

116TH CONGRESS
2D SESSION

S. 4764

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.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

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

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

mitigation projects that involve public-private partnerships or private investment in pre-disaster mitigation projects; and

(iii) not later than 1 year after the date of enactment of this section, issue rules to carry out the procedures and approaches developed under this subparagraph.

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

(A) sections 3141 through 3148 and sections 3701 through 3708 of title 40, United States Code;

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

(C) any other provision of Federal law.

(k) PUBLIC BENEFIT ASSESSMENTS.—

(1) IN GENERAL.—Before entering into a project partnership agreement with an eligible entity under subsection (d)(3), the Secretary shall conduct an assessment of whether, and provide justification in writing to Congress that, the proposed agreement 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.

