116TH CONGRESS
1ST SESSION

S. 2192

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

JULY 18, 2019

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 2019”.

VerDate Sep 11 2014 03:07 Jul 26, 2019 Jkt 089200 PO 00000 Frm 00001 Fmt 6652 Sfmt 6201 E:\BILLS\S2192.IS S2192pamtmann on DSKBFK8HB2PROD with BILLS
SEC. 2. STATE REVOLVING LOAN FUNDS FOR FLOOD MITIGATION.

(a) IN GENERAL.—Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by adding at the end the following:

"SEC. 1326. STATE REVOLVING LOAN FUNDS FOR FLOOD MITIGATION.

“(a) DEFINITIONS.—In this section:

“(1) COMMUNITY RATING SYSTEM.—The term ‘Community Rating System’ means the community rating system program carried out under section 1315(b).

“(2) ELIGIBLE STATE.—The term ‘eligible State’ means a State, the District of Columbia, and the Commonwealth of Puerto Rico.

“(3) INSULAR AREA.—The term ‘insular area’ means—

“(A) Guam;

“(B) American Samoa;

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

“(D) the Federated States of Micronesia;

“(E) the Republic of the Marshall Islands;

“(F) the Republic of Palau; and

“(G) the United States Virgin Islands."
“(4) INTENDED USE PLAN.—The term ‘intended use plan’ means a plan prepared under subsection (d)(1).

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

“(6) LOW-INCOME HOMEOWNER.—The term ‘low-income homeowner’ means the owner of a primary residence, the household income of which in a taxable year is not more than 80 percent of the median income for the area in which the residence is located.

“(7) PARTICIPATING STATE.—The term ‘participating State’ means an eligible State that—

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

“(B) agrees to comply with the requirements of this section.

“(8) PRE-FIRM BUILDING.—The term ‘pre-FIRM building’ means a building for which construction or substantial improvement occurred before the effective date of the initial Flood Insurance Rate
Map published by the Administrator under section 1360 for the area in which the building is located.

“(9) REPETITIVE LOSS STRUCTURE.—The term ‘repetitive loss structure’ has the meaning given the term in section 1370(a).

“(10) SEVERE REPETITIVE LOSS PROPERTY.—The term ‘severe repetitive loss property’ has the meaning given the term in section 1307(h).

“(11) STATE LOAN FUND.—The term ‘State loan fund’ means a flood mitigation assistance revolving loan fund established by an eligible State under this section.

“(12) TRIBAL GOVERNMENT.—The term ‘tribal government’ means the recognized government of an Indian tribe, or the governing body of an Alaska Native regional or village corporation, that has been determined eligible to receive services from the Bureau of Indian Affairs.

“(b) GENERAL AUTHORITY.—

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

“(A) the loss of life and property;

“(B) the cost of flood insurance; and

“(C) Federal disaster payments.

“(2) Timing of deposit and agreements for distribution of funds.—

“(A) In general.—Not later than the last day of the fiscal year following the fiscal year in which a capitalization grant is made to a participating State under paragraph (1), the participating State shall—

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

“(ii) enter into 1 or more binding agreements that provide for the State to distribute the grant funds for purposes authorized under subsection (c) such that—

“(I) in the case of the initial grant made to a State under this section, not less than 75 percent of the amount of the grant shall be distributed before the end of the 2-year period beginning on the date on which
the funds are deposited in the State loan fund of the State; and

“(II) in the case of any subsequent grant made to a State under this section, not less than 90 percent of the amount of the grant shall be distributed before the end of the 1-year period beginning on the date on which the funds are deposited in the State loan fund of the State.

“(B) NONCOMPLIANCE.—Except as provided in subparagraph (C), if a participating State does not comply with subparagraph (A) with respect to a grant, the Administrator shall reallocate the grant in accordance with paragraph (3)(B).

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

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

“(i) for the participating States to de-

posit in the State loan funds established by the participating States; and

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

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

“(i) Fifty percent of the total amount made available under subparagraph (A) shall be allocated so that each participating State receives the percentage amount that is obtained by dividing the number of properties that were insured under the national flood insurance pro-

gram in that State in the fiscal year pre-

ceding the fiscal year in which the amount is allocated by the total number of prop-

erties that were insured under the national flood insurance program in the fiscal year preceding the fiscal year in which the amount is allocated.
“(ii) Fifty percent of the total amount made available under subparagraph (A) shall be allocated so that each participating State receives a percentage of funds that is equal to the product obtained under clause (iii)(IV) with respect to that participating State after following the procedures described in clause (iii).

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

“(I) Divide the total amount collected in premiums for properties insured under the national flood insurance program in each participating State during the previous fiscal year by the number of properties insured under the national flood insurance program in that State for that fiscal year.

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

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

“(IV) For each participating State, multiply the amount that is 50 percent of the total amount made available under subparagraph (A) by the quotient obtained under subclause (III).

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

“(I) a participating State may not receive more than 15 percent of the total amount that is made available under subparagraph (A) in that fiscal year; and

“(II) if a participating State, based on the requirements under clauses (i) through (iii), would, but for the limitation under subclause (I) of this clause, receive an amount that is greater than the amount that the State is authorized to receive under that subclause, the difference between the authorized amount and the amount otherwise due to the State

...
under clauses (i) through (iii) shall be allocated to other participating States—

“(aa) that, in that fiscal year, have not received an amount under subparagraph (A) that is more than the authorized amount under subclause (I) of this clause; and

“(bb) by using the requirements under clauses (i) through (iii), except that a participating State may receive an allocation under this subclause only if the allocation does not result in the State receiving a total amount for the fiscal year under subparagraph (A) that is greater than the authorized amount under subclause (I).

“(4) NO REVOLVING FUND REQUIRED.—

“(A) IN GENERAL.—Notwithstanding any other provision of this section, and subject to subparagraph (B), a participating State that receives less than $4,000,000 under paragraph
(3)(B) in a fiscal year may distribute the funds directly in the form of grants or technical assistance for a purpose described in subsection (e)(2), without regard to whether the State has established a State loan fund.

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

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

“(6) RESERVATION OF FUNDS.—The Administrator shall reserve not more than 1.5 percent of the amount made available to carry out this section in a fiscal year—
“(A) for administrative costs incurred in carrying out this section;

“(B) to provide technical assistance to recipients of grants under this section; and

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

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

“(ii) for a purpose described in subsection (c)(2).

“(c) USE OF FUNDS.—

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

“(A) consistent with paragraph (2) and subsection (g), to provide financial assistance for—

“(i) homeowners, businesses, and non-profit organizations that are eligible to participate in the national flood insurance program; and
“(ii) any local government that participates in the national flood insurance program;

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

“(C) for the sale of bonds as security for payment of the principal and interest on revenue or general obligation bonds issued by the participating State to provide matching funds under subsection (f), if the proceeds from the sale of the bonds are deposited in the State loan fund.

“(2) PURPOSES.—A recipient of financial assistance provided through amounts from a State loan fund—

“(A) shall use the amounts to reduce—

“(i) flood risk; or

“(ii) potential claims for losses covered under the national flood insurance program;

“(B) shall use the amounts in a cost-effective manner under requirements established by the State, which may require an applicant for financial assistance to submit any information
that the State considers relevant or necessary
before the date on which the applicant receives
the assistance;

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

“(i) meet design and construction
standards established by the Adminis-
trator;

“(ii) are located in communities
that—

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

“(II) have developed a State or
community hazard mitigation plan
that has been approved by the Admin-
istrator under section 1366;

“(iii) address—

“(I) a repetitive loss structure or
a severe repetitive loss property; or

“(II) flood risk in the 500-year
floodplain, areas of residual flood risk,
or other areas of potential flood risk,
as identified by the Administrator;
and
“(iv) address current risk and anticipate future risk, such as sea-level rise;
“(D) may use the amounts—
“(i) for projects relating to—
“(I) structural elevation;
“(II) floodproofing;
“(III) the relocation or removal of buildings from the 100-year floodplain or other areas of flood risk, including the acquisition of properties for such a purpose;
“(IV) environmental restoration activities that directly reduce flood risk;
“(V) any eligible activity described in subparagraphs (A) through (G) of section 1366(c)(3); or
“(VI) other activities determined appropriate by the Administrator;
“(ii) with respect to a project described in clause (i), only for expenditures directly related to a project described in that clause, including expenditures for planning, design, and associated pre-construction activities; and
“(iii) to acquire, for the purposes of permanent protection, land, buildings, or a conservation easement from a willing seller or grantor;

“(E) may not use the amounts—

“(i) to construct buildings or expand existing buildings, unless the activity is for the purpose of flood mitigation;

“(ii) to improve any structure, unless the recipient has obtained flood insurance coverage, which shall be maintained for the useful life of the structure, in an amount that is not less than the lesser of—

“(I) the eligible project costs with respect to the structure; and

“(II) the maximum insurable limit for the structure under the national flood insurance program coverage for the structure;

“(iii) to improve a residential property with an appraised value that is not less than 125 percent of the limitation on the maximum original principal obligation of a conventional mortgage that may be purchased by the Federal National Mortgage
Association or the Federal Home Loan Mortgage Corporation in the area in which the property is located, as established under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));

“(iv) for the direct benefit of a homeowner if the annual household adjusted gross income of the homeowner during the previous fiscal year was not less than $200,000, as annually adjusted by the Administrator to reflect changes in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the Department of Labor and rounded to the nearest $25; or

“(v) to acquire real property or an interest in real property unless the property is purchased from a willing seller; and

“(F) to the maximum extent practicable, shall, in using those amounts, give priority to
projects that assist low-income homeowners and
low-income geographical areas.

“(d) INTENDED USE PLANS.—

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

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

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

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

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

“(A) include—

“(i) an explanation of the mitigation
and resiliency benefits the State intends to
achieve, including by—
“(I) reducing future damage and loss associated with flooding;

“(II) reducing the number of severe repetitive loss properties and repetitive loss structures in the State;

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

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

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

“(iii) the criteria and methods established for the distribution of amounts from the State loan fund of the State;

“(iv) the amount of financial assistance that the State anticipates providing to—

“(I) local government projects;

and

“(II) projects for homeowners, business, or nonprofit organizations;
“(v) the expected terms of the assistance provided under clause (iv); and

“(vi) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund; and

“(B) provide, to the maximum extent practicable, that priority for the use of amounts from the State loan fund shall be given to projects that—

“(i) address severe repetitive loss properties and repetitive loss structures;

“(ii) assist low-income homeowners and low-income geographic areas; and

“(iii) address flood risk for pre-FIRM buildings.

“(4) PUBLICATION.—Each participating State shall publish and periodically update a list of all projects receiving funding from the State loan fund of the State, which shall include identification of—

“(A) the community in which the project is located;

“(B) the type and amount of assistance provided for each project; and
“(C) the expected funding schedule and date of completion of each project.

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

“(1) remain available for providing financial assistance under this section until distributed;

“(2) if the amounts are not required for immediate distribution or expenditure, be invested in interest-bearing obligations; and

“(3) except as provided in subsection (i), include only—

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

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

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

“(f) MATCHING FUNDS.—

“(1) FULL GRANT.—On or before the date on which a participating State receives a capitalization grant, the State shall deposit into the State loan fund of the State, in addition to the amount of the capitalization grant, an amount from non-Federal sources that is not less than 20 percent of the total amount of the capitalization grant.
“(2) REDUCED GRANT.—If, with respect to a capitalization grant, a participating State deposits in the State loan fund of the State an amount from non-Federal sources that is less than 20 percent of the total amount of the capitalization grant that the participating State would otherwise receive, the Administrator shall—

“(A) reduce the amount of the capitalization grant received by the State to the amount that is 5 times the amount so deposited; and

“(B) in accordance with subsection (b)(5), allocate the difference between the amount that the participating State would have received if the State had complied with paragraph (1) and the amount of the reduced grant that the participating State receives under subparagraph (A).

“(g) TYPES OF ASSISTANCE.—Unless otherwise prohibited by State law, a participating State may use the amounts deposited into a State loan fund under this section only—

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

“(A) the interest rate for the loan is not more than the market interest rate;
“(B) the recipient of the loan will begin
making principal and interest payments on the
loan not later than 1 year after the date on
which the project for which the loan was made
is completed;

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

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

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

“(D) the recipient of the loan dem-
onstrates, based on verified and documented in-
formation that, as of the date on which the loan
is made, the recipient has a reasonable ability
to repay the loan, according to the terms of the
loan, except that this subparagraph may not be
construed to authorize any reduction or limita-
tion in efforts to comply with the requirements of subsection (c)(2)(F); and 

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

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

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

“(A) improve credit market access; or

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

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

“(5) to earn interest on those amounts.

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

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

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

“(i) ADMINISTRATION OF FUND.—

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

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

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

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

“(B) the Administrator determines that—

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

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

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

“(ii) after consulting with the appro-
priate State agencies, the authority to es-
tablish assistance priorities and carry out
oversight and related activities, other than
financial administration, with respect to
flood assistance remains with the State
department with primary responsibility for
floodplain management.

“(2) Administrative and Technical

COSTS.—

“(A) In General.—For each fiscal year, a
participating State may use the amount de-
scribed in subparagraph (B) to—

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

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

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

“(B) DESCRIPTION.—The amount described in this subparagraph is an amount equal to the sum of—

“(i) any fees collected by a participating State to recover the costs described in subparagraph (A)(i), regardless of the source; and

“(ii) the greatest of—

“(I) $400,000;

“(II) 0.2 percent of the value of the State loan fund of a State, as of the date on which the valuation is made; and
“(III) an amount equal to 7 percent of all grant awards made to a participating State for the State loan fund of the State under this section for the fiscal year.

“(3) AUDIT AND REPORT.—

“(A) AUDIT REQUIREMENT.—Not less frequently than biennially, each participating State shall conduct an audit of the State loan fund of the State.

“(B) REPORT.—Each participating State shall submit to the Administrator a biennial report regarding the activities of the State under this section during the period covered by the report, including—

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

“(ii) a review of the effectiveness of the State loan fund of the State with respect to—

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

“(II) meeting the objectives described in subsection (b)(1).
“(4) OVERSIGHT.—In conducting oversight with respect to State loan funds established under this section, the Administrator—

“(A) shall—

“(i) periodically audit the funds in accordance with procedures established by the Comptroller General of the United States; and

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

“(B) may, at any time—

“(i) make recommendations to a participating State with respect to the administration of the State loan fund of the State; or

“(ii) require specific changes with respect to a State loan fund in order to improve the effectiveness of the fund.

“(j) LIABILITY PROTECTIONS.—The Federal Emergency Management Agency shall not be liable for any claim based on the exercise or performance of, or the failure to exercise or perform, a discretionary function or duty
by the Agency, or an employee of the Agency, in carrying out this section.

“(k) REGULATIONS.—The Administrator shall promulgate such guidance or regulations as may be necessary to carry out this section, including guidance or regulations that—

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

“(2) reduce, to the maximum extent practicable, waste, fraud, and abuse with respect to the implementation of this section; and

“(3) require any party that receives funds directly or indirectly under this section, including a participating State and a recipient of amounts from a State loan fund, to use procedures with respect to the management of the funds that conform to generally accepted accounting standards.

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2020 through 2029.”.

(b) CONSIDERATION OF MITIGATION MEASURES FUNDED BY STATE LOAN FUNDS IN FLOOD INSURANCE PREMIUM RATES.—
(1) Estimated rates.—Section 1307(a)(1)(A)(ii) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)(1)(A)(ii)) is amended by striking “and similar measures” and inserting “similar measures, and any activities funded through amounts from a State loan fund established under section 1326,”.

(2) Chargeable rates.—Section 1308(b)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(b)(1)) is amended by striking “and similar measures” and inserting “similar measures, and any activities funded through amounts from a State loan fund established under section 1326”.