

115TH CONGRESS
1ST SESSION

S. 1507

To amend the National Flood Insurance Act of 1968 to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide funding assistance to reduce flood risks, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2017

Mr. REED (for himself, Mr. KENNEDY, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the National Flood Insurance Act of 1968 to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide funding assistance to reduce flood risks, 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 may be cited as the “State Flood Mitigation
5 Revolving Fund Act of 2017”.

1 **SEC. 2. STATE REVOLVING LOAN FUNDS FOR FLOOD MITI-**
 2 **GATION.**

3 Chapter I of the National Flood Insurance Act of
 4 1968 (42 U.S.C. 4011 et seq.) is amended by adding at
 5 the end the following:

6 **“SEC. 1326. STATE REVOLVING LOAN FUNDS FOR FLOOD**
 7 **MITIGATION.**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘Community Rating System’
 10 means the community rating system carried out
 11 under section 1315(b);

12 “(2) the term ‘eligible State’ means a State, the
 13 District of Columbia, and the Commonwealth of
 14 Puerto Rico;

15 “(3) the term ‘insular area’ means—

16 “(A) Guam;

17 “(B) American Samoa;

18 “(C) the Commonwealth of the Northern
 19 Mariana Islands;

20 “(D) the Federated States of Micronesia;

21 “(E) the Republic of the Marshall Islands;

22 “(F) the Republic of Palau; and

23 “(G) the United States Virgin Islands;

24 “(4) the term ‘intended use plan’ means a plan
 25 prepared under subsection (d)(1);

1 “(5) the term ‘low-income geographic area’
2 means an area described in paragraph (1) or (2) of
3 section 301(a) of the Public Works and Economic
4 Development Act of 1965 (42 U.S.C. 3161(a));

5 “(6) the term ‘low-income homeowner’ means
6 the owner of a primary residence, the household in-
7 come of which in a taxable year is not more than
8 150 percent of the national median household in-
9 come;

10 “(7) the term ‘participating State’ means an el-
11 igible State that—

12 “(A) has entered into an agreement under
13 subsection (b)(1); and

14 “(B) agrees to comply with the require-
15 ments of this section;

16 “(8) the term ‘pre-FIRM building’ means a
17 building for which construction or substantial im-
18 provement occurred before the effective date of the
19 initial Flood Insurance Rate Map published by the
20 Administrator under section 1360 for the area in
21 which the building is located;

22 “(9) the term ‘repetitive loss structure’ has the
23 meaning given the term in section 1370(a);

24 “(10) the term ‘severe repetitive loss property’
25 has the meaning given the term in section 1307(h);

1 “(11) the term ‘State loan fund’ means a flood
2 mitigation assistance revolving loan fund established
3 by an eligible State under this section; and

4 “(12) the term ‘tribal government’ means the
5 recognized government of an Indian tribe, or the
6 governing body of an Alaska Native regional or vil-
7 lage corporation, that has been determined eligible
8 to receive services from the Bureau of Indian Af-
9 fairs.

10 “(b) GENERAL AUTHORITY.—

11 “(1) IN GENERAL.—The Administrator may
12 enter into an agreement with an eligible State to
13 provide a capitalization grant for the eligible State
14 to establish a revolving fund that will provide fund-
15 ing assistance to help homeowners, businesses, non-
16 profit organizations, and communities reduce flood
17 risk in order to decrease—

18 “(A) the loss of life and property;

19 “(B) the cost of flood insurance; and

20 “(C) Federal disaster payments.

21 “(2) TIMING OF DEPOSIT AND AGREEMENTS
22 FOR DISTRIBUTION OF FUNDS.—

23 “(A) IN GENERAL.—Not later than the
24 last day of the fiscal year following the fiscal
25 year in which a capitalization grant is made to

1 a participating State under paragraph (1), the
2 participating State shall—

3 “(i) deposit the grant in the State
4 loan fund of the State; and

5 “(ii) enter into one or more agree-
6 ments to distribute the grant funds for
7 purposes authorized under subsection (c).

8 “(B) NONCOMPLIANCE.—Except as pro-
9 vided in subparagraph (C), if a participating
10 State does not comply with subparagraph (A)
11 with respect to a grant, the Administrator shall
12 reallocate the grant in accordance with para-
13 graph (3)(B).

14 “(C) EXCEPTION.—The Administrator
15 may not reallocate any funds under subpara-
16 graph (B) to a participating State that violated
17 subparagraph (A) with respect to a grant made
18 during the same fiscal year in which the funds
19 to be reallocated were originally made available.

20 “(3) ALLOCATION.—

21 “(A) IN GENERAL.—The Administrator
22 shall allocate amounts made available to carry
23 out this section to participating States—

1 “(i) for the participating States to de-
2 posit in the State loan funds established by
3 the participating States; and

4 “(ii) except as provided in paragraph
5 (6), in accordance with the requirements
6 described in subparagraph (B).

7 “(B) REQUIREMENTS.—The requirements
8 described in this subparagraph are as follows:

9 “(i) Fifty percent of the total amount
10 made available under subparagraph (A)
11 shall be allocated so that each partici-
12 pating State receives the percentage
13 amount that is obtained by dividing the
14 number of properties that were insured
15 under the national flood insurance pro-
16 gram in that State in the fiscal year pre-
17 ceding the fiscal year in which the amount
18 is allocated by the total number of prop-
19 erties that were insured under the national
20 flood insurance program in the fiscal year
21 preceding the fiscal year in which the
22 amount is allocated.

23 “(ii) Fifty percent of the total amount
24 made available under subparagraph (A)
25 shall be allocated so that each partici-

1 pating State receives a percentage of funds
2 that is equal to the product obtained under
3 clause (iii)(IV) with respect to that partici-
4 pating State after following the procedures
5 described in clause (iii).

6 “(iii) The procedures described in this
7 clause are as follows:

8 “(I) Divide the total amount col-
9 lected in premiums for properties in-
10 sured under the national flood insur-
11 ance program in each participating
12 State during the previous fiscal year
13 by the number of properties insured
14 under the national flood insurance
15 program in that State for that fiscal
16 year.

17 “(II) Add together each quotient
18 obtained under subclause (I).

19 “(III) For each participating
20 State, divide the quotient obtained
21 under subclause (I) with respect to
22 that State by the sum obtained under
23 subclause (II).

24 “(IV) For each participating
25 State, multiply the amount that is 50

1 percent of the total amount made
2 available under subparagraph (A) by
3 the quotient obtained under subclause
4 (III).

5 “(iv) Except as provided in paragraph
6 (5), in a fiscal year—

7 “(I) a participating State may
8 not receive more than 15 percent of
9 the total amount that is made avail-
10 able under subparagraph (A) in that
11 fiscal year; and

12 “(II) if a participating State,
13 based on the requirements under
14 clauses (i) through (iii), would, but
15 for the limit under subclause (I) of
16 this clause, receive an amount that is
17 greater than the amount the State is
18 authorized to receive under that sub-
19 clause, the difference between the au-
20 thorized amount and the amount oth-
21 erwise due to the State under clauses
22 (i) through (iii) shall be allocated to
23 other participating States—

24 “(aa) that, in that fiscal
25 year, have not received an

1 amount under subparagraph (A)
2 that is more than the authorized
3 amount under subclause (I) of
4 this clause; and

5 “(bb) by using the require-
6 ments under clauses (i) through
7 (iii), except that a participating
8 State may receive an allocation
9 under this subclause only if the
10 allocation does not result in the
11 State receiving a total amount
12 for the fiscal year under subpara-
13 graph (A) that is greater than
14 the authorized amount under
15 subclause (I).

16 “(4) NO REVOLVING FUND REQUIRED.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of this section, and subject to
19 subparagraph (B), a participating State that
20 receives less than \$4,000,000 under paragraph
21 (3)(B) in a fiscal year may distribute the funds
22 directly in the form of grants or technical as-
23 sistance for a purpose described in subsection
24 (c)(2), without regard to whether the State has
25 established a State loan fund.

1 “(B) STATE MATCHING.—A participating
2 State that exercises the authority under sub-
3 paragraph (A) in a fiscal year shall provide
4 matching funds from non-Federal sources in an
5 amount that is equal to 25 percent of the
6 amount that the State receives under paragraph
7 (3)(B) in that fiscal year for purposes described
8 in subparagraph (A).

9 “(5) ALLOCATION OF REMAINING FUNDS.—
10 After allocating amounts made available to carry out
11 this section for a fiscal year in accordance with
12 paragraph (3), the Administrator shall allocate any
13 remaining amounts made available for that fiscal
14 year to participating States, using the procedures
15 described in clauses (i) through (iii) of paragraph
16 (3)(B).

17 “(6) RESERVATION OF FUNDS.—The Adminis-
18 trator shall reserve not more than 1.5 percent of the
19 amount made available to carry out this section in
20 a fiscal year—

21 “(A) for administrative costs incurred in
22 carrying out this section;

23 “(B) to provide technical assistance to re-
24 cipients of grants under this section; and

1 “(C) to enter into grant agreements with
2 tribal governments and insular areas, with the
3 grant funds to be distributed—

4 “(i) according to criteria established
5 by the Administrator; and

6 “(ii) for a purpose described in sub-
7 section (c)(2).

8 “(c) USE OF FUNDS.—

9 “(1) IN GENERAL.—Amounts deposited in a
10 State loan fund, including repayments of loans made
11 from the fund and interest earned on the amounts
12 in the fund, shall be used—

13 “(A) consistent with paragraphs (2) and
14 (3) and subsection (g), to provide financial as-
15 sistance for—

16 “(i) homeowners, businesses, and non-
17 profit organizations that are eligible to
18 participate in the national flood insurance
19 program; and

20 “(ii) any local government that par-
21 ticipates in the national flood insurance
22 program;

23 “(B) as a source of revenue and security
24 for leveraged loans, the proceeds of which shall
25 be deposited in the State loan fund; or

1 “(C) for the sale of bonds as security for
2 payment of the principal and interest on rev-
3 enue or general obligation bonds issued by the
4 participating State to provide matching funds
5 under subsection (g), if the proceeds from the
6 sale of the bonds are deposited in the State
7 loan fund.

8 “(2) PURPOSES.—A recipient of financial as-
9 sistance provided through amounts from a State
10 loan fund—

11 “(A) shall use the amounts to reduce—

12 “(i) flood risk; or

13 “(ii) potential Federal disaster assist-
14 ance or claims submitted under the na-
15 tional flood insurance program;

16 “(B) shall use the amounts in a cost-effec-
17 tive manner under requirements established by
18 the State, which may require an applicant for
19 financial assistance to submit a cost-benefit
20 analysis before the date on which the applicant
21 receives the assistance;

22 “(C) shall use the amounts for projects
23 that—

24 “(i) are located in communities that—

1 “(I) participate in the national
2 flood insurance program; and

3 “(II) have developed a local haz-
4 ard mitigation plan that has been ap-
5 proved by the Administrator under
6 section 1366;

7 “(ii)(I) address a repetitive loss struc-
8 ture or a severe repetitive loss property; or

9 “(II) address flood risk in the 500-
10 year floodplain, areas of residual flood risk,
11 or other areas of potential flood risk, as
12 identified by the Administrator; and

13 “(iii) address current risk and antici-
14 pate future risk, such as sea-level rise;

15 “(D) may use the amounts—

16 “(i) for projects relating to—

17 “(I) structural elevation;

18 “(II) floodproofing;

19 “(III) the relocation or removal
20 of buildings from the 100-year flood-
21 plain or other areas of flood risk, in-
22 cluding the acquisition of properties
23 for such a purpose;

1 “(IV) environmental restoration
2 activities that directly reduce flood
3 risk;

4 “(V) any eligible activity de-
5 scribed in subparagraphs (A) through
6 (G) of section 1366(c)(3); or

7 “(VI) other activities determined
8 appropriate by the Administrator;

9 “(ii) with respect to a project de-
10 scribed in clause (i), only for expenditures
11 directly related to a project described in
12 that clause, including expenditures for
13 planning, design, and associated pre-con-
14 struction activities; and

15 “(iii) to acquire, for the purposes of
16 permanent protection, land, buildings, or a
17 conservation easement from a willing seller
18 or grantor; and

19 “(E) may not use the amounts—

20 “(i) to construct buildings or expand
21 existing buildings;

22 “(ii) to improve any structure without
23 a commitment by the recipient to maintain
24 flood insurance coverage for the structure,
25 regardless of any change in ownership;

1 “(iii) to improve a residential property
2 with an appraised value that is not less
3 than 125 percent of the limitation on the
4 maximum original principal obligation of a
5 conventional mortgage that may be pur-
6 chased by the Federal National Mortgage
7 Association or the Federal Home Loan
8 Mortgage Corporation in the area in which
9 the property is located, as established
10 under section 302(b)(2) of the Federal Na-
11 tional Mortgage Association Charter Act
12 (12 U.S.C. 1717(b)(2)) and section
13 305(a)(2) of the Federal Home Loan
14 Mortgage Corporation Act (12 U.S.C.
15 1454(a)(2));

16 “(iv) for the benefit of a homeowner if
17 the annual household adjusted gross in-
18 come of the homeowner during the pre-
19 vious fiscal year was not less than
20 \$200,000, as annually adjusted by the Ad-
21 ministrator to reflect changes in the Con-
22 sumer Price Index for All Urban Con-
23 sumers, as published by the Bureau of
24 Labor Statistics of the Department of
25 Labor and rounded to the nearest \$25; or

1 “(v) to acquire real property or an in-
2 terest in real property unless the property
3 is purchased from a willing seller.

4 “(d) INTENDED USE PLANS.—

5 “(1) IN GENERAL.—After providing the oppor-
6 tunity for public review and comment, each partici-
7 pating State shall annually prepare a plan that iden-
8 tifies, for the year following the date of issuance of
9 the intended use plan, the intended uses of the
10 amounts available in the State loan fund of the par-
11 ticipating State.

12 “(2) CONSULTATION DURING PREPARATION.—
13 Each participating State, in preparing an intended
14 use plan, shall ensure that the State agency with
15 primary responsibility for floodplain management—

16 “(A) provides oversight with respect to the
17 preparation of the intended use plan; and

18 “(B) consults with any other appropriate
19 State agency, including agencies responsible for
20 coastal and environmental management.

21 “(3) CONTENTS.—A participating State shall,
22 in each intended use plan—

23 “(A) include—

1 “(i) an explanation of the mitigation
2 and resiliency benefits the State intends to
3 achieve, including by—

4 “(I) reducing future damage and
5 loss associated with flooding;

6 “(II) reducing the number of se-
7 vere repetitive loss properties and re-
8 petitive loss structures in the State;

9 “(III) decreasing the number of
10 flood insurance claims in the State;
11 and

12 “(IV) increasing the rating under
13 the Community Rating System for
14 communities in the State;

15 “(ii) information with respect to the
16 availability of, and the application process
17 for receiving, financial assistance from the
18 State loan fund of the State;

19 “(iii) the criteria and methods estab-
20 lished for the distribution of amounts from
21 the State loan fund of the State;

22 “(iv) the amount of financial assist-
23 ance that the State anticipates allocating
24 to—

1 “(I) local government projects;

2 and

3 “(II) projects for homeowners,

4 business, or nonprofit organizations;

5 “(v) the expected terms of the assist-

6 ance provided under clause (iv); and

7 “(vi) a description of the financial sta-

8 tus of the State loan fund and the short-

9 term and long-term goals of the State loan

10 fund; and

11 “(B) provide, to the maximum extent prac-

12 ticable, that priority for the use of amounts

13 from the State loan fund shall be given to

14 projects that—

15 “(i) address severe repetitive loss

16 properties and repetitive loss structures;

17 “(ii) assist low-income homeowners

18 and low-income geographic areas; and

19 “(iii) address flood risk for pre-FIRM

20 buildings.

21 “(4) PUBLICATION.—Each participating State

22 shall publish and periodically update a list of all

23 projects receiving funding from the State loan fund

24 of the State, which shall include—

25 “(A) the location of each project;

1 “(B) the type and amount of assistance
2 provided for each project; and

3 “(C) the expected funding schedule and
4 date of completion of each project.

5 “(e) FUND MANAGEMENT.—Amounts in a State loan
6 fund shall—

7 “(1) remain available for providing financial as-
8 sistance under this section until distributed;

9 “(2) if the amounts are not required for imme-
10 diate distribution or expenditure, be invested in in-
11 terest-bearing obligations; and

12 “(3) except as provided in subsection (i), in-
13 clude only—

14 “(A) amounts received from capitalization
15 grants made under this section;

16 “(B) repayments of loans made from the
17 fund; and

18 “(C) interest earned on amounts in the
19 fund.

20 “(f) MATCHING FUNDS.—On or before the date on
21 which a participating State receives a capitalization grant,
22 the State shall deposit into the State loan fund of the
23 State, in addition to the amount of the capitalization
24 grant, an amount from non-Federal sources that is not

1 less than 20 percent of the total amount of the capitaliza-
2 tion grant.

3 “(g) TYPES OF ASSISTANCE.—Unless otherwise pro-
4 hibited by State law, a participating State may use the
5 amounts deposited into a State loan fund under this sec-
6 tion only—

7 “(1) to make a loan, on the condition that—

8 “(A) the interest rate for the loan is not
9 more than the market interest rate;

10 “(B) the recipient of the loan will begin
11 making principal and interest payments on the
12 loan not later than 1 year after the date on
13 which the project for which the loan was made
14 is completed;

15 “(C) the loan will be fully amortized not
16 later than 20 years after the date on which the
17 project for which the loan was made is com-
18 pleted, except that, in the case of a loan made
19 for a project in a low-income geographic area or
20 to a low-income homeowner, the State may pro-
21 vide a longer amortization period for the loan if
22 that longer period—

23 “(i) ends on a date that is not later
24 than 30 years after the date on which the
25 project is completed; and

1 “(ii) is not longer than the expected
2 design life of the project;

3 “(D) the recipient of the loan dem-
4 onstrates that there is a dedicated source of
5 revenue or adequate income to repay the loan;
6 and

7 “(E) payments of principal and interest
8 with respect to the loan will be deposited into
9 the State loan fund;

10 “(2) to buy or refinance the debt obligation of
11 a local government at an interest rate that is not
12 more than the market interest rate;

13 “(3) to guarantee, or purchase insurance for, a
14 local obligation, the proceeds of which finance a
15 project eligible for assistance under this section, if
16 the guarantee or purchase, as applicable, would—

17 “(A) improve credit market access; or

18 “(B) reduce the interest rate with respect
19 to the obligation;

20 “(4) as a source of revenue or as security for
21 the payment of principal and interest on revenue or
22 general obligation bonds issued by the State if the
23 proceeds of the sale of the bonds will be deposited
24 into the State loan fund; or

25 “(5) to earn interest on those amounts.

1 “(h) ASSISTANCE FOR LOW-INCOME HOMEOWNERS
2 AND LOW-INCOME GEOGRAPHIC AREAS.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of this section, if a participating State uses
5 amounts from a State loan fund to provide financial
6 assistance under subsection (c) in a low-income geo-
7 graphic area or to a low-income homeowner, the
8 State may provide additional subsidization to the re-
9 cipient of the assistance, including forgiveness of the
10 principal of a loan.

11 “(2) LIMITATION.—For each fiscal year, the
12 total amount of additional subsidization provided by
13 a participating State under paragraph (1) may not
14 exceed 30 percent of the amount of the capitaliza-
15 tion grant allocated to the State for that fiscal year.

16 “(i) ADMINISTRATION OF FUND.—

17 “(1) IN GENERAL.—A participating State may
18 combine the financial administration of a State loan
19 fund with the financial administration of any other
20 revolving fund established by the State if—

21 “(A) combining the administration of the
22 funds would—

23 “(i) be convenient and avoid adminis-
24 trative costs; and

1 “(ii) not violate the law of the State;

2 and

3 “(B) the Administrator determines that—

4 “(i) amounts obtained from a grant
5 made under this section, amounts obtained
6 from the repayment of a loan made from
7 a State loan fund, and interest earned on
8 amounts in a State loan fund will be—

9 “(I) accounted for separately
10 from amounts from other revolving
11 funds; and

12 “(II) used only for purposes au-
13 thorized under this section; and

14 “(ii) after consulting with the appro-
15 priate State agencies, the authority to es-
16 tablish assistance priorities and carry out
17 oversight and related activities, other than
18 financial administration, with respect to
19 flood assistance remains with the State
20 agency with primary responsibility for
21 floodplain management.

22 “(2) ADMINISTRATIVE AND TECHNICAL
23 COSTS.—

1 “(A) IN GENERAL.—For each fiscal year, a
2 participating State may use the amount de-
3 scribed in subparagraph (B) to—

4 “(i) pay the reasonable costs of ad-
5 ministration of the programs under this
6 section, including the recovery of reason-
7 able costs incurred in establishing a State
8 loan fund;

9 “(ii) provide appropriate oversight of
10 projects authorized under this section; and

11 “(iii) provide technical assistance and
12 outreach to recipients in the State of
13 amounts under this section, including with
14 respect to updating hazard mitigation
15 plans and participating in the Community
16 Rating System, in an amount that is not
17 more than 4 percent of the funds made
18 available to the State under this section.

19 “(B) DESCRIPTION.—The amount de-
20 scribed in this subparagraph is an amount
21 equal to the sum of—

22 “(i) any fees collected by a partici-
23 pating State to recover the costs described
24 in subparagraph (A)(i), regardless of the
25 source; and

1 “(ii) the greatest of—

2 “(I) \$400,000;

3 “(II) $\frac{1}{5}$ of 1 percent of the value
4 of the State loan fund of a State, as
5 of the date on which the valuation is
6 made; and

7 “(III) an amount equal to 7 per-
8 cent of all grant awards made to a
9 participating State for the State loan
10 fund of the State under this section
11 for the fiscal year.

12 “(3) AUDIT AND REPORT.—

13 “(A) AUDIT REQUIREMENT.—Not less fre-
14 quently than biennially, each participating State
15 shall conduct an audit of the State loan fund of
16 the State.

17 “(B) REPORT.—Each participating State
18 shall submit to the Administrator a biennial re-
19 port regarding the activities of the State under
20 this section during the period covered by the re-
21 port, including—

22 “(i) the result of any audit conducted
23 by the State under subparagraph (A); and

1 “(ii) a review of the effectiveness of
2 the State loan fund of the State with re-
3 spect to—

4 “(I) the intended use plans of the
5 State; and

6 “(II) meeting the objectives de-
7 scribed in subsection (b)(1).

8 “(4) OVERSIGHT.—In conducting oversight with
9 respect to State loan funds established under this
10 section, the Administrator—

11 “(A) shall—

12 “(i) periodically audit the funds in ac-
13 cordance with procedures established by
14 the Comptroller General of the United
15 States; and

16 “(ii) not less frequently than once
17 every 4 years, review each State loan fund
18 to determine the effectiveness of the fund
19 in reducing flood risk; and

20 “(B) may, at any time—

21 “(i) make recommendations to a par-
22 ticipating State with respect to the admin-
23 istration of the State loan fund of the
24 State; or

1 “(ii) require specific changes with re-
2 spect to a State loan fund in order to im-
3 prove the effectiveness of the fund.

4 “(j) REGULATIONS.—The Administrator shall pro-
5 mulgate such guidance or regulations as may be necessary
6 to carry out this section, including guidance or regulations
7 that—

8 “(1) ensure that each participating State to
9 which funds are allocated under this section uses the
10 funds as efficiently as possible;

11 “(2) reduce, to the maximum extent prac-
12 ticable, waste, fraud, and abuse with respect to the
13 implementation of this section; and

14 “(3) require any party that receives funds di-
15 rectly or indirectly under this section, including a
16 participating State and a recipient of amounts from
17 a State loan fund, to use procedures with respect to
18 the management of the funds that conform to gen-
19 erally accepted accounting standards.

20 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated such sums as may be
22 necessary to carry out this section for fiscal years 2018
23 through 2027.”.

○