

114TH CONGRESS
2D SESSION

H. R. 5177

To improve disaster mitigation programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2016

Mr. CURBELO of Florida (for himself and Mr. SIREs) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To improve disaster mitigation programs, 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 “National Mitigation
5 Investment Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) mitigation planning is the foundation for
9 saving lives, protecting residential and commercial

1 properties, and developing disaster resistant commu-
2 nities;

3 (2) recent studies of the performance of build-
4 ing structures during disasters have demonstrated
5 that the adoption and active enforcement of State
6 building codes have greatly reduced residential and
7 commercial property damage and personal injury re-
8 sulting from major disasters;

9 (3) modern building codes govern all aspects of
10 construction and are designed to ensure that single-
11 family residential dwellings and commercial struc-
12 tures are protected from natural disasters;

13 (4) the people of the United States rely on ac-
14 tive enforcement of modern building codes for assur-
15 ance that minimum standards for reducing personal
16 injuries and property damages have been met in the
17 buildings they live in, work in, and visit every day;

18 (5) active enforcement of building codes plays
19 an increasingly important role in public safety and
20 loss prevention of residential and commercial prop-
21 erty;

22 (6) active enforcement of building codes based
23 on nationally recognized models reduces the need for
24 public disaster aid, creates sustainable communities,
25 promotes a level and consistent playing field for de-

1 sign professionals, suppliers, and builders, and can
2 contribute to the durability of residential and com-
3 mercial structures;

4 (7) under the Robert T. Stafford Disaster Re-
5 lief and Emergency Assistance Act (42 U.S.C. 5121
6 et seq.), the Federal Emergency Management Agen-
7 cy provides Federal assistance to States for mitiga-
8 tion efforts;

9 (8) it is beneficial and appropriate to expand
10 Federal mitigation assistance to encourage States to
11 take a comprehensive and integrated approach to
12 disaster loss reduction; and

13 (9) it is beneficial to the Federal Government
14 and appropriate that Federal mitigation assistance
15 be used to encourage the adoption and active en-
16 forcement of State building codes as a disaster miti-
17 gation strategy under the auspices of a comprehen-
18 sive disaster loss reduction plan.

19 **SEC. 3. PURPOSES.**

20 The purposes of this Act are to—

21 (1) substantially mitigate the occurrence of loss
22 to residential and commercial property, reduce and
23 minimize damage when losses to residential and
24 commercial property occur, improve the quality and

1 value of residential and commercial property, and re-
2 duce the need for public disaster aid;

3 (2) provide incentives for the adoption and ac-
4 tive enforcement of State building codes;

5 (3) encourage States to continue their key re-
6 sponsibility to coordinate all State and local activi-
7 ties relating to hazard evaluation and mitigation, as
8 specified in section 201.3(c) of title 44, Code of Fed-
9 eral Regulations, through the adoption and active
10 enforcement of State building codes; and

11 (4) encourage States to require that local gov-
12 ernments use a current version of a nationally appli-
13 cable model building code that address natural haz-
14 ards as a basis for design and construction of State-
15 sponsored mitigation projects described in section
16 201.5(b)(4)(iv) of title 44, Code of Federal Regula-
17 tions.

18 **SEC. 4. ENHANCED MITIGATION ASSISTANCE.**

19 (a) **ADDITIONAL MITIGATION ASSISTANCE.**—Section
20 404 of the Robert T. Stafford Disaster Relief and Emer-
21 gency Assistance Act (42 U.S.C. 5170c) is amended by
22 adding at the end the following:

23 “(f) **ADDITIONAL MITIGATION ASSISTANCE.**—

24 “(1) **IN GENERAL.**—If, at the time of a declara-
25 tion of a major disaster, the affected State has in

1 effect and is actively enforcing throughout the State
2 an approved State building code, the President may
3 increase the maximum total of contributions under
4 this section for the major disaster, as specified in
5 subsection (a) and section 322(e), by an amount
6 equal to 4 percent of the estimated aggregate
7 amount of grants to be made (less any associated
8 administrative costs) under this Act with respect to
9 the major disaster.

10 “(2) SUBMISSION.—To be eligible for an in-
11 creased Federal share under paragraph (1), a State
12 shall submit its State building code to the President
13 for approval.

14 “(3) APPROVAL.—The President shall approve
15 a State building code submitted under paragraph (2)
16 if the President determines that the building code—

17 “(A) is consistent with the most recent
18 version of a nationally recognized model build-
19 ing code;

20 “(B) has been adopted by the State within
21 6 years of the most recent version of the na-
22 tionally recognized model building code; and

23 “(C) uses the nationally recognized model
24 building code as a minimum standard.

1 “(4) PERIODIC UPDATES.—The President, act-
2 ing through the Administrator, shall set appropriate
3 standards, by regulation, for the periodic update, re-
4 submittal, and approval of a State building code ap-
5 proved by the President in accordance with para-
6 graph (3) that are consistent with similar require-
7 ments related to mitigation planning under section
8 322.

9 “(5) REGULATIONS.—Not later than 180 days
10 after the date of enactment of this subsection, the
11 President, acting through the Administrator of the
12 Federal Emergency Management Agency, shall issue
13 such regulations as may be necessary to carry out
14 this subsection.

15 “(6) DEFINITIONS.—For purposes of this sub-
16 section, the following definitions apply:

17 “(A) ACTIVELY ENFORCING.—The term
18 ‘actively enforcing’ means effective jurisdic-
19 tional execution of all phases of a State building
20 code in the process of examination and approval
21 of construction plans, specifications, and tech-
22 nical data and the inspection of new construc-
23 tion or renovation.

24 “(B) NATIONALLY RECOGNIZED MODEL
25 BUILDING CODE.—The term ‘nationally recog-

1 nized model building code’ means a building
2 code for residential and commercial construc-
3 tion and construction materials that—

4 “(i) has been developed and published
5 by a code organization in an open con-
6 sensus type forum with input from na-
7 tional experts; and

8 “(ii) is based on national structural
9 design standards that establish minimum
10 acceptable criteria for the design, construc-
11 tion, and maintenance of residential and
12 commercial buildings for the purpose of
13 protecting the health, safety, and general
14 welfare of the building’s users against nat-
15 ural disasters.

16 “(C) STATE BUILDING CODE.—The term
17 ‘State building code’ means requirements and
18 associated standards for residential and com-
19 mercial construction and construction materials
20 that are implemented on a statewide basis by
21 ordinance, resolution, law, housing or building
22 code, or zoning ordinance. At a minimum, such
23 requirements and associated standards shall
24 apply—

1 “(i) to construction-related activities
2 of residential building contractors applica-
3 ble to single-family and 2-family residential
4 structures; and

5 “(ii) to construction-related activities
6 of engineers, architects, designers, and
7 commercial building contractors applicable
8 to the structural safety, design, and con-
9 struction of commercial, industrial, and
10 multifamily structures.

11 “(g) USE OF ASSISTANCE.—Recipients of hazard
12 mitigation assistance provided under this section and sec-
13 tion 203 may use the assistance to conduct activities to
14 help reduce the risk of future damage, hardship, loss, or
15 suffering in any area affected by a flood, including—

16 “(1) adaptation of existing infrastructures, in-
17 cluding enhancements to both built and natural envi-
18 ronments based on future flood probabilities;

19 “(2) maintenance of existing surge protection
20 infrastructure;

21 “(3) waterfront resilience, including creation of
22 bulkheads, dune enhancement, beach re-nourish-
23 ment, living seawalls and seashores and levees;

24 “(4) voluntary acquisition of repeatedly flooded
25 properties;

1 “(5) flood water diversion, removal, treatment,
2 and storage infrastructure projects;

3 “(6) flood water distribution along street infra-
4 structure systems, including canal streets, absorbent
5 streets, floodable parks, and underground cisterns;
6 and

7 “(7) enhanced infrastructure for increasing re-
8 silience of the freshwater supply to salt water intru-
9 sion.”.

10 (b) PREDISASTER HAZARD MITIGATION.—

11 (1) USES OF TECHNICAL AND FINANCIAL AS-
12 SISTANCE.—Section 203(e)(1)(B) of the Robert T.
13 Stafford Disaster Relief and Emergency Assistance
14 Act (42 U.S.C. 5133(e)(1)(B)) is amended—

15 (A) by striking “or” at the end of clause
16 (ii);

17 (B) by striking the period at the end of
18 clause (iii) and inserting “; or”; and

19 (C) by adding at the end the following:

20 “(iv) to establish and operate a build-
21 ing department and carry out enforcement
22 activities to implement a State building
23 code approved under section 404(f).”.

1 (2) CRITERIA FOR ASSISTANCE AWARDS.—Sec-
2 tion 203(g) of such Act (42 U.S.C. 5133(g)) is
3 amended—

4 (A) by striking “and” at the end of para-
5 graph (9);

6 (B) by redesignating paragraph (10) as
7 paragraph (11); and

8 (C) by inserting after paragraph (9) the
9 following:

10 “(10) the extent to which the State or local
11 government is carrying out activities to implement a
12 State building code approved under section 404(f);
13 and”.

14 **SEC. 5. COMPREHENSIVE STUDY OF DISASTER COSTS AND**
15 **LOSSES.**

16 (a) ESTABLISHMENT.—Not later than 30 days after
17 the date of enactment of this Act, the Administrator of
18 the Federal Emergency Management Agency shall com-
19 mence, through the National Advisory Council, a com-
20 prehensive study related to disaster costs and losses (re-
21 ferred to in the subsection as the “Study”).

22 (b) ADDITIONAL MEMBERSHIP.—For the purposes of
23 the study, as soon as practicable after the date of enact-
24 ment of this section, the Administrator shall appoint addi-

1 tional qualified members to the National Advisory Council
2 from the following:

3 (1) Individuals that have the requisite technical
4 knowledge and expertise on issues related to disaster
5 costs and losses.

6 (2) Representatives of the insurance industry.

7 (3) Experts in and representatives of the con-
8 struction and building industry.

9 (4) Individuals nominated by national organiza-
10 tions representing local governments and personnel.

11 (5) Academic experts.

12 (6) Vendors, developers, and manufacturers of
13 systems, facilities, equipment, and capabilities for
14 emergency management services.

15 (7) Representatives of such other stakeholders
16 and interested and affected parties as the Adminis-
17 trator considers appropriate.

18 (c) CONSULTATION WITH NONMEMBERS.—The Na-
19 tional Advisory Council shall consult with other relevant
20 agencies and groups that are not represented on the Na-
21 tional Advisory Council to consider research, data, find-
22 ings, recommendations, innovative technologies and devel-
23 opments, including—

24 (1) entities engaged in federally funded re-
25 search; and

1 (2) academic institutions engaged in relevant
2 work and research.

3 (d) RECOMMENDATIONS.—Not later than 120 days
4 after the date of enactment of this Act, the National Advi-
5 sory Council shall convene to evaluate the following topics
6 and develop recommendations for reducing disaster costs
7 and losses:

8 (1) DISASTER LOSSES.—

9 (A) COST TRENDS.—Trends in disaster
10 costs including loss of life and injury, property
11 damage to individuals, the private sector, and
12 each level of government (State, local and trib-
13 al) since the enactment of the Robert T. Staf-
14 ford Disaster Relief and Emergency Assistance
15 Act (42 U.S.C. 5121 et seq.), to the extent data
16 is available.

17 (B) CONTRIBUTING FACTORS.—Contrib-
18 uting factors such as shifting demographics and
19 aging infrastructure and their impacts on the
20 trends in disaster losses and costs.

21 (2) DISASTER COSTS.—

22 (A) TRENDS IN DECLARATIONS.—Trends
23 in disaster declarations, including factors con-
24 tributing to the trends.

1 (B) DISASTER ASSISTANCE.—Disaster as-
2 sistance available from all Federal sources, in-
3 cluding descriptions of programs, eligibility and
4 authorities, where assistance has been used geo-
5 graphically, how quickly the funds are used,
6 how that assistance is coordinated among the
7 various agencies and departments, and rec-
8 ommendations for ways to improve the effec-
9 tiveness and efficiency of the delivery of such
10 assistance.

11 (C) COSTS.—Disaster costs borne by the
12 private sector and individuals.

13 (3) DISASTER ROLES AND RESPONSIBILITY.—
14 Fundamental principles that should drive national
15 disaster assistance decisionmaking, including the ap-
16 propriate roles for each level of government, the pri-
17 vate sector and individuals.

18 (4) REDUCTION OF COSTS AND LOSSES.—

19 (A) MECHANISMS AND INCENTIVES.—
20 Mechanisms and incentives, including tax incen-
21 tives, to promote disaster cost reduction, miti-
22 gation, and recovery, including cost data, pro-
23 jections for the return on investment, and
24 measures of effectiveness.

1 (B) IDENTIFICATION OF CHALLENGES.—

2 Identify fundamental legal, societal, geographic
3 and technological challenges to implementation.

4 (5) LEGISLATIVE PROPOSALS.—Legislative pro-
5 posals for implementing the recommendations in the
6 report compiled pursuant to the requirement in sec-
7 tion 1111 of the Sandy Recovery Improvement Act
8 of 2013 (Public Law 113–2).

9 (e) REPORT TO ADMINISTRATOR AND CONGRESS.—

10 (1) Not later than 1 year after the date of en-
11 actment of this section, the National Advisory Coun-
12 cil shall submit a report containing the data, anal-
13 ysis, and recommendations developed under sub-
14 section (d) to—

15 (A) the Administrator of the Federal
16 Emergency Management Agency;

17 (B) the Committee on Transportation and
18 Infrastructure of the House of Representatives;
19 and

20 (C) the Committee on Homeland Security
21 and Governmental Affairs of the Senate.

22 (2) DATA AVAILABILITY.—The Administrator
23 shall make the data collected pursuant to this sec-
24 tion publically available on the Agency’s website.

1 **SEC. 6. ENHANCED MITIGATION INCENTIVES PILOT PRO-**
2 **GRAM.**

3 (a) USE OF BUILDING CODES.—The Administrator
4 of the Federal Emergency Management Agency shall es-
5 tablish and conduct a pilot program to award grants to
6 State, local, and tribal governments to aid and encourage
7 the adoption and active enforcement of nationally recog-
8 nized model building codes, State building codes, and re-
9 lated mitigation measures.

10 (b) GOALS.—The goals of the grant program are—

11 (1) reducing disaster response and recovery
12 costs to Federal, State, local, and tribal governments
13 by—

14 (A) increasing the resilience of buildings;
15 and

16 (B) reducing the amount of damage and
17 loss that occurs due to disasters and chronic
18 flooding;

19 (2) incentivizing communities and individuals to
20 adopt smart development and mitigation measures
21 in advance of disasters.

22 (c) MINIMUM REQUIREMENTS.—The Administrator
23 shall—

24 (1) not later than 180 days after the date of
25 enactment of this Act, provide grant awards annu-
26 ally thereafter;

1 (2) establish criteria for awarding grants on a
2 competitive basis based on the demonstrated need of
3 the applicants and the project's ability to accomplish
4 the goals outline in subsection (b); and

5 (3) require non-Federal matching funds in an
6 amount equal to not less than 25 percent of the
7 total amount of the grant.

8 (d) REPORTS.—

9 (1) ANNUAL REPORTS.—During the period in
10 which the pilot program is conducted under this sec-
11 tion, the Administrator shall submit, annually, to
12 the Committee on Transportation and Infrastructure
13 of the House of Representatives and the Committee
14 on Homeland Security and Governmental Affairs of
15 the Senate, a report on the grants provided, the
16 projects undertaken, and the outcomes expected.

17 (2) FINAL REPORT.—Not later than 180 days
18 after termination of the pilot program, the Adminis-
19 trator shall submit a final report to the Committee
20 on Transportation and Infrastructure of the House
21 of Representatives and the Committee on Homeland
22 Security and Governmental Affairs of the Senate.
23 The final report shall include—

24 (A) a review and evaluation of the grant
25 awards;

1 (B) recommendations on any permanent
2 changes to the Robert T. Stafford Disaster Re-
3 lief and Emergency Assistance Act; and

4 (C) a progress evaluation in meeting the
5 goals described in subsection (b).

6 (e) TERMINATION.—The authorities under this sec-
7 tion shall terminate on December 31, 2021.

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