II

106TH CONGRESS
1ST SESSION

S. 1136

To amend the Internal Revenue Code of 1986 to provide that an organization shall be exempt from income tax if it is created by a State to provide property and casualty insurance coverage for property for which such coverage is otherwise unavailable.

IN THE SENATE OF THE UNITED STATES

MAY 26, 1999

Mr. MACK (for himself and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to provide that an organization shall be exempt from income tax if it is created by a State to provide property and casualty insurance coverage for property for which such coverage is otherwise unavailable.

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

SECTION 1. EXEMPTION FROM INCOME TAX FOR STATE-CREATED ORGANIZATIONS PROVIDING PROPERTY AND CASUALTY INSURANCE FOR PROPERTY FOR WHICH SUCH COVERAGE IS OTHERWISE UNAVAILABLE.

(a) IN GENERAL.—Subsection (c) of section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end the following new paragraph:

"(28)(A) Any association created before January 1, 1999, by State law and organized and operated exclusively to provide property and casualty insurance coverage for property located within the State for which the State has determined that coverage in the authorized insurance market is limited or unavailable at reasonable rates, if—

"(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual,

"(ii) except as provided in clause (v), no part of the assets of which may be used for, or diverted to, any purpose other than—

"(I) to satisfy, in whole or in part, the liability of the association for, or with respect to, claims made on policies written by the association, "(II) to invest in investments authorized by applicable law, or

"(III) to pay reasonable and necessary administration expenses in connection with the establishment and operation of the association and the processing of claims against the association,

"(iii) the State law governing the association permits the association to levy assessments on property and casualty insurance policyholders with insurable interests in property located in the State to fund deficits of the association, including the creation of reserves,

"(iv) the plan of operation of the association is subject to approval by the chief executive officer or other executive branch official of the State, by the State legislature, or both, and

"(v) the assets of the association revert upon dissolution to the State, the State's designee, or an entity designated by the State law governing the association, or State law does not permit the dissolution of the association.

"(B) Subparagraph (A) shall not apply to an association for any taxable year if the association's surplus income for such year exceeds 5 percent of the total insured value of properties insured by the association as of the close of the taxable year unless the association pays a tax equal to 35 percent of such excess for such year. Such tax shall be treated as imposed by chapter 42 for purposes of this title.''

(b) TRANSITIONAL RULE.—No income or gain shall be recognized by an association as a result of a change in status to that of an association described by section 501(c)(28) of the Internal Revenue Code of 1986, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.

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