



## Permanently Authorize HUD's Community Development Block Grant - Disaster Recovery (CDBG-DR) Program

### BACKGROUND

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- 42 U.S.C. 5301 et seq. authorizes the basic CDBG program which provides funds to local governments and states to implement housing, public facilities, economic development, and public service activities.
- Over the past 30 years, Congress has appropriated more than \$100 billion for long-term disaster recovery using the CDBG framework.
- This funding, known as CDBG-DR, has always been implemented pursuant to appropriations language which makes changes to the underlying CDBG statutory requirements.
- The lack of a permanent and predictable structure for CDBG-DR has reduced the effectiveness of CDBG-DR funding and delayed long-term recovery.

### BIPARTISAN EFFORTS AROUND CDBG-DR AUTHORIZATION LEGISLATION

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- There have been repeated efforts since 2017 to permanently authorize CDBG-DR.
- One bill was approved by the full House Financial Services Committee by a 53-3 vote in 2018.
- Reps. Ann Wagner (R-MO) and Al Green (D-TX) were both actively involved in previous House efforts as HFSC Investigations subcommittee chairs.
- Efforts were made to include authorization in IIJA in 2021 and a similar version was approved by the House as part of the National Defense Authorization Act in 2022.
- Senate version introduced in the 118th Congress (S. 1686, the "Reforming Disaster Recovery Act") by Sen. Brian Schatz (D-HI) has 13 bipartisan co-sponsors—Sens. Susan Collins (R-ME), Patty Murray (D-WA), Roger Wicker (R-MS), Ron Wyden (D-OR), Bill Cassidy (R-LA), Chris Van Hollen (D-MD), Thom Tillis (R-NC), Jon Tester (D-MT), Cindy Hyde-Smith (R-MS), Todd Young (R-IN), Ben Ray Lujan (D-NM), Cory Booker (D-NJ), Alex Padilla (D-CA), and Lisa Murkowski (R-AK).

## WHY IS PERMANENT AUTHORIZATION DESIRABLE?

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- Lack of statutory authorization prohibits the establishment of permanent regulations for disaster recovery.
- As a result, HUD operates CDBG-DR through a maze of Federal Register (FR) Notices (more than 80 since 2001).
- The development and issuance of FR Notices create unnecessary delays and confusion as to requirements that apply to specific CDBG-DR appropriations.
- S. 1686 adds a new section (42 U.S.C. 5323) to codify disaster recovery in CDBG authorizing language.
- This language authorizes HUD to issue permanent regulations for the program and to do so within stated timeframes (proposed rule within 6 months of enactment and a final rule within one year of enactment).
- It also directs HUD to publish CDBG-DR allocation methodology within 30 days of enactment and to take public comment before issuing methodology as a final rule.

## KEY FINANCIAL PROVISIONS OF S. 1686

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- S. 1686 directs HUD to allocate available CDBG-DR funds within 90 days of qualifying disaster declarations (assuming the data necessary upon which those allocations are based is available).
- It provides for a 15% “plus up” of the grant amount for mitigation purposes and activities.
- If additional funds are appropriated for partially funded disasters, HUD is directed to allocate within 15 days of enactment.
- The bill would establish a long-term disaster recovery fund at the Treasury Department to receive CDBG-DR appropriations, transfers, balances, and recaptures.
- CDBG-DR would continue to rely upon periodic discretionary appropriations as a future funding stream is not guaranteed by S. 1686.
- Up to 10% of new CDBG-DR grants could be used for administrative costs with a total 20% cap set for combined administrative, technical assistance, and planning costs.
- HUD could use up to 2% of appropriations for internal management costs.

## CDBG-DR PROGRAMMATIC CONSIDERATIONS IN S. 1686

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- S. 1686 continues to frame CDBG-DR using CDBG-eligible activities (42 U.S.C. 5305(a)) and national objectives.
- It would retain the 70% overall low- and moderate-income benefit standard from CDBG (waivable by HUD based on compelling need argument).

- It requires grantees to develop an action plan for the use of granted funds—a plan that must be approved by HUD (within 60 days of submission).
- S. 1686 would establish prioritization of funds (e.g., low-mod populations and affordable housing needs) and expectation for proportional allocation to unmet needs as identified by HUD.
- HUD could issue waivers and alternative requirements to statutory provisions HUD administers (excepting environmental, labor standards, civil rights, and fair housing laws).
- Before making a grant, HUD would be required to certify that a grantee has “proficient” policies and procedures across a range of administrative areas (e.g., procurement, financial management, and duplication of benefits).
- It sets a 6-year deadline for the use of funds but may be extended by HUD for up to 4 years.
- It would enable data sharing between HUD and FEMA and SBA, respectively.

## ANSWERING FAQs ABOUT CDBG-DR AUTHORIZING LEGISLATION

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### Q: Why is CDBG funding needed when FEMA already handles disaster response?

**A:** CDBG-DR benefits low-to-moderate income (LMI) populations through critical assistance for housing repair and rebuilding, utility improvements, flood prevention, and business loans. As a block grant, the program’s flexible funding allows states and localities to determine how best to use funds to contribute to long-term recovery and resiliency goals. FEMA and SBA serve disaster survivors through relief programs designed to address immediate needs whereas HUD assistance provides resources to existing gaps in housing, infrastructure, and business. Funds are not completely exclusive however and HUD resources connect many times with FEMA and SBA to aid rebuilding efforts.

### Q: As an appropriations-led bill, wouldn't S.1686 create a fund to be supported annually without knowing needs first?

**A:** Due to the frequency and scale of disasters, a level of annual funding would accommodate recovery and mitigation activities at a much faster pace than currently. The length of time between disasters and assistance being provided to survivors is the primary deficiency of the CDBG-DR program. Currently, due to the extensive time involved in funding being appropriated to administrative and project development, affected households and communities wait months and upwards of years for aid to be delivered. A level of consistency in funding at the onset of disasters allows HUD, jurisdictions, and related stakeholders to move faster in directing aid to unmet needs.

Annual funding would greatly assist ongoing administrative and technical assistance needs for HUD and grantees. Limitations in these areas pose ongoing problems for start-up activities with grant funding contributing to the extensive period involved in delivering aid. Additionally, annual funds would assist response activities between events especially critical to sustained recovery in communities consistently facing disasters.

### **Q: Is HUD's waiver authority too broad?**

**A:** The waiver authority granted by Congress to HUD is necessary for states and localities to use federal resources in ways responsive to the level and location of disaster recovery needs. Each community typically faces considerable damages that cannot be attended to without the flexibility afforded through the waiver process. Waivers approved by HUD are informed by an intensive review of the circumstances of individual disasters or series of disasters. State and local grantees request waivers to HUD which provide considerable review ahead of its determination.

### **Q: Can't states and local jurisdictions handle their own needs after disasters?**

**A:** States and localities contribute extensively to public infrastructure protecting lives and property. Communities can prepare for disasters and mitigate future events though storms, wildfires, and other natural disasters cause damage oftentimes too extensive for jurisdictions to recover from on their own. Additionally, gaps in insurance coverage disproportionately affect low-income populations which are most likely to suffer from major disasters. State and local governments are limited in their ability to help survivors, especially vulnerable populations, rebuild homes after disasters occur. Federal assistance, therefore, remains necessary to support recovery and rebuild communities to withstand future damage from natural disasters.