi-hazard coverage provided under
23 this subtitle at rates established for the coverage
24 under this subtitle.

1 “(c) OBLIGATIONS OF NON-PARTICIPATING INSUR-
2 ERS.—Any private insurer electing not to participate in
3 the Primary Insurance Program shall notify, pursuant to
4 regulations adopted by the Director, all of its residential
5 policyholders in earthquake and volcanic eruption-prone
6 States of its non-participation in such program, and of
7 the absence of insurance and reinsurance protection for
8 multi-hazard coverage under this title.

9 **“SEC. 804. ACTUARIALLY SOUND RATES.**

10 “(a) ESTABLISHMENT OF RATES.—The Director
11 shall from time-to-time establish and prescribe by regula-
12 tion on a State, risk zone, or other appropriate basis, actu-
13 arially sound rates for types or classes of property eligible
14 for multi-hazard coverage and the terms and conditions
15 under which such rates apply.

16 “(b) CONSULTATION.—In carrying out this section,
17 the Director shall consult with the Federal Insurance and
18 Reinsurance Advisory Committee established under sec-
19 tion 822 and may enter into contracts, agreements, or
20 other arrangements to utilize the services of the United
21 States Geological Survey, the National Oceanic and At-
22 mospheric Administration, and other relevant Federal,
23 State, and local governmental agencies, and other persons.

24 “(c) CONSIDERATIONS.—The Director shall establish
25 actuarially sound rates under this section based on—

1 “(1) considerations of the risks involved, includ-
2 ing an examination of any of the following factors
3 which are deemed relevant—

4 “(A) the severity and frequency of earth-
5 quakes by seismic zone and States in which the
6 insured property is located, including known
7 differences in risks from active faults and
8 known susceptibility to landslide, site amplifi-
9 cation, and liquefaction;

10 “(B) the risk of damage associated with a
11 volcanic eruption by volcanic zone and States in
12 which the insured property is located, including
13 proximity to known lava flows;

14 “(C) the risk of damage associated with a
15 tsunami caused by an earthquake or volcanic
16 eruption;

17 “(D) the value of the insured property;

18 “(E) the age of the structures located on
19 the insured property;

20 “(F) the construction type of the struc-
21 tures located on the insured property, including
22 woodframe, masonry, and masonry veneer;

23 “(G) the architectural type of the struc-
24 tures located on the insured property, including
25 soft first floor, box construction, and split level;

1 “(H) hazard mitigation measures followed
2 in the construction or subsequent retrofitting of
3 residential property structures; and

4 “(I) any other relevant criteria; and

5 “(2) application of accepted actuarial and rate-
6 making principles that reflect the risks involved, an-
7 ticipated insurance-related administrative and oper-
8 ating costs and loss and loss-adjustment expense
9 payments, contributions from the Self-Sustaining
10 Mitigation Fund established under section 705, and
11 provision for adequate reserves.

12 “(d) MINIMIZATION OF CROSS-SUBSIDIZATION.—To
13 the maximum extent practicable, the rates established
14 under this section shall be actuarially sound and shall re-
15 sult in a minimum of cross-subsidization by reasonably re-
16 flecting the risk of damaging earthquakes, volcanic erup-
17 tions, and tsunamis, as appropriate, in total and for each
18 subclassification of policyholders.

19 “(e) ACTUARIALLY SOUND REQUIREMENT.—In set-
20 ting and adjusting rates under this section, the Director
21 shall provide that, over an extended period of time, ex-
22 pected expenditures from the Primary Insurance Program
23 Fund under section 805(c) do not exceed expected receipts
24 of the Primary Insurance Program Fund under section
25 805(b).

1 “(f) LIMITATIONS.—

2 “(1) To the maximum extent practicable, any
3 rate classification system developed by the Director
4 to establish actuarially sound rates under this sec-
5 tion shall be—

6 “(A) cost effective and shall not impose
7 costs for the initial establishment or the subse-
8 quent administration of the rating plan that are
9 disproportionate to the size of the insurance
10 premiums collected; and

11 “(B) simple and easy to understand, iden-
12 tify, and use by insurance agents and policy-
13 holders.

14 “(2) The premiums collected under the Primary
15 Insurance Program shall not be used to establish
16 highly specific geographic rating zones and micro-
17 zonation maps for the earthquake, volcanic eruption,
18 and tsunami perils.

19 **“SEC. 805. PRIMARY INSURANCE PROGRAM FUND.**

20 “(a) ESTABLISHMENT.—There is established in the
21 Treasury of the United States the Primary Insurance Pro-
22 gram Fund (in this section referred to as the ‘Insurance
23 Fund’) for the purpose of carrying out the Primary Insur-
24 ance Program under this subtitle.

1 “(b) CREDITS OF FUND.—The Insurance Fund shall
2 be credited with—

3 “(1) insurance premiums received by the Direc-
4 tor under the Primary Insurance Program (less any
5 amounts credited to the Self-Sustaining Mitigation
6 Fund under section 705) and interest earned on pre-
7 miums, as provided in subsection (e);

8 “(2) any amounts borrowed under section 806;

9 “(3) any amounts appropriated to the Insur-
10 ance Fund; and

11 “(4) any interest earned on amounts invested
12 under subsection (d).

13 “(c) USES OF FUND.—Amounts in the Insurance
14 Fund shall be available for—

15 “(1) payments for losses and loss adjustment
16 expenses under subsection (f);

17 “(2) payments for insurance company expense
18 allowances paid (including agents’ commissions,
19 State premium taxes, and companies’ administration
20 expenses);

21 “(3) any and all administrative and operating
22 expenses in carrying out the Primary Insurance Pro-
23 gram; and

1 “(4) principal and interest payments on
2 amounts borrowed under section 806 for supple-
3 mental losses, if any.

4 “(d) INVESTMENT OF AMOUNTS.—The Director may
5 request the Secretary of the Treasury to invest any
6 amount in the Primary Insurance Program Fund in obli-
7 gations issued or guaranteed by the United States, as the
8 Director considers appropriate.

9 “(e) INSURANCE PAYMENTS TO FUND.—Private in-
10 surers issuing multi-hazard coverage shall remit the pre-
11 miums collected, less the insurers’ expense allowances (as
12 provided for in the plan of operation under section 821),
13 to the Director on a quarterly basis 30 days after the end
14 of the quarter, according to the procedures prescribed in
15 the plan of operation. Such private insurers shall maintain
16 a separate, interest-bearing account for the premiums to
17 be submitted to the Director. The interest collected on this
18 account shall be forwarded to the Insurance Fund with
19 the premiums on a quarterly basis.

20 “(f) REIMBURSEMENT OF INSURERS.—

21 “(1) REQUIREMENT AND PROCEDURE.—The
22 Director shall reimburse private insurers providing
23 multi-hazard coverage pursuant to this subtitle from
24 amounts made available from the Insurance Fund.
25 Reimbursement for all claim payments up to and in-

1 including the policy limits of coverage and for all loss
2 adjustment expenses paid as a result of an earth-
3 quake, volcanic eruption, or tsunami, as appropriate,
4 shall be made as follows:

5 “(A) The Director shall reimburse insurers
6 within 30 days of the date any claim payments
7 and loss adjustment expense payments are
8 made pursuant to the Federal Government’s
9 obligations.

10 “(B) If the gross reimbursements exceed
11 amounts available in the Insurance Fund,
12 amounts borrowed from the Treasury of the
13 United States under section 806 shall cover the
14 supplemental losses.

15 “(2) REGULATIONS.—The Director may issue
16 regulations establishing the general method or meth-
17 ods by which proved and approved claims for losses
18 may be adjusted and paid for damages covered by
19 the multi-hazard coverage issued under this subtitle.
20 The claim practices of the Insurance Fund shall be
21 subject to and conform with any applicable State in-
22 surance unfair trade practices statutes. Judicial re-
23 view of a decision of the Director regarding reim-
24 bursment of a private insurer shall be available
25 pursuant to section 821(e).

1 “(g) OBLIGATIONS.—All multi-hazard coverage pro-
2 vided through the Primary Insurance Program under this
3 subtitle shall constitute obligations of the United States.
4 The full faith and credit of the United States is pledged
5 for the full payment and performance of such obligations.
6 The private insurers participating in the program shall
7 bear no risk and shall assume no liability for the multi-
8 hazard coverage provided through the program.

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

18 **“SEC. 806. BORROWING FROM TREASURY.**

19 “(a) AUTHORITY.—To the extent that the accumu-
20 lated assets, including any return on investments, in the
21 Primary Insurance Program Fund established under sec-
22 tion 805 are insufficient to pay claims and expenses, the
23 Director shall issue, from time-to-time, to the Secretary
24 of the Treasury, notes and other obligations to cover the
25 insufficiency; except that the amounts of such obligations

1 outstanding at any one time shall not exceed such sums
2 as the Congress may provide acting upon the rec-
3 ommendation of the Director.

4 “(b) INTEREST RATE.—Obligations under subsection
5 (a) shall bear interest at a rate determined by the Sec-
6 retary of the Treasury, taking into consideration the cur-
7 rent average market yield on outstanding marketable obli-
8 gations of the United States of comparable maturities.

9 “(c) DEPOSITS.—Any amounts borrowed by the Di-
10 rector under this section shall be deposited in the Primary
11 Insurance Program Fund established under section 805.

12 “(d) REPAYMENT.—Any amounts borrowed under
13 this section shall be recouped, including interest on the
14 borrowed funds, in future premiums for multi-hazard cov-
15 erage pursuant to the plan of operation established under
16 section 821. The Secretary of the Treasury shall grant ex-
17 tensions in repayment schedules that the Director advises
18 the Secretary are necessary.

19 **“SEC. 807. INSURANCE MITIGATION INCENTIVES.**

20 “‘In carrying out the Primary Insurance Program
21 under this subtitle and pursuant to the plan of operation
22 established under section 821, the Director shall provide
23 for the following insurance mitigation incentives which
24 shall conform with the actuarially sound rate requirements
25 of section 804:

1 “(1) Charging lower premiums or deductible
2 amounts for any residential property located in an
3 earthquake-prone State which meets the seismic
4 building standards under section 702(a).

5 “(2) Charging lower premium rates or deduct-
6 ible amounts for any residential property located in
7 an earthquake-prone State that passes a seismic
8 safety inspection and meets the requirements of the
9 seismic mitigation standards established in title VII.

10 “(3) Charging lower premium rates or deduct-
11 ible amounts for new residential property not con-
12 structed in volcanic zones in a volcanic eruption-
13 prone State.

14 **“Subtitle B—Reinsurance Program**

15 **“SEC. 811. BASIC AUTHORITY AND PROGRAM OPERATION.**

16 “(a) ELIGIBILITY.—

17 “(1) PROVISION OF COVERAGE.—Upon the is-
18 suance of regulations establishing the plan of oper-
19 ation under section 821, the Director shall make
20 available to eligible entities excess reinsurance cov-
21 erage for any direct and indirect losses under the
22 covered lines set forth in section 813 that arise from
23 a hurricane, earthquake, volcanic eruption, or tsu-
24 nami.

1 “(2) ELIGIBLE ENTITIES.—The following enti-
2 ties are eligible to purchase the excess reinsurance
3 coverage:

4 “(A) Any private insurer participating in
5 the Primary Insurance Program under subtitle
6 A.

7 “(B) Any private reinsurer which reinsures
8 any private insurer participating in the Primary
9 Insurance Program under subtitle A.

10 “(C) Any workers’ compensation fund op-
11 erated by a State.

12 “(D) Any State residual insurance pooling
13 program.

14 “(b) TERMS.—The reinsurance contracts issued by
15 the Federal Government pursuant to this subtitle shall
16 contain terms and conditions similar to those generally
17 used in private catastrophic reinsurance contracts.

18 “(c) JUDICIAL REVIEW.—Judicial review of a deci-
19 sion of the Director regarding payment of claims shall be
20 made available pursuant to section 821(e).

21 “(d) SINGLE ENTITIES.—Any private insurer and re-
22 insurer companies or United States affiliates under the
23 same ownership or management or part of the same hold-
24 ing company system, as determined under the plan of op-

1 eration established under section 821, shall be considered
2 a single entity for purposes of this subtitle.

3 **"SEC. 812. LEVELS OF RETAINED LOSSES.**

4 “(a) INDUSTRY-WIDE ELIGIBILITY.—Excess reinsur-
5 ance under this subtitle shall be available to all private
6 insurers and private reinsurers eligible for reinsurance
7 pursuant to section 811(a)(2) as follows:

8 “(1) INDUSTRY RETAINED LOSSES.—The Rein-
9 surance Fund established under section 815 shall
10 provide excess reinsurance when, as determined by
11 the Director pursuant to the plan of operation under
12 section 821, the insurance industry is likely to incur
13 gross losses in the lines covered in section 813(a)
14 arising from hurricane, earthquake, volcanic erup-
15 tion, and tsunami events occurring during any 12-
16 month period that exceed 15 percent of the consoli-
17 dated industry surplus as regards policyholders; pro-
18 vided that, only such separate events which will like-
19 ly result in industry gross losses of at least
20 \$1,500,000,000, adjusted annually in accordance
21 with the percentage change in the Consumer Price
22 Index, shall be aggregated to reach the 15-percent
23 level.

24 “(2) INDIVIDUAL COMPANY RETAINED
25 LOSSES.—After the insurance industry has sustained

1 gross losses described in paragraph (1), the Reinsur-
2 ance Fund established under section 815 shall pay
3 to an individual private insurer or private reinsurer
4 95 percent of qualifying losses in excess of 15 per-
5 cent of the consolidated surplus as regards policy-
6 holders of the private insurer or private reinsurer.

7 “(b) INDIVIDUAL INSURER ELIGIBILITY.—

8 “(1) INDIVIDUAL INSURER RETAINED
9 LOSSES.—If subsection (a) is not applicable, a pri-
10 vate insurer or private reinsurer shall be eligible for
11 excess reinsurance coverage and reimbursement from
12 the Reinsurance Fund established under section 815
13 if the insurer or reinsurer has incurred gross losses
14 from a single—

15 “(A) earthquake, volcanic eruption, or tsu-
16 nami event that is included in the lines covered
17 in section 813(a) and that exceeds 20 percent
18 of the consolidated surplus as regards policy-
19 holders of the private insurer or private rein-
20 surer; or

21 “(B) hurricane event that is included in
22 the lines covered in section 813(a) and that ex-
23 ceeds 20 percent of the consolidated surplus as
24 regards policyholders of the private insurer or
25 private reinsurer, except that the workers’ com-

1 pensation and earthquake lines of coverage
2 under section 813(a) shall be excluded.

3 “(2) REINSURANCE FUND PAYMENTS.—After
4 the private insurer or private reinsurer has sustained
5 gross losses described in paragraph (1), the Reinsur-
6 ance Fund established under section 815 shall pay
7 95 percent of qualifying losses, as defined in sub-
8 section (d), in excess of 20 percent of the consoli-
9 dated surplus as regards policyholders of the private
10 insurer or the private reinsurer.

11 “(3) LIMITATION OF REINSURANCE FUND PAY-
12 MENTS.—The payments by the Reinsurance Fund
13 under this subsection shall be limited to 200 percent
14 of the consolidated surplus as regards policyholders
15 of the private insurer or private reinsurer.

16 “(c) STATE INSURANCE PROGRAMS.—Excess rein-
17 surance under this subtitle shall be available to each State
18 workers’ compensation program and State residual insur-
19 ance pooling program eligible for reinsurance pursuant to
20 section 811(a)(2) as follows:

21 “(1) INDUSTRY LOSSES.—The Reinsurance
22 Fund established under section 815 shall provide ex-
23 cess reinsurance when, as determined by the Direc-
24 tor pursuant to the plan of operation under section
25 821, the insurance industry is likely to incur gross

1 losses in the State served by the eligible State insur-
2 ance program arising from hurricane, earthquake,
3 volcanic eruption, and tsunami events occurring dur-
4 ing any 12-month period that exceed 10 times the
5 sum of the direct earned premiums for the lines of
6 coverage described in sections 813(a) (2), (3), (4),
7 and (5) or \$10,000,000,000, adjusted annually in
8 accordance with the percentage change in the
9 Consumer Price Index, whichever amount is less.

10 “(2) MINIMUM LOSSES.—Such lessor amount
11 described in paragraph (1) must equal at least
12 \$500,000,000, adjusted annually in accordance with
13 the percentage change in the Consumer Price Index.

14 “(3) RETAINED LOSSES.—After the insurance
15 industry has sustained gross losses described in
16 paragraph (1), the Reinsurance Fund established
17 under section 815 shall pay to an individual State
18 workers’ compensation program or State residual in-
19 surance pooling program 95 percent of qualifying
20 losses in excess of the lessor amount described in
21 paragraph (1).

22 “(d) QUALIFYING LOSSES.—For the purpose of this
23 subtitle, “qualifying losses” includes—

24 “(1) the losses and loss adjustment expenses in-
25 curred by a private insurer, private reinsurer, State

1 workers' compensation fund, or State residual insur-
2 ance pooling program, and

3 “(2) any assessments, surcharges, or other li-
4 abilities imposed by any State residual insurance
5 pooling program or guaranty fund,

6 attributable to hurricanes, earthquakes, volcanic erup-
7 tions, and tsunamis occurring during any 12-month period
8 encompassing the events described in subsections (a)(1)
9 and (c)(1) or the event described in subsection (b)(1)
10 reduced by—

11 “(1) any collectible reinsurance recoverable, and

12 “(2) an appropriate percentage of any
13 uncollectible reinsurance arising from the event as
14 set in the plan of operation to be issued by regula-
15 tion under section 821.

16 “(e) OBLIGATIONS.—All reinsurance contracts issued
17 under this subtitle shall constitute obligations, in accord-
18 ance with the terms of such reinsurance, of the United
19 States. The full faith and credit of the United States is
20 pledged for the full payment and performance of such
21 obligations.

22 “(f) DEFINITIONS.—For purposes of this subtitle:

23 “(1) The term ‘consolidated industry surplus as
24 regards policyholders’ means the consolidated sur-
25 plus as regards policyholders of the property and

1 casualty insurance industry (excluding life insur-
2 ance) for the calendar year immediately preceding
3 the hurricane, earthquake, volcanic eruption, or tsu-
4 nami events described in subsection (a)(1) as deter-
5 mined by the National Association of Insurance
6 Commissioners or other credible source and pub-
7 lished annually in the Federal Register by the
8 Director.

9 “(2) The term ‘consolidated surplus as regards
10 policyholders’ means the surplus as regards policy-
11 holders of the private insurer, private reinsurer, or
12 group of private insurers and/or reinsurers (exclud-
13 ing life insurance) based on financial data submitted
14 to the National Association of Insurance Commis-
15 sioners or other credible source and published annu-
16 ally in the Federal Register by the Director for the
17 calendar year immediately preceding the hurricane,
18 earthquake, volcanic eruption, or tsunami event or
19 events described in subsections (a)(1) and (b)(1).

20 “(3) The term ‘direct earned premiums’ means
21 the direct earned premiums for certain lines of prop-
22 erty and casualty insurance coverage as published in
23 the National Association of Insurance Commis-
24 sioners Fire and Casualty Annual Statement filed
25 with the applicable State department of insurance

1 for the most recent calendar year available preceding
2 the hurricane, earthquake, volcanic eruption, or tsu-
3 nami events described in subsection (c)(1).

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

7 “(5) The term ‘subject net written premium’
8 means direct and reinsurance premiums received by
9 private insurers and private reinsurers, less pre-
10 miums paid for ceded reinsurance, for all lines of
11 coverage listed in section 313(a), except the workers’
12 compensation and earthquake lines of coverage shall
13 be excluded for the purposes of setting actuarially
14 sound rates for hurricanes.

15 “(6) The term ‘uncollectible reinsurance’ means
16 reinsurance proceeds due and payable in accordance
17 with the terms of the reinsurance contract which are
18 not paid within 12 months of the due date.

19 **“SEC. 813. LINES OF INSURANCE.**

20 “(a) COVERED LINES.—The Director shall provide
21 reinsurance coverage to private insurers, State workers’
22 compensation funds and State residual insurance pooling
23 programs for all of the following lines of insurance appear-
24 ing in the National Association of Insurance Commis-
25 sioners Fire and Casualty Annual Statement:

- 1 “(1) Fire.
 - 2 “(2) Allied Lines.
 - 3 “(3) Farmowners Multiple Peril.
 - 4 “(4) Homeowners Multiple Peril.
 - 5 “(5) Commercial Multiple Peril.
 - 6 “(6) Ocean Marine.
 - 7 “(7) Inland Marine.
 - 8 “(8) Earthquake.
 - 9 “(9) Workers’ Compensation.
 - 10 “(10) Other Liability.
 - 11 “(11) Products Liability.
 - 12 “(12) Aircraft (All Perils).
 - 13 “(13) Glass.
 - 14 “(14) Burglary and Theft.
 - 15 “(15) Boiler and Machinery.
 - 16 “(16) Reinsurance.
- 17 Reinsurance coverage must be purchased for all covered
18 lines of insurance and in all affected hurricane, seismic,
19 or volcanic rating zones in hurricane-prone, earthquake-
20 prone, or volcanic eruption-prone States with the rates for
21 such coverage set by the Director, pursuant to section
22 814.
- 23 “(b) OTHER LINES.—The Reinsurance Fund estab-
24 lished under section 815 shall provide reinsurance cov-
25 erage to private reinsurers for all of the lines of insurance

1 referred to in subsection (a) as well as other lines of insur-
2 ance appearing in the National Association of Insurance
3 Commissioners Fire and Casualty Annual Statement, as
4 determined by the Director in the plan of operation pursu-
5 ant to section 821 and in consultation with the Federal
6 Insurance and Reinsurance Advisory Committee estab-
7 lished under section 822.

8 **“SEC. 814. ACTUARIALLY SOUND RATES.**

9 “(a) ESTABLISHMENT.—Using generally accepted ac-
10 tuarial principles, the Director shall establish the rates for
11 the excess reinsurance coverage and adjust the rates when
12 necessary. To the maximum extent practicable, such rates
13 shall be actuarially sound and shall result in a minimum
14 of cross-subsidization, consistent with the infrequency of
15 catastrophic hurricanes, earthquakes, volcanic eruptions,
16 and tsunamis. In setting and adjusting the rates, the Di-
17 rector shall provide that, over an extended period of time,
18 expected expenditures from the Reinsurance Fund under
19 section 815(e) do not exceed expected receipts of the Rein-
20 surance Fund under section 815(b).

21 “(b) CONSULTATION.—In carrying out this section,
22 the Director shall consult with the Federal Insurance and
23 Reinsurance Advisory Committee established in section
24 822 and may enter into contracts, agreements, or other
25 arrangements to utilize the services of the United States

1 Geological Survey, the National Oceanic and Atmospheric
2 Administration, and other relevant Federal, State, and
3 local governmental agencies, and other persons.

4 “(c) CONSIDERATIONS—In setting or adjusting such
5 actuarially sound rates, the Director shall provide for a
6 minimum degree of cross-subsidization among classes of
7 reinsureds by reasonably reflecting the differences in risk
8 of and vulnerability to loss from hurricanes, earthquakes,
9 and volcanic eruptions that would be subject to payment
10 from the Reinsurance Fund established under section 815,
11 by giving due consideration to the following:

12 “(1) The premium rate volume of the reinsured
13 by line of insurance under section 813(a) by hurri-
14 cane, seismic, or volcanic zone or State in which the
15 risks insured or reinsured by the reinsurer are lo-
16 cated.

17 “(2) The proportion of the total expected
18 amount of payments for qualifying losses and loss
19 adjustment expenses by line of insurance under sec-
20 tion 813(a) by hurricane, seismic, or volcanic zone
21 or State expected for each reinsured.

22 “(3) The nature, scope, and adequacy of the
23 private reinsurance or retrocessional reinsurance
24 purchased by the private insurer, private reinsurer,
25 State workers’ compensation fund, or State residual

1 insurance pooling program in light of its manage-
2 ment expertise and the number, size, concentration,
3 and location of its risk exposures by lines of insur-
4 ance under section 813(a).

5 “(4) The payback of losses sustained by the Re-
6 insurance Fund established under section 815 due to
7 payments made to a private insurer, private rein-
8 surer, State workers’ compensation fund, or State
9 residual insurance pooling program.

10 “(5) The ratio between subject net written pre-
11 mium and consolidated surplus as regards policy-
12 holders for each private insurer and reinsurer during
13 the most recent calendar year.

14 “(6) The nature of the risk for each private in-
15 surer and reinsurer insured under coverages re-
16 ported in the National Association of Insurance
17 Commissioners Fire and Casualty Annual Statement
18 filed with the applicable State department of insur-
19 ance for the most recent calendar year and covering
20 the lines of businesses listed in section 813(a).

21 “(d) LIMITATION.—Any rate classification system
22 used by the Director under this section shall be cost-effec-
23 tive and shall not impose costs for the initial establishment
24 or the subsequent administration of the rating plan that

1 are disproportionate to the size of the insurance premiums
2 collected.

3 “(e) QUARTERLY PAYMENT.—Premiums paid to the
4 Reinsurance Fund for reinsurance coverage under this
5 subtitle shall be paid on a quarterly basis and shall be
6 accumulated in the Reinsurance Fund, to be managed
7 pursuant to section 815.

8 **“SEC. 815. REINSURANCE FUND.**

9 “(a) ESTABLISHMENT.—There is established in the
10 Treasury of the United States the Reinsurance Fund for
11 the purposes of carrying out the Reinsurance Program
12 under this subtitle.

13 “(b) CREDITS OF FUND.—The Reinsurance Fund
14 shall be credited with—

15 “(1) any reinsurance premiums received by the
16 Director under the Reinsurance Program;

17 “(2) any amounts borrowed under section 816;
18 and

19 “(3) any amounts earned under subsection (d).

20 “(c) USE OF FUND.—The Reinsurance Fund shall be
21 available to the Director for—

22 “(1) payments for qualifying losses under the
23 Reinsurance Program under this subtitle;

1 “(2) any and all administrative and operating
2 expenses in carrying out the Reinsurance Program;
3 and

4 “(3) principal and interest payments on
5 amounts borrowed from the Treasury under section
6 816, if any.

7 “(d) INVESTMENT.—The Director shall request the
8 Secretary of the Treasury to invest any amounts in the
9 Reinsurance Fund in obligations issued or guaranteed by
10 the United States, as the Director considers appropriate.

11 “(e) STATUS OF FUNDS.—Any reinsurance premiums
12 collected for deposit in the Reinsurance Fund shall be ex-
13 empt from all taxation now or hereafter imposed by the
14 United States, by any territory, dependency or possession
15 thereof, or by any State, county, municipality, or local tax-
16 ing authority.

17 **“SEC. 816. BORROWING FROM TREASURY.**

18 “(a) AUTHORITY.—To the extent that the accumu-
19 lated assets, including any return on investments, in the
20 Reinsurance Fund are insufficient to pay claims and ex-
21 penses, the Director shall issue, from time-to-time, to the
22 Secretary of the Treasury, notes and other obligations to
23 cover the insufficiency; except that the amounts of such
24 obligations outstanding at any one time shall not exceed

1 such sums as the Congress may provide acting upon the
2 recommendation of the Director.

3 “(b) INTEREST RATE.—Obligations under subsection
4 (a) shall bear interest at a rate determined by the Sec-
5 retary of the Treasury, taking into consideration the cur-
6 rent average market yield on outstanding marketable obli-
7 gations of the United States or comparable maturities.

8 “(c) DEPOSITS.—Any amounts borrowed by the Di-
9 rector under this section shall be deposited in the Reinsur-
10 ance Fund.

11 “(d) REPAYMENT.—Any amounts borrowed pursuant
12 to this section shall be recouped, including interest on the
13 borrowed funds, in future rates for excess reinsurance cov-
14 erage pursuant to the plan of operation established under
15 section 821. The Secretary of the Treasury shall grant ex-
16 tensions in repayment schedules that the Director advises
17 the Secretary are necessary.

18 **“Subtitle C—Program Administration**

19 **“SEC. 821. PLAN OF OPERATION.**

20 “(a) DEVELOPMENT.—The Director shall develop a
21 plan of operation to ensure the fair, reasonable, and equi-
22 table administration of the Primary Insurance Program
23 Fund established under section 805, the Reinsurance
24 Fund established under section 815, and other activities
25 under this title.

1 “(b) CONTENTS.—The plan of operation shall set
2 forth the specific policy and programmatic details for op-
3 erating the Primary Insurance Program created under
4 subtitle A and the Reinsurance Program created under
5 subtitle B, including all guidelines, criteria, definitions,
6 clarifications, and procedures necessary to carry out this
7 title.

8 “(c) ESTABLISHMENT.—

9 “(1) SUBMISSION OF DRAFT TO ADVISORY COM-
10 MITTEE.—Not later than the expiration of the 12-
11 month period beginning on the date of the enact-
12 ment of the Natural Disaster Protection Act of
13 1993, the Director shall submit a draft of the plan
14 of operation to the Federal Insurance and Reinsur-
15 ance Advisory Committee established under section
16 822. Before issuing any regulations under paragraph
17 (2), the Director shall consider any recommenda-
18 tions made by such Advisory Committee regarding
19 the draft plan of operation.

20 “(2) REGULATIONS.—Not later than the expira-
21 tion of the 18-month period beginning on the date
22 of the enactment of the Natural Disaster Protection
23 Act of 1993, the Director shall issue final regula-
24 tions establishing the plan of operation under this
25 section, subject to the provisions of subchapter II of

1 chapter 5 of title 5, United States Code. In issuing
2 regulations under this paragraph, the Director shall
3 cause to be published in the Federal Register a de-
4 scription of any differences between the rec-
5 ommendations of the Federal Insurance and Rein-
6 surance Advisory Committee established under sec-
7 tion 822 and the regulations (including the guide-
8 lines, criteria, definitions, clarifications, and proce-
9 dures under the plan) developed by the Director.
10 The description shall contain, for each such dif-
11 ference, an explanation of why the recommendations
12 of the Federal Insurance and Reinsurance Advisory
13 Committee were not included in the proposed regula-
14 tions.

15 “(3) SUBSEQUENT CHANGES.—Any future
16 changes to the plan of operation shall be made in ac-
17 cordance with the process described in paragraphs
18 (1) and (2).

19 “(d) ADDITIONAL REGULATIONS.—In addition to the
20 regulations establishing the plan of operation, the Director
21 may issue any regulations necessary to carry out this title,
22 pursuant to the provisions of subchapter II of chapter 5
23 of title 5, United States Code.

24 “(e) SUITS.—Any lawsuits by or against the Director
25 (or employees of the Federal Emergency Management

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

8 **"SEC. 822. FEDERAL INSURANCE AND REINSURANCE ADVI-**
9 **SORY COMMITTEE.**

10 “(a) ESTABLISHMENT.—There is established an inde-
11 pendent advisory committee within the executive branch
12 to be known as the Federal Insurance and Reinsurance
13 Advisory Committee (in this section referred to as the
14 Committee). To the extent not contradicted by the provi-
15 sions of this section, the Committee shall be subject to
16 the provisions of the Federal Advisory Committee Act (5
17 U.S.C. Appendix 2). The establishment of the Committee
18 shall not result in the creation of any new permanent staff
19 or new office facilities.

20 “(b) MEMBERSHIP.—The Committee shall be com-
21 posed of 7 members appointed by the Director. The mem-
22 bers shall be chosen from among citizens of the United
23 States and shall include—

24 “(1) 1 individual who represents the interests of
25 consumers;

1 “(2) 1 individual who is a State emergency
2 planner;

3 “(3) 1 individual who is a State insurance com-
4 missioner;

5 “(4) 1 individual who represents the interests of
6 the private insurers;

7 “(5) 1 individual who represents the interests of
8 the private reinsurers;

9 “(6) 1 individual who represents the interests of
10 the insurance agents; and

11 “(7) 1 individual who is a professional actuary.

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

15 “(d) CHAIRPERSON.—The Director shall designate a
16 chairperson of the Committee from among members se-
17 lected for appointment to the Committee.

18 “(e) SELECTION.—Not later than 180 days after the
19 date of the enactment of the Natural Disaster Protection
20 Act of 1993 and after consulting with the insurance indus-
21 try and the State and local emergency management com-
22 munity, the Director shall appoint the members of the
23 Committee.

24 “(f) FUNCTIONS OF THE COMMITTEE.—The Com-
25 mittee shall review the draft plan of operation established

1 under section 821. Within 120 days after receiving the
2 draft plan of operation, the Committee shall submit to the
3 Director written comments and recommendations for any
4 changes to the plan. After regulations establishing the
5 plan of operation have been issued, the committee shall
6 submit a written report not less than once every 180 days
7 to the Director and the Congress evaluating the operation
8 of the Federal insurance programs established under this
9 title and making recommendations for any actions relating
10 to such programs. The Committee shall provide counsel
11 to the Director regarding actuarial and insurance related
12 services pursuant to sections 804(b) and 814(b). The
13 Committee shall respond as soon as practicable to all re-
14 quests of the Director made pursuant to subsection (g)
15 or section 821(c).

16 “(g) RESPONSIBILITIES OF THE DIRECTOR.—The
17 Director shall fully cooperate with the Committee and pro-
18 vide the Committee with access to personnel and informa-
19 tion as the Committee considers necessary to carry out
20 its functions. The Director shall request comments from
21 the Committee on any questions regarding operation of
22 the Federal insurance programs established under this
23 title.”.

○

If you would like to be a Co-Sponsor of

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HR 2873**

Please call:

Congressman Norman Mineta

Chairman, Public Works and Transportation Committee

Contact: Sheila Lockwood at 225-4472

Congressman Sherwood Boehlert

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