



# Memorandum

**Date:** September 10, 2012  
**To:** Legislative Program Committee Members  
**From:** Terri Nisich, Assistant CEO  
**Subject:** The Earthquake Insurance Affordability Act (EIAA)

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This item is on the agenda in order for the Legislative Program Committee to consider taking a position on The Earthquake Insurance Affordability Act.

H.R. 3125, the Earthquake Insurance Affordability Act (EIAA), was introduced by Congressman John Campbell and co-authored by 15 House Members. The legislation would lower costs for Californians purchasing earthquake insurance. It is the House companion bill to S. 637, introduced by Senator Dianne Feinstein.

The legislation seeks to make earthquake insurance more accessible to Californians which will increase the number of insured homeowners, thus reducing the risk to taxpayers who may otherwise bear significant costs in the aftermath of a catastrophic earthquake. Being protected by insurance is believed to be the key to a faster recovery, which will be essential to rebuilding communities.

The list of co-sponsors on this bill is extensive. It spans a broad political spectrum, but is California-centric. There are no co-sponsors from outside the California delegation for either the House or the Senate bill.

The support for the bill stems from the high price of earthquake insurance in California. The bipartisan support for the bill is likely due to constituent pressure, but also the realization that the Federal government could potentially spend billions in any large-scale earthquake response, and any homeowners protected by private insurance would reduce that future expense.

Attachments provide additional detail on this item.

## **Attachments:**

- The Earthquake Insurance Affordability Act (EIAA) Overview
- Earthquake Insurance Affordability Act – Coalition List
- H.R. 3125 Bill

## The Earthquake Insurance Affordability Act (EIAA) *Empowering Homeowners / Protecting Taxpayers*



The summer of 2011 saw our nation hit by tornadoes, earthquakes, and massive storms—they took lives and damaged homes and businesses across the nation.

And in a profound show of Nature's power, even the iconic Washington Monument was cracked by the East Coast earthquake in August—it was an event lasting less than a minute but created severe damage to the structure that compelled the U.S. Parks Service to hang a “closed to visitors” sign on the Monument entrance.

For more than 150 years now the Monument has been an eloquent symbol of our great nation's strength. But so damaged, it's a different kind of reminder: a visual one, which in our view symbolizes cracks in our country's readiness to recover after disasters strike. The recent passionate debate in Congress about disaster-relief funding further revealed just how deep those cracks run.

Without doubt, completing the disaster-relief and recovery-funding puzzle will require hard work and many different pieces. While the two of us may respectfully differ on the design and shape of many puzzle pieces, there is one on which we totally agree — the need for private-sector solutions to make homeowners' earthquake insurance more affordable and accessible again.

### **EIAA is an important part of fixing the cracks.**

**FACT:** According to the U.S. Geological Survey, earthquakes pose a significant risk to 75 million Americans in 39 states.

**FACT:** Despite the imminent threat posed by a catastrophic earthquake, only about ten percent of homeowners have earthquake insurance. It is simply too expensive.

We can't prevent earthquakes, so we must increase access to affordable earthquake insurance – to help residents recover and rebuild without a federal bailout and without any kind of taxpayer subsidy.

**That is where the Earthquake Insurance Affordability Act comes in.**

## SUMMARY OF THE LEGISLATION

At no cost to the federal government or federal taxpayers, EIAA would create a limited, committed federal guarantee to support post-earthquake bonds of highly qualified, actuarially sound state programs that offer residential earthquake insurance.

- EIAA supports families' voluntary access to fairly priced earthquake insurance.
- Qualified state programs could replace some (but by no means all) expensive reinsurance and fully maintain their existing capacity and financial strength.

### ***Getting more homes insured cuts earthquake-recovery costs, which are huge.***

After major natural disasters, there's pressure on the federal government to bail out families, communities, and states.

- Eighty percent of Californians live on or near a fault. Yet they're not ready for an earthquake—fewer than 10 percent of California households are covered by earthquake insurance.
- Across the nation more than 75 million people live in earthquake-vulnerable regions, but earthquake insurance for those homes is less available and more expensive every day.
- Most consumers believe earthquake insurance is simply too expensive.
- But earthquakes are expensive, too:
  - Federal taxpayers were on the hook for more than \$9 billion after the 1994 Northridge quake, while California's taxpayers chipped in more than half a billion dollars more.
  - It would have been much more expensive for taxpayers had not so many households in 1994 had earthquake insurance for their homes. It was over 25% then—now it's 10%.

### ***Lower-cost earthquake insurance will reduce federal taxpayers' risk.***

- Without **affordable** earthquake insurance, federal bailout or taxpayer subsidy is certain.
- In California, the public, nonprofit California Earthquake Authority (CEA) is the state's largest earthquake insurer.
  - Its premiums are driven by the high cost of reinsurance.
  - CEA must spend 40 cents of every premium dollar to buy reinsurance.
  - Since it opened in 1996, the CEA has paid reinsurers \$2.9 billion—reinsurers have paid CEA \$250,000 for claims.

### ***EIAA protects Federal taxpayers to speed recovery after the "big one" strikes.***

- EIAA is simply a debt guarantee, extended only to highly qualified borrowers. It's not a loan. It's not a federal backstop.
- EIAA provides one thing: a committed, but strictly limited, federal guarantee of private-market, post-event debt.
- Bottom line—more homeowners will be able to afford earthquake insurance and more communities will recover more quickly—and with less federal assistance.

***The EIAA will cost taxpayers zero: All fees and costs—without exception—are borne by the qualified state program. "The Congressional Budget Office has estimated that [EIAA] comes at no cost to the taxpayer." (Senator Dianne Feinstein, Congressional Record – March 17, 2011)***

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## Earthquake Insurance Affordability Act Coalition List

### LEGISLATIVE SPONSORS & CO-SPONSORS

Senator Dianne Feinstein  
 Senator Barbara Boxer  
 Congressman John Campbell  
 Congresswoman Karen Bass  
 Congressman Howard Berman  
 Congressman Brian Bilbray  
 Congresswoman Mary Bono Mack  
 Congressman Ken Calvert  
 Congresswoman Lois Capps  
 Congressman Dennis Cardoza  
 Congresswoman Judy Chu  
 Congressman Jim Costa  
 Congressman Bob Filner  
 Congressman Elton Gallegly  
 Congressman John Garamendi  
 Congressman Mike Honda  
 Congresswoman Barbara Lee  
 Congressman Jerry Lewis  
 Congresswoman Zoe Lofgren  
 Congressman Dan Lungren  
 Congresswoman Doris Matsui  
 Congressman Jerry McNerney  
 Congresswoman Loretta Sanchez  
 Congressman Adam B. Schiff  
 Congresswoman Jackie Speier  
 Congressman Mike Thompson

### BUSINESS GROUPS

Antelope Valley Chambers of Commerce  
 Baldy View Chapter, Building Industry  
 Association of Southern California  
 Bay Area Council  
 Building Industry Association of Southern  
 California  
 California Asian Chamber of Commerce  
 California Association of REALTORS®  
 California Building Industry Association (CBIA)

California Business Roundtable  
 California Chamber of Commerce  
 California Mortgage Bankers Association  
 Calxico Chamber of Commerce  
 Cathedral City Chamber of Commerce  
 Corona Del Mar Chamber of Commerce  
 Desert Valleys Builders Association  
 Greater Riverside Chambers of Commerce  
 Hispanic 100  
 Irvine Chamber of Commerce  
 Los Angeles Area Chamber of Commerce  
 Los Angeles/Ventura Chapter, Building Industry  
 Association of Southern California  
 North State Building Industry Association  
 Orange Chamber of Commerce  
 Orange County Association of REALTORS®  
 Orange County Building Industry Association  
 Orange County Business Council  
 Orange County Taxpayers Association  
 Palm Desert Chamber of Commerce  
 Rancho Mirage Chamber of Commerce  
 Riverside County Building Industry Association  
 Sacramento Metro Chamber  
 San Francisco Chamber of Commerce  
 Santa Ana Chamber of Commerce  
 Santa Cruz Chamber of Commerce  
 South Bay Association of REALTORS®  
 South Orange County Regional Chamber of  
 Commerce  
 Southland Regional Association of REALTORS®  
 Southwest California Legislative Council  
 Temecula Valley Chamber of Commerce  
 Torrance Area Chamber of Commerce  
 Valley Industry and Commerce Association  
 (VICA)  
 Vietnamese American Chamber of Commerce



## Earthquake Insurance Affordability Act Coalition List

### STAKEHOLDERS

Automobile Club of Southern California  
Blue Cod Technologies  
Mercury Insurance

### LOCAL GOVERNMENT

Mayor Antonio R. Villaraigosa, City of Los Angeles  
Mayor Edwin M. Lee, City of San Francisco  
Mayor Chuck Reed, City of San Jose  
Mayor Jerry Sanders, City of San Diego  
Mayor Tom Tait, City of Anaheim  
Mayor Jean Quan, City of Oakland  
Mayor Michael F. Kotowski, City of Campbell  
Mayor Eduardo Garcia, City of Coachella  
Mayor Frank Scotto, City of Torrance  
Mayor Robert A. Spiegel, City of Palm Desert  
Mayor Stanley P. Thurston, City of Merced  
Supervisor John J. Benoit, Riverside County  
Supervisor Bob Buster, Riverside County  
Supervisor Greg Cox, San Diego County  
Supervisor Bruce Gibson, San Luis Obispo County  
Supervisor Mike McGowan, Yolo County  
Supervisor Dave Potter, Monterey County  
Supervisor John Tavaglione, Riverside County  
Supervisor Jeff Stone, Riverside County  
Supervisor Shirlee Zane, Sonoma County  
Supervisor Scott Wiener, City and County of San Francisco  
City of Ceres  
City of Corona  
City of Costa Mesa  
City of Gilroy  
City of Desert Hot Springs  
City of Laguna Woods  
City of San Clemente  
City of Rancho Mirage

County of Contra Costa  
County of Del Norte  
County of Los Angeles  
County of Marin  
County of San Bernardino  
County of San Mateo

California State Association of Counties (CSAC)  
League of California Cities

### NON-PROFIT ORGANIZATIONS

American Red Cross  
Earthquake Engineering Research Institute  
National Hazard Mitigation Association

### CONSUMER GROUPS

Consumer Watchdog  
United Policyholders

### OTHER

Alfred E. Alquist Seismic Safety Commission  
Governing Board, California Earthquake Authority

112TH CONGRESS  
1ST SESSION

# H. R. 3125

To establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2011

Mr. CAMPBELL (for himself, Mr. LEWIS of California, and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Earthquake Insurance Affordability Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Eligible State programs.
- Sec. 5. Establishment of debt-guarantee program.
- Sec. 6. Effect of guarantee.
- Sec. 7. Assessment at time of guarantee.
- Sec. 8. Payment of losses.
- Sec. 9. Full faith and credit.
- Sec. 10. Budgetary impact; costs.
- Sec. 11. Regulations.

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

2 (a) FINDINGS.—Congress finds the following:

3 (1) Major earthquakes are likely in the United  
4 States. For example, the United States Geological  
5 Survey predicts that there is a 99.7 percent chance  
6 that a magnitude 6.7 earthquake will strike in Cali-  
7 fornia in the next 30 years and that there is a 46  
8 percent chance that a magnitude 7.5 earthquake will  
9 strike in California in the next 30 years. Earth-  
10 quakes can be caused by volcanic or tectonic events  
11 and result in destructive shaking of the earth, fires,  
12 landslides, volcanic eruptions, and tsunamis.

13 (2) Despite the known risk of earthquakes, rel-  
14 atively few homeowners have earthquake insurance.  
15 For example, in California, 88 percent of homes in-  
16 sured for fire do not have earthquake insurance. In  
17 the event of a catastrophic earthquake, the lack of  
18 homeowner earthquake-insurance coverage will slow  
19 recovery, create economic hardship, and increase the

1 risk of mortgage and other credit defaults and ad-  
2 versely affect the Nation's banking system.

3 (3) It is important that States improve the af-  
4 fordability, availability, and quality of earthquake in-  
5 surance so that more homeowners will purchase cov-  
6 erage. For example, California has created the Cali-  
7 fornia Earthquake Authority to provide earthquake  
8 insurance to homeowners through private-sector in-  
9 surers.

10 (4) It is a proper role of the Federal Govern-  
11 ment to help prepare and protect its citizens from  
12 catastrophes such as earthquakes and to facilitate  
13 consumer protection, victim assistance, and indi-  
14 vidual and community recovery, including financial  
15 recovery.

16 (b) PURPOSES.—The purposes of this Act are to es-  
17 tablish a program—

18 (1) to promote the availability of private capital  
19 to provide liquidity and capacity to State earthquake  
20 insurance programs; and

21 (2) to expedite the payment of claims under  
22 State earthquake insurance programs and better as-  
23 sist the financial recovery from significant earth-  
24 quakes by authorizing the Secretary of the Treasury  
25 to guarantee debt for such purposes.



1 **SEC. 3. DEFINITIONS.**

2 In this Act, the following definitions shall apply:

3 (1) **COMMITMENT TO GUARANTEE.**—The term  
4 “commitment to guarantee” means a commitment to  
5 make debt guarantees to an eligible State program  
6 pursuant to section 5.

7 (2) **ELIGIBLE STATE PROGRAM.**—The term “eli-  
8 gible State program” means a State program that,  
9 pursuant to section 4, is eligible to receive a debt  
10 guarantee under this Act.

11 (3) **INSURED LOSS.**—The term “insured loss”  
12 means any loss resulting from an earthquake, an  
13 earthquake-related event, or fire following an earth-  
14 quake that is determined by an eligible State pro-  
15 gram as being covered by insurance made available  
16 under that eligible State program.

17 (4) **QUALIFYING ASSETS.**—The term “quali-  
18 fying assets” means the policyholder surplus of the  
19 eligible State program as stated in the most recent  
20 quarterly financial statement filed by the program  
21 with the domiciliary regulator of the program in the  
22 last quarter ending prior to an insured-loss trig-  
23 gering event or events.

24 (5) **RESIDENTIAL PROPERTY INSURANCE.**—The  
25 term “residential property insurance” means insur-  
26 ance coverage for—

1 (A) individually owned residential struc-  
2 tures of not more than 4 dwelling units, individ-  
3 ually owned condominium units, or individually  
4 owned mobile homes, and their contents, located  
5 in a State and used exclusively for residential  
6 purposes or a tenant’s policy written to include  
7 personal contents of a residential unit located in  
8 the State, but shall not include—

9 (i) insurance for real property or its  
10 contents used for any commercial, indus-  
11 trial, or business purpose, except a struc-  
12 ture of not more than 4 dwelling units  
13 rented for individual residential purposes;  
14 or

15 (ii) a policy that does not include any  
16 of the perils insured against in a standard  
17 fire policy or any earthquake policy; or

18 (B) commercial residential property, which  
19 includes property owned by a condominium as-  
20 sociation or its members, property owned by a  
21 cooperative association, or an apartment build-  
22 ing.

23 (6) SECRETARY.—The term “Secretary” means  
24 the Secretary of the Treasury.

1           (7) STATE.—The term “State” means each of  
2           the several States of the United States, the District  
3           of Columbia, the Commonwealth of Puerto Rico, the  
4           Commonwealth of the Northern Mariana Islands,  
5           Guam, the United States Virgin Islands, American  
6           Samoa, and any other territory or possession of the  
7           United States.

8   **SEC. 4. ELIGIBLE STATE PROGRAMS.**

9           (a) ELIGIBLE STATE PROGRAMS.—A State program  
10          shall be considered an eligible State program for purposes  
11          of this Act if the State program or other State entity au-  
12          thorized to make such determinations certifies to the Sec-  
13          retary, in accordance with the procedures established  
14          under subsection (b), that the State program complies  
15          with the following requirements:

16               (1) STATE PROGRAM DESIGN.—The State pro-  
17               gram is established and authorized by State law as  
18               an earthquake insurance program that offers resi-  
19               dential property insurance coverage for insured  
20               losses to property, contents, and additional living ex-  
21               penses, and which is not a State program that re-  
22               quires insurers to pool resources to provide property  
23               insurance coverage for earthquakes.

24               (2) OPERATION.—The State program shall  
25               meet the following requirements:

1 (A) A majority of the members of the gov-  
2 erning body of the State program shall be pub-  
3 lic officials or appointed by public officials.

4 (B) The State shall have a financial inter-  
5 est in the State program.

6 (C) If the State has at any time appro-  
7 priated amounts from the State program's  
8 funds for any purpose other than payments for  
9 losses insured under the State program, or pay-  
10 ments made in connection with any of the State  
11 program's authorized activities, the State shall  
12 have returned such amounts to the State fund,  
13 together with interest on such amounts.

14 (3) TAX STATUS.—The State program shall  
15 have received from the Secretary (or the Secretary's  
16 designee) a written determination, within the mean-  
17 ing of section 6110(b) of the Internal Revenue Code  
18 of 1986, that the State program either—

19 (A) constitutes an “integral part” of the  
20 State that has created it; or

21 (B) is otherwise exempt from Federal in-  
22 come taxation.

23 (4) EARNINGS.—The State program may not  
24 provide for any distribution of any part of any net

1 profits of the State program to any insurer that par-  
2 ticipates in the State program.

3 (5) LOSS PREVENTION AND MITIGATION.—

4 (A) MITIGATION OF LOSSES.—The State  
5 program shall include provisions designed to en-  
6 courage and support programs to mitigate  
7 losses for which the State insurance program  
8 was established to provide insurance.

9 (B) OPERATIONAL REQUIREMENTS.—The  
10 State program shall operate in a State that—

11 (i) has in effect and enforces, or the  
12 appropriate local governments within the  
13 State have in effect and enforce, nationally  
14 recognized building, seismic-design, and  
15 safety codes and consensus-based stand-  
16 ards; and

17 (ii) has taken actions to establish an  
18 insurance rate structure that takes into ac-  
19 count measures to mitigate insured losses.

20 (6) REQUIREMENTS REGARDING COVERAGE.—

21 The State program—

22 (A) may not, except for charges or assess-  
23 ments related to post-event financing or bond-  
24 ing, involve cross-subsidization between any  
25 separate property-and-casualty insurance lines

1           offered under the State program pursuant to  
2           paragraph (1);

3           (B) shall be subject to a requirement  
4           under State law that for earthquake insurance  
5           coverage made available under the State insur-  
6           ance program the premium rates charged on  
7           such insurance shall be actuarially sound; and

8           (C) shall make available to all qualifying  
9           policyholders insurance coverage and mitigation  
10          services on a basis that is not unfairly discrimi-  
11          natory.

12          (b) ANNUAL CERTIFICATION.—The Secretary shall  
13          establish procedures for initial certification and annual re-  
14          certification as an eligible State program.

15          **SEC. 5. ESTABLISHMENT OF DEBT-GUARANTEE PROGRAM.**

16          (a) AUTHORITY OF SECRETARY.—The Secretary is  
17          authorized and shall have the powers and authorities nec-  
18          essary—

19                 (1) to guarantee, and to enter into commit-  
20                 ments to guarantee, holders of debt against loss of  
21                 principal or interest, or both, on any debt issued by  
22                 eligible State programs for purposes of this Act; and

23                 (2) to certify and recertify State catastrophe in-  
24                 surance programs that cover earthquake peril to be-

1       come or remain eligible for the benefits of such a  
2       debt-guarantee program.

3       (b) LIMIT ON OUTSTANDING DEBT GUARANTEE.—

4       The aggregate amount of debt covered by the Secretary's  
5       guarantees and commitments to guarantee for all eligible  
6       State programs outstanding at any time shall not exceed  
7       \$5,000,000,000, including interest.

8       (c) FUNDING.—

9               (1) APPROPRIATION OF FEDERAL PAYMENTS.—

10       Subject to subsection (b), there are hereby appro-  
11       priated, out of funds in the Treasury not otherwise  
12       appropriated, such sums as may be necessary to sat-  
13       isfy debt guarantee commitments extended to eligible  
14       State programs under this Act.

15               (2) CERTIFICATION FEE.—Upon certification or  
16       recertification as an eligible State program under  
17       section 4(a) or 4(b), a State program shall be  
18       charged a certification fee sufficient in the judge-  
19       ment of the Secretary at the time of certification to  
20       cover—

21                       (A) applicable administrative costs arising  
22                       from each certification or recertification, includ-  
23                       ing all pre-certification costs and a proportional  
24                       share of the costs arising from the administra-  
25                       tion of the program established under this Act,

1 but in any event not to exceed one-half of 1  
2 percent annum of the aggregate principal  
3 amount of the debt for which the eligible State  
4 program is issued a guarantee commitment;  
5 and

6 (B) any probable losses on the aggregate  
7 principal amount of the debt for which the eligi-  
8 ble State program is issued a guarantee com-  
9 mitment.

10 (3) RULE OF CONSTRUCTION.—Any funds ex-  
11 pended or obligated by the Secretary for the pay-  
12 ment of administrative expenses for conduct of the  
13 debt-guarantee program authorized by this Act shall  
14 be deemed appropriated at the time of such expendi-  
15 ture or obligation from the certification and recer-  
16 tification fees collected pursuant to paragraph (2).

17 (d) CONDITIONS FOR GUARANTEE ELIGIBILITY.—A  
18 debt guarantee under this section may be made only if  
19 the Secretary has issued a commitment to guarantee to  
20 a certified, eligible State program. The commitment to  
21 guarantee shall be in force for a period of 3 years from  
22 its initial issuance and may be extended by the Secretary  
23 for 1 year on each annual anniversary of the issuance of  
24 the commitment to guarantee. The commitment to guar-  
25 antee and each extension of such commitment may be



1 issued by the Secretary only if the following requirements  
2 are satisfied:

3 (1) The eligible State program submits to the  
4 Secretary a report setting forth, in such form and  
5 including such information as the Secretary shall re-  
6 quire, how the eligible State program plans to repay  
7 guarantee-eligible debt it may incur.

8 (2) Based on the eligible State program's report  
9 submitted pursuant to paragraph (1), the Secretary  
10 determines there is reasonable assurance that the el-  
11 igible State program can meet its repayment obliga-  
12 tion under such debt.

13 (3) The eligible State program enters into an  
14 agreement with the Secretary, as the Secretary shall  
15 require, that the eligible State program will not use  
16 Federal funds of any kind or from any Federal  
17 source (including any disaster or other financial as-  
18 sistance, loan proceeds, and any other assistance or  
19 subsidy) to repay the debt.

20 (4) The commitment to guarantee shall specify  
21 and require the payment of the fees for debt guar-  
22 antee coverage.

23 (5) The maximum term of the debt specified in  
24 a commitment issued under this section may not ex-  
25 ceed 30 years.

1 (e) MANDATORY ASSISTANCE FOR ELIGIBLE STATE  
2 PROGRAMS.—The Secretary shall upon the request of an  
3 eligible State program and pursuant to a commitment to  
4 guarantee issued under subsection (d), provide a guar-  
5 antee under subsection (f) for such eligible State program  
6 in the amount requested by such eligible State program,  
7 subject to the limitation under subsection (f)(2).

8 (f) CATASTROPHE DEBT GUARANTEE.—A debt guar-  
9 antee under this subsection for an eligible State program  
10 shall be subject to the following requirements:

11 (1) PRECONDITIONS.—The eligible State pro-  
12 gram shows to the satisfaction of the Secretary that  
13 insured losses to the eligible State program arising  
14 from the event or events covered by the commitment  
15 to guarantee are likely to exceed 80 percent of the  
16 eligible State program’s qualifying assets available to  
17 pay claims, as calculated on the date of the event  
18 and based on the eligible State program’s most re-  
19 cent quarterly financial statement filed with its  
20 domiciliary regulator.

21 (2) USE OF FUNDS.—Proceeds of debt guaran-  
22 teed under this section shall be used only to pay the  
23 costs of issuing debt and of securing or providing  
24 claim-payment capacity for paying the insured losses  
25 and loss adjustment expenses incurred by an eligible

1 State program. Such amounts shall not be used for  
2 any other purpose.

3 **SEC. 6. EFFECT OF GUARANTEE.**

4 The issuance of any guarantee by the Secretary  
5 under this Act shall be conclusive evidence that—

6 (1) the guarantee has been properly obtained;

7 (2) the underlying debt qualified for such guar-  
8 antee; and

9 (3) the guarantee is valid, legal, and enforce-  
10 able.

11 **SEC. 7. ASSESSMENT AT TIME OF GUARANTEE.**

12 To extent not satisfied by the fees collected under sec-  
13 tion 5(c)(2), the Secretary shall charge and collect fees  
14 for each guarantee issued in amounts sufficient in the  
15 judgement of the Secretary at the time of issuance of the  
16 guarantee to cover applicable administrative costs and  
17 probable losses on the guaranteed obligations.

18 **SEC. 8. PAYMENT OF LOSSES.**

19 (a) IN GENERAL.—The Secretary agrees to pay to  
20 the duly appointed paying agent or trustee (in this section  
21 referred to as the “Fiscal Agent”) for the eligible State  
22 program that portion of the principal and interest on any  
23 debt guaranteed under this Act that shall become due to  
24 payment but shall be unpaid by the eligible State program  
25 as a result of such program having provided insufficient

1 funds to the Fiscal Agent to make such payments. The  
2 Secretary shall make such payments on the date such  
3 principal or interest becomes due for payment or on the  
4 business day next following the day on which the Secretary  
5 shall receive notice of failure on the part of the eligible  
6 State program to provide sufficient funds to the Fiscal  
7 Agent to make such payments, whichever is later. Upon  
8 making such payment, the Secretary shall be subrogated  
9 to all the rights of the ultimate recipient of the payment.  
10 The Secretary shall be entitled to recover from the eligible  
11 State program the amount of any payments made pursu-  
12 ant to any guarantee entered into under this Act.

13 (b) ROLE OF THE ATTORNEY GENERAL.—The Attor-  
14 ney General shall take such action as may be appropriate  
15 to enforce any right accruing, and to collect any and all  
16 sums owing, to the United States as a result of the  
17 issuance of any guarantee under this Act.

18 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
19 tion shall be construed to preclude any forbearance for the  
20 benefit of the eligible State program which may be agreed  
21 upon by the parties to the guaranteed debt and approved  
22 by the Secretary, provided that budget authority for any  
23 resulting cost, as such term is defined under the Federal  
24 Credit Reform Act of 1990, is available.

1 (d) RIGHT OF THE SECRETARY.—Notwithstanding  
2 any other provision of law relating to the acquisition, han-  
3 dling, or disposal of property by the United States, the  
4 Secretary shall have the right in the discretion of the Sec-  
5 retary to complete, recondition, reconstruct, renovate, re-  
6 pair, maintain, operate, or sell any property acquired by  
7 the Secretary pursuant to the provisions of this Act.

8 **SEC. 9. FULL FAITH AND CREDIT.**

9 The full faith and credit of the United States is  
10 pledged to the payment of all guarantees issued under this  
11 Act with respect to principal and interest.

12 **SEC. 10. BUDGETARY IMPACT; COSTS.**

13 For purposes of section 502(5) of the Federal Credit  
14 Reform Act of 1990, the cost of guarantees to be issued  
15 under this Act shall be calculated by adjusting the dis-  
16 count rate in section 502(5)(E) of such Act for market  
17 risk.

18 **SEC. 11. REGULATIONS.**

19 The Secretary shall issue any regulations necessary  
20 to carry out the debt-guarantee program established under  
21 this Act.

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