

**Calendar No. 111**

111TH CONGRESS  
1ST SESSION

**S. 345**

**[Report No. 111–49]**

To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the “Tropical Forest and Coral Conservation Act of 2009”, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2009

Mr. LUGAR (for himself, Mr. KERRY, Mr. BROWNBACK, Mr. LEAHY, Mr. KAUFMAN, Mr. LIEBERMAN, Mr. NELSON of Florida, Mrs. MURRAY, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

JULY 16, 2009

Reported by Mr. KERRY, without amendment

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**A BILL**

To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the “Tropical Forest and Coral Conservation Act of 2009”, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Tropical Forest and  
3 Coral Conservation Reauthorization Act of 2009”.

4 **SEC. 2. AMENDMENT TO SHORT TITLE OF ACT TO ENCOM-**  
5 **PASS EXPANDED SCOPE.**

6 (a) IN GENERAL.—Section 801 of the Tropical For-  
7 est Conservation Act of 1998 (Public Law 87–195; 22  
8 U.S.C. 2151 note) is amended by striking “Tropical For-  
9 est Conservation Act of 1998” and inserting “Tropical  
10 Forest and Coral Conservation Act of 2009”.

11 (b) REFERENCES.—Any reference in any other provi-  
12 sion of law, regulation, document, paper, or other record  
13 of the United States to the “Tropical Forest Conservation  
14 Act of 1998” shall be deemed to be a reference to the  
15 “Tropical Forest and Coral Conservation Act of 2009”.

16 **SEC. 3. EXPANSION OF SCOPE OF ACT TO PROTECT FOR-**  
17 **ESTS AND CORAL REEFS.**

18 (a) IN GENERAL.—Section 802 of the Tropical For-  
19 est and Coral Conservation Act of 2009 (22 U.S.C. 2431),  
20 as renamed by section 2(a), is amended—

21 (1) in subsections (a)(1), (a)(6), (a)(7), (b)(1),  
22 (b)(3), and (b)(4), by striking “tropical forests”  
23 each place it appears and inserting “tropical forests  
24 and coral reefs and associated coastal marine eco-  
25 systems”;

26 (2) in subsection (a)(2)—

1 (A) in subparagraph (A), by striking “re-  
 2 sources, which are the basis for developing  
 3 pharmaceutical products and revitalizing agri-  
 4 cultural crops” and inserting “resources”; and

5 (B) in subparagraph (C), by striking “far-  
 6 flung”; and

7 (3) in subsection (b)(2)—

8 (A) by striking “tropical forests” the first  
 9 place it appears and inserting “tropical forests  
 10 and coral reefs and associated coastal marine  
 11 ecosystems”;

12 (B) by striking “tropical forests” the sec-  
 13 ond place it appears and inserting “areas”;

14 (C) by striking “tropical forests” the third  
 15 place it appears and inserting “tropical forests  
 16 and coral reefs and their associated coastal ma-  
 17 rine ecosystems”; and

18 (D) by striking “that have led to deforest-  
 19 ation” and inserting “on such countries”.

20 (b) AMENDMENTS RELATED TO DEFINITIONS.—Sec-  
 21 tion 803 of such Act (22 U.S.C. 2431a) is amended—

22 (1) in paragraph (5)—

23 (A) in the heading, by striking “TROPICAL  
 24 FOREST” and inserting “TROPICAL FOREST OR  
 25 CORAL REEF”;

1 (B) in the matter preceding subparagraph  
 2 (A), by striking “tropical forest” and inserting  
 3 “tropical forest or coral reef”; and

4 (C) in subparagraph (B)—

5 (i) by striking “tropical forest” and  
 6 inserting “tropical forest or coral reef”;  
 7 and

8 (ii) by striking “tropical forests” and  
 9 inserting “tropical forests or coral reefs”

10 (2) by adding at the end the following new  
 11 paragraphs:

12 “(10) CORAL.—The term ‘coral’ means species  
 13 of the phylum Cnidaria, including—

14 “(A) all species of the orders Antipatharia  
 15 (black corals), Scleractinia (stony corals),  
 16 Alcyonacea (soft corals), Gorgonacea (horny  
 17 corals), Stolonifera (organpipe corals and oth-  
 18 ers), and Coenothecalia (blue coral), of the class  
 19 Anthoza; and

20 “(B) all species of the order  
 21 Hydrocorallina (fire corals and hydrocorals) of  
 22 the class Hydrozoa.

23 “(11) CORAL REEF.—The term ‘coral reef’  
 24 means any reef or shoal composed primarily of coral.

1           “(12) ASSOCIATED COASTAL MARINE ECO-  
 2           SYSTEM.—The term ‘associated coastal marine eco-  
 3           system’ means any coastal marine ecosystem sur-  
 4           rounding, or directly related to, a coral reef and im-  
 5           portant to maintaining the ecological integrity of  
 6           that coral reef, such as seagrasses, mangroves,  
 7           sandy seabed communities, and immediately adja-  
 8           cent coastal areas.”.

9   **SEC. 4. CHANGE TO NAME OF FACILITY.**

10       (a) IN GENERAL.—Section 804 of the Tropical For-  
 11       est and Coral Conservation Act of 2009 (22 U.S.C.  
 12       2431b), as renamed by section 2(a), is amended by strik-  
 13       ing “Tropical Forest Facility” and inserting “Conserva-  
 14       tion Facility”.

15       (b) CONFORMING AMENDMENTS TO DEFINITIONS.—  
 16       Section 803(8) of such Act (22 U.S.C. 2431a(8)) is  
 17       amended—

18           (1) in the heading, by striking “TROPICAL FOR-  
 19           EST FACILITY” and inserting “CONSERVATION FA-  
 20           CILITY”; and

21           (2) by striking “Tropical Forest Facility” both  
 22           places it appears and inserting “Conservation Facil-  
 23           ity”.

24       (c) REFERENCES.—Any reference in any other provi-  
 25       sion of law, regulation, document, paper, or other record

1 of the United States to the “Tropical Forest Facility”  
 2 shall be deemed to be a reference to the “Conservation  
 3 Facility”.

4 **SEC. 5. ELIGIBILITY FOR BENEFITS.**

5 Section 805(a) of the Tropical Forest and Coral Con-  
 6 servation Act of 2009 (22 U.S.C. 2431c(a)), as renamed  
 7 by section 2(a), is amended by striking “tropical forest”  
 8 and inserting “tropical forest or coral reef”.

9 **SEC. 6. UNITED STATES GOVERNMENT REPRESENTATION**

10 **ON OVERSIGHT BODIES FOR GRANTS FROM**  
 11 **DEBT-FOR-NATURE SWAPS AND DEBT**  
 12 **BUYBACKS.**

13 Section 808(a)(5) of the Tropical Forest and Coral  
 14 Conservation Act of 2009 (22 U.S.C. 2431f(a)(5)), as re-  
 15 named by section 2(a), is amended by adding at the end  
 16 the following new subparagraph:

17 “(C) UNITED STATES GOVERNMENT REP-  
 18 RESENTATION ON THE ADMINISTERING  
 19 BODY.—One or more individuals appointed by  
 20 the United States Government may serve in an  
 21 official capacity on the administering body that  
 22 oversees the implementation of grants arising  
 23 from a debt-for-nature swap or debt buyback  
 24 regardless of whether the United States is a  
 25 party to any agreement between the eligible

1 purchaser and the government of the bene-  
 2 ficiary country.”.

3 **SEC. 7. CONSERVATION AGREEMENTS.**

4 (a) RENAMING OF AGREEMENTS.—Section 809 of  
 5 the Tropical Forest and Coral Conservation Act of 2009  
 6 (22 U.S.C. 2431g), as renamed by section 2(a), is amend-  
 7 ed—

8 (1) in the section heading, by striking “**TROP-**  
 9 **ICAL FOREST AGREEMENT**” and inserting “**CON-**  
 10 **SERVATION AGREEMENT**”; and

11 (2) in subsection (a)—

12 (A) by striking “AUTHORITY” and all that  
 13 follows through “(1) IN GENERAL.—The Sec-  
 14 retary” and inserting “AUTHORITY.—The Sec-  
 15 retary”; and

16 (B) by striking “Tropical Forest Agree-  
 17 ment” and inserting “Conservation Agree-  
 18 ment”.

19 (b) ELIMINATION OF REQUIREMENT TO CONSULT  
 20 WITH THE ENTERPRISE FOR THE AMERICAS BOARD.—  
 21 Such subsection is further amended by striking paragraph  
 22 (2).

23 (c) ROLE OF BENEFICIARY COUNTRIES.—Such sec-  
 24 tion is further amended—

1           (1) in subsection (e)(1)(C), by striking “in ex-  
 2           ceptional circumstances, the government of the bene-  
 3           ficiary country” and inserting “in limited cir-  
 4           cumstances, the government of the beneficiary coun-  
 5           try when needed to improve governance and enhance  
 6           management of tropical forests or coral reefs or as-  
 7           sociated coastal marine ecosystems, without replac-  
 8           ing existing levels of financial efforts by the govern-  
 9           ment of the beneficiary country and with priority  
 10          given to projects that complement grants made  
 11          under subparagraphs (A) and (B)”; and

12           (2) by amending subsection (f) to read as fol-  
 13          lows:

14          “(f) REVIEW OF LARGER GRANTS.—Any grant of  
 15          more than \$250,000 from a Fund must be approved by  
 16          the Government of the United States and the government  
 17          of the beneficiary country.”.

18          (d) TECHNICAL AND CONFORMING AMENDMENTS.—  
 19          Such section is further amended—

20               (1) in subsection (c)(2)(A)(i), by inserting “to  
 21               serve in an official capacity” after “Government”;

22               (2) in subsection (d)—

23                       (A) in the matter preceding paragraph (1),  
 24                       by striking “tropical forests” and inserting  
 25                       “tropical forests and coral reefs and associated



1 coastal marine ecosystems related to such coral  
2 reefs”;

3 (B) in paragraph (5), by striking “tropical  
4 forest”; and

5 (C) in paragraph (6), by striking “living in  
6 or near a tropical forest in a manner consistent  
7 with protecting such tropical forest” and insert-  
8 ing “dependent on a tropical forest or coral reef  
9 or an associated coastal marine ecosystem re-  
10 lated to such coral reef and related resources in  
11 a manner consistent with conserving such re-  
12 sources”.

13 (e) CONFORMING AMENDMENTS TO DEFINITIONS.—  
14 Section 803(7) of such Act (22 U.S.C. 2431a(7)) is  
15 amended—

16 (1) in the heading, by striking “TROPICAL FOR-  
17 EST AGREEMENT” and inserting “CONSERVATION  
18 AGREEMENT”; and

19 (2) by striking “Tropical Forest Agreement”  
20 both places it appears and inserting “Conservation  
21 Agreement”.

22 **SEC. 8. CONSERVATION FUND.**

23 (a) IN GENERAL.—Section 810 of the Tropical For-  
24 est and Coral Conservation Act of 2009 (22 U.S.C.  
25 2431h), as renamed by section 2(a), is amended—

1 (1) in the section heading, by striking “**TROP-**  
 2 **ICAL FOREST FUND**” and inserting “**CONSERVA-**  
 3 **TION FUND**”; and

4 (2) in subsection (a)—

5 (A) by striking “Tropical Forest Agree-  
 6 ment” and inserting “Conservation Agree-  
 7 ment”; and

8 (B) by striking “Tropical Forest Fund”  
 9 and inserting “Conservation Fund”.

10 (b) CONFORMING AMENDMENTS TO DEFINITIONS.—

11 Such Act is further amended—

12 (1) in section 803(9) (22 U.S.C. 2431a(9))—

13 (A) in the heading, by striking “TROPICAL  
 14 FOREST FUND” and inserting “CONSERVATION  
 15 FUND”; and

16 (B) by striking “Tropical Forest Fund”  
 17 both places it appears and inserting “Conserva-  
 18 tion Fund”;

19 (2) in section 806(c)(2) (22 U.S.C.  
 20 2431d(c)(2)), by striking “Tropical Forest Fund”  
 21 and inserting “Conservation Fund”; and

22 (3) in section 807(c)(2) (22 U.S.C.  
 23 2431e(c)(2)), by striking “Tropical Forest Fund”  
 24 and inserting “Conservation Fund”.

1 **SEC. 9. REPEAL OF AUTHORITY OF THE ENTERPRISE FOR**  
 2 **THE AMERICAS BOARD TO CARRY OUT AC-**  
 3 **TIVITIES UNDER THE TROPICAL FOREST AND**  
 4 **CORAL CONSERVATION ACT OF 2009.**

5 (a) IN GENERAL.—Section 811 of the Tropical For-  
 6 est and Coral Conservation Act of 2009 (22 U.S.C.  
 7 2431i), as renamed by section 2(a), is repealed.

8 (b) CONFORMING AMENDMENTS.—Section 803 of  
 9 such Act (22 U.S.C. 2431a), as renamed by section 2(a),  
 10 is amended—

11 (1) by striking paragraph (4); and

12 (2) by redesignating paragraphs (5), (6), (7),  
 13 (8), and (9) as paragraphs (4), (5), (6), (7), and  
 14 (8), respectively.

15 **SEC. 10. CHANGES TO DUE DATES OF ANNUAL REPORTS TO**  
 16 **CONGRESS.**

17 Section 813 of the Tropical Forest and Coral Con-  
 18 servation Act of 2009 (22 U.S.C. 2431k), as renamed by  
 19 section 2(a), is amended—

20 (1) in subsection (a)—

21 (A) by striking “(a) IN GENERAL.—Not  
 22 later than December 31” and inserting “Not  
 23 later than April 15”;

24 (B) by striking “Facility” both places it  
 25 appears and inserting “Conservation Facility”;  
 26 and

1 (C) by striking “fiscal year” both places it  
 2 appears and inserting “calendar year”; and  
 3 (2) by striking subsection (b).

4 **SEC. 11. CHANGES TO INTERNATIONAL MONETARY FUND**  
 5 **CRITERION FOR COUNTRY ELIGIBILITY.**

6 Section 703(a)(5) of the Foreign Assistance Act of  
 7 1961 (22 U.S.C. 2430b(a)(5)) is amended—

8 (1) by striking “or, as appropriate in excep-  
 9 tional circumstances,” and inserting “or”;  
 10 (2) in subparagraph (A)—

11 (A) by striking “or in exceptional cir-  
 12 cumstances, a Fund monitored program or its  
 13 equivalent,” and inserting “or a Fund mon-  
 14 itored program, or is implementing sound mac-  
 15 roeconomic policies,”; and

16 (B) by striking “(after consultation with  
 17 the Enterprise for the Americas Board)”; and

18 (3) in subparagraph (B), by striking “(after  
 19 consultation with the Enterprise for Americas  
 20 Board)”.

1 **SEC. 12. NEW AUTHORIZATION OF APPROPRIATIONS FOR**  
 2 **THE REDUCTION OF DEBT AND AUTHORIZA-**  
 3 **TION FOR AUDIT, EVALUATION, MONITORING,**  
 4 **AND ADMINISTRATION EXPENSES.**

5 Section 806 of the Tropical Forest and Coral Con-  
 6 servation Act of 2009 (22 U.S.C. 2431d), as renamed by  
 7 section 2(a), is amended—

8 (1) in subsection (d), by adding at the end the  
 9 following new paragraphs:

10 “(7) \$25,000,000 for fiscal year 2009.

11 “(8) \$30,000,000 for fiscal year 2010.

12 “(9) \$30,000,000 for fiscal year 2011.

13 “(10) \$30,000,000 for fiscal year 2012.”; and

14 (2) by amending subsection (e) to read as fol-  
 15 lows:

16 “(e) USE OF FUNDS TO CONDUCT PROGRAM AU-  
 17 DITS, EVALUATIONS, MONITORING, AND ADMINISTRA-  
 18 TION.—Of the amounts made available to carry out this  
 19 part for a fiscal year, \$300,000 is authorized to be made  
 20 available to carry out audits, evaluations, monitoring, and  
 21 administration of programs under this part, including per-  
 22 sonnel costs associated with such audits, evaluations, mon-  
 23 itoring and administration.”.

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[Report No. 111-49]

**A BILL**

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