

107TH CONGRESS  
1ST SESSION

# H. R. 1789

To amend the Internal Revenue Code of 1986 to exempt from income tax State-created organizations providing property and casualty insurance for property for which such coverage is otherwise unavailable.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2001

Mr. SHAW (for himself, Mr. FOLEY, Mr. DAVIS of Florida, Mr. SCARBOROUGH, Mrs. MEEK of Florida, Ms. ROS-LEHTINEN, Ms. BROWN of Florida, Mr. MICA, Mr. DIAZ-BALART, Mr. WEXLER, Mr. PUTNAM, Mrs. THURMAN, Mr. CRENSHAW, Mr. KELLER, Mr. GOSS, Mr. BILIRAKIS, Mr. DEUTSCH, and Mr. WELDON of Florida) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exempt from income tax State-created organizations providing property and casualty insurance for property for which such coverage is otherwise unavailable.

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

1 **SECTION 1. EXEMPTION FROM INCOME TAX FOR STATE-**  
2 **CREATED ORGANIZATIONS PROVIDING PROP-**  
3 **ERTY AND CASUALTY INSURANCE FOR PROP-**  
4 **ERTY FOR WHICH SUCH COVERAGE IS OTH-**  
5 **ERWISE UNAVAILABLE.**

6 (a) IN GENERAL.—Subsection (c) of section 501 of  
7 the Internal Revenue Code of 1986 (relating to exemption  
8 from tax on corporations, certain trusts, etc.) is amended  
9 by adding at the end the following new paragraph:

10 “(28)(A) Any association created before Janu-  
11 ary 1, 1999, by State law and organized and oper-  
12 ated exclusively to provide property and casualty in-  
13 surance coverage for property located within the  
14 State for which the State determines, through ap-  
15 propriate State action, that coverage in the author-  
16 ized insurance market is not reasonably available to  
17 a substantial number of insurable real properties  
18 (and any successor association) if—

19 “(i) no part of the net earnings of which  
20 inures to the benefit of any private shareholder  
21 or individual,

22 “(ii) except as provided in clause (v), no  
23 part of the assets of which may be used for, or  
24 diverted to, any purpose other than—

25 “(I) to satisfy, in whole or in part, the  
26 liability of the association for, or with re-

1           spect to, claims made on policies written  
2           by the association,

3                   “(II) to invest in investments author-  
4           ized by applicable law,

5                   “(III) to pay reasonable and nec-  
6           essary administration expenses in connec-  
7           tion with the establishment and operation  
8           of the association and the processing of  
9           claims against the association, or

10                   “(IV) to make remittances pursuant  
11           to State law to be used by the State to  
12           provide for the payment of claims on poli-  
13           cies written by the association, purchase  
14           reinsurance covering losses under such  
15           policies, or to support governmental pro-  
16           grams to prepare for or mitigate the ef-  
17           fects of natural catastrophic events,

18                   “(iii) the State law governing the associa-  
19           tion permits the association to levy assessments  
20           on insurance companies authorized to sell prop-  
21           erty and casualty insurance in the State, or on  
22           property and casualty insurance policyholders  
23           with insurable interests in property located in  
24           the State to fund deficits of the association, in-  
25           cluding the creation of reserves,

1           “(iv) the plan of operation of the associa-  
2           tion is subject to approval by the chief executive  
3           officer or other official of the State, by the  
4           State legislature, or both, and

5           “(v) the assets of the association revert  
6           upon dissolution to the State, the State’s des-  
7           ignee, or an entity designated by the State law  
8           governing the association, or State law does not  
9           permit the dissolution of the association.

10          “(B)(i) An entity described in clause (ii) (and  
11          any successor entity) shall be disregarded as a sepa-  
12          rate entity and treated as part of the association de-  
13          scribed in subparagraph (A) from which it receives  
14          remittances described in clause (ii) if an election is  
15          made within 30 days after the date that such asso-  
16          ciation is determined to be exempt from tax.

17          “(ii) An entity is described in this clause if it  
18          is an entity or fund created before January 1, 1999,  
19          pursuant to State law and organized and operated  
20          exclusively to receive, hold, and invest remittances  
21          from an association described in subparagraph (A)  
22          and exempt from tax under subsection (a), to make  
23          disbursements to pay claims on insurance contracts  
24          issued by such association, and to make disburse-  
25          ments to support governmental programs to prepare

1 for or mitigate the effects of natural catastrophic  
2 events.”.

3 (b) UNRELATED BUSINESS TAXABLE INCOME.—

4 Subsection (a) of section 512 of such Code (relating to  
5 unrelated business taxable income) is amended by adding  
6 at the end the following new paragraph:

7 “(6) SPECIAL RULE APPLICABLE TO ORGANIZA-  
8 TIONS DESCRIBED IN SECTION 501(c)(28)—In the  
9 case of an organization described in section  
10 501(c)(28), the term ‘unrelated business taxable in-  
11 come’ means taxable income for a taxable year com-  
12 puted without the application of section 501(c)(28)  
13 if at the end of the immediately preceding taxable  
14 year the organization’s net equity exceeded 15 per-  
15 cent of the total coverage in force under insurance  
16 contracts issued by the organization and outstanding  
17 at the end of such preceding year.”.

18 (c) TRANSITIONAL RULE.—No income or gain shall  
19 be recognized by an association as a result of a change  
20 in status to that of an association described by section  
21 501(c)(28) of the Internal Revenue Code of 1986, as  
22 amended by subsection (a).

1       (d) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to taxable years beginning after  
3 December 31, 2001.

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