

112TH CONGRESS
2D SESSION

S. 3694

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to enhance existing programs providing mitigation assistance by encouraging States to adopt and actively enforce State building codes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2012

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to enhance existing programs providing mitigation assistance by encouraging States to adopt and actively enforce State building codes, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Building Code
5 Incentive Act of 2012”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) mitigation planning is the foundation for
2 saving lives, protecting residential and commercial
3 properties, and developing disaster resistant commu-
4 nities;

5 (2) recent studies of the performance of build-
6 ing structures during disasters have demonstrated
7 that the adoption and active enforcement of State
8 building codes have greatly reduced residential and
9 commercial property damage and personal injury re-
10 sulting from major disasters;

11 (3) modern building codes govern all aspects of
12 construction and are designed to ensure that single-
13 family residential dwellings and commercial struc-
14 tures are protected from natural disasters;

15 (4) the people of the United States rely on ac-
16 tive enforcement of modern building codes for assur-
17 ance that minimum standards for reducing personal
18 injuries and property damages have been met in the
19 buildings they live in, work in, and visit everyday;

20 (5) active enforcement of building codes plays
21 an increasingly important role in public safety and
22 loss prevention of residential and commercial prop-
23 erty;

24 (6) active enforcement of building codes based
25 on nationally recognized models reduces the need for

1 public disaster aid, creates sustainable communities,
2 promotes a level and consistent playing field for de-
3 sign professionals, suppliers, and builders, and can
4 contribute to the durability of residential and com-
5 mercial structures;

6 (7) under the Robert T. Stafford Disaster Re-
7 lief and Emergency Assistance Act (42 U.S.C. 5121
8 et seq.), the Federal Emergency Management Agen-
9 cy provides Federal assistance to States for mitiga-
10 tion efforts;

11 (8) it is beneficial and appropriate to expand
12 Federal mitigation assistance to encourage States to
13 take a comprehensive and integrated approach to
14 disaster loss reduction; and

15 (9) it is beneficial to the Federal Government
16 and appropriate that Federal mitigation assistance
17 be used to encourage the adoption and active en-
18 forcement of State building codes as a disaster miti-
19 gation strategy under the auspices of a comprehen-
20 sive disaster loss reduction plan.

21 **SEC. 3. PURPOSES.**

22 The purposes of this Act are to—

23 (1) substantially mitigate the occurrence of loss
24 to residential and commercial property, reduce and
25 minimize damage when losses to residential and

1 commercial property occur, improve the quality and
 2 value of residential and commercial property, and re-
 3 duce the need for public disaster aid;

4 (2) provide incentives for the adoption and ac-
 5 tive enforcement of State building codes;

6 (3) encourage States to continue their key re-
 7 sponsibility to coordinate all State and local activi-
 8 ties relating to hazard evaluation and mitigation, as
 9 specified in section 201.3(c) of title 44, Code of Fed-
 10 eral Regulations, through the adoption and active
 11 enforcement of State building codes; and

12 (4) encourage States to require that local gov-
 13 ernments use a current version of a nationally appli-
 14 cable model building code that address natural haz-
 15 ards as a basis for design and construction of State-
 16 sponsored mitigation projects described in section
 17 201.5(b)(4)(iv) of title 44, Code of Federal Regula-
 18 tions.

19 **SEC. 4. ADDITIONAL MITIGATION ASSISTANCE.**

20 (a) IN GENERAL.—Section 404 of the Robert T.
 21 Stafford Disaster Relief and Emergency Assistance Act
 22 (42 U.S.C. 5170c) is amended by adding at the end the
 23 following:

24 “(d) ADDITIONAL MITIGATION ASSISTANCE.—

1 “(1) IN GENERAL.—If, at the time of a declara-
 2 tion of a major disaster, the affected State has in
 3 effect and is actively enforcing throughout the State
 4 a State building code that satisfies the conditions in
 5 paragraph (2), the President may increase the max-
 6 imum total of contributions under this section for
 7 the major disaster, as specified in subsection (a) and
 8 section 322(e), by an amount equal to 4 percent of
 9 the estimated aggregate amount of grants to be
 10 made (less any associated administrative costs)
 11 under this Act with respect to the major disaster.

12 “(2) SUBMISSION.—To be eligible for an in-
 13 creased Federal share under paragraph (1), a State
 14 shall certify to the President that the State has a
 15 building code that—

16 “(A) is consistent with the most recent
 17 version of a nationally recognized model build-
 18 ing code;

19 “(B) has been adopted by the State within
 20 6 years of the most recent version of the na-
 21 tionally recognized model building code; and

22 “(C) uses the nationally recognized model
 23 building code as a minimum standard.

24 “(3) APPROVAL.—The President shall approve
 25 the additional assistance under this section, if the

1 President determines that the certification of the
2 State provided under paragraph (2) is sufficient and
3 is submitted not later than 90 days after the date
4 of a declared disaster.

5 “(4) PERIODIC UPDATES.—The President, act-
6 ing through the Administrator, shall set appropriate
7 standards, by regulation, for the periodic update, re-
8 submittal, and approval of a State building code ap-
9 proved by the President in accordance with para-
10 graph (3) that are consistent with similar require-
11 ments related to mitigation planning under section
12 322.

13 “(5) DEFINITIONS.—In this subsection, the fol-
14 lowing definitions apply:

15 “(A) ACTIVELY ENFORCING.—The term
16 ‘actively enforcing’ means effective jurisdic-
17 tional execution of all phases of a State building
18 code in the process of examination and approval
19 of construction plans, specifications, and tech-
20 nical data and the inspection of new construc-
21 tion or renovation.

22 “(B) NATIONALLY RECOGNIZED MODEL
23 BUILDING CODE.—The term ‘nationally recog-
24 nized model building code’ means a building

code for residential and commercial construction and construction materials that—

“(i) has been developed and published by a code organization in an open consensus type forum with input from national experts; and

“(ii) is based on national structural design standards that establish minimum acceptable criteria for the design, construction, and maintenance of residential and commercial buildings for the purpose of protecting the health, safety, and general welfare of the building’s users against natural disasters.

“(C) STATE BUILDING CODE.—The term ‘State building code’ means requirements and associated standards for residential and commercial construction and construction materials that are implemented on a statewide basis by ordinance, resolution, law, housing or building code, or zoning ordinance. At a minimum, such requirements and associated standards shall apply—

“(i) to construction-related activities of residential building contractors applica-

1 ble to single-family and 2-family residential
2 structures; and

3 “(ii) to construction-related activities
4 of engineers, architects, designers, and
5 commercial building contractors applicable
6 to the structural safety, design, and con-
7 struction of commercial, industrial, and
8 multifamily structures.

9 “(6) REGULATIONS.—Not later than 180 days
10 after the date of enactment of this subsection, the
11 President, acting through the Administrator of the
12 Federal Emergency Management Agency, shall issue
13 such regulations as may be necessary to carry out
14 this subsection.”.

15 (b) APPLICABILITY.—Section 404(d) of the Robert T.
16 Stafford Disaster Relief and Emergency Assistance Act,
17 as added by this section, shall apply to major disasters
18 declared on or after October 24, 2012. Major disasters
19 declared during the period beginning on October 24, 2012
20 and ending on the date of enactment of this Act, shall
21 have 90 days from date of enactment of this Act to submit
22 the certification required under 404(d)(2) of the Robert
23 T. Stafford Disaster Relief and Emergency Assistance
24 Act, as added by this Act.

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