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Homeowners Insurance Protection Act of 2005 (H.R. 4366)

The Homeowners Insurance Protection Act would significantly improve the way America prepares for and protects citizens from natural catastrophes. It will ensure there are resources to pay for catastrophe losses before they occur, an approach that provides more protection at lower cost.

Taxpayers will benefit because it brings premium revenue into the Treasury in exchange for a promise to pay. Increased capacity and market certainty will improve the availability and affordability of homeowners insurance in catastrophe prone areas. The Act will improve catastrophe preparedness, prevention and mitigation programs; relief, recovery and rebuilding processes; and public education programs so that Americans are better prepared for and protected from natural catastrophes and the likelihood of payment from the Fund are reduced.

The Act would establish within the Treasury Department a Fund that would sell, at actuarially sound and self-sufficient rates, federal catastrophe reinsurance directly to state catastrophe funds. A state fund would purchase the reinsurance from the federal Fund at the beginning of the contract year, and the state fund could not tap into the available federal money until both private insurers and the state fund meet their financial obligations.

Congressional Findings. Natural catastrophes cause billions of dollars in damage and Americans need and deserve a better system that provides more protection at lower cost.

Program Authority. The reinsurance fund will be housed in the Treasury Department, and the Secretary of the Treasury shall administer the program.

National Commission on Catastrophe Preparation and Protection. The Secretary of the Treasury shall establish a Commission to manage the consumer HELP Fund. The Commission shall assist the states in developing mitigation, prevention and rebuilding programs aimed at reducing the damage caused by natural catastrophes. \$10 million is appropriated for initial expenses establishing the Fund. The Commission would include an actuary, engineer, scientist, a representative of property and casualty insurance companies, a representative of the reinsurance industry, an NAIC member or former member, the Secretary of the Department of Homeland Security or his designee, and two consumers. **Covered Perils.** This Act shall provide coverage for losses covered by a state catastrophe fund, including earthquakes, cyclones, hurricanes, tornados and volcanic eruptions.

Contracts for Reinsurance Coverage for Eligible State Programs. Private insurers will be responsible for losses covered under the insurance contract up to an amount that is determined on a state-by-state or regional basis. Next, the state catastrophe fund will pay losses up to its funding capacity, as determined by a state-by-state or regional basis. Only after

both private insurer and state catastrophe fund obligations are met will federal money be available. Coverage from the federal fund, in the form of reinsurance, would be made available to state funds at actuarially sound and self-sufficient rates and would only be available if the state adopts mitigation and prevention standards including effective building codes and enforcement. States are required to set aside a minimum of \$10 million and a maximum of 35% of invested income of the catastrophic fund for prevention and mitigation.

Meaningful mitigation and prevention standards will save lives, reduce property damage and minimize the chances that federal funds will be needed. The private/state/federal layers approach will encourage private insurers and the states to be “first responders,” and provide local solutions for local problems. When a natural catastrophe becomes so overwhelming that it cannot be handled locally, it becomes a national economic issue, and it is appropriate that the federal government provide assistance. One important element of the Act is that it calls for the Treasury to make assistance available to the states in exchange for actuarially sound and self-sufficient rates. This protects taxpayers and should provide for a revenue neutral budget score.

Minimum Level of Retained Losses and Maximum Federal Liability. Before the federal fund makes any payment to the state catastrophe fund, private insurers and the state fund must meet certain levels of retained losses. Once private insurers and the state catastrophe fund have paid their retained levels, money would be paid to the state fund per the terms of the reinsurance contract sold by the federal Consumer HELP Fund. If both private insurer and state catastrophe fund obligations are met, the Consumer HELP Fund would be available for a 1:50 year event, up to a 1:500 year event. The federal backstop would provide protection for 100% of eligible losses. The aggregate liability of the federal fund is \$200 billion per contract year.

Consumer Hurricane Earthquake Loss Protection (HELP) Fund. There is established within the Treasury Department a reinsurance fund known as the Consumer HELP Fund. To the extent the Fund does not collect enough in premium to pay for sustained losses, the Fund can issue obligations, and the money must be paid back to the Treasury with interest. With the exception of some administrative costs, the HELP Fund may only be funded through insurance premiums; no additional federal funds may be appropriated.

Price Gouging. Price gouging after a catastrophe is a federal offense.

Termination. The program sunsets in 20 years unless reauthorized.

Annual Study. The Secretary shall submit to Congress an annual report on the cost and availability of homeowner’s insurance in catastrophe prone areas as well as a status report on how the goals of the Act are being met and how it may be improved by Congress.

GAO Study of the National Flood Insurance Program and Hurricane Related Flooding. The GAO shall study the relationship between flooding and hurricanes to coordinate between the National Flood Insurance Program and the Fund and improve the effectiveness of both programs.