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116TH CONGRESS
1ST SESSION

H. R. 3531

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide assistance to reduce the harmful impacts to people and property from multiple hazards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2019

Mr. GRAVES of Missouri introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide assistance to reduce the harmful impacts to people and property from multiple hazards, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Resilient Communities Act of 2019''.

SEC. 2. REVOLVING LOAN FUNDS TO MITIGATE FOR MULTIPLE HAZARDS.

Title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.) is amended by adding at the end the following:

"SEC. 205. REVOLVING LOAN FUND.

"(a) DEFINITIONS.—In this section—

"(1) the term 'eligible entity' means a State or Indian Tribal Government as those terms are defined in section 102 of this Act;

"(2) the term 'participating entity' means an eligible entity that—

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

"(B) agrees to comply with the requirements of this section;

"(3) the term 'mitigation loan fund' means a multihazard mitigation assistance revolving loan fund established by an eligible entity under this section; and

"(4) the term 'eligible recipient' means a local governmental entity, a State agency or subdivision thereof.

"(b) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Administrator may enter into an agreement with an eligible entity to provide a capitalization grant for the eligible entity to establish a revolving loan fund that will provide funding assistance to an eligible recipient to reduce disaster risks for homeowners, businesses, nonprofit organizations, and communities in order to decrease—

"(A) the loss of life and property;

"(B) the cost of 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 entity under paragraph (1), the participating entity shall—

"(i) deposit the grant in the mitigation loan fund of the eligible entity; and

"(ii) enter into 1 or more agreements to distribute the grant funds for purposes authorized under subsection (d).

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

"(C) EXCEPTION.—The Administrator may not reallocate any funds under subparagraph (B) to a participating entity 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 entities—

"(i) for the participating entities to deposit in the mitigation loan funds established by the participating entities; and

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

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

"(i) Eligible entities must apply to the Administrator for an allocation of financial assistance to capitalize the loans and commit to a 10 percent match of the requested funds.

"(ii) Seventy-five percent of the project selection must be composed of local government hazard mitigation projects and eligible entities must give at least 3 weeks notice to their local governments before requiring all hazard mitigation projects to be submitted.

"(iii) Eligible entities may not provide more than $5,000,000 in loan funds toward the completion of any single hazard mitigation project.

"(iv) A participating entity must agree to the revolving loan repayment terms issued by the Administrator upon being selected to participate.

"(v) No more than 10 percent of the loan funds provided to a participating entity may be used for the purposes of planning.

"(C) PRIORITIZATION.—The Administrator shall prioritize loan funds to participating entities with intended use plans that include projects that—

"(i) include the restoration and augmentation of natural and built infrastructure;

"(ii) involve more than 1 eligible entity or recipient partnering together;

"(iii) take into account regional impacts of hazards such as—

"(I) river basins;

"(II) river corridors;

"(III) micro and macro watersheds; and

"(IV) estuaries, bays, and coastal regions; and

"(iv) involve the resilience of major economic sectors and critical national infrastructure such as ports, power and water production and distribution centers, bridges, and waterways essential to interstate commerce.

"(4) FURTHER REVOLVING FUND REQUIREMENTS.—A participating entity that exercises the authority under paragraph (3)(A) in a fiscal year shall provide matching funds from non-Federal sources in an amount that is equal to 10 percent of the amount that the participating entity receives under paragraph (3)(A) in that fiscal year for purposes described in the respective intended use plan.

"(5) 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 by FEMA in carrying out this section; and

"(B) for FEMA to provide technical assistance to recipients of loans under this section.

"(6) PARTNERSHIPS.—Eligible recipients may partner with nongovernmental organizations to ensure projects reduce disaster risks for homeowners, businesses, nonprofit organizations, and communities.

"(c) ENVIRONMENTAL REVIEW OF REVOLVING LOAN FUND PROJECTS.—Notwithstanding any other Federal law, Federal environmental review of the mitigation loan fund projects shall be delegated to the participating entities but only for the purposes of carrying out the mitigation revolving loan fund program as authorized under this section. Such participating entities shall establish a Federal equivalency environmental review involving consideration of alternatives, analysis of potential effects, opportunity for public notice and comments, and compliance with Federal environmental laws and Executive orders.

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—Amounts deposited in a mitigation 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 paragraphs (2) and (3) and subsection (h), to provide financial assistance for any eligible recipient;

“(B) as a source of revenue and security for leveraged loans, the proceeds of which shall be deposited in the mitigation 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 entity to provide matching funds under subsection (g), if the proceeds from the sale of the bonds are deposited in the mitigation loan fund.

“(2) PURPOSES.—An eligible recipient of financial assistance provided through amounts from a mitigation loan fund—

“(A) shall use the amounts in a cost-effective manner under requirements established by the participating entity, which may require an applicant for financial assistance to submit a cost-benefit analysis before the date on which the applicant receives the assistance;

"(B) shall use the amounts for projects that are located in communities that have developed a local hazard mitigation plan that has been approved by the Administrator;

"(C) may use the amounts to—

"(i) establish and carry out enforcement activities and implement consensus-based codes, specifications, and standards;

"(ii) study special zoning overlay districts that better interface waterfront development with natural assets through the use of buffer zones and shoreline set-backs, protect freshwater resources for drinking and manufacturing, and flood prevention through installation and restoration of natural infrastructure such as connected floodplain, wetlands, marshes, setback areas, and riverfront parks;

"(iii) study agriculture risk compensation districts where there is a desire to remove or set-back levees protecting highly developed agricultural land to mitigate for flooding, allowing agricultural producers to receive compensation for assuming greater flood risk that would alleviate flood exposure to population centers and areas with critical national infrastructure;

"(iv) study land use incentives that reward developers for greater reliance on LID stormwater best management practices, exchange density increases for increased open space and improvement of neighborhood catch basins to mitigate urban flooding, reward developers for including and augmenting natural infrastructure adjacent to and around building projects without reliance on increased sprawl; or

"(v) study an erosion response plan that accommodates river, lake, and ocean shoreline retreating or bluff stabilization due to increased flooding and disaster impacts.

"(3) ALLOWANCE.—The Administrator shall promulgate an allowance within this section to allow participating entities to use revolving loan funds toward resilience to hazards. Participating entities may direct a portion of revolving loan funds toward resilience activities that mitigate for the impacts of the following:

"(A) FLOODING.—Funds may be applied to—

"(i) structural elevation;

"(ii) flood proofing;

"(iii) the relocation or removal of buildings;

"(iv) environmental restoration activities that directly reduce flood risk;

"(v) construction, repair or replacement of non-Federal levees;

"(vi) nonprofits, businesses, and other nongovernmental entities for projects that will reduce flood risk; and

"(vii) other activities determined appropriate by the Administrator.

"(B) DROUGHT AND PROLONGED EPISODES OF INTENSE HEAT.—Funds may be applied to—

"(i) planning and protocols for healthcare facility response and plans that add heat-related illness treatment capacities;

"(ii) planning and protocols for the deployment of cooling centers for vulnerable populations;

"(iii) heat island and heat sink effect reduction activities such as—

"(I) increasing urban canopies; and

"(II) replacing natural assets more suited to drought and warmer climates;

"(iv) replacing infrastructure vulnerable to the rapid deteriorating effects of intense heat with better alternatives including natural solutions;

"(v) restoration of natural infrastructure such as forests to absorb heat effects;

"(vi) restoration and installment of wetlands and marshes to retain moisture during drought and intensely hot periods;

"(vii) increased urban green space that works to reduce heat island effects;

"(viii) water conservation plans and protocols designed for severe drought; and "(ix) small business assistance program assembly and planning for businesses likely to be most impacted by drought.

"(C) SEVERE STORMS.—Funds may be applied to mitigation and resilience for the following:

"(i) STRAIGHT-LINE WINDS AND TORNADIC ACTIVITY.—Funds may be used for infrastructure resilience activities that mitigate against significant wind storms especially where there is high vulnerability to utility systems that may incur prolonged service interruption due to canopy overgrowth and exposed transmission links, including restoration of forests, tree lines, and natural buffer zones designed to channel, shield, and reduce wind damage to critical infrastructure.

"(ii) TROPICAL CYCLONES.—Funds may be used for infrastructure resilience activities that mitigate against impacts associated with tropical cyclones.

"(iii) ICE, SNOW, EXTREME COLD.—Funds may be used for infrastructure resilience activities that mitigate against impacts associated with winter storms, including—

“(I) physical improvement and signage of evacuation routes;

“(II) establishment or improvement of shelters or warming centers; and

“(III) insulating, relocating, or rerouting critical infrastructure that mitigates for exposure of utility and public transportation assets to snow, ice, and extreme cold.

“(D) WILDFIRES.—Funds may be applied to—

“(i) planning and protocols that reduce the risk of wildfires, improve evacuation routes, and better inform the public on prevention of and response to wildfires;

“(ii) installation of built and natural infrastructure that reduces the risk of wildfires, including—

“(I) deployment of vegetation and ecosystems that retain moisture during long hot periods native to the region such as marshes and wetlands, if appropriate;

“(II) replacement of vegetation native to the region more suited to increased hot and dry periods;

“(III) physical improvement and signage of evacuation routes;

“(IV) establishment or improvement of evacuation centers;

“(V) training of first responders and public safety personnel on how to prevent, mitigate, and respond to wildfires;

“(VI) acquisition of equipment and supplies suited to mitigating and responding to wildfires, including acquisition of technology-based solutions;

“(VII) activities that increase the capacity of healthcare facilities to treat wildfire-related injuries; and

“(VIII) activities that address wildfire primary impacts such as from burn and secondary impacts to property and infrastructure.

"(E) OTHER CATASTROPHIC EVENTS.—

"(i) IN GENERAL.—Eligible entities may apply revolving loan funds toward resilience and mitigation against a catastrophic event the Administrator determines is either repetitive or is highly likely to occur and endanger lives and property unless overt action is taken.

"(ii) CATASTROPHIC EVENTS.—Catastrophic events include—

"(I) chemical spills into public water supply reservoirs such as rivers, lakes, or groundwater aquifers where results could be life-threatening;

"(II) large-scale algae blooms in a public surface water supply reservoir such as a river or lake;

"(III) rupture of a hazardous materials pipeline that transects above, below, or through a public water supply reservoir such as a river, lake, or groundwater aquifers; and

"(IV) significant contact between a land-based waste disposal site currently housing a hazardous material such as coal ash, mining material, or manufacturing slag that may make a water body toxic.

"(iii) RESILIENCE ACTIVITIES.—Resilience activities that are allowed under this section may include—

"(I) strengthening or realignment of surface transportation infrastructure, including ports;

"(II) installation of emergency shut-off valves within hazardous material pipeline sections traversing near or through public water supplies;

"(III) removal or relocating of land-based waste disposal sites currently housing a hazardous material as long as the new site is not located within a floodplain or in or near geologic hazards such as earthquake faults or areas prone to tsunami liquification or landslides; and

"(IV) resilience to earthquakes.

"(4) SAVINGS.—None of the mitigation revolving loan funds may be used for the benefit of projects, activities or to otherwise mitigate risk on Federal land or property.

"(e) INTENDED USE PLANS.—

"(1) IN GENERAL.—After providing the opportunity for public review and comment, each participating entity shall annually prepare a plan that identifies, for the year following the date of issuance of the intended use plan, the intended uses of the amounts available in the mitigation loan fund of the participating entity.

"(2) CONSULTATION DURING PREPARATION.— Each participating entity, in preparing an intended use plan, shall ensure that the respective agency of the participating entity with primary responsibility for emergency management—

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

"(B) consults with any other appropriate agency of the participating entity, including agencies responsible for coastal, environmental management, and economic development.

"(3) CONTENTS.—A participating entity shall, in each intended use plan—

"(A) include—

"(i) an explanation of the mitigation and resiliency benefits the participating entity intends to achieve, including by—

"(I) reducing future damage and loss associated with hazards included in subsection (d)(3);

"(II) reducing the number of severe repetitive loss properties and repetitive loss structures in the participating entity's jurisdiction;

"(III) decreasing the number of insurance claims; and

"(IV) increasing the rating under the Community Rating System for communities in the geographical jurisdiction of the participating entity;

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

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

"(iv) the amount of financial assistance that the participating entity anticipates allocating to—

"(I) local government projects; and

"(II) projects benefitting 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 mitigation loan fund and the short-term and long-term goals of the mitigation loan fund; and

"(B) provide, to the maximum extent practicable, that priority for the use of amounts from the mitigation 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) assist vulnerable populations including residential facilities with assisted living, group homes for the elderly, or emotional or physically disabled.

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

"(A) the location of each project;

"(B) the type and amount of assistance provided for each project; and

"(C) the expected funding schedule and date of completion of each project.

"(f) FUND MANAGEMENT.—Amounts in a mitigation 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;

"(C) interest earned on amounts in the fund; and

"(D) the matching funds required under subsection (g).

"(g) MATCHING FUNDS.—On or before the date on which a participating entity receives a capitalization grant, the entity shall deposit into the mitigation loan fund of the entity, in addition to the amount of the capitalization grant, an amount from non-Federal sources that is not less than 10 percent of the total amount of the capitalization grant.

"(h) TYPES OF ASSISTANCE.—Unless otherwise prohibited by law, a participating entity may use the amounts deposited into a mitigation 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 50 percent of 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 completed, except that, in the case of a loan made for a project in a low-income geographic area, for a low-income homeowner or to assist vulnerable populations including residential facilities with assisted living, group homes for the elderly, or emotionally or physically disabled, the participating entity may provide 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 eligible recipient of the loan demonstrates that there is a dedicated source of revenue or adequate income to repay the loan; and

"(E) payments of principal and interest with respect to the loan will be deposited into the mitigation 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 participating entity if the proceeds of the sale of the bonds will be deposited into the mitigation loan fund; or

"(5) to earn interest on those amounts.

"(i) ADMINISTRATION OF FUND.—

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

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

"(i) be convenient and avoid administrative costs; and "(ii) not violate the law of the participating entity; 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 mitigation loan fund, and interest earned on amounts in a mitigation loan fund will be—

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

"(II) used only for purposes authorized under this section; and

"(ii) after consulting with the appropriate agencies of the participating entity, the authority to establish assistance priorities and carry out oversight and related activities, other than financial administration, with respect to mitigation assistance remains with the agency of the participating entity with primary responsibility for emergency management.

"(2) ADMINISTRATIVE AND TECHNICAL COSTS.—

"(A) IN GENERAL.—For each fiscal year, a participating entity may use the amount described in subparagraph (B) to—

"(i) pay the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs incurred in establishing a mitigation loan fund;

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

"(iii) provide technical assistance training and outreach to recipients in the geographical jurisdiction of the participating entity 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 5 percent of the funds made available to the entity 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 entity to recover the costs described in subparagraph (A)(i), regardless of the source; and

"(ii) the greatest of—

"(I) $100,000;

"(II) 1.0 percent of the value of the mitigation loan fund, as of the date on which the valuation is made; and

"(III) an amount equal to 2.0 percent of all grant awards made to a participating entity for the mitigation loan fund under this section for the fiscal year.

"(3) AUDIT AND REPORT.—

"(A) AUDIT REQUIREMENT.—Not less frequently than every 2 years, each participating entity shall conduct an audit of the mitigation loan fund of the entity.

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

"(i) the result of any audit conducted by the participating entity under subparagraph (A); and

"(ii) a review of the effectiveness of the mitigation loan fund of the entity with respect to—

"(I) the intended use plans of the entity; and

"(II) meeting the objectives described in subsection (b)(1).

"(4) OVERSIGHT.—In conducting oversight with respect to mitigation 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 mitigation loan fund to determine the effectiveness of the fund in reducing hazard risk; and

"(B) may, at any time—

"(i) make recommendations to a participating entity with respect to the administration of the mitigation loan fund of the entity; or

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

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

“(1) ensure that each participating entity 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;

“(3) ensure compliance with the requirements of this section; and

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

“(k) FUNDING.—The President may make contributions from the Disaster Relief Fund in order to provide financial assistance under this section. Such contribution shall be deemed to be related to activities carried out pursuant to a major disaster under this Act.

"(l) DUPLICATION OF BENEFITS.—The financial assistance provided pursuant to this section to participating entities, and the loans made to eligible recipients shall not be determined to be a duplication of assistance.".

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