

117TH CONGRESS  
1ST SESSION

# S. 1879

To require the Secretary of Housing and Urban Development to establish a pilot program for public-private partnerships for disaster mitigation projects, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 27, 2021

Mr. TILLIS introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To require the Secretary of Housing and Urban Development to establish a pilot program for public-private partnerships for disaster mitigation projects, 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 “Strategic Acquisition  
5 and Floodplain Efficiency Reform Act” or the “SAFER  
6 Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

1           (1) DEPARTMENT.—The term “Department”  
 2 means the Department of Housing and Urban De-  
 3 velopment.

4           (2) ELIGIBLE ENTITY.—The term “eligible enti-  
 5 ty” means a private entity with the consent of the  
 6 local government—

7                   (A) in which a project to be carried out by  
 8 the entity under the Program is located; or

9                   (B) that is otherwise affected by a project  
 10 to be carried out by the entity under the Pro-  
 11 gram.

12           (3) PROGRAM.—The term “Program” means  
 13 the pilot program established under section 3.

14           (4) SECRETARY.—The term “Secretary” means  
 15 the Secretary of Housing and Urban Development.

16 **SEC. 3. PILOT PROGRAM.**

17           (a) IN GENERAL.—The Secretary shall establish a  
 18 pilot program to evaluate the cost effectiveness and project  
 19 delivery efficiency of allowing eligible entities to carry out  
 20 pre-disaster mitigation activities, such as property acquisi-  
 21 tion and relocations, under the Community Development  
 22 Block Grant Disaster Recovery program authorized under  
 23 title I of the Housing and Community Development Act  
 24 of 1974 (42 U.S.C. 5301 et seq.).

25           (b) PURPOSES.—The purposes of the Program are—

1           (1) to identify cost-saving project delivery alter-  
2 natives that accelerate the pre-disaster mitigation  
3 activities of the Department through the Community  
4 Development Block Grant Disaster Recovery pro-  
5 gram authorized under title I of the Housing and  
6 Community Development Act of 1974 (42 U.S.C.  
7 5301 et seq.); and

8           (2) to evaluate the technical, financial, and or-  
9 ganizational benefits of allowing eligible entities to  
10 carry out and manage pre-disaster mitigation  
11 projects.

12       (c) SUBSEQUENT APPROPRIATIONS.—Any activity  
13 undertaken under the Program is authorized only to the  
14 extent specifically provided for in subsequent appropria-  
15 tions Acts.

16       (d) ADMINISTRATION.—In carrying out the Program,  
17 the Secretary shall—

18           (1) identify for inclusion in the Program not  
19 fewer than 5 pre-disaster mitigation projects;

20           (2) in consultation with the eligible entity asso-  
21 ciated with each project identified under paragraph  
22 (1), develop a detailed project management plan for  
23 the project that outlines the scope, estimated Fed-  
24 eral direct and indirect cost estimates, financing,  
25 budget, and other resource requirements, including

1 any data the eligible entity deems necessary to exe-  
2 cute the project;

3 (3) at the request of the eligible entity associ-  
4 ated with each project identified under paragraph  
5 (1), enter into a project partnership agreement with  
6 the eligible entity under which the eligible entity is  
7 provided full project management control for the fi-  
8 nancing and execution (or any combination thereof)  
9 of the project, in accordance with plans approved by  
10 the Secretary;

11 (4) following execution of a project partnership  
12 agreement under paragraph (3), issue payment, in  
13 accordance with subsection (h), to the relevant eligi-  
14 ble entity for that work; and

15 (5) regularly monitor and audit each project  
16 carried out under the Program to ensure that—

17 (A) all activities related to the project are  
18 carried out in compliance with plans approved  
19 by the Secretary; and

20 (B) activity delivery costs are reasonable.

21 (e) SELECTION CRITERIA.—In identifying projects  
22 under subsection (d)(1), the Secretary shall consider the  
23 extent to which the project—

1           (1) reduces future damages from natural disas-  
2           ters such as hurricanes and extraordinary rainfall  
3           events;

4           (2) reduces the number of severe repetitive loss  
5           and repetitive loss properties;

6           (3) reduces risk to life and property;

7           (4) provides opportunities to restore lost func-  
8           tions and values of floodplains;

9           (5) promotes opportunities to improve social  
10          and environmental justice; and

11          (6) accelerates property acquisitions and reloca-  
12          tions to reduce future risk.

13          (f) DETAILED PROJECT SCHEDULE.—Not later than  
14          180 days after entering into a project partnership agree-  
15          ment under subsection (d)(3), an eligible entity, to the  
16          maximum extent practicable, shall submit to the Secretary  
17          a detailed project schedule for the relevant project, based  
18          on estimated Federal funding levels, that specifies dead-  
19          lines for each milestone with respect to the project, includ-  
20          ing—

21                 (1) negotiation of buyout contracts; and

22                 (2) the acquisition of contracted buyout prop-  
23          erties, resulting in the fee simple transfer of title to  
24          the State in which the project is carried out or a  
25          designee of the State.

1 (g) SOURCE OF FUNDS.—Following execution of a  
2 project partnership agreement under subsection (d)(3),  
3 and subject to milestones established in that agreement,  
4 payments to eligible entities may be made from—

5 (1) amounts appropriated in response to a  
6 major disaster declaration under section 401 of the  
7 Robert T. Stafford Disaster Relief and Emergency  
8 Assistance Act (42 U.S.C. 5170); and

9 (2) other amounts appropriated to the Sec-  
10 retary, subject to the condition that the total  
11 amount transferred to the eligible entity may not ex-  
12 ceed the estimate of the Federal cost of the pre-dis-  
13 aster mitigation project.

14 (h) PAYMENT.—

15 (1) IN GENERAL.—Upon meeting the milestones  
16 established in the project partnership agreement  
17 with an eligible entity under subsection (d)(3), pay-  
18 ment to the eligible entity shall be made to cover  
19 documented—

20 (A) administrative costs;

21 (B) operational costs;

22 (C) other related direct costs, including ac-  
23 quisition buyout contracting costs; and

24 (D) other related indirect costs, including  
25 debt expenses.

1           (2) ESCROW ACCOUNT.—Upon initiation of ac-  
2           quisition buyout closings, the Secretary shall fund a  
3           project-specific escrow account administered by the  
4           eligible entity to purchase contracted acquisition  
5           buyouts.

6           (i) SAVINGS.—Upon completion of a project under  
7           the Program by an eligible entity, if any savings based  
8           on the estimated Federal direct and indirect cost estimates  
9           are realized by the participation of the eligible entity, the  
10          savings shall be equally divided between—

11                   (1) the Secretary; and

12                   (2) the eligible entity as a return on investment.

13          (j) IDENTIFICATION OF IMPEDIMENTS.—

14                   (1) IN GENERAL.—The Secretary shall—

15                           (A) except as provided in paragraph (2),  
16                           identify any procedural requirements under the  
17                           authority of the Secretary that impede greater  
18                           use of public-private partnerships and private  
19                           investment in pre-disaster mitigation projects;

20                           (B) develop and implement, on a project-  
21                           by-project basis, procedures and approaches  
22                           that—

23                                   (i) address such impediments; and

24                                   (ii) protect the public interest and any  
25                                   public or private investment in pre-disaster

1 mitigation projects that involve public-pri-  
2 vate partnerships or private investment in  
3 pre-disaster mitigation projects; and

4 (iii) not later than 1 year after the  
5 date of enactment of this section, issue  
6 rules to carry out the procedures and ap-  
7 proaches developed under this subpara-  
8 graph.

9 (2) RULE OF CONSTRUCTION.—Nothing in this  
10 section shall be construed to allow the Secretary to  
11 waive any requirement under—

12 (A) sections 3141 through 3148 and sec-  
13 tions 3701 through 3708 of title 40, United  
14 States Code;

15 (B) the National Environmental Policy Act  
16 of 1969 (42 U.S.C. 4321 et seq.); or

17 (C) any other provision of Federal law.

18 (k) PUBLIC BENEFIT ASSESSMENTS.—

19 (1) IN GENERAL.—Before entering into a  
20 project partnership agreement with an eligible entity  
21 under subsection (d)(3), the Secretary shall conduct  
22 an assessment of whether, and provide justification  
23 in writing to Congress that, the proposed agreement  
24 provides better public and financial benefits than a



1 similar transaction using traditional public funding,  
2 financing, or administration.

3 (2) REQUIREMENTS.—An assessment under  
4 paragraph (1) shall—

5 (A) be completed in a period of not more  
6 than 90 days;

7 (B) take into consideration any supporting  
8 materials and data submitted by the relevant el-  
9 igible entity and other stakeholders; and

10 (C) determine whether the proposed  
11 project partnership agreement is in the public  
12 interest by determining whether the agreement  
13 will provide public and financial benefits, in-  
14 cluding accelerated or expedited project deliv-  
15 ery, residual risk reduction, and savings for tax-  
16 payers.

17 (l) APPLICABILITY OF FEDERAL LAW.—Any provi-  
18 sion of Federal law that would apply to the Secretary if  
19 the Secretary were carrying out a project shall apply to  
20 an eligible entity carrying out a project under the Pro-  
21 gram.

22 (m) COST SHARE.—Nothing in this section shall be  
23 construed to affect any cost-sharing requirement under  
24 Federal law that is applicable to a project carried out  
25 under the Program.

1       (n) REPORT.—Not later than 3 years after the date  
2 of enactment of this Act, the Secretary shall submit to  
3 Congress and make publicly available a report describing  
4 the results of the Program, including any recommenda-  
5 tions of the Secretary concerning whether the Program or  
6 any component of the Program should be implemented  
7 across the United States.

8       (o) AUTHORIZATION OF APPROPRIATIONS.—There is  
9 authorized to be appropriated to the Secretary  
10 \$250,000,000 to carry out the Program, which shall re-  
11 main available until expended.

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