119TH CONGRESS
1ST SESSION

S. ______

To require the Secretary of the Treasury to establish a catastrophic property loss reinsurance program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SCHIFF introduced the following bill; which was read twice and referred to the Committee on ______________________

A BILL

To require the Secretary of the Treasury to establish a catastrophic property loss reinsurance program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Incorporating National Support for Unprecedented Risks and Emergencies Act'' or the ''INSURE Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ALL-PERILS PROPERTY INSURANCE POLICY.—The term ''all-perils property insurance pol-

icy'' means a property insurance policy approved by a State which includes coverage for catastrophe perils as those perils are added to the Program.

(2) CATASTROPHE PERIL.—The term ''catastrophe peril'' means the damage caused by—

(A) wind, hurricane, wildfire, severe convective storm, and flood as they are added to the Program under section 3(d);

(B) earthquake, conditioned on the report under section 5(2); and

(C) any other peril as determined by the Secretary and added to the Program.

(3) ENGAGED IN THE BUSINESS OF INSURANCE.—The term ''engaged in the business of insurance'' means a person or entity that is subject to oversight by a State insurance department.

(4) FUND.—The term ''Fund'' means the Federal Catastrophe Reinsurance Fund established under section 3(i).

(5) INSURER.—The term ''insurer''—

(A) means an admitted or non-admitted insurance company licensed or authorized to sell primary property insurance by State insurance regulators; and

(B) does not include a reinsurance company or a captive insurance company.

(6) PARTICIPATING INSURER.—The term ''participating insurer'' means an insurer that is participating in the Program.

(7) PROGRAM.—The term ''Program'' means the catastrophic property loss reinsurance program established under section 3(a).

(8) PROPERTY INSURANCE POLICY.—The term ''property insurance policy'' means a contract of insurance, through a policy form approved by a State insurance department, that provides, among other coverages, coverage for physical damage to residential or commercial property.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(10) STATISTICAL PLAN.—The term ''statistical plan'' means—

(A) a description of the data elements to be reported; and

(B) the instructions and procedures for accurately reporting data.

SEC. 3. CATASTROPHIC PROPERTY LOSS REINSURANCE PROGRAM.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary shall establish a catastrophic property loss reinsurance program to provide reinsurance for qualifying primary insurance companies.

(b) ELIGIBILITY.—An insurer is qualified to participate in the Program if such insurer—

(1) offers an all-perils property insurance policy, as perils are phased in under subsection (d), for—

(A) residential property insurance policies; or

(B) commercial property insurance policies; and

(2) offers a loss prevention partnership with the policyholder to encourage investments and activities that reduce insured and economic losses from a catastrophe peril.

(c) CONSULTATION.—The Secretary may contract with reinsurance brokers and consultants to assist the Secretary in the design and management of the Program.

(d) PROGRAM PHASE-IN TIMELINE.—The Secretary shall—

(1) not later than January 1 of the year beginning 4 years after the date of enactment of this Act, operate the Program for the perils of wind and hurricane;

(2) not later than January 1 of the year beginning 5 years after the date of enactment of this Act, operate the Program for the perils of severe convective storm and wildfire;

(3) not later than January 1 of the year beginning 6 years after the date of enactment of this Act, operate the Program for the peril of flood; and

(4) not later than the earlier of January 1 of the year beginning 8 years after the date of enactment of this Act or the date on which the feasibility report described in section 4(2) is submitted, operate the Program for the peril of earthquake.

(e) THRESHOLD FOR PAYMENT.—

(1) IN GENERAL.—The Secretary shall, after consulting with the advisory committee established under subsection (h), establish a financial threshold at which a participating insurer may receive amounts from the fund established under subsection (i).

(2) THRESHOLD CALCULATION.—The threshold established under paragraph (1) shall be an amount

that is not greater than 40 percent of the probable maximum loss of an individual participating insurer for each catastrophe peril included in the Program.

(3) CONSIDERATIONS.—In establishing the threshold described in paragraph (1), the Secretary shall consider—

(A) the amount of reinsurance necessary to meaningfully reduce the cost to the participating insurer to—

(i) provide coverage for catastrophe perils covered by the Program; and

(ii) encourage States to require participating insurers to offer an all-perils property insurance policy;

(B) the levels of primary insurer retention and private reinsurance market capacity necessary to—

(i) promote stable and competitive markets for catastrophe reinsurance; and

(ii) incentivize the establishment by private parties of capital market alternatives to reinsurance, for example the creation of a market for catastrophe bonds; and

(C) the role of the Program in promoting investments by participating insurers that would be aimed at decreasing losses.

(f) PREMIUMS.—

(1) IN GENERAL.—The Secretary shall require participating insurers to pay a premium to the Secretary each quarter.

(2) PREMIUM AMOUNT CONSIDERATIONS.—The amount of the premium required under paragraph (1) shall reflect only the following considerations:

(A) The expected average annual losses for the participating insurer under the specific terms of the reinsurance coverage, as calculated by the Secretary based on the exposure of the participating insurer.

(B) The administrative costs to administer and manage the Program.

(C) A trend factor to account for increases over time in the cost of average annual losses for participating insurers, as determined by the Secretary.

(3) CONSULTATION.—The Secretary shall consult with the advisory committee established under subsection (i) when establishing premium amounts

and may contract for services to assist in the establishment of premium amounts.

(4) MINIMUM PREMIUM REQUIRED.—The Secretary may not establish any premium that is less than 50 percent of the amount equal to the sum of the—

(A) expected average annual losses for the participating insurer, as calculated by the Secretary based on the exposure of the participating insurer; and

(B) administrative costs to administer and manage the Program.

(5) PREMIUM ADJUSTMENTS.—The Secretary shall adjust premiums each quarter for each participating insurer to reflect material changes in the exposure of the participating insurer.

(6) PREMIUM INCREASES.—Excluding any adjustment made under paragraph (5), the Secretary may increase premiums for a participating insurer not more than 7 percent annually.

(g) LOSS PREVENTION PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary, in coordination with the advisory committee established under subsection (h), State insurance agencies, and State and Federal emergency management agencies, shall

develop a list of activities that qualify as loss prevention partnerships for purposes of this section, which may include the following activities:

(A) Participating insurers identifying loss prevention steps that make properties eligible for coverage or renewal.

(B) Participating insurers making coverage contingent upon the implementation of a loss prevention activity by a potential insured party.

(2) ACTIVITIES EXCLUDED FROM LOSS PREVENTION PARTNERSHIPS.—The Secretary, State insurance agencies, and State and Federal emergency management agencies may not include the following activities as loss prevention partnerships for purposes of this section:

(A) The provision of an insurance premium discount for an investment by an insured party or potential insured party in an activity designed to reduce the losses of the participating insurer, absent an investment by the participating insurer.

(B) The provision of general information about loss prevention.

(h) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish an advisory committee to advise the Secretary with respect to the Program.

(2) MEMBERSHIP.—The committee established under paragraph (1) shall include the following members:

(A) 5 members representing consumer organizations engaged in fair housing, insurance, environmental, climate, and technology advocacy.

(B) 3 members selected from individual primary insurance companies selling property insurance policies, including one large national insurer, 1 medium sized regional insurer, and 1 small insurer.

(C) 1 global reinsurer active in United States property insurance markets.

(D) 1 domestic-focused reinsurer active in United States property insurance markets.

(E) 2 insurance regulators from a State of the United States, a territory or possession of the United States, or the District of Colombia.

(F) 2 State legislators who—

(i) serve on State legislative committees with oversight over insurance matters; and

(ii) are not employed directly or indirectly by any person or organization engaged in the business of insurance.

(G) 2 members selected from independent insurance agents who serve traditionally underserved areas.

(H) 1 representative from a mortgage lender.

(I) 1 representative from a bank.

(J) 1 representative from each of the following agencies:

(i) The Department of Housing and Urban Development.

(ii) The Department of Health and Human Services.

(iii) The Federal Housing Finance Agency.

(iv) The Department of Veterans Affairs.

(v) The Department of Agriculture.

(vi) The Federal Emergency Management Agency.

(vii) The Office of Management and Budget.

(viii) The Environmental Protection Agency.

(K) 1 representative from the Financial Stability Oversight Council.

(i) FEDERAL CATASTROPHE REINSURANCE FUND.—

(1) IN GENERAL.—The Secretary shall establish the Federal Catastrophe Reinsurance Fund to hold and invest premiums paid by participating insurers.

(2) ISSUANCE OF NOTES AND BONDS.—

(A) IN GENERAL.—If amounts in the Fund are insufficient to pay obligations to participating insurers, the Secretary shall issue notes and bonds under this paragraph, the proceeds of which shall be used for payment obligations to participating insurers.

(B) TERMS.—Notes and bonds issued under this paragraph shall be—

(i) in such form and denominations, and shall be subject to such terms and conditions of issue, conversion, redemption, maturation, and payment as the Secretary may prescribe; and

(ii) fully and unconditionally guaranteed both as to interest and principal by the United States, and that guaranty shall be expressed on the face of each bond.

(C) INTEREST.—Notes and bonds issued under this paragraph shall bear interest at a rate not less than the current average yield on outstanding market obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary.

(D) TREATMENT.—All notes and bonds issued under this paragraph, and the interest on credits with respect to those obligations, shall not be subject to taxation by any State, county, municipality, or local taxing authority.

(E) SATISFACTION.—The Secretary shall utilize investment revenue from the Fund to satisfy any notes or bonds issued under this paragraph.

(j) DATA COLLECTION.—

(1) IN GENERAL.—The Secretary shall—

(A) establish a statistical plan for quarterly reporting by participating insurers of policy-level claim transaction data;

(B) consult with the advisory committee established under subsection (h) and the National Association of Insurance Commissioners with respect to—

(i) the contents of the statistical plan; and

(ii) the method of data collection;

(C) collect quarterly reports from each participating insurer that include—

(i) a description of all exposures covered by the Program at the time of the submission of the report; and

(ii) a list of the type and amount of all claims made in the previous quarter;

(D) in a manner that does not risk public disclosure of personally identifiable information of policyholders, provide the quarterly reports received under subparagraph (C) to—

(i) the Director of the Office of Financial Research to assess risk to—

(I) the financial stability of the United States; and

(II) international financial systems arising from United States property insurance markets, including lack of available property insurance or inadequate coverage from property insurance;

(ii) the Director of the Federal Insurance Office to assess the risks to the financial stability arising from under-insurance of property insurance policies covering catastrophe perils, including in traditionally underserved insurance markets;

(iii) the head of the department of insurance in each State; and

(iv) any other Federal, State, or local government entity that, as determined by the Secretary, is related to—

(I) catastrophe loss prevention, mitigation, or recovery; or

(II) the promotion of competitive property insurance markets; and

(E) make the data collected under this paragraph available online in a manner that does not risk public disclosure of personally identifiable information of policyholders.

(2) CONTRACTING WITH A STATISTICAL AGENT.—

(A) IN GENERAL.—The Secretary shall contract with a statistical agent via a competitive bidding process to collect and review the data under this subsection for accuracy and completeness.

(B) OFFICE OF FINANCIAL RESEARCH AS THE STATISTICAL AGENT.—If the Secretary is unable to identify a qualified statistical agent for collection of data under this subsection, the Director of the Office of Financial Research shall establish a data collection infrastructure for collection of such data.

SEC. 4. REPORTS ON RELOCATION FUND AND EARTHQUAKE COVERAGE.

The Secretary shall—

(1) not later than 2 years after the date of enactment of this Act, submit to Congress a report on the feasibility of establishing a fund to relocate homes and businesses that have become uninsurable due to catastrophe perils; and

(2) not later than 3 years after the date of enactment of this Act, submit to Congress a report on the feasibility of including earthquakes as a peril covered under the all-perils property insurance policy.

SEC. 5. LONG-TERM POLICY PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall, in consultation with States and the National Association of Insurance Commissioners, establish a pilot program for all-perils property insurance policies, as perils are phased in under section 3(d), with a policy term of at least 5 years (in this section referred to as a ''multi-year policy'').

(b) PREMIUM AND POLICY CONDITIONS.—An insurer who participates in the pilot program established under this section may—

(1) increase premiums based on—

(A) price indexes of construction costs;

(B) changes in home value; and

(C) optional coverages selected by the policyholder;

(2) not increase premiums based on a change in the assessment by the insurer of the catastrophe peril risks associated with the insured property;

(3) require property maintenance consistent with the condition of the property at time of initial policy issuance; and

(4) require loss mitigation investment partnerships as a condition for the multi-year policy.

(c) ACTIONS BY THE POLICYHOLDER.—

(1) POLICY CONTINUATION.—With the agreement of the insurer, a consumer purchasing the

property during the term of the multi-year policy may continue the policy for the remainder of the term.

(2) ELECTION TO NEW INSURER.—If the policyholder elects to move to a new insurer during the term of the multi-year policy, the new insurer may take into account loss mitigation investment partnerships with the prior insurers in rate setting.

(3) CANCELLATION BY POLICYHOLDER.—If the policyholder is the recipient of any funds for loss prevention property improvements from the insurer, Federal, State, local government, or other source and the policyholder cancels the policy before the end of the multi-year policy term, the policyholder shall return a pro-rata share of such improvement to the source of the funds.