

106TH CONGRESS  
2D SESSION

# S. 2103

To amend the Internal Revenue Code of 1986 to provide equitable treatment for associations which prepare for or mitigate the effects of natural disasters.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2000

Mr. GRAMM (for himself and Mrs. HUTCHISON) 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 equitable treatment for associations which prepare for or mitigate the effects of natural disasters.

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. EXEMPTION FROM INCOME TAX FOR STATE-**  
4                               **CREATED ORGANIZATIONS PROVIDING PROP-**  
5                               **ERTY AND CASUALTY INSURANCE FOR PROP-**  
6                               **ERTY FOR WHICH SUCH COVERAGE IS OTH-**  
7                               **ERWISE UNAVAILABLE.**

8       (a) IN GENERAL.—Subsection (c) of section 501 of  
9       the Internal Revenue Code of 1986 (relating to exemption

1 from tax on corporations, certain trusts, etc.) is amended  
2 by adding at the end the following new paragraph:

3           “(28)(A) Any association created before Janu-  
4           ary 1, 1999, by State law and organized and oper-  
5           ated exclusively to provide property and casualty in-  
6           surance coverage for property located within the  
7           State for which the State has determined that cov-  
8           erage in the authorized insurance market is limited  
9           or unavailable at reasonable rates, if—

10               “(i) no part of the net earnings of which  
11               inures to the benefit of any private shareholder  
12               or individual,

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

16                   “(I) to satisfy, in whole or in part, the  
17                   liability of the association for, or with re-  
18                   spect to, claims made on policies written  
19                   by the association,

20                   “(II) to invest in investments author-  
21                   ized by applicable law,

22                   “(III) to pay reasonable and nec-  
23                   essary administration expenses in connec-  
24                   tion with the establishment and operation

1 of the association and the processing of  
2 claims against the association, or

3 “(IV) to make remittances pursuant  
4 to State law to be used by the State to  
5 provide for the payment of claims on poli-  
6 cies written by the association, purchase  
7 reinsurance covering losses under such  
8 policies, or to support governmental pro-  
9 grams to prepare for or mitigate the ef-  
10 fects of natural catastrophic events,

11 “(iii) the State law governing the associa-  
12 tion permits the association to levy assessments  
13 on insurance companies authorized to sell prop-  
14 erty and casualty insurance in the State, or on  
15 property and casualty insurance policyholders  
16 with insurable interests in property located in  
17 the State to fund deficits of the association, in-  
18 cluding the creation of reserves,

19 “(iv) the plan of operation of the associa-  
20 tion is subject to approval by the chief executive  
21 officer or other official of the State, by the  
22 State legislature, or both, and

23 “(v) the assets of the association revert  
24 upon dissolution to the State, the State’s des-  
25 ignee, or an entity designated by the State law

1 governing the association, or State law does not  
 2 permit the dissolution of the association.

3 “(B)(i) An entity described in clause (ii) shall  
 4 be disregarded as a separate entity and treated as  
 5 part of the association described in subparagraph  
 6 (A) from which it receives remittances described in  
 7 clause (ii) if an election is made within 30 days after  
 8 the date that such association is determined to be  
 9 exempt from tax.

10 “(ii) An entity is described in this clause if it  
 11 is an entity or fund created before January 1, 1999,  
 12 pursuant to State law and organized and operated  
 13 exclusively to receive, hold, and invest remittances  
 14 from an association described in subparagraph (A)  
 15 and exempt from tax under subsection (a), to make  
 16 disbursements to pay claims on insurance contracts  
 17 issued by such association, and to make disburse-  
 18 ments to support governmental programs to prepare  
 19 for or mitigate the effects of natural catastrophic  
 20 events.”.

21 (b) UNRELATED BUSINESS TAXABLE INCOME.—  
 22 Subsection (a) of section 512 of the Internal Revenue  
 23 Code of 1986 (relating to unrelated business taxable in-  
 24 come) is amended by adding at the end the following new  
 25 paragraph:

1           “(6) SPECIAL RULE APPLICABLE TO ORGANIZA-  
2           TIONS DESCRIBED IN SECTION 501(C)(28).—In the  
3           case of an organization described in section  
4           501(c)(28), the term ‘unrelated business taxable in-  
5           come’ means taxable income for a taxable year com-  
6           puted without the application of section 501(c)(28)  
7           if at the end of the immediately preceding taxable  
8           year the organization’s net equity exceeded 15 per-  
9           cent of the total coverage in force under insurance  
10          contracts issued by the organization and outstanding  
11          at the end of such preceding year.”.

12          (c) TRANSITIONAL RULE.—No income or gain shall  
13          be recognized by an association as a result of a change  
14          in status to that of an association described by section  
15          501(c)(28) of the Internal Revenue Code of 1986, as  
16          amended by subsection (a).

17          (d) EFFECTIVE DATE.—The amendment made by  
18          subsection (a) shall apply to taxable years beginning after  
19          December 31, 1999.

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