107TH CONGRESS
1ST SESSION

S. 797

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

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2001

Mr. GRAMM (for himself, Mr. GRAHAM, 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.

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 and with respect to which the State determines, through appropriate State action, that coverage in the authorized insurance market is not reasonably available to a substantial number of insurable real properties (and any successor association), 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, "(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, or

"(IV) to make remittances pursuant to State law to be used by the State to provide for the payment of claims on policies written by the association, purchase reinsurance covering losses under such policies, or to support governmental programs to prepare for or mitigate the effects of natural catastrophic events,

"(iii) the State law governing the association permits the association to levy assessments on insurance companies authorized to sell property and casualty insurance in the State, or 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 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)(i) An entity described in clause (ii) (and any successor entity) shall be disregarded as a separate entity and treated as part of the association described in subparagraph (A) from which it receives remittances described in clause (ii) if an election is made within 30 days after the date that such association is determined to be exempt from tax.

"(ii) An entity is described in this clause if it is an entity or fund created before January 1, 1999, pursuant to State law and organized and operated exclusively to receive, hold, and invest remittances from an association described in subparagraph (A) and exempt from tax under subsection (a), to make disbursements to pay claims on insurance contracts issued by such association, and to make disbursements to support governmental programs to prepare for or mitigate the effects of natural catastrophic events.".

(b) UNRELATED BUSINESS TAXABLE INCOME.—Subsection (a) of section 512 of the Internal Revenue

Code of 1986 (relating to unrelated business taxable income) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(c)(28).—In the case of an organization described in section 501(c)(28), the term 'unrelated business taxable income' means taxable income for a taxable year computed without the application of section 501(c)(28) if at the end of the immediately preceding taxable year the organization's net equity exceeded 15 percent of the total coverage in force under insurance contracts issued by the organization and outstanding at the end of such preceding year.".

(c) 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).

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

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