



Date of Notice: Tuesday, April 2, 2019

PUBLIC NOTICE

A PUBLIC MEETING OF THE GOVERNING BOARD OF THE CALIFORNIA EARTHQUAKE AUTHORITY

NOTICE IS HEREBY GIVEN that the Governing Board of the California Earthquake Authority ("CEA") will meet in Sacramento, California. Pursuant to California Insurance Code §10089.7, subdivision (j), the Bagley-Keene Open Meeting Act applies generally to meetings of the Board, and the meeting is open to the public—public participation, comments, and questions will be welcome for each agenda item. All items are appropriate for action if the Governing Board wishes to take action. Agenda items may be taken out of order.

NOTICE IS HEREBY GIVEN that the Governing Board meeting will be accessible at the physical meeting site below and by teleconference. The teleconference site will be the same physical site noted directly below for the Board meeting, and the teleconference site and meeting will be open and accessible to the public beginning at 1:30 p.m. for members of the public who wish to attend and participate.

**LOCATION: California Earthquake Authority
Main Conference Room
801 K Street, Suite 1000
Sacramento, California**

**Teleconference Access: +1(888) 850-4523
Passcode: 284554#**

DATE: Friday, April 12, 2019

TIME: 1:30 p.m.

AGENDA:

1. Call to order and member roll call:

Governor
Treasurer

Insurance Commissioner
Speaker of the Assembly
Chair of the Senate Rules Committee

Establishment of a quorum

2. Chief Executive Officer Glenn Pomeroy will ask that the Governing Board adopt a resolution or resolutions authorizing CEA to sponsor and/or actively support the passage and adoption of certain state and federal legislation related to the business of CEA and CEA's seismic mitigation efforts, including California Senate Bill 254 (Hertzberg), California Assembly Bill 548 (Rodriguez), and any federal legislation providing federal tax exemptions for any grants or other seismic mitigation benefits funded through or by CEA.
3. Adjournment.

For further information about this notice or its contents:

General Information:

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To view this notice on the CEA website or to learn more about CEA, please visit www.EarthquakeAuthority.com

Persons with disabilities may request special accommodations at this or any future Governing Board meeting or may request the accommodation necessary to receive agendas or materials CEA prepares for its Board meetings. Please contact Colby Tunick by telephone, toll free, at (877) 797-4300 or by email at CEABoardLiaison@calquake.com. We would appreciate hearing from you at least five days before the meeting date to best allow us to meet your needs.

NOTE: You might have received this notice because your name, or that of your organization, appears on a public-notice list maintained by CEA. If in the future you do not wish to receive public notices pertaining to CEA, please send your request by email to CEABoardLiaison@calquake.com.

CEA staff recommends that the CEA Governing Board authorize CEA to sponsor and/or actively support the enactment of all three of these legislative proposals.

California Senate Bill 254 (Hertzberg)

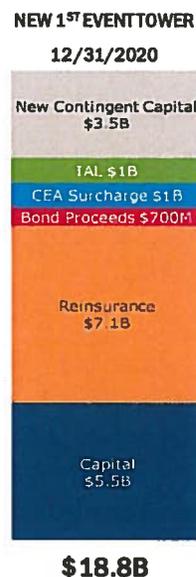
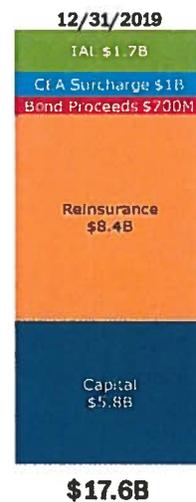
With the increased frequency and severity of natural disasters in California, it has become increasingly important to devote dollars and resources toward pre-disaster mitigation. SB 254 takes important steps to dramatically accelerate CEA’s earthquake-mitigation efforts and ensure that CEA has the financial structure in place to be more sustainable following a catastrophic earthquake. These two principle features of state Sen. Hertzberg’s bill—CEA sustainability and urgent enhancements to mitigation programs—are summarized as follows:

1. Sustainability of CEA

Existing Law: Under existing law, CEA relies on multiple layers of claim-paying capacity. As of year-end 2019, CEA is projected to have approximately \$17.6 billion in claim-paying capacity. The now-familiar components of the tower of existing claim-paying capacity is shown to the right.

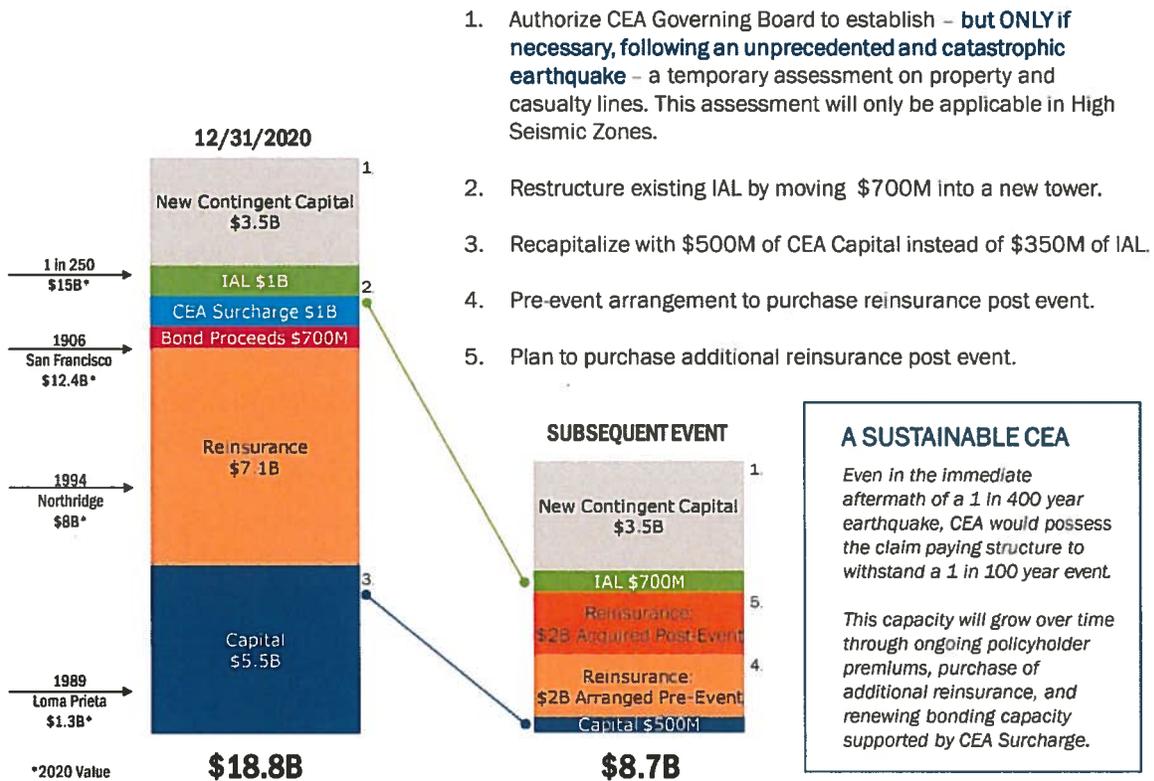
The estimated cost to CEA of procuring the \$8.4 billion in reinsurance for 2019 is expected to be well over \$350 million (the cost of CEA’s 2018 reinsurance program was approximately \$366 million). In aggregate over the past 20 years, CEA has spent more than \$5 billion of policyholder premium and capital on procuring reinsurance.

Proposed Changes: SB 254 will add a new, lower-cost alternative form of claim-paying capacity to CEA’s existing options. The alternative—referred to as “contingent capital”—consists of the capacity to issue post-earthquake debt to pay claims, with repayment of the debt secured by the ability to impose and collect a temporary (5% maximum) assessment on certain property & casualty policies sold in “High Seismic Risk Zones” but **only if necessary** following an unprecedented and catastrophic earthquake.



While CEA is financially strong, SB 254 would ensure that even after a catastrophic earthquake, CEA will continue to write policies and pay claims. The bill does this by empowering CEA to establish a “subsequent event” claim-paying fund after a major earthquake. Subsequent event claim-paying resources include: (1) reallocating existing funding from the insurance industry across both “towers”; (2) creating a “protected operating capital” account with \$500 million of CEA’s existing capital to fund operations following a future severe earthquake; and (3) continued robust reinsurance plan including both “pre-arranged” and new contracts. The subsequent event claim-paying tower envisioned by SB 254 appears as follows:

Restructuring Financial Tower to Create CEA Sustainability



1. Authorize CEA Governing Board to establish – **but ONLY if necessary, following an unprecedented and catastrophic earthquake** – a temporary assessment on property and casualty lines. This assessment will only be applicable in High Seismic Zones.
2. Restructure existing IAL by moving \$700M into a new tower.
3. Recapitalize with \$500M of CEA Capital instead of \$350M of IAL.
4. Pre-event arrangement to purchase reinsurance post event.
5. Plan to purchase additional reinsurance post event.

2. Dramatically increased funding for earthquake mitigation.

The second major component of SB 254 is to increase CEA’s funding of earthquake-mitigation programs to help meet the urgent need for preparing California houses for the next damaging earthquake. In exchange for the new contingent capital capacity described above, CEA will make annual payments in the amount of 2% of the contingent capital claim-paying capacity that the Board determines CEA should rely upon in a given year, with those funds being devoted to pre-earthquake retrofit and mitigation programs in the same “High Seismic Risk Zones” that are subject to assessments. By way of example, if CEA determines that it

should rely upon \$3.5 billion of contingent capital capacity, CEA would “pay” \$70 million (\$3.5 billion x 2% = \$70 million) into its Loss Mitigation Fund.

Existing law requires CEA to set aside annually 5%, up to a \$5 million maximum, of its accrued investment income into the Loss Mitigation Fund. These funds are administered by CEA and used to supply grants and loans to homeowners to seismically retrofit their houses. The new SB 254 contingent capital authority would increase the annual mitigation funding to approximately \$75 million per year, with the funds being devoted to pre-earthquake retrofit and mitigation programs in the same “High Seismic Risk Zones” that could one day be subject to assessments.

Analysis:

SB 254 aligns with CEA’s mission and core purpose. The bill aims to reduce the risk of earthquake damage and loss by allowing CEA to reallocate current resources toward earthquake retrofits and mitigation programs. By empowering CEA to establish subsequent event claim-paying capacity and restructure its claim-paying resources, SB 254 ensures the CEA is sustainable—in other words, that it will be able to continue to issue policies and pay claims to help Californians recover following a catastrophic earthquake.

- **Other states have passed laws to allow for similar post-event assessment authority.** Florida, Texas, Louisiana, North Carolina, Mississippi, and Massachusetts have all enacted provisions that provide post-assessment capability to their state-sponsored property and casualty insurance programs. Insurance programs in these states all have the ability to issue bonds post-event in order to gain needed funds to pay claims. This ability allows the state programs to guard against potentially huge losses from natural disasters, without the need to restrict coverage and/or increase rates for policyholders.
- **CEA policyholders will benefit from a more resilient CEA and continued access to affordable earthquake insurance.** Granting the CEA this authority is not only consistent with actions taken by other states but will ensure the future affordability and continued availability of earthquake insurance to Californians.
- **83% of Californians live in High Seismic Zones.** The funds SB 254 would free up will dramatically expand CEA’s existing efforts to help households in high-risk areas meet the urgent need to prepare for the next big earthquake. Importantly, mitigation efforts will not be available to only CEA policyholders, but for all vulnerable homes in higher seismic areas. These dollars will go towards making communities more resilient. In addition to families that live in areas of future mitigation, every business in higher seismic regions in California will benefit from these communities—in which their workforce and customers live—becoming more resilient.

Current Support for SB 254

CEA has been notified that SB 254 is being actively supported by the following:

- Personal Insurance Federal of California – PIFC represents State Farm, Progressive, Liberty Mutual, Mercury, Nationwide, all of whom are CEA participating insurers
- Farmers Insurance (also a participating insurer)
- United Policyholders (non-profit insurance consumer group)
- American Red Cross

Potential Opposition

Although many insurers and reinsurers are, like CEA, firmly committed to earthquake mitigation and the benefits to California that are created by SB 254, the measure may draw opposition from other insurers and reinsurers. In particular, certain trade associations representing commercial lines insurers may oppose SB 254 based on concerns that the remote possibility of a post-event assessment would somehow harm their business interests. However, CEA staff and state Sen. Hertzberg believe strongly that increasing the resilience of our at-risk communities will actually benefit commercial insurers and their business customers. The businesses served by commercial insurers employ and rely on California residents whose communities will be strengthened and made more resilient by CEA's mitigation activities. FEMA estimates that for every \$1 spent on mitigation projects, society saves an average of \$4 in the long run.

In addition, certain reinsurers and reinsurance-focused trade associations may oppose SB 254 based on a fear that the availability of contingent capital to CEA may temporarily reduce the amount of CEA's annual spend on reinsurance. Reinsurers, however, clearly benefit from mitigation efforts because those efforts will dramatically reduce their exposure to reinsured losses from a major earthquake. The narrow focus of some reinsurers on short-term reductions in their revenues should not be allowed to overcome the broad benefits that increased mitigation would bring to the State.

Recommendation – Sponsor and Support SB 254

CEA staff recommends that the CEA Governing Board authorize the formal sponsorship of SB 254. With such authorization, CEA staff will be able to continue to work with state Sen. Hertzberg and legislative leaders in the Senate and Assembly to seek passage of the legislation.

Attachments:

- SB 254 (as amended April 1, 2019)
- SB 254 Fact Sheet (as amended April 1, 2019)
- “Hertzberg Announces Details of the Resilient Homes Initiative”
Press Release, April 1, 2019

California AB 548 (Rodriguez)

Administered by the California Residential Mitigation Program (CRMP), a joint powers authority of the CEA and California Governor's Office of Emergency Services, the Earthquake Brace and Bolt program (EBB) offers grants of up to \$3,000 to help California homeowners retrofit their houses to reduce potential earthquake damage. EBB has helped more than 7,700 California homeowners strengthen their houses against earthquake damage.

Houses that qualify for EBB grants typically are pre-1979 construction (with pre-1940 houses more prevalent in the program), have a raised concrete foundation, and may have wood-framed walls in the crawl space under the house. Eligible EBB ZIP Codes are selected by equally applying two criteria: (1) the level of earthquake risk in the ZIP Code, according to the U.S. Geological Survey earthquake hazard map; and (2) earthquake vulnerability based on the ZIP Code's percentage of pre-1940 houses.

AB 548 would: (1) provide outreach to low-income households to increase awareness of EBB, and (2) require CRMP to set aside at least 10% of funds available each year to provide supplemental grants to homeowners in low-income households who were selected to receive grants. The supplemental grants shall be in amounts necessary to provide the homeowner in the low-income household with 90 percent of the retrofit costs remaining after payment of the EBB grant.

Analysis:

EBB is rapidly building momentum, with a record number of California homeowners registering during each enrollment period. Demand for both residential retrofitting and earthquake insurance has surged during recent years.

AB 548 will ensure low-income residents are made aware of and can apply for this critical funding to safeguard their houses. Current EBB grants are awarded up to \$3,000; however, retrofits often can exceed that amount. While there are homeowners who can afford this excess amount, not all homeowners can. AB 548 remedies that problem by allowing CRMP to issue supplemental grants for excess costs for those homeowners who otherwise would be unable to afford to retrofit their houses.

Recommendation:

CEA staff recommends that the Governing Board authorize CEA to actively support passage of AB 548.

Attachments:

- AB 548 (as amended April 1, 2019)

H.R. 2053 (Thompson, Calvert)

Under current law, the federal government taxes residents on the grants they receive to retrofit their houses to better withstand earthquakes. The Earthquake Mitigation Incentive and Tax Parity Act would amend the Internal Revenue Code to exclude from gross income any amount received as a qualified earthquake mitigation payment. A qualified mitigation payment is any amount received by a residential property owner or occupant under an earthquake loss mitigation program established by a state, or by a state that has created either a tax-exempt organization or public instrumentality to conduct mitigation programs. In 2005, the U.S. Congress passed a law to exempt from taxation, disaster mitigation grants from the Federal Emergency Management Agency (FEMA).

Analysis:

If enacted, the Earthquake Mitigation Incentive and Tax Parity Act would bolster both the EBB and future mitigation efforts contemplated by the passage of SB 254 (above). It would ensure that every dollar allocated goes toward protecting California residents' homes.

In 2016, California exempted earthquake mitigation grants from taxation as income. Passage of H.R. 2053 will bring the federal government in line with California by exempting these grants from taxation for federal income tax purposes.

Recommendation:

CEA staff recommends that the CEA Governing Board authorize CEA to actively support passage of H.R. 2053.

Attachments:

- H.R. 2053
- “Thompson, Calvert, Harris and Feinstein Reintroduce Earthquake Mitigation Legislation” *Press Release, April 3, 2019*

Attachments
for
SB 254 (Hertzberg)

AMENDED IN SENATE APRIL 1, 2019

SENATE BILL

No. 254

Introduced by Senator Hertzberg

February 11, 2019

An act to amend Sections ~~10089.37 and 10089.38 of, and to add Section 10089.315 to, 10089.5, 10089.10, 10089.13, 10089.22, 10089.23, 10089.29, 10089.30, and 10089.34 of, to add Sections 10089.315, 10089.316, and 10089.317 to, to repeal Section 10089.31 of, and to repeal and add Sections 10089.33 and 10089.54 of, the Insurance Code, relating to insurance, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 254, as amended, Hertzberg. California Earthquake Authority.

Existing

(1) *Existing* law establishes the California Earthquake Authority (CEA), administered under the authority of the Insurance Commissioner and governed by a 3-member board. Under existing law, the CEA is authorized to transact insurance in this state as necessary to sell policies of basic residential earthquake insurance. Existing law establishes a capital structure for the CEA, with several sources of financing. Existing law generally makes all moneys and invested assets held in the California Earthquake Authority Fund, subject to specified restrictions, "available capital," which is the first source of financing used to pay earthquake claims and claim expenses. Under existing law, the California Earthquake Authority Fund is a continuously appropriated fund.

Existing law authorizes the CEA, with the Treasurer as its agent, to issue and sell investment grade revenue bonds or issue or secure other

debt financing, or both, in amounts up to \$1,000,000,000 plus specified costs, if claims and claim expenses paid following an earthquake event exhaust 4 specified sources of capital, including the CEA's available capital and all insurer capital contributions and assessments.

This bill would, instead, limit the amount of the investment grade revenue bonds or other debt financing to an amount up to \$1,000,000,000 outstanding at any time, excluding those specified costs. The bill would create the Mitigation and Contingent Capital Expense Reserve Fund, a continuously appropriated fund, within the California Earthquake Authority Fund and would require that funds in the Mitigation and Contingent Capital Expense Reserve Fund also be exhausted prior to the CEA issuing and selling the investment grade revenue bonds or issuing or securing other debt financing.

(2) Existing law authorizes the CEA to impose a surcharge on all CEA policies, in a net amount not to exceed \$1,000,000,000 plus specified costs, to secure funds to repay the bonded indebtedness or other debt, and requires a CEA policy to include a specified notice of the surcharge to its policyholders. Under existing law, once the CEA levies policy surcharges in a total amount of \$1,000,000,000 plus specified costs, the CEA's power to surcharge ceases and the CEA is prohibited from levying additional surcharges.

This bill would limit the net amount of the surcharge to not more than \$1,000,000,000 outstanding at any time, excluding those specified costs.

(3) Existing law additionally authorizes the CEA to assess participating insurers, as defined, up to \$2,000,000,000, if claims and claim expenses paid by the CEA due to earthquake events exhaust the 4 specified sources of capital mentioned above, plus exhausts the maximum amount of the CEA policy surcharge.

This bill would limit the initial assessment amount that the CEA could impose on participating insurers to pay expected claims and claim expenses from an earthquake event to 60% of the total assessment authorized. Thereafter, the bill would authorize the CEA to impose a subsequent assessment or total of assessments of an amount equal to the remaining balance of the total assessment to pay expected claims and claim expenses from a subsequent earthquake event.

(4) Existing law further authorizes the CEA to assess participating insurance companies up to \$1,780,000,000, if claims and claim expenses paid by the CEA due to earthquake events exhaust the 4 specified sources of capital mentioned above, plus exhaust the maximum amount

of both the CEA policy surcharges and the participating insurance company assessments discussed above.

This bill would repeal that assessment authorization and instead, if claims and claim expenses paid by the CEA due to earthquake events exhaust those 6 funding sources, would require the CEA to determine, and the commissioner to instruct all assessing insurers to collect, an assessment on assessable insurance policies, including specified insurance policies that cover a risk in a high seismic risk zone, but exclude, among other policies, life, health, earthquake, or automobile insurance policies. The bill would require the amount of the assessment to be determined by the CEA in its sole discretion, but would limit the amount of an assessment on an individual assessable insurance policy in a year to not more than 5% of the annual insurance premium for that policy and would limit the duration of the assessment to no more than 10 consecutive years. The bill would also require the CEA, if those 6 funding sources are exhausted, to sell investment grade revenue bonds, issue or secure other debt financing, or both, in amounts to be determined by the CEA. The proceeds from the assessment would be used solely to repay the bonds or other debt authorized by the bill, plus specified costs. By creating and adding a new mandatory source of funding for a continuously appropriated fund, the bill would make an appropriation.

Existing

(5) Existing law requires the CEA to set aside in each calendar year, an amount equal to 5% of investment income accruing on the CEA's invested funds, or \$5,000,000, whichever is less, to fund the establishment and operation of an Earthquake Loss Mitigation Fund, which is a subaccount in the California Earthquake Authority Fund. Existing law authorizes money in the Earthquake Loss Mitigation Fund, upon the development and implementation of an economical system satisfactory to the board and the commissioner to prevent misapplication of mitigation funds, to be applied to supply grants and loans or loan guarantees to dwelling owners who wish to retrofit their homes to protect against earthquake damage.

This bill would require the board to evaluate and implement programs and operational changes to enhance the CEA's sustainability, and to generate demonstrable savings on risk management and transfer strategies, without unduly compromising the CEA's claim-paying capacity, borrowing capacity, or debt ratings. The bill would require the savings, upon verification by the board, to be transferred to the

Earthquake Loss Mitigation Fund. The bill would change the formula for determining the amount the board is required to transfer to the Earthquake Loss Mitigation Fund to 5% of investment income accruing on the CEA's invested funds plus the savings realized above, but not less than \$5,000,000. The bill would authorize money in the Earthquake Loss Mitigation Fund to additionally be used for any other earthquake mitigation or sustainability program authorized directly or indirectly by the board. By authorizing money in the Earthquake Loss Mitigation Fund to be used for a new purpose, the bill would make an appropriation.

This bill would require the CEA to pay an annual contingent capital expense into the Mitigation and Contingent Capital Expense Reserve Fund equal to 2% of the amount of claim-paying capacity available to and actually relied upon by the authority for the preceding calendar year that is based upon and supported by the authority's ability to impose the assessment authorized above. Under the bill, money in the fund would be periodically disbursed, in amounts to be determined by the board, to the Earthquake Loss Mitigation Fund, the High Seismic Risk Zone Mitigation Fund, which would be created by the bill, and a fund designated by the authority for accrual of a new layer of claim-paying capacity.

The bill would also create within the California Earthquake Authority Fund, the Subsequent Event Segregated Account, which would be funded by protected operating capital, equal to \$500,000,000. Funds in the account would be used to conduct the business of the CEA if the board determines, in its sole discretion, that CEA incurred liabilities for claims and claim expenses from any earthquake event or series of earthquake events exhaust any material component of the CEA's claim-paying capacity or if other good cause exists to use funds for the benefit of new and renewal CEA policyholders.

(6) Existing law prohibits the CEA from writing new earthquake insurance policies 180 days after implementation by both the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) of policies to require earthquake insurance for any single-family residential structure, other than a condominium unit or townhome, as a condition of purchasing a mortgage or trust deed secured by that structure.

This bill would repeal that prohibition.

(7) The bill would make various technical and conforming changes. The bill would also make findings and declarations regarding the necessity for the bill.

This

(8) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) *The Legislature finds and declares all of the*
2 *following:*

3 (1) *California is home to two-thirds of our nation’s earthquake*
4 *risk, and Californians are unfortunately all too familiar with*
5 *devastating earthquakes and the damage they can cause to homes*
6 *and lives.*

7 (2) *The year 2019 marks the 25th anniversary of the 1994*
8 *Northridge earthquake, when the Northridge blind thrust fault in*
9 *the Los Angeles region gave way. The magnitude 6.7 earthquake*
10 *left 60 people dead, more than 9,000 people injured, and caused*
11 *more than \$40 billion in property damage in today’s dollars. In*
12 *addition, 7,000 single-family homes, 5,000 mobilehomes, and*
13 *about 49,000 apartments were destroyed or severely damaged,*
14 *and 57,000 single-family homes suffered substantial damage from*
15 *the shaking and subsequent fires.*

16 (3) *In 1971, a magnitude 6.6 earthquake originated from the*
17 *Sierra Madre Fault Zone in Los Angeles, followed by a magnitude*
18 *5.8 aftershock. The earthquake and aftershock left 58 people dead,*
19 *brought down parts of major freeways, including Interstate 5 and*
20 *Interstate 210, caused severe damage to the Olive View Medical*
21 *Center in Los Angeles, and displaced thousands of people as*
22 *30,000 homes suffered major damage.*

23 (4) *In 1989, the Loma Prieta earthquake, a magnitude 6.9*
24 *earthquake, killed 63 people, injured more than 3,700 people,*
25 *damaged or destroyed 12,000 homes, and caused more than \$6*
26 *billion in property damage. In all, more than 3,000 people were*
27 *left homeless after the Loma Prieta earthquake.*

28 (5) *In 2014, the South Napa earthquake, a magnitude 6.0*
29 *earthquake, left more than 100 single-family homes uninhabitable*
30 *and damaged hundreds more.*

31 (6) *According to the latest Uniform California Earthquake*
32 *Rupture Forecast, the best science holds that there is more than*

1 a 99 percent chance that an earthquake of magnitude 6.7 or greater
2 will hit California sometime between today and 30 years from
3 now. An earthquake of that magnitude could result in tens of
4 billions of dollars in damage and render thousands of residences
5 uninhabitable. The same forecast calculates a 93 percent chance
6 of a magnitude 7.0 earthquake occurring within the same period.
7 This would result in an earthquake nearly three times stronger
8 than the Northridge earthquake. Furthermore, there is a 48 percent
9 chance of a magnitude 7.5 earthquake in the next 30 years, which
10 would result in an earthquake nearly 16 times stronger than the
11 Northridge earthquake.

12 (7) Following the 1994 Northridge earthquake, the Legislature
13 created the California Earthquake Authority (CEA) to manage
14 and mitigate the financial risks to California homeowners from
15 the state's regularly occurring earthquakes, and to ensure the
16 continued availability of homeowners' insurance for nonearthquake
17 risks in California. The CEA now supplies more than 1,000,000
18 insurance policies in California, more than 80 percent of the
19 earthquake insurance coverage for California homeowners.

20 (8) The CEA governing board has significantly expanded the
21 CEA's role since its inception, adding wider-ranging and more
22 valuable benefits for Californians. Beginning in 2014, the CEA
23 began funding a "brace and bolt" program to retrofit a certain
24 type of seismically vulnerable single-family home, which greatly
25 reduces a homeowner's financial risk from earthquake and fire
26 damage, lowers the risk of injury or death, and increases the
27 probability that the home will be habitable either immediately or
28 shortly after a large, damaging earthquake. The CEA has been
29 able to provide between 1,000 and 2,000 retrofit and mitigation
30 grants per year.

31 (9) However, there are an estimated 1,200,000 single-family
32 homes in California, at risk in even a moderate earthquake, which
33 would potentially qualify for the current CEA retrofit program.
34 The need extends beyond single-family homes to mobilehomes and
35 multifamily structures, including apartment and condominium
36 complexes.

37 (10) The State of California currently has no reliable estimate
38 of how many residential properties lie in high seismic risk zones
39 of the state. This creates an urgent need to identify every potentially
40 affected home in order to estimate the time and investment needed

1 to save lives and prevent massive destruction of existing housing
2 stock, which would only add to California's affordable housing
3 crisis.

4 (11) *The National Institute of Building Sciences (NIBS) Natural*
5 *Hazard Mitigation Saves: 2017 Interim Report*, analyzing the
6 results of 23 years of federally funded mitigation grants provided
7 by the Federal Emergency Management Agency (FEMA), the
8 United States Economic Development Administration (EDA), and
9 the United States Department of Housing and Urban Development
10 (HUD), found that every dollar spent on funding mitigation can
11 save the public at least \$4 in future earthquake disaster costs.

12 (12) *The time has come to ensure that the CEA can both continue*
13 *to provide affordable and valuable earthquake insurance, and to*
14 *make new and much greater contributions to preearthquake*
15 *mitigation throughout California. The Legislature can accomplish*
16 *these dual goals by improving the CEA's enabling statutes and*
17 *authorizing additional prudent financial options for the CEA.*

18 (b) *It is, therefore, the intent of the Legislature to do both of the*
19 *following:*

20 (1) *Restructure aspects of the CEA's financial and insuring*
21 *capacity to greatly increase the funding available each year for*
22 *seismic retrofits and other proactive mitigation measures, with*
23 *the urgent goal of retrofitting 1,000,000 homes by the end of the*
24 *year 2025, and helping all Californians be prepared for the next*
25 *major California earthquake.*

26 (2) *Enhance the flexibility of CEA to manage its reinsurance*
27 *and risk transfer programs to produce material cost savings and*
28 *devote those savings to earthquake mitigation and preparedness.*

29 SEC. 2. *This act shall be known and may be cited as the*
30 *California Resilient Homes Initiative.*

31 SEC. 3. *Section 10089.5 of the Insurance Code is amended to*
32 *read:*

33 10089.5. *As used in this ~~chapter~~: chapter, the following words*
34 *have the following meanings:*

35 (a) *"Authority"* means the California Earthquake Authority.

36 (b) *"Assessable insurance policy"* includes both of the
37 following:

38 (1) *An insurance policy, whether or not issued in California,*
39 *that covers a risk in a high seismic risk zone and is a policy within*
40 *a class of insurance defined in Chapter 1 (commencing with Section*

1 100) of Part 1 of Division 1, excluding any policy or contract of
2 renter's, life, health, annuity, earthquake, title, mortgage, financial
3 guaranty, automobile, workers' compensation, medical
4 malpractice, or insolvency insurance.

5 (2) An insurance policy issued by an eligible nonadmitted
6 insurer through a surplus line broker that covers a risk in a high
7 seismic risk zone.

8 (c) "Assessable insured" means a person who procures one or
9 more assessable insurance policies from an assessing insurer and
10 who is subject to assessment by the authority, as provided in
11 Section 10089.315.

12 (d) "Assessing insurer" means an insurer or surplus line broker,
13 identified by the department at the request of the authority, as an
14 issuer of an assessable insurance policy to an assessable insured.

15 ~~(b)~~

16 (e) "Available capital" means the sum of all moneys and
17 invested assets actually held in the California Earthquake Authority
18 Fund, less loss reserves and loss adjustment expense reserves under
19 all of the authority's policies of residential earthquake insurance,
20 and less the unearned premium reserve. "Available capital"
21 includes all interest or other income from the investment of money
22 held in the California Earthquake Authority Fund. "Available
23 capital" does not include unearned premium, the proceeds of
24 contracts of reinsurance procured by or in the name of the authority
25 pursuant to subdivision (a) of Section 10089.10, any funds realized
26 on capital market contracts authorized by subdivision (b) of Section
27 10089.10, ~~or the proceeds of bonds issued by or in the name of~~
28 ~~the authority.~~ *authority, or protected operating capital.*

29 ~~(e)~~

30 (f) "Basic residential earthquake insurance" means that policy
31 of residential earthquake insurance described in Section ~~10089~~
32 ~~except as follows:~~ *10089.*

33 ~~(1) (A) If one year after the authority commences operation the~~
34 ~~authority has available capital equal to or exceeding seven hundred~~
35 ~~million dollars (\$700,000,000), any policy issued or renewed on~~
36 ~~or after that date shall provide, less any applicable deductible, not~~
37 ~~less than two thousand five hundred dollars (\$2,500) in coverage~~
38 ~~for additional living expenses.~~

39 ~~(B) If the authority met the available capital requirements of~~
40 ~~subparagraph (A) and two years after the authority commences~~

1 operation the authority has available capital equal to or exceeding
2 seven hundred million dollars (\$700,000,000), any policy issued
3 or renewed on or after that date shall provide, less any applicable
4 deductible, not less than three thousand dollars (\$3,000) in
5 coverage for additional living expenses.

6 (2) (A) ~~If the authority did not meet the available capital~~
7 ~~requirement of subparagraph (A) of paragraph (1) but, two years~~
8 ~~after the authority commences operation the authority has available~~
9 ~~capital equal to or exceeding seven hundred million dollars~~
10 ~~(\$700,000,000), any policy issued or renewed on or after that date~~
11 ~~shall provide, less any applicable deductible, not less than two~~
12 ~~thousand five hundred dollars (\$2,500) in coverage for additional~~
13 ~~living expenses.~~

14 (B) ~~If the authority met the available capital requirements as~~
15 ~~provided by subparagraph (A) and three years after the authority~~
16 ~~commences operation the authority has available capital equal to~~
17 ~~or exceeding seven hundred million dollars (\$700,000,000), any~~
18 ~~policy issued or renewed on or after that date shall provide, less~~
19 ~~any applicable deductible, not less than three thousand dollars~~
20 ~~(\$3,000) in coverage for additional living expenses.~~

21 (d)

22 (g) “Board” means the governing board of the authority.

23 (e)

24 (h) “Bonds” means bonds, notes, commercial paper, variable
25 rate and variable maturity securities, and any other evidence of
26 indebtedness.

27 (i) *“California Earthquake Authority Fund” means the fund*
28 *created pursuant to subdivision (b) of Section 10089.22.*

29 (f)

30 (j) “Capital market contract” means an agreement between the
31 authority and a purchaser pursuant to which the purchaser agrees
32 to purchase bonds of the authority.

33 (k) *“Claim-paying capacity” means the sum of all assets and*
34 *all other forms of financing and financial capacity available to*
35 *the authority to pay claims and claim expenses, including, but not*
36 *limited to, all of the following:*

37 (1) *The authority’s available capital.*

38 (2) *The maximum amount of all insurer capital contributions*
39 *and assessments pursuant to Sections 10089.15, 10089.23, and*
40 *10089.30.*

- 1 (3) *All reinsurance actually available and under contract to the*
2 *authority.*
- 3 (4) *Funds generated or realizable through surcharges imposed*
4 *and collected pursuant to Section 10089.29.*
- 5 (5) *All capital committed and actually available from private*
6 *capital markets.*
- 7 (6) *Funds generated or realizable through assessments to be*
8 *imposed and collected pursuant to Section 10089.315.*
- 9 (l) *“Contingent capital expense” means the amount required*
10 *to be paid by the authority, as established pursuant to subdivision*
11 *(b) of Section 10089.316.*
- 12 (m) *“Earthquake event” means a seismic event that results in*
13 *property losses covered under the terms of any policy or contract*
14 *of residential earthquake insurance issued by or for the authority.*
- 15 (n) *“High seismic risk zone” means any zone within the state*
16 *identified by reference to Section 2307 of Title 10 of the California*
17 *Code of Regulations, or any set of zones, identified by the board*
18 *in or pursuant to a public meeting.*
- 19 (o) *“Mitigation and Contingent Capital Expense Reserve Fund”*
20 *means the fund created pursuant to subdivision (b) of Section*
21 *10089.316.*
- 22 ~~(g)~~
- 23 (p) *“Nonparticipating insurer” means an insurer that elects not*
24 *to transfer or place any residential earthquake policies in the*
25 *authority.*
- 26 ~~(h)~~
- 27 (q) *“Panel” means the advisory panel of the authority.*
- 28 ~~(i)~~
- 29 (r) *“Participating insurer” means an insurer that has elected to*
30 *join the authority.*
- 31 (s) *“Person” means any individual or entity described in Section*
32 *19.*
- 33 ~~(j)~~
- 34 (t) *“Policy of residential property insurance” means those*
35 *policies described in Section 10087.*
- 36 ~~(k)~~
- 37 (u) *“Private capital market” means one or more purchasers of*
38 *bonds of the authority pursuant to a capital market contract.*
- 39 (v) *“Protected operating capital” means a sum of moneys and*
40 *invested assets held in the California Earthquake Authority Fund*

1 equal to five hundred million dollars (\$500,000,000), which the
2 authority shall at all times account for as separate from, and not
3 a part of, available capital. The protected operating capital shall
4 be available solely for the continued operation of the authority,
5 including the authority's obligations to pay claims from a
6 subsequent earthquake event, in the manner and under the
7 conditions as specified in Section 10089.317.

8 ~~(f)~~

9 (w) "Qualifying residential property" includes all those
10 residential dwellings set forth in Section 10087.

11 ~~(m)~~

12 (x) "Residential earthquake insurance market share" means an
13 individual insurer's total direct premium received for ~~(1) residential~~
14 both of the following:

15 (1) Residential earthquake policies and endorsements written
16 or renewed by the insurer in ~~California~~ and ~~(2) residential~~
17 California.

18 (2) Residential earthquake policies written or renewed by the
19 authority for which the insurer has written or renewed an
20 underlying policy of residential property insurance, divided by the
21 total gross premiums received by all admitted insurers and the
22 authority for their basic residential earthquake insurance in
23 California.

24 ~~(n)~~

25 (y) "Residential property insurance market share" means an
26 individual insurer's total gross premiums received for residential
27 property insurance policies written or renewed by the insurer,
28 divided by the total gross premiums received by all admitted
29 insurers for residential property insurance in California.

30 ~~(o)~~

31 (z) "Revenue" means all income and receipts of the authority,
32 including, but not limited to, income and receipts derived from
33 premiums, bond purchase agreements, capital contributions by
34 insurers, assessments levied on insurers, surcharges applied to
35 authority earthquake policyholders, and all interest or other income
36 from investment of money in any fund or account of the authority
37 established for the payment of principal or interest, or premiums
38 on bonds, including reserve funds.

39 (aa) "Subsequent event claim-paying capacity" means
40 claim-paying capacity available to the authority to pay incurred

1 *claims and claim expenses arising from subsequent earthquake*
2 *events, following a determination by the board to utilize a*
3 *Subsequent Event Segregated Account.*

4 (ab) *“Subsequent earthquake event” means an earthquake*
5 *event, independent of and subsequent to a previous earthquake*
6 *event, resulting in such a financial impact to the authority that the*
7 *board, in its sole discretion and determination, directs the authority*
8 *to utilize a Subsequent Event Segregated Account.*

9 (ac) *“Subsequent Event Segregated Account” means the account*
10 *created pursuant to subdivision (b) of Section 10089.317 within*
11 *the California Earthquake Authority Fund, to hold protected*
12 *operating capital and any other assets the authority deposits for*
13 *use in paying claims and claim expenses incurred by the authority*
14 *on account of a subsequent earthquake event.*

15 (ad) *“Total residential property insurance market share*
16 *participation” means the sum of the individual residential property*
17 *insurance market shares attributable to all authority participating*
18 *insurers.*

19 (p)
20 (ae) *“Unearned premium reserve” means an amount equal to*
21 *the unearned portion of premiums due to, or received by, the*
22 *authority on all of its policies of residential earthquake insurance,*
23 *without deduction on account of reinsurance ceded. The unearned*
24 *premium reserve shall be charged as a reserve liability in*
25 *determining the authority’s financial condition. Because the*
26 *unearned premium reserve is established and maintained to protect*
27 *the interests of authority policyholders in their unexpired authority*
28 *policies, authority assets in an amount equal to the unearned*
29 *premium reserve shall not be subject to encumbrance by, or*
30 *distribution to, creditors of or claimants against the authority unless*
31 *and until the authority has paid in full all policyholder claims and*
32 *policyholder liabilities.*

33 *SEC. 4. Section 10089.10 of the Insurance Code is amended*
34 *to read:*

35 10089.10. To expand the capacity of the authority and achieve
36 maximum capacity for writing earthquake ~~coverage~~, *coverage and*
37 *conducting other authority operations*, the authority shall do both
38 of the following acts, on prior approval of the ~~commissioner~~:
39 *board:*

1 (a) The authority shall purchase contracts of reinsurance at rates
2 and on terms the board considers reasonable and appropriate.

3 (b) The authority, through the Treasurer, shall enter capital
4 market contracts on terms as the board and Treasurer may consider
5 reasonable and appropriate. The Treasurer shall not withhold
6 approval except for good cause related to the purposes of the
7 authority.—~~Such~~ *The* terms may include indemnification and
8 contribution provisions protecting parties to the capital market
9 contracts of the authority against material misstatements in or
10 material omissions from the authority’s official statements and
11 other authority documents referred to in the capital markets
12 contracts.

13 (c) The total annual expenditure for reinsurance contracts and
14 capital market contracts pursuant to this section shall not exceed
15 a reasonable and appropriate percentage of the annual earthquake
16 insurance premiums collected by the authority.

17 *SEC. 5. Section 10089.13 of the Insurance Code is amended*
18 *to read:*

19 10089.13. (a) One year following its commencement of
20 operations, and annually thereafter by each August 1, the authority
21 shall report to the Legislature and the commissioner on program
22 operations in a format prescribed by the commissioner. The report
23 shall include, but shall not be limited to, the financial condition of
24 the authority, a description of all rates and rating plans approved
25 for use in the authority, an evaluation of the functioning of the
26 authority in light of its stated purpose of making residential
27 property insurance and residential earthquake insurance more
28 available. The report shall also include an analysis of the growth
29 by market share of residential property insurance of participating
30 insurers compared to nonparticipating insurers, any adverse
31 consequences on the various insurance distribution systems
32 resulting from the operation of the authority or alterations in the
33 growth of the residential property insurance market share between
34 participating insurers and nonparticipating insurers, any adverse
35 consequences of the various insurance distribution systems
36 resulting from the operation of the authority or alterations in the
37 growth of homeowners’ insurance market share between
38 participating insurers and nonparticipating insurers, and an analysis
39 of any recommended program changes to permit the authority to
40 better fulfill its stated purpose. In making this determination the

1 board shall be mindful of the competitive nature of the market and
2 how any decision can negatively impact insurers who are currently
3 competing in the marketplace. The report shall be posted on the
4 authority's ~~official Internet Web site.~~ *internet website.*

5 (b) The annual report shall include full information describing
6 the following matters relating to the authority's condition and
7 affairs:

8 (1) The property or assets held by the authority, including the
9 amount of cash on hand and deposited in banks to its credit, the
10 amount of cash in the hands of servicing insurance companies, the
11 amount of any stocks or bonds owned by the authority, specifying
12 the amount, number of shares, and the par and market value of
13 each kind of stock or bond, and all other assets, specifying each.

14 (2) The liabilities of the authority, including the amount of losses
15 due and unpaid, the amount of claims for losses resisted by the
16 authority and the amount of losses in the process of adjustment or
17 in suspense, including all reported and supposed losses, the amount
18 of revenue bonds or other debt financing issues under Section
19 10089.29 or Section 10089.50, and all other liabilities.

20 (3) Income of the authority during the preceding year, specifying
21 premiums received, interest money received, and income from all
22 other sources, specifying the source.

23 (4) Expenditures of the authority during the preceding year,
24 specifying the amount of losses paid, the amount of expenses paid
25 by category, and the amount of all other payments and
26 expenditures.

27 (5) The costs and scope of all reinsurance and capital market
28 contracts entered into by the authority under Section 10089.10.

29 (c) As part of the annual report, the authority shall make a
30 separate, summary report on the financial capacity of the authority
31 to pay claims made against the authority. Copies of this report
32 shall also be made available to the public. The report shall include,
33 but shall not be limited to, the following information, valued as of
34 30 days prior to the date of the report:

35 (1) The available capital of the authority.

36 (2) The liabilities of the authority.

37 (3) The amount of all assessments previously made and the
38 amount of assessments that may be made in the future under
39 Section 10089.23.

1 (4) The amount of the reinsurance under contract and actually
2 available to the authority.

3 (5) The amount of all revenue bonds or other debt financing
4 previously issued or contracted for and the amount of all revenue
5 bonds or other debt financing that may be issued or contracted for
6 in the future under Section 10089.29.

7 (6) The amount of surcharges previously assessed against
8 policyholders and the amount of surcharges that are currently
9 outstanding against policyholders under Section 10089.29.

10 (7) The amount of capital committed and actually available by
11 contract from private capital markets that is available to pay claims
12 against the authority.

13 (8) The amount of all assessments previously made and the
14 amount of all assessments that may be made in the future under
15 Section 10089.30.

16 ~~(9) The amount of all assessments previously made and the~~
17 ~~amount of all assessments that may be made in the future under~~
18 ~~Section 10089.31.~~

19 (d) In verification of the matters set forth in the annual report
20 provided for in subdivision (a), the Department of Finance shall
21 approve independent qualified auditors selected by the
22 commissioner to examine the books and accounts relating to all
23 matters concerning the financial and program operations of the
24 authority. The commissioner shall file a certified report of the
25 examination with the President pro Tempore of the Senate, the
26 Speaker of the Assembly, the Chairpersons of the Senate and
27 Assembly Insurance Committees, and the Chairperson of the Senate
28 Committee on Judiciary within 10 days of its receipt. Copies of
29 this report shall also be made available to the public. The expense
30 of examining the books and accounts of the authority shall be paid
31 out of the operating funds of the authority.

32 (e) The authority shall, within 120 days following a seismic
33 event that results in the payment of claims by the authority, and
34 within one year of a major seismic event that results in the payment
35 of claims by the authority, submit to the President pro Tempore
36 of the Senate, the Speaker of the Assembly, the Chairpersons of
37 the Senate and Assembly Insurance Committees, the Chairperson
38 of the Senate Committee on Judiciary, and the commissioner a
39 concise written report of program operations related to that seismic
40 event. The reports shall include, but not be limited to, progress on

1 payment of claims, claims payments made and anticipated, and
2 the functioning of the authority in response to the seismic event.
3 Copies of this report shall also be made available to the public.

4 *SEC. 6. Section 10089.22 of the Insurance Code is amended*
5 *to read:*

6 10089.22. (a) (1) The authority shall be continued in existence
7 for so long as its bonds are outstanding. Unless and until the
8 authority is terminated pursuant to Section 10089.43, the
9 commissioner and the authority shall execute assignments and
10 contracts and take all necessary steps to assure that all revenue of
11 the authority is paid to a trustee appointed by the Treasurer, which
12 trustee may be the treasurer. The revenue of the authority shall be
13 pledged and assigned to and held in trust by the trustee and invested
14 and disbursed by the trustee, to pay, or to set aside funds to pay,
15 principal, interest, and premiums on bonds and amounts due bond
16 insurers and providers of credit support and letters of credit for
17 those bonds, but only in the manner and in accordance with the
18 terms of the constituent instruments defining the rights of the
19 holders of bonds of the authority and the providers of bond
20 insurance, credit support and letters of credit for those bonds.
21 Amounts held by the trustee from time to time after provisions for
22 those payments may be disbursed free of trust to the California
23 Earthquake Authority Fund. ~~Notwithstanding the foregoing~~
24 ~~provisions of this section, (1) debt~~

25 *(2) Notwithstanding paragraph (1), both of the following apply:*

26 *(A) (i) Debt service payments on bonds of the authority secured*
27 *by or payable from securities described in Section 16430 of the*
28 *Government Code shall not be secured by a pledge or assignment*
29 *of revenue of the authority other than revenue of the authority from*
30 ~~*(A) the from any of the following:*~~

31 ~~*(I) The proceeds of sale of such bonds, (B) the bonds.*~~

32 ~~*(II) The securities described in Section 16430 of the Government*~~
33 ~~*Code, and (C) principal Code.*~~

34 ~~*(III) Principal and interest payments on such securities described*~~
35 ~~*in Government Code Section 16430, but debt 16430.*~~

36 ~~*(ii) Debt service payments on such bonds of the authority may*~~
37 ~~*also be made payable from revenue of the authority in the*~~
38 ~~*California Earthquake Authority Fund, and (2) the Fund.*~~

39 ~~*(B) The constituent instruments defining the rights of the holders*~~
40 ~~*of bonds of the authority referred to in paragraph (1) subparagraph*~~

1 (A) shall specify that payment of a portion of the interest on ~~such~~
2 *the* bonds is contingent upon payment of policyholder claims for
3 which the bonds are responsible and that the obligation of the
4 authority is to first apply ~~such~~ *the* assigned or pledged revenue to
5 the payment of ~~such~~ policyholder claims instead of paying that
6 contingent interest.

7 (b) There is hereby created the California Earthquake Authority
8 Fund, which is not a fund in the State Treasury. Notwithstanding
9 Section 13340 of the Government Code, the fund is continuously
10 appropriated without regard to fiscal years for the purposes of this
11 chapter. The fund shall be administered by the ~~commissioner,~~
12 ~~subject to the direction of the board;~~ *board* to pay all costs arising
13 from this chapter, including, but not limited to, premiums payable
14 by the authority under contracts of reinsurance, claims arising
15 under policies of basic residential earthquake insurance issued by
16 the authority, operating and other expenses of the authority,
17 *mitigation program related expenses and expenditures*, and to
18 establish reserves. At the discretion of the ~~commissioner,~~ *board*,
19 segregated, dedicated accounts within the fund may be established
20 for those payments.

21 (c) The board may cause moneys in the fund to be invested and
22 reinvested, from time to time, in accordance with paragraph (4)
23 of subdivision (c) of Section 10089.7 and subject to subdivision
24 (b) of Section 10089.6. Moneys in the fund and not ~~so~~ invested
25 may be deposited from time to time in ~~(1) financial~~ *either of the*
26 *following*:

27 (1) *Financial* institutions authorized by law to receive deposits
28 of public ~~moneys,~~ or ~~(2) with~~ *moneys*.

29 (2) *With* the approval of the Treasurer, the Surplus Money
30 Investment Fund as provided in Article 4 (commencing with
31 Section 16470) of *Chapter 3 of Part 2 of* Division 4 of Title 2 of
32 the Government Code.

33 (d) A national bank shall be custodian of all securities belonging
34 to the fund, except as otherwise provided in this chapter and except
35 as otherwise provided in the constituent instruments that define
36 the rights of the holders of bonds of the authority and the providers
37 of bond insurance, credit support, and letters of credit for those
38 bonds.

39 (e) The board may, in cooperation with the Treasurer, authorize
40 the establishment of an account or fund in the State Treasury in

1 the name of the authority, but money deposited with the Treasurer
2 in that account or fund is not state money within the intent of
3 Section 16305.2 of the Government Code, and Sections 16305.3
4 to 16305.7, inclusive, of the Government Code shall do not apply
5 to money drawn or collected by the authority.

6 *SEC. 7. Section 10089.23 of the Insurance Code is amended*
7 *to read:*

8 ~~10089.23. (a) (1) If at any time following the payment of~~
9 ~~earthquake claims and claim expenses the authority's available~~
10 ~~capital is reduced to less than three hundred fifty million dollars~~
11 ~~(\$350,000,000), or if at any time the authority's available capital~~
12 ~~is insufficient to pay benefits and continue operations, the authority~~
13 ~~shall have the power to assess participating insurance companies~~
14 ~~subject to the maximum limits as set forth in this section and~~
15 ~~Section 10089.30. The assessment shall be limited to the amount~~
16 ~~necessary to pay the outstanding or expected claims and claim~~
17 ~~expenses of the authority and to return the authority's available~~
18 ~~capital to three hundred fifty million dollars (\$350,000,000), as~~
19 ~~determined by the board, subject to approval by the commissioner.~~

20 *10089.23. (a) (1) This section applies to a participating*
21 *insurer's assessment authorized pursuant to Section 10089.30.*

22 (2) Each participating insurer's assessment shall be determined
23 by multiplying the percentage share of the authority's total gross
24 written premium that is attributable to that participating insurer's
25 sales of authority insurance policies, as of April 30 of the
26 immediately preceding year or the most recent year for which
27 premium data not more than one year old are available, by the
28 amount of the total assessment sought by the authority.

29 (3) The maximum permissible insurer assessments pursuant to
30 ~~this section, the maximum permissible insurer assessments pursuant~~
31 ~~to Section 10089.30 and Section 10089.31~~ *Section 10089.30* shall
32 be reduced uniformly by multiplication of the maximum
33 ~~assessments~~ *assessment* and other amounts provided in ~~those~~
34 ~~sections~~ *Section 10089.33* by the percentage of the total residential
35 property insurance market share participation attained by the
36 authority. ~~The total amount of all assessments levied on~~
37 ~~participating insurance companies by the authority pursuant to this~~
38 ~~section shall not exceed three billion dollars (\$3,000,000,000),~~
39 ~~regardless of the frequency or severity of earthquake losses at any~~
40 ~~and all times subsequent to the creation of the authority. Once a~~

1 participating insurer has paid, ~~pursuant to this section,~~ *in the*
2 *aggregate*, amounts equal to the percentage share of the authority's
3 total gross written premium attributable to that participating
4 insurer's sales of authority insurance policies, as of April 30 of
5 the immediately preceding year or the most recent full year for
6 which premium data not more than one year old are available,
7 multiplied by ~~three billion dollars (\$3,000,000,000)~~ *the maximum*
8 *assessment set forth in subdivision (a) or (b) of Section 10089.30,*
9 *as applicable,* reduced as provided in ~~this paragraph~~ *Section*
10 *10089.33* from the maximum ~~assessment,~~ *assessments,* the
11 authority's power to assess that insurer ~~under this section~~ shall
12 cease and the authority shall be prohibited from levying additional
13 assessments *pursuant to Section 10089.30* on that insurer ~~pursuant~~
14 ~~to this section.~~ *insurer.*

15 (4) Beginning December 31 of the first year of operations, and
16 *as of* each December 31 thereafter, the board shall adjust the
17 maximum permissible insurer assessments ~~pursuant to this section,~~
18 ~~the maximum permissible insurer assessments pursuant to Sections~~
19 ~~10089.30 and 10089.31,~~ *Section 10089.30,* the maximum
20 permissible authority policyholder ~~assessment surcharge~~ *surcharge* pursuant
21 to Section 10089.29, and the maximum permissible bond issuances
22 or other debt financing issued or secured by the Treasurer pursuant
23 to Section ~~10089.29~~ *10089.29,* to reflect the market share of new
24 insurers entering into ~~the authority~~ *authority-participation*
25 *agreements* as authorized by Sections 10089.15 and 10089.16 and
26 participating insurers withdrawing from the authority as authorized
27 by Section 10089.19. The adjustments shall be made in the same
28 manner as authorized ~~by~~ *in* paragraph (3).

29 (b) In the case of any insurer assessment, the authority shall
30 cause to be sent to each participating insurer a notice of that
31 insurer's assessment, and full payment shall be due within 30 days
32 and shall be overdue after 30 days. Penalties and interest shall be
33 assessed for late payments in the same manner as provided for late
34 payments of the insurer gross premium tax pursuant to Section
35 12258 of the Revenue and Taxation Code. The board may waive
36 the penalties and interest for good cause shown. The board shall
37 make every effort to assess insurers only for funds reasonably
38 anticipated to be necessary for claims payments and claim ~~expenses~~
39 ~~and to return the authority's available capital to three hundred fifty~~
40 ~~million dollars (\$350,000,000).~~ *expenses.*

1 ~~(e) Notwithstanding the other provisions of this section, the~~
2 ~~aggregate assessment the authority is authorized by this section to~~
3 ~~impose shall be reduced to zero on December 1, 2008, with respect~~
4 ~~to earthquake events that commence on or after December 1, 2008.~~

5 ~~(d)~~

6 (c) The authority shall not assess a participating insurer under
7 this section based on any insurance business that is attributable to
8 the insurer selling the insurer's insurance products that supplement
9 or augment the basic residential earthquake insurance provided by
10 the authority.

11 *SEC. 8. Section 10089.29 of the Insurance Code is amended*
12 *to read:*

13 10089.29. (a) (1) Notwithstanding the prior approval
14 requirement of Section 10089.10, the authority shall issue and sell
15 investment grade revenue bonds or secure other debt financing of
16 the authority, or both, in amounts determined by the board pursuant
17 to Section 10089.32, but not to exceed one billion dollars
18 (\$1,000,000,000) ~~plus outstanding at any time, excluding costs of~~
19 ~~issuance and sale of those revenue bonds, costs of securing that~~
20 ~~debt financing, and amounts paid or payable to bond issuers and~~
21 ~~providers of credit support and letters of credit for, and interest~~
22 ~~on, those revenue bonds or other debt, if claims and claim expenses~~
23 ~~incurred by the authority from an earthquake event exhaust the~~
24 ~~total of the following:~~

25 (A) The authority's available capital.

26 (B) The maximum amount of all contributions of initial
27 operating capital made by participating insurers pursuant to Section
28 ~~10089.15, and assessments levied and paid pursuant to Section~~
29 ~~10089.23; 10089.15.~~

30 (C) All reinsurance actually available and under contract to the
31 authority.

32 (D) All risk transfer provided and any other capital committed
33 through capital market contracts that is actually under contract to
34 the authority from private capital markets.

35 (E) *All funds actually available in the Mitigation and Contingent*
36 *Capital Expense Reserve Fund that are reserved for the payment*
37 *of claims and claim expenses pursuant to paragraph (3) of*
38 *subdivision (c) of Section 10089.316.*

39 (2) The Treasurer shall act as agent for sale of the revenue bonds
40 described in paragraph (1), and shall make available the net

1 proceeds of those revenue bonds as funding for the authority.
2 Failure of the authority to sell those revenue bonds or obtain that
3 debt financing for any reason ~~shall~~ *does* not obligate the State of
4 California to provide or arrange replacement funding for the
5 authority. The Treasurer may sell revenue bonds for the purpose
6 of refunding the revenue bonds or other debt financing when
7 authorized to do so by the board, and the surcharge authorized by
8 this section may be used to repay that refunding, plus costs of
9 issuance and sale of those revenue bonds or other debt financing
10 being refunded, and amounts paid or payable to bond issuers and
11 providers of credit support and letters of credit for, and interest
12 on, those revenue bonds or other debt being refunded.

13 (b) (1) In the event of a revenue bond sale or debt financing
14 arrangement pursuant to this section, the authority shall have the
15 power to surcharge annually all authority policies to secure funds,
16 which the authority may use solely to repay the bonded
17 indebtedness or other debt, plus costs of issuance and sale of those
18 revenue bonds or other debt, and amounts paid or payable to bond
19 issuers and providers of credit support and letters of credit for, and
20 interest on, those revenue bonds or other debt. Notwithstanding
21 paragraph (3) of subdivision (a) of Section 10089.23, the total net
22 surcharge collected shall not exceed one billion dollars
23 ~~(\$1,000,000,000), plus (\$1,000,000,000) outstanding at any time,~~
24 *excluding* costs of issuance and sale of those revenue bonds or
25 other debt and amounts paid or payable to bond issuers and
26 providers of credit support and letters of credit for, and interest
27 on, those revenue bonds or other debt. The surcharge on an
28 authority policy shall not exceed 20 percent of the annual authority
29 residential earthquake insurance policy premium in any one year.
30 A surcharge levied and collected pursuant to this section shall not
31 be considered revenue, notwithstanding subdivision ~~(e)~~ *(y)* of
32 Section 10089.5, including for purposes of the calculation of rates
33 filed with the commissioner pursuant to subdivision (e) of Section
34 10089.40. A surcharge levied and collected pursuant to this section
35 also shall not be considered basic residential earthquake premium
36 for any purpose, including the calculation of producer commission.

37 (2) If a policy issued by the authority includes a premium
38 surcharge pursuant to this subdivision, the participating insurer
39 shall provide the insured a notice in a stand-alone document stating
40 that the policyholder may cancel or nonrenew the earthquake

1 policy. The notice shall specify that cancellation or nonrenewal
2 of the earthquake policy will not affect the underlying residential
3 property insurance policy. The statement shall be provided with
4 the premium billing and shall include the following statement in
5 14-point boldface type:

6
7 NOTICE OF SURCHARGE ON CEA EARTHQUAKE
8 INSURANCE POLICY AND RIGHT TO CANCEL
9

10 THE CEA IS IMPOSING A SURCHARGE ON THE
11 PREMIUM OF ALL CEA EARTHQUAKE INSURANCE
12 POLICIES. You may choose to renew, to cancel, or not to renew
13 (“nonrenew”) your CEA earthquake insurance policy. If you choose
14 to cancel or nonrenew your CEA earthquake insurance policy,
15 your CEA earthquake insurance policy will be canceled and that
16 cancellation will have no effect on your policy of residential
17 property insurance. If you fail to cancel or to nonrenew your CEA
18 earthquake insurance policy, and if you also fail to pay the CEA
19 earthquake insurance policy premium and surcharge by the
20 payment deadline, both your CEA earthquake insurance policy
21 and your policy of residential property insurance will be canceled.
22 IF YOU WANT EARTHQUAKE INSURANCE PROVIDED BY
23 THE CEA, YOU MUST PAY THE PREMIUM FOR THE CEA
24 EARTHQUAKE INSURANCE POLICY AND THE
25 SURCHARGE.

26
27 (c) The total amount of indebtedness and policy surcharges
28 authorized under this section shall not exceed one billion dollars
29 (\$1,000,000,000) ~~plus~~ *outstanding at any time, excluding* costs of
30 issuance and sale of those revenue bonds or other debt and amounts
31 paid or payable to bond issuers and providers of credit support and
32 letters of credit for, and interest on, those revenue bonds or other
33 debt, regardless of the frequency or severity of earthquake losses
34 incurred after the creation of the authority. Once the authority has
35 ~~levied~~ *outstanding indebtedness supported by* policy surcharges
36 in a total amount of one billion dollars (\$1,000,000,000) ~~plus~~
37 *outstanding at any time, excluding* costs of issuance and sale of
38 those revenue bonds or securing other debt financing and amounts
39 paid or payable to bond issuers and providers of credit support and
40 letters of credit for, and interest on, those revenue bonds or other

1 debt financing, the authority's power to surcharge authority policies
2 shall cease and the authority shall be prohibited from levying
3 additional surcharges pursuant to this section.

4 (d) Consistent with Section 676, the authority shall cancel the
5 policy of basic residential earthquake insurance if the policyholder
6 fails to pay the earthquake policy surcharge authorized by the
7 authority, and the insurer shall cancel the policy of residential
8 property insurance if the policyholder fails to pay the policy
9 surcharge authorized by the authority.

10 *SEC. 9. Section 10089.30 of the Insurance Code is amended*
11 *to read:*

12 10089.30. ~~If (a) (1) The board, subject to the approval of the~~
13 ~~commissioner, shall have the power to assess participating~~
14 ~~insurance companies subject to the maximum limits in this section~~
15 ~~if claims and claim expenses paid by the authority due to~~
16 ~~earthquake events exhaust the total of (a) the all of the following:~~

17 (A) ~~The authority's available capital, (b) the capital.~~

18 (B) ~~The maximum amount of all insurer capital contributions~~
19 ~~and assessments pursuant to Sections 10089.15 and 10089.23, (c)~~
20 ~~all 10089.23.~~

21 (C) ~~All reinsurance actually available and under contract to the~~
22 ~~authority, (d) the authority.~~

23 (D) ~~The maximum amount of all authority policyholder~~
24 ~~assessments surcharges pursuant to Section 10089.29, and (e) all~~
25 ~~10089.29.~~

26 (E) ~~All capital committed and actually available from the private~~
27 ~~capital markets, the board, subject to the approval of the~~
28 ~~commissioner, shall have the power to assess participating~~
29 ~~insurance companies subject to the maximum limits in this section.~~
30 ~~Each markets.~~

31 (2) *Each* participating insurer's assessment shall be determined
32 by multiplying the percentage share of the authority's total gross
33 written premium attributable to that participating insurer's sales
34 of authority insurance policies, as of April 30 of the immediately
35 preceding year or the most recent year for which premium data
36 not more than one year old are available, by the amount of the total
37 assessment sought by the authority. The total amount of all
38 assessments levied against participating insurance companies by
39 the authority pursuant to this section shall not exceed two billion
40 dollars (\$2,000,000,000), regardless of the frequency or severity

1 of earthquake losses at any and all times subsequent to the creation
2 of the authority. Once a participating insurer has paid, pursuant to
3 this section, amounts equal to its percentage share of the authority's
4 total gross written premium, multiplied by two billion dollars
5 (\$2,000,000,000) reduced from the maximum assessment as
6 provided in paragraph (3) of subdivision (a) of Section 10089.23,
7 the authority's power to assess that insurer under this section shall
8 cease and the authority shall be prohibited from levying additional
9 assessments on that insurer pursuant to this section. The assessment
10 shall be limited to the amount necessary to pay the expected claims
11 and claim expenses of the authority and return the authority's
12 available capital to three hundred fifty million dollars
13 (\$350,000,000); authority, as determined by the board, subject to
14 approval by the commissioner. board.

15 *(b) (1) The aggregate assessment amount that the authority*
16 *may impose on all participating insurers pursuant to subdivision*
17 *(a) shall be administered pursuant to this subdivision. The authority*
18 *may impose an assessment, or a total of assessments, of up to 60*
19 *percent of the total assessment authorized pursuant to subdivision*
20 *(a) to pay expected claims and claim expenses from an earthquake*
21 *event, and may thereafter impose an assessment, or a total of*
22 *assessments, of an amount equal to the remaining balance of the*
23 *total assessment authorized under subdivision (a) to pay expected*
24 *claims and claim expenses from a subsequent earthquake event.*

25 *(2) If the authority imposes an assessment or assessments*
26 *pursuant to subdivision (a), and if the average daily balance of*
27 *the authority's available capital in a subsequent event claim-paying*
28 *capacity exceeds six billion dollars (\$6,000,000,000) for the last*
29 *180 days of any calendar year, then the remaining balance of the*
30 *total assessment authorized under subdivision (a) shall be subject*
31 *to the reduction as provided in paragraph (3) of subdivision (a)*
32 *of Section 10089.23.*

33 *(3) Any unlevied portion or unreduced portion of the aggregate*
34 *assessment amount authorized by subdivision (a) that remains*
35 *after an earthquake event or after a subsequent earthquake event*
36 *shall remain available to the authority.*

37 *SEC. 10. Section 10089.31 of the Insurance Code is repealed.*

38 ~~10089.31. If claims and claim expenses paid by the authority~~
39 ~~due to earthquake events that commence on or after December 1,~~
40 ~~2008, exhaust the total of all (a) the authority's available capital,~~

1 ~~(b) the maximum amount of all insurer capital contributions and~~
2 ~~assessments pursuant to Sections 10089.15, 10089.23, and~~
3 ~~10089.30, (c) all reinsurance actually available and under contract~~
4 ~~to the authority, (d) the maximum amount of all authority~~
5 ~~policyholder assessments pursuant to Section 10089.29, and (e)~~
6 ~~all capital committed and actually available from the private capital~~
7 ~~markets, the board, beginning December 1, 2008, for earthquake~~
8 ~~events commencing on or after December 1, 2008, shall have the~~
9 ~~power to assess participating insurance companies subject to the~~
10 ~~maximum limits in this section. Each participating insurer's~~
11 ~~assessment shall be determined by multiplying the percentage~~
12 ~~share of the authority's total gross written premium attributable~~
13 ~~to that participating insurer's sales of authority insurance policies~~
14 ~~as of April 30 of the immediately preceding year, or the most recent~~
15 ~~year for which premium data not more than one year old are~~
16 ~~available, by the amount of the total assessment sought by the~~
17 ~~authority. The total amount of all assessments levied against~~
18 ~~participating insurance companies by the authority pursuant to this~~
19 ~~section shall not exceed one billion seven hundred eighty million~~
20 ~~dollars (\$1,780,000,000), regardless of the frequency or severity~~
21 ~~of earthquake losses at any and all times subsequent to the creation~~
22 ~~of the authority. Once a participating insurer has paid pursuant to~~
23 ~~this section amounts equal to its percentage share of the authority's~~
24 ~~total gross written premium, multiplied by one billion seven~~
25 ~~hundred eighty million dollars (\$1,780,000,000) reduced as~~
26 ~~provided in paragraph (3) of subdivision (a) of Section 10089.23~~
27 ~~from the maximum assessment, which is to be reduced periodically~~
28 ~~pursuant to subdivision (b) of Section 10089.33, or upon the earlier~~
29 ~~occurrence of the effective date stated in paragraph (6) of~~
30 ~~subdivision (b) of Section 10089.33, the authority's power to assess~~
31 ~~that insurer under this section shall cease and the authority shall~~
32 ~~be prohibited from levying additional assessments on that insurer~~
33 ~~pursuant to this section. The assessment shall be limited to the~~
34 ~~amount necessary to pay the expected claims and claim expenses~~
35 ~~of the authority and return the authority's available capital to three~~
36 ~~hundred fifty million dollars (\$350,000,000), as determined by the~~
37 ~~board.~~

38 *SEC. 11. Section 10089.315 is added to the Insurance Code,*
39 *immediately following Section 10089.30, to read:*

1 10089.315. (a) *It is the intent of the Legislature to enhance*
2 *the authority's existing claim-paying capacity by adding a new*
3 *lower cost alternative to reinsurance and other existing financing*
4 *tools. To accomplish this goal, it is the intent of the Legislature to*
5 *authorize the authority to establish, but only if necessary following*
6 *an unprecedented and catastrophic earthquake, a temporary, small*
7 *assessment on certain property and casualty insurance policies*
8 *covering risks in areas of California designated as high seismic*
9 *risk zones.*

10 (b) *If claims and claim expenses incurred by the authority due*
11 *to any earthquake event or subsequent earthquake event exhaust*
12 *all the funding sources listed in subdivision (c), the authority shall*
13 *determine, and the commissioner shall instruct all assessing*
14 *insurers to collect, an assessment on assessable insurance policies,*
15 *as authorized in this section. The amount of the assessment shall*
16 *be determined by the board in its sole discretion, subject to the*
17 *maximum limits in this section.*

18 (c) *The authority shall impose the assessment described in*
19 *subdivision (b) if claims and claim expenses incurred by the*
20 *authority due to any earthquake event or subsequent earthquake*
21 *event exhaust all of the following:*

22 (1) *The authority's available capital.*

23 (2) *The maximum remaining amount of insurer capital*
24 *contributions and assessments, if any, pursuant to Sections*
25 *10089.15 and 10089.30.*

26 (3) *All reinsurance and risk transfer available through capital*
27 *market contracts that are actually available and under contract*
28 *to the authority.*

29 (4) *The maximum funds actually available to the authority based*
30 *on the proceeds of postearthquake revenue bonds or other debt*
31 *financing, repayment of which is supported by premium surcharges*
32 *on authority policyholders pursuant to Section 10089.29.*

33 (5) *All capital committed and actually available from the private*
34 *capital markets.*

35 (d) (1) *In addition to subdivision (b), if claims and claim*
36 *expenses incurred by the authority due to any earthquake event*
37 *or subsequent earthquake event exhaust all the funding sources*
38 *listed in subdivision (c), the authority shall sell investment grade*
39 *revenue bonds, issue or secure other debt financing of the*

1 authority, and issue or secure a combination of revenue bonds and
2 debt financing, in amounts determined by the board.

3 (2) The Treasurer may act as agent for the sale of revenue bonds
4 and shall make available the net proceeds of the revenue bonds
5 or other debt financing as funding for the authority. Failure of the
6 authority to obtain that funding does not obligate the State of
7 California to provide or arrange replacement funding for the
8 authority. The Treasurer may sell revenue bonds for the purpose
9 of refunding the revenue bonds or other debt financing, and the
10 proceeds of assessments authorized by this section may be used
11 to repay that funding.

12 (e) The board shall establish the aggregate assessment amount
13 to be collected by assessing insurers and shall determine the
14 effective date on or by which assessment collection shall begin.
15 Assessments shall be collected upon issuance, or upon renewal,
16 of assessable insurance policies. The assessment shall be
17 established as follows:

18 (1) The assessment on an individual assessable insurance policy
19 in a year shall not exceed 5 percent of the annual insurance
20 premium for that policy and shall not have a maturity of more than
21 10 consecutive years from the date of issuance.

22 (2) Subject to the limitation in paragraph (1), the board may
23 redetermine the aggregate assessment amount annually to account
24 for changes in the incurred liabilities of the authority for claims
25 and claim expenses or in other circumstances giving rise to the
26 assessment.

27 (f) The authority shall determine, and the commissioner shall
28 notify the assessing insurers of, all information reasonably
29 necessary to permit the timely collection and remittance to the
30 authority of the assessment.

31 (g) The assessment amount shall be separately identified and
32 stated on a billing statement or policy declaration sent to each
33 assessable insured.

34 (h) The authority shall determine the rate of the assessment
35 pursuant to subdivision (e) and shall determine the assessment
36 collection period, which shall be uniform and mandatory for all
37 assessable insurers and assessable insureds. Assessing insurers
38 who collect assessments in excess of the assessment authorized by
39 this section shall remit the excess to the authority within 30 days
40 after the authority has determined, and given notice to assessable

1 *insurers of, the amount of the excess assessment. The excess*
2 *assessment shall be retained by the authority and deposited into*
3 *the Mitigation and Contingent Capital Expense Reserve Fund to*
4 *be used for mitigation program related expenses and expenditures.*

5 *(i) Proceeds of assessments made by assessable insurers shall*
6 *be transmitted to the authority or the authority's designee within*
7 *30 days after the last day of the month in which the proceeds were*
8 *received. The assessments shall be used solely to repay the bonds*
9 *or other debt described in subdivision (c), plus costs of*
10 *arrangement, issuance, and sale of bonds or other debt, and*
11 *amounts paid or payable to bond issuers and providers of credit*
12 *support and letters of credit for, and interest on, those revenue*
13 *bonds or other debt, plus other expenses related to the assessment*
14 *authorized by this section.*

15 *(j) Assessments collected pursuant to this section are not part*
16 *of an insurer's rates or rating plan, are not premiums for any*
17 *purpose, and are not subject to premium tax, fees, or commissions,*
18 *except that failure by an assessable insured to pay the assessment*
19 *in a timely manner shall be deemed and treated as failure to pay*
20 *a premium.*

21 *SEC. 12. Section 10089.316 is added to the Insurance Code,*
22 *immediately following Section 10089.315, to read:*

23 *10089.316. (a) It is the intent of the Legislature to require the*
24 *authority to make annual payments in exchange for the*
25 *claim-paying capacity authorized pursuant to Section 10089.315,*
26 *with the payments to be used for preearthquake retrofit and*
27 *mitigation programs.*

28 *(b) Not later than April 1 of the following calendar year,*
29 *commencing in the year in which this section becomes operative,*
30 *the authority shall pay a contingent capital expense for the*
31 *preceding calendar year, into the Mitigation and Contingent*
32 *Capital Expense Reserve Fund, which is hereby created within the*
33 *California Earthquake Authority Fund. The contingent capital*
34 *expense shall be calculated by the authority as an amount equal*
35 *to 2 percent of the amount of claim-paying capacity available to*
36 *and actually relied upon by the authority for the preceding*
37 *calendar year that is based upon and supported by the authority's*
38 *ability, if necessary, to impose an assessment pursuant to Section*
39 *10089.315. The board may, in its sole discretion, pay the annual*
40 *contingent capital expense on a date earlier than required pursuant*

1 to this subdivision. The contingent capital expense approved by
2 the board shall be transferred annually by the authority into the
3 Mitigation and Contingent Capital Expense Reserve Fund, which
4 shall be deemed for all purposes to be a required expense of and
5 cost to the authority.

6 (c) Money deposited into the Mitigation and Contingent Capital
7 Expense Reserve Fund by this section shall periodically be
8 disbursed and reserved by the authority, upon approval and
9 direction of the board, as follows:

10 (1) To the Earthquake Loss Mitigation Fund established
11 pursuant to Section 10089.37, an amount equal to the amount of
12 the annual contingent capital expense or a greater amount as the
13 board determines appropriate to pay incurred or anticipated
14 mitigation program related expenses and expenditures.

15 (2) To the High Seismic Risk Zone Mitigation Fund, which is
16 hereby created within the California Earthquake Authority Fund,
17 an amount as the board determines appropriate to pay incurred
18 or anticipated mitigation program related expenses, including
19 expenses in high seismic risk zones.

20 (3) To a fund designated by the authority for accrual of a new
21 layer of claim-paying capacity that shall be used by the authority
22 as capacity available to pay claims and claim expenses prior to
23 imposing a surcharge on authority policies pursuant to Section
24 10089.29 or assessments pursuant to Section 10089.315.

25 SEC. 13. Section 10089.317 is added to the Insurance Code,
26 immediately following Section 10089.316, to read:

27 10089.317. (a) It is the intent of the Legislature to empower
28 the authority to establish a subsequent event claim-paying capacity
29 after a major earthquake in order to ensure that the authority may
30 continue to write policies and have resources to pay claims from
31 a subsequent major earthquake.

32 (b) There is hereby created within the California Earthquake
33 Authority Fund the Subsequent Event Segregated Account, which
34 shall be funded with protected operating capital. The Subsequent
35 Event Segregated Account shall be maintained by the authority to
36 hold, manage, and administer protected operating capital and any
37 rights and benefits pertaining to all other components of
38 subsequent event claim-paying capacity. The board shall instruct
39 the authority to use funds in the Subsequent Event Segregated
40 Account for the purpose of conducting the business of the authority

1 *if the board determines, in its sole discretion, either of the*
2 *following:*

3 *(1) That the authority has incurred liabilities for claims and*
4 *claim expenses from any earthquake event or series of earthquake*
5 *events that may exhaust any material component of the authority's*
6 *claim-paying capacity.*

7 *(2) That other good cause exists for the authority to use the*
8 *Subsequent Event Segregated Account for the benefit of new and*
9 *renewal policyholders of the authority.*

10 *(c) The board shall instruct the authority and the commissioner*
11 *to create a new subsequent event segregated account within the*
12 *California Earthquake Authority Fund, and to transfer into that*
13 *subsequent event segregated account new protected operating*
14 *capital, together with the rights and benefits pertaining to all other*
15 *components of subsequent event claim-paying capacity, if the board*
16 *determines, in its sole discretion, either of the following:*

17 *(1) That the authority has incurred liabilities for claims and*
18 *claim expenses from any earthquake event, subsequent earthquake*
19 *event, or series of earthquake events that may exhaust any material*
20 *component of the authority's subsequent event claim-paying*
21 *capacity*

22 *(2) That other good cause exists for creation of a new*
23 *subsequent event claim paying capacity for the benefit of*
24 *policyholders of the authority.*

25 *(d) Upon a determination by the board that it is necessary for*
26 *the authority to use funds in the Subsequent Event Segregated*
27 *Account, the authority's obligation to pay the annual contingent*
28 *capital expense pursuant to Section 10089.316 shall be suspended.*
29 *Payments of the annual contingent capital expense shall resume*
30 *upon a determination by the board that available capital and all*
31 *other forms of subsequent event claim-paying capacity within the*
32 *Subsequent Event Segregated Account have increased to the point*
33 *that annual payments of the contingent capital expense will not*
34 *materially impair the subsequent event claim-paying capacity of*
35 *the authority.*

36 *SEC. 14. Section 10089.33 of the Insurance Code is repealed.*

37 ~~10089.33. (a) If the average daily balance of the authority's~~
38 ~~available capital exceeds six billion dollars (\$6,000,000,000) for~~
39 ~~the last 180 days of any calendar year, the board shall relieve all~~
40 ~~participating insurers of their obligation to pay additional~~

1 ~~earthquake loss assessments under Section 10089.30, by an~~
2 ~~aggregate amount equal to the amount of available capital in excess~~
3 ~~of six billion dollars (\$6,000,000,000). Each December 31~~
4 ~~thereafter, the board shall further reduce the aggregate assessment~~
5 ~~authorized under Section 10089.30 by the net increase in available~~
6 ~~capital in excess of the previous levels of available capital at which~~
7 ~~a reduction in the aggregate Section 10089.30 assessment was~~
8 ~~made. No reduction pursuant to this subdivision shall exceed 15~~
9 ~~percent of the original aggregate Section 10089.30 assessment in~~
10 ~~any year of operation of the authority.~~

11 ~~(b) Commencing April 1, 2010, and on each April 1 thereafter,~~
12 ~~but only in years that such relief is authorized by this subdivision,~~
13 ~~the board shall reduce the combined assessment obligation of all~~
14 ~~participating insurers under Section 10089.31 by 5 percent of the~~
15 ~~maximum aggregate Section 10089.31 assessment authorized as~~
16 ~~of January 1, 2009, as provided in this subdivision. Each year of~~
17 ~~Section 10089.31 assessment reduction is referred to in this~~
18 ~~subdivision as an “assessment reduction year.” Assessment~~
19 ~~reductions shall take place as follows:~~

20 ~~(1) Unless the authority has made payments and established~~
21 ~~appropriate reserves for claims and claim expenses, including for~~
22 ~~losses incurred but not reported, that in the aggregate exceeded~~
23 ~~five hundred million dollars (\$500,000,000) on account of a single~~
24 ~~earthquake event commencing in 2009, as certified by the~~
25 ~~authority’s consulting actuary and accepted by the board, and the~~
26 ~~authority’s available capital as of January 1, 2010, did not exceed~~
27 ~~the authority’s available capital as of December 1, 2008, then~~
28 ~~effective April 1, 2010, the maximum aggregate Section 10089.31~~
29 ~~assessment shall be reduced by an amount equal to the sum of an~~
30 ~~amount equal to 5 percent of the initial maximum aggregate Section~~
31 ~~10089.31 assessment amount and an amount equal to the retained~~
32 ~~earnings differential, and 2009 shall be an assessment reduction~~
33 ~~year.~~

34 ~~(2) Unless the authority has made payments and established~~
35 ~~appropriate reserves for claims and claim expenses, including for~~
36 ~~losses incurred but not reported, that in the aggregate exceeded~~
37 ~~five hundred million dollars (\$500,000,000) on account of a single~~
38 ~~earthquake event commencing in 2010, as certified by the~~
39 ~~authority’s consulting actuary and accepted by the board and the~~
40 ~~authority’s available capital as of January 1, 2011, did not exceed~~

1 the authority's available capital as of December 1, 2008, then
2 effective April 1, 2011, the maximum aggregate Section 10089.31
3 assessment shall be reduced by an amount equal to the sum of an
4 amount equal to 5 percent of the initial maximum aggregate Section
5 10089.31 assessment amount and an amount equal to the retained
6 earnings differential, and 2010 shall be an assessment-reduction
7 year.

8 ~~(3) Beginning in 2012 and each year thereafter, unless the~~
9 ~~authority made payments and established appropriate reserves for~~
10 ~~claims and claim expenses, including for losses incurred but not~~
11 ~~reported, that in the aggregate exceeded five hundred million~~
12 ~~dollars (\$500,000,000) on account of all earthquake events~~
13 ~~commencing in the preceding year, as certified by the authority's~~
14 ~~consulting actuary and accepted by the board and the authority's~~
15 ~~available capital as of January 1 of that year did not exceed the~~
16 ~~authority's available capital as of December 1, 2008, then effective~~
17 ~~April 1 of that year, the maximum aggregate Section 10089.31~~
18 ~~assessment shall be reduced by an amount equal to the sum of an~~
19 ~~amount equal to 5 percent of the initial maximum aggregate Section~~
20 ~~10089.31 assessment amount and an amount equal to the retained~~
21 ~~earnings differential, and the preceding year shall be an~~
22 ~~assessment-reduction year.~~

23 ~~(4) If through operation of this subdivision a year is not deemed~~
24 ~~an assessment-reduction year, no subsequent year shall be an~~
25 ~~assessment reduction year unless and until either the authority's~~
26 ~~available capital as of a subsequent April 1 exceeds the authority's~~
27 ~~available capital as of December 1, 2008; or the limitation~~
28 ~~established in paragraph (5), below, occurs.~~

29 ~~(5) No more than two annual periods may be deemed not to~~
30 ~~constitute assessment-reduction years.~~

31 ~~(6) Effective on the day after the last day of the 10th~~
32 ~~assessment-reduction year authorized by the board, the remaining~~
33 ~~maximum aggregate Section 10089.31 assessment shall be reduced~~
34 ~~to zero.~~

35 ~~(7) As used in this section, "retained earnings differential" means~~
36 ~~the positive dollar-amount difference between: (A) the authority's~~
37 ~~positive one-year retained-earnings growth for the preceding~~
38 ~~calendar year, minus (B) the authority's capacity growth for the~~
39 ~~preceding calendar year, both calculated as of December 31. As~~
40 ~~used in this paragraph, "one-year retained-earnings growth" means~~

1 the difference between the authority's cumulative retained earnings
2 at December 31 of the preceding calendar year and the authority's
3 cumulative retained earnings at December 31 of the year before
4 the preceding calendar year, calculated in accordance with
5 generally accepted accounting principles as of the preceding
6 December 31. As used in this paragraph, the term "capacity
7 growth" is the one-year amount of purchased risk transfer, such
8 as reinsurance, or borrowed risk transfer such as bonds, put in
9 place in the authority's financial structure to account for the
10 authority's aggregate exposure growth over the preceding year
11 ending December 31. The board shall be authorized and entitled,
12 in its sole discretion, to make all final decisions regarding the
13 authority's level of financial strength and security and the
14 authority's choice and use of financing and risk-transfer
15 mechanisms. As used in this paragraph, the term "aggregate
16 exposure" means the aggregate of the limits of liability under all
17 coverages of all earthquake insurance policies issued by the
18 authority.

19 (c) In no event shall the board reinstate, in whole or in part, any
20 assessment obligation it has reduced pursuant to this section.

21 SEC. 15. Section 10089.33 is added to the Insurance Code, to
22 read:

23 10089.33. (a) If the average daily balance of the authority's
24 available capital exceeds six billion dollars (\$6,000,000,000) for
25 the last 180 days of any calendar year, the board shall relieve all
26 participating insurers of their obligation to pay additional
27 earthquake loss assessments under subdivision (a) of Section
28 10089.30, by an aggregate amount equal to the amount of available
29 capital in excess of six billion dollars (\$6,000,000,000). Each
30 December 31 thereafter, the board shall further reduce the
31 aggregate assessment authorized under subdivision (a) of Section
32 10089.30 by the net increase in available capital in excess of the
33 previous levels of available capital at which a reduction in the
34 aggregate assessment under subdivision (a) of Section 10089.30
35 was made. A reduction pursuant to this subdivision shall not exceed
36 15 percent of the original aggregate assessment under subdivision
37 (a) of Section 10089.30 in any year of operation of the authority.

38 (b) The board shall not reinstate, in whole or in part, any
39 assessment obligation it has reduced pursuant to this section.

1 *SEC. 16. Section 10089.34 of the Insurance Code is amended*
2 *to read:*

3 10089.34. (a) (1) The policies issued by the authority ~~shall~~
4 ~~not be~~ *are not* subject to assessment for, nor shall any authority
5 policyholder be eligible for benefits from, the California Insurance
6 ~~Guaranty~~ *Guarantee* Association.

7 (2) Policies of residential earthquake insurance written by
8 participating insurers that supplement, augment, or are in excess
9 of the authority's policy of basic earthquake insurance ~~shall be~~ *are*
10 subject to assessment by the California Insurance ~~Guaranty~~
11 *Guarantee* Association and shall be covered to the extent provided
12 in Article 14.2 (commencing with Section 1063) of Chapter 1 of
13 Part 2 of Division 1.

14 (b) (1) Policies of basic residential earthquake insurance written
15 by nonparticipating insurers ~~shall be~~ *are* subject to assessment by
16 the California Insurance ~~Guaranty~~ *Guarantee* Association and
17 ~~shall be~~ *are* covered to the extent provided in Article 14.2
18 (commencing with Section 1063) of Chapter 1 of Part 2 of Division
19 1.

20 (2) Participating insurers of the authority shall have no
21 obligation to pay assessments to the California Insurance ~~Guaranty~~
22 *Guarantee* Association for covered claims obligation arising from
23 policies of basic residential earthquake insurance written by
24 nonparticipating insurers.

25 *SEC. 17. Section 10089.54 of the Insurance Code is repealed.*

26 ~~10089.54. (a) Unless authorized by a statute enacted~~
27 ~~subsequent to the effective date of this section, the authority shall~~
28 ~~cease writing new earthquake insurance policies 180 days after~~
29 ~~implementation by both the Federal National Mortgage Association~~
30 ~~("Fannie Mae") and the Federal Home Loan Mortgage Association~~
31 ~~("Freddie Mac") of policies to require earthquake insurance for~~
32 ~~any single-family residential structure, other than a condominium~~
33 ~~unit or townhome, as a condition of purchasing a mortgage or trust~~
34 ~~deed secured by that structure. Notwithstanding this restriction,~~
35 ~~the authority shall continue to renew its existing earthquake~~
36 ~~insurance policies and shall accept applications for earthquake~~
37 ~~insurance from residential property insurance policyholders of~~
38 ~~participating insurers in accordance with subdivision (b) of Section~~
39 ~~10086.~~

1 ~~(b) In the event that both the Federal National Mortgage~~
2 ~~Association (“Fannie Mac”) and the Federal Home Loan Mortgage~~
3 ~~Association (“Freddie Mac”) have proposed to implement policies~~
4 ~~to require earthquake insurance for any single-family residential~~
5 ~~structure, other than a condominium unit or townhome, as a~~
6 ~~condition of purchasing a mortgage or trust deed secured by that~~
7 ~~structure, it is the intent of the Legislature that the Legislature~~
8 ~~should convene to consider whether the authority should continue~~
9 ~~to write new earthquake insurance policies, with or without~~
10 ~~modification, or to cease writing new earthquake insurance policies.~~

11 *SEC. 18. Section 10089.54 is added to the Insurance Code, to*
12 *read:*

13 *10089.54. It is the intent of the Legislature that if both the*
14 *Federal National Mortgage Association (“Fannie Mae”) and the*
15 *Federal Home Loan Mortgage Corporation (“Freddie Mac”)*
16 *implement policies to require earthquake insurance for any*
17 *single-family residential structure, other than a condominium unit*
18 *or townhome, as a condition of purchasing a mortgage or trust*
19 *deed secured by that structure, the Legislature should convene to*
20 *consider the manner and circumstances under which the authority*
21 *should continue to write new and renewal earthquake insurance*
22 *policies.*

23 *SEC. 19. This act is an urgency statute necessary for the*
24 *immediate preservation of the public peace, health, or safety within*
25 *the meaning of Article IV of the California Constitution and shall*
26 *go into immediate effect. The facts constituting the necessity are:*

27 *In addition to the facts set forth in the Legislative findings and*
28 *declarations in Section 1 of this act, the California Earthquake*
29 *Authority requires significant lead time to fully implement and*
30 *realize the benefits of the sustainability enhancements to its*
31 *claim-paying capacity provided for in this act, and to develop and*
32 *implement new and enhanced earthquake mitigation programs for*
33 *the benefit of vulnerable homes and citizens in California. Scientific*
34 *evidence strongly indicates that California is overdue for its next*
35 *major earthquake, and it is, therefore, necessary and essential that*
36 *this act take effect immediately.*

37 *SECTION 1. (a) The Legislature finds and declares all of the*
38 *following:*

39 *(1) California is home to two-thirds of our nation’s earthquake*
40 *risk, and Californians are unfortunately all too familiar with*

1 devastating earthquakes and the damage they can cause to homes
2 and lives.

3 ~~(2) The year 2019 marks the 25th anniversary of the 1994~~
4 ~~Northridge earthquake, when the Northridge blind thrust fault in~~
5 ~~the Los Angeles region gave way. The magnitude 6.7 earthquake~~
6 ~~left 60 people dead, more than 9,000 people injured, and caused~~
7 ~~more than \$40 billion in property damage in today's dollars. In~~
8 ~~addition, 7,000 single-family homes, 5,000 mobilehomes, and~~
9 ~~about 49,000 apartments were destroyed or severely damaged, and~~
10 ~~57,000 single-family homes suffered substantial damage from the~~
11 ~~shaking and subsequent fires.~~

12 ~~(3) In 1971, a magnitude 6.6 earthquake originated from the~~
13 ~~Sierra Madre Fault Zone in Los Angeles, followed by a magnitude~~
14 ~~5.8 aftershock. The earthquake and aftershock left 58 people dead,~~
15 ~~brought down parts of major freeways, including Interstate 5 and~~
16 ~~Interstate 210, caused severe damage to the Olive View Medical~~
17 ~~Center in Los Angeles, and displaced thousands of people as 30,000~~
18 ~~homes suffered major damage.~~

19 ~~(4) In 1989, the Loma Prieta earthquake, a magnitude 6.9~~
20 ~~earthquake, killed 63 people, injured more than 3,700 people,~~
21 ~~damaged or destroyed 12,000 homes, and caused more than \$6~~
22 ~~billion in property damage. In all, more than 3,000 people were~~
23 ~~left homeless after the Loma Prieta earthquake.~~

24 ~~(5) In 2014, the South Napa earthquake, a magnitude 6.0~~
25 ~~earthquake, left more than 100 single-family homes uninhabitable~~
26 ~~and damaged hundreds more.~~

27 ~~(6) According to the latest Uniform California Earthquake~~
28 ~~Rupture Forecast, the best science holds that there is more than a~~
29 ~~99-percent chance that an earthquake of magnitude 6.7 or greater~~
30 ~~will hit California sometime between today and 30 years from~~
31 ~~now. An earthquake of that magnitude could result in tens of~~
32 ~~billions of dollars in damage and render thousands of residences~~
33 ~~uninhabitable. The same forecast calculates a 93-percent chance~~
34 ~~of a magnitude 7.0 earthquake occurring within the same period.~~
35 ~~This would result in an earthquake nearly three times stronger than~~
36 ~~the Northridge earthquake. Furthermore, there is a 48 percent~~
37 ~~chance of a magnitude 7.5 earthquake in the next 30 years, which~~
38 ~~would result in an earthquake nearly 16 times stronger than the~~
39 ~~Northridge earthquake.~~

1 (7) Following the 1994 Northridge earthquake, the Legislature
2 created the California Earthquake Authority (CEA) to manage and
3 mitigate the financial risks to California homeowners from the
4 state's regularly occurring earthquakes, and to ensure the continued
5 availability of homeowners' insurance for non-earthquake risks in
6 California. The CEA now supplies more than 1,000,000 insurance
7 policies in California, more than 80 percent of the earthquake
8 insurance coverage for California homeowners.

9 (8) The CEA governing board has significantly expanded the
10 CEA's role since its inception, adding wider-ranging and more
11 valuable benefits for Californians. Beginning in 2014, the CEA
12 began funding a "brace and bolt" program to retrofit a certain type
13 of seismically vulnerable single-family home, which greatly
14 reduces a homeowner's financial risk from earthquake and fire
15 damage, lowers the risk of injury or death, and increases the
16 probability that the home will be habitable either immediately or
17 shortly after a large, damaging earthquake. The CEA has been able
18 to provide between 1,000 and 2,000 retrofit and mitigation grants
19 per year.

20 (9) However, there are an estimated 1,200,000 single-family
21 homes in California, at risk in even a moderate earthquake, which
22 would potentially qualify for the current CEA retrofit program.
23 The need extends beyond single-family homes to mobilehomes
24 and multifamily structures, including apartment and condominium
25 complexes.

26 (10) The State of California currently has no reliable estimate
27 of how many residential properties lie in high-seismic risk areas
28 of the state. This creates an urgent need to identify every potentially
29 affected home in order to estimate the time and investment needed
30 to save lives and prevent massive destruction of existing housing
31 stock, which would only add to California's affordable housing
32 crisis.

33 (11) The National Institute of Building Sciences (NIBS) Natural
34 Hazard Mitigation Saves: 2017 Interim Report, analyzing the
35 results of 23 years of federally funded mitigation grants provided
36 by the Federal Emergency Management Agency (FEMA), the
37 United States Economic Development Administration (EDA), and
38 the United States Department of Housing and Urban Development
39 (HUD), found that every dollar spent on funding mitigation can
40 save the public at least \$4 in future earthquake disaster costs.

1 (12) The time has come to ensure that the CEA can both
2 continue to provide affordable and valuable earthquake insurance,
3 and to make new and much greater contributions to preearthquake
4 mitigation throughout California. The Legislature can accomplish
5 these dual goals by improving the CEA's enabling statutes and
6 authorizing additional prudent financial options for the CEA.

7 (b) It is, therefore, the intent of the Legislature to restructure
8 aspects of the CEA's financial and insuring capacity to greatly
9 increase the funding available each year for seismic retrofits and
10 other proactive mitigation measures, with the urgent goal of
11 retrofitting 1,000,000 homes by the end of the year 2025, and
12 helping all Californians be prepared for the next major California
13 earthquake.

14 SEC. 2. Section 10089.315 is added to the Insurance Code,
15 immediately following Section 10089.31, to read:

16 10089.315. The board shall evaluate and implement programs
17 and operational changes to enhance the authority's sustainability,
18 and to generate demonstrable savings on risk management and
19 transfer strategies, without unduly compromising the authority's
20 claim-paying capacity, borrowing capacity, or debt ratings. Upon
21 verification by the board, the savings shall be transferred to the
22 Earthquake Loss Mitigation Fund established by Section 10089.37.

23 SEC. 3. Section 10089.37 of the Insurance Code is amended
24 to read:

25 10089.37. The board shall set aside in each calendar year an
26 amount equal to 5 percent of investment income accruing on the
27 authority's invested funds plus the savings realized pursuant to
28 Section 10089.315, but not less than five million dollars
29 (\$5,000,000), if deemed actuarially sound by a consulting actuary
30 employed or hired by the authority, to be maintained as a
31 subaccount in the California Earthquake Authority Fund. The
32 authority shall use those funds to fund the establishment and
33 operation of an Earthquake Loss Mitigation Fund. In the event a
34 set-aside of mitigation-related funds may impair the actuarial
35 soundness of the authority, the board may delay the implementation
36 of this section. Any delay shall be reported to the Legislature and
37 the commissioner and reported publicly.

38 SEC. 4. Section 10089.38 of the Insurance Code is amended
39 to read:

1 ~~10089.38. Upon the development and implementation of an~~
2 ~~economical system satisfactory to the board and the commissioner~~
3 ~~to prevent misapplication of mitigation funds, the Earthquake Loss~~
4 ~~Mitigation Fund may be applied to supply grants and loans or loan~~
5 ~~guarantees to dwelling owners who wish to retrofit their homes to~~
6 ~~protect against earthquake damage, or to any other earthquake~~
7 ~~mitigation or sustainability program authorized directly or~~
8 ~~indirectly by the board.~~

9 ~~SEC. 5. This act is an urgency statute necessary for the~~
10 ~~immediate preservation of the public peace, health, or safety within~~
11 ~~the meaning of Article IV of the California Constitution and shall~~
12 ~~go into immediate effect. The facts constituting the necessity are:~~

13 ~~In addition to the facts set forth in the Legislative findings and~~
14 ~~declarations in Section 1 of this act, the California Earthquake~~
15 ~~Authority requires significant lead time to fully implement and~~
16 ~~realize the benefits of the sustainability enhancements to its~~
17 ~~claim-paying capacity provided for in this act, and to develop and~~
18 ~~implement new and enhanced earthquake mitigation programs for~~
19 ~~the benefit of vulnerable homes and citizens in California.~~
20 ~~Scientific evidence strongly indicates that California is overdue~~
21 ~~for its next major earthquake, and it is therefore necessary and~~
22 ~~essential that this act take effect immediately.~~



Senate Bill 254: The Resilient Homes Initiative *Preparing Californians for the Next “Big One”* **As Amended on April 1, 2019**

SUMMARY

SB 254 (Hertzberg) directs significant and sustained investments to retrofit homes across California by restructuring the California Earthquake Authority’s framework for paying claims following a catastrophic earthquake. In doing so, SB 254 helps prepare California homes for the next major earthquake and ensures the long-term financial sustainability of the California Earthquake Authority as California’s primary earthquake insurance provider.

ISSUE

In the last 50 years, California has experienced 43 earthquakes with a magnitude of 5.0 or greater that together caused billions of dollars in damage and injured thousands of people. Today, California is home to two-thirds of the nation’s earthquake risk, and most Californians live within 30 miles of one of the state’s 500 active faults. The best science holds that there is more than a 99% chance that a 6.7 magnitude or greater earthquake will hit California sometime between today and 30 years from now.

Following the 1994 Northridge earthquake, the Legislature created the California Earthquake Authority (CEA), a publicly managed, privately funded nonprofit tasked with protecting homeowners from the financial risks associated with regular seismic events. In recent years, the CEA’s role has expanded to include more proactive mitigation efforts, such as the Brace-and-Bolt Program, which has provided over 7,700 retrofit grants since 2014. These resiliency efforts have assumed a larger share of CEA’s overall mission, as studies have shown that every dollar spent on mitigation can save at least four dollars in post-event disaster-related costs.

However, these recent mitigation efforts have only just scratched the surface of overall need, which grows more urgent by the day. Across the state, as many as 1.2 million single-family homes and countless more multi-family residential buildings are vulnerable to damage in even a moderate quake, and building codes need updating to ensure effective and adequate retrofits.

Currently, in the event of a major earthquake, the CEA would pay insurance claims using several distinct financing layers – a “layer cake” – that are each activated only when the previous layer’s funding is exhausted. While the CEA is financially strong and prepared to cover all claims from the next major earthquake, current law does not provide the mechanisms to ensure CEA’s long-term sustainability in the event of multiple major earthquakes.

SB 254 (Hertzberg)

SB 254 strengthens the CEA's claim-paying capacity while also freeing up funding for mitigation efforts and multiple earthquake events by doing several things:

- Enhances CEA's existing claim-paying capacity by adding a new, lower cost alternative to reinsurance and other existing tools. With reinsurance premiums and other costs reduced, the CEA will be required to make annual payments of between \$70 to \$100 million to dramatically expand the existing Brace & Bolt program, and develop new pre-earthquake mitigation projects.
- Given that restructured financing, the CEA would then be allowed to, *in the event of a catastrophic earthquake*, establish a small, temporary assessment on property and casualty insurance policies in "High Seismic Risk Zones." Because this funding source would only be available following an earthquake of unprecedented magnitude, and after all other financing layers have been exhausted, it is known as *contingent capital*.
 - As noted, CEA will make annual payments in exchange for this new capacity, with the funds being devoted to pre-earthquake retrofit and mitigation programs in the *same* "High Seismic Risk Zones."
- Allows the CEA, in the event of a catastrophic earthquake, to shift financing capacity from the existing "layer cake" into a "subsequent event tower," ensuring the CEA's immediate readiness for another disastrous seismic event.
 - The resources in this subsequent event claim-paying fund would come from reinsurance, an insurance industry assessment liability, and a "protected operating capital" account.

August 2014, after M 6.0 South Napa Earthquake



Unretrofitted and *Uninhabitable*

Retrofitted and *Habitable*



Senator Robert Hertzberg

REPRESENTING THE SAN FERNANDO VALLEY

Published on *Senator Robert M. Hertzberg* (<https://sd18.senate.ca.gov> (<https://sd18.senate.ca.gov>))

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(<https://www.addthis.com/bookmark.php?v=300>) [1] (<https://www.addthis.com/bookmark.php?v=300>) [1]

(<https://www.addthis.com/bookmark.php?v=300>) [1]

Press Release

The measure, SB 254, will restructure the California Earthquake Authority to finance life-saving retrofits

April 1, 2019

Hertzberg Announces Details of the Resilient Homes Initiative

SACRAMENTO – Senate Majority Leader Bob Hertzberg (D-Van Nuys) today released the details of the Resilient Homes Initiative, an effort he announced earlier this year

(<https://sd18.senate.ca.gov/news/1222019-hertzberg-announces-major-legislation-prepare-californians-next-%E2%80%9Cbig-one%E2%80%9D>) [2], on the 25th anniversary of the Northridge Earthquake.

The legislature created the California Earthquake Authority (CEA) in 1996 to better prepare Californians against the widespread devastation that rocked the Los Angeles region during the Northridge quake. Since their Brace & Bolt program launched in 2014, the CEA has been able to retrofit over 4,000 homes in Los Angeles County alone. But the need is far greater. The Resilient Homes Initiative (SB 254) will make the necessary changes to the CEA's financial structure to expand mitigation programs.

The Resilient Homes Initiative will enhance CEA's existing claim-paying capacity by adding a new, lower cost alternative to reinsurance and other existing tools. CEA will in turn make annual payments in exchange for this new capacity, with the funds (estimated to be between \$70-\$100 million) being devoted to pre-earthquake retrofit and mitigation programs in "High Seismic Risk Zones."

Simply put, the Initiative will increase funding to dramatically expand the existing Brace & Bolt program, and develop new programs to help households in high-risk areas to meet the urgent need to prepare for the next big earthquake.

Because of the restructured funding, the bill also empowers (but does not *require*) the CEA to collect small assessments on insurance premiums on policies covering property and risks in the same "High Seismic Risk Zones" only in the event that we encounter an earthquake of unprecedented magnitude and damage.

"We have to be forward-thinking about this so that we aren't left in financial, and literal, ruin when the next big earthquake strikes," said **Majority Leader Hertzberg**. "Expanding residential retrofits could be the difference between life and death, and could prevent California families from losing everything."

"We know that California will be hit again someday by a powerful, damaging earthquake, and a home built prior to 1980 that has not been seismically retrofitted is like a ticking time bomb," said **Glenn Pomeroy, CEO of the California Earthquake Authority**. "Taking aggressive steps now to strengthen these homes will help save homes and lives when that inevitable day arrives."

"The work of building a more resilient city and state does not have an end goal — it's a never-ending pursuit," said **Mayor Eric Garcetti**. "I support the work by Senator Hertzberg and the California Earthquake Authority to expand the successful brace and bolt program that has already helped thousands of Angelenos plan and prepare for inevitable earthquakes."

"California is already facing a major housing crisis," said **Lucy Jones, Founder & Chief Scientist of Dr. Lucy Jones Center for Science & Society**. "Many of the homes across the State were built to earlier building codes with significant weaknesses that we know will cause problems when a big earthquake occurs near them. The State needs to get those buildings upgraded before an earthquake makes so many homes uninhabitable that many people will be forced to leave."

The amended bill text will be available online later this evening on this website (http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB254) [3].

Media Contact: Katie Hanzlik
Katie.Hanzlik@sen.ca.gov
Press Secretary
Senator Robert M. Hertzberg
Capitol Building, Room 313
(916) 651-4018

Source URL: <https://sd18.senate.ca.gov/news/412019-hertzberg-announces-details-resilient-homes-initiative>
Links

[1] <https://www.addthis.com/bookmark.php?v=300>

[2] <https://sd18.senate.ca.gov/news/1222019-hertzberg-announces-major-legislation-prepare-californians-next-%E2%80%9Cbig-one%E2%80%9D>

[3] http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB254

Attachments
for
AB 548 (Rodriguez)

AMENDED IN ASSEMBLY APRIL 4, 2019

CALIFORNIA LEGISLATURE—2019—20 REGULAR SESSION

ASSEMBLY BILL

No. 548

Introduced by Assembly Member Rodriguez
(Coauthor: Assembly Member Nazarian)

February 13, 2019

An act to add Section 10089.396 to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 548, as amended, Rodriguez. Earthquake Brace and Bolt program.

Existing law establishes the California Earthquake Authority, administered by the Insurance Commissioner, and authorizes the authority to transact insurance in this state as necessary to, among other things, create and maintain, in collaboration or jointly with subdivisions and programs of local, state, and federal governments and with other national programs, programs and activities that mitigate seismic risks, for the benefit of homeowners and other property owners. Existing law recognizes the existence of the California Residential Mitigation Program (CRMP), a joint powers authority created in 2012 by agreement between the California Earthquake Authority and the Office of Emergency Services. Existing law requires the CRMP to implement a grant program, known as the Earthquake Brace and Bolt program, to award grants to qualifying owners of single-family residential structures that meet specified requirements, including that the structures are located in high-risk earthquake areas.

This bill would require the CRMP, in administering the Earthquake Brace and Bolt program, to provide outreach to low-income households ~~and low-income communities~~ to increase consumer awareness of the

~~Earthquake Brace and Bolt program and in communities where the program is offered. The bill would require the CRMP to offer opportunities for increased grants to low-income applicants. The bill would require at least _____% of the applicants initially awarded a grant pursuant to the program in each cycle to be low income, as specified. set aside at least 10% of the funds available each year for the Earthquake Brace and Bolt program to provide supplemental grants to homeowners of low-income households who were selected to receive grants pursuant to the program. Under the bill, the supplemental grant would be awarded on a first-come-first-served basis and would be in an amount as necessary to provide the homeowner with 90% percent of the retrofit costs remaining after payment of the grant awarded pursuant to the Earthquake Brace and Bolt program.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10089.396 is added to the Insurance Code,
- 2 to read:
- 3 10089.396. (a) In administering the Earthquake Brace and
- 4 Bolt program pursuant to Section 10089.395, the California
- 5 Residential Mitigation Program (CRMP) shall do both of the
- 6 following:
- 7 (1) Provide outreach to low-income households to increase
- 8 awareness of the Earthquake Brace and Bolt program in those
- 9 communities where the program is offered.
- 10 (2) Set aside at least 10 percent of the funds available each year
- 11 for the program pursuant to Section 10089.395 to provide
- 12 supplemental grants to homeowners in low-income households
- 13 who were selected to receive grants pursuant to subdivision (c) of
- 14 Section 10089.395.
- 15 (A) A homeowner in a low-income household may apply for a
- 16 supplemental grant, which shall be awarded on a
- 17 first-come-first-served basis until the funding set aside for
- 18 supplemental grants is exhausted.
- 19 (B) The supplemental grant shall be in an amount as necessary
- 20 to provide the homeowner in the low-income household with 90
- 21 percent of the retrofit costs remaining after payment of the grant

1 awarded to that homeowner pursuant to subdivision (c) of Section
2 10089.395.

3 (C) Any unexpended supplemental grant funding shall be
4 available to provide grants to other eligible applicants on the
5 waiting list.

6 (b) For purposes of this section, "low-income household" means
7 a household that has an income at or below 80 percent of the
8 median household income in California.

9 SECTION 1. ~~Section 10089.396 is added to the Insurance~~
10 ~~Code, to read:~~

11 ~~10089.396. (a) For purposes of this section, the following~~
12 ~~definitions apply:~~

13 (1) ~~"Low income" means a resident of the state whose household~~
14 ~~income is less than or equal to 300 percent of the federal poverty~~
15 ~~level:~~

16 (2) ~~"Low-income communities" has the same meaning as~~
17 ~~defined in Section 39713 of the Health and Safety Code:~~

18 (b) ~~In administering the Earthquake Brace and Bolt program~~
19 ~~pursuant to Section 10089.395, the California Residential~~
20 ~~Mitigation Program (CRMP) shall do all of the following:~~

21 (1) ~~Provide outreach to low-income households and low-income~~
22 ~~communities to increase consumer awareness of the Earthquake~~
23 ~~Brace and Bolt program.~~

24 (2) ~~Offer opportunities for increased grants to low-income~~
25 ~~applicants.~~

26 (3) ~~Prioritize low-income applicants in awarding grants, as~~
27 ~~follows:~~

28 (A) ~~At least _____ percent of the applicants initially awarded a~~
29 ~~grant pursuant to the program in each cycle shall be low income,~~
30 ~~except that if there are not enough eligible low-income applicants~~
31 ~~to satisfy this threshold, consideration shall then be made for all~~
32 ~~other eligible applicants.~~

33 (B) ~~If an applicant is selected to receive a grant under the~~
34 ~~program, but does not ultimately participate in the program, the~~
35 ~~CRMP may award those funds to another eligible applicant.~~
36 ~~Selection priority for those funds shall be given to low-income~~
37 ~~applicants who are on the waiting list. The waiting list is only~~
38 ~~applicable for the duration of the grant cycle. If there are no~~
39 ~~low-income applicants on the waiting list, then waiting list~~
40 ~~considerations shall be made for all other eligible applicants.~~

Attachments
for
H.R. 2053
(Thompson/Calvert)
&
S. 1058
(Harris/Feinstein)

.....
(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts received from State-based earthquake loss mitigation programs.

IN THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON of California introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income amounts received from State-based earthquake loss mitigation programs.

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 “Earthquake Mitigation
5 Incentive and Tax Parity Act of 2019”.

1 **SEC. 2. EXCLUSION OF AMOUNTS RECEIVED FROM STATE-**
2 **BASED EARTHQUAKE LOSS MITIGATION PRO-**
3 **GRAMS.**

4 (a) IN GENERAL.—Part III of subchapter B of chap-
5 ter 1 of the Internal Revenue Code of 1986 is amended
6 by inserting after section 139G the following new section:

7 **“SEC. 139H. STATE-BASED EARTHQUAKE LOSS MITIGATION**
8 **PROGRAMS.**

9 “(a) IN GENERAL.—Gross income shall not include
10 any amount received as a qualified earthquake mitigation
11 payment.

12 “(b) QUALIFIED EARTHQUAKE MITIGATION PAY-
13 MENT.—For purposes of this section—

14 “(1) QUALIFIED EARTHQUAKE MITIGATION
15 PAYMENT.—The term ‘qualified earthquake mitiga-
16 tion payment’ means any amount which is received
17 as a loan, loan forgiveness, grant, credit, rebate,
18 voucher, or other financial incentive pursuant to an
19 earthquake loss mitigation program established by a
20 State, or agency, instrumentality, or political sub-
21 division thereof, by a residential property owner or
22 occupant to assist with expenses paid, or obligations
23 incurred, for earthquake loss mitigation.

24 “(2) EARTHQUAKE LOSS MITIGATION PRO-
25 GRAM.—The term ‘earthquake loss mitigation pro-
26 gram’ includes a program established by a State, or

1 agency, instrumentality, or political subdivision
2 thereof, by itself or together with—

3 “(A) an organization described in section
4 501(c) and exempt from tax under section
5 501(a),

6 “(B) an organization determined to be ex-
7 empt from State taxes pursuant to the laws of
8 the relevant State, or

9 “(C) a public instrumentality of a State
10 pursuant to a joint exercise of powers.

11 “(3) EARTHQUAKE LOSS MITIGATION.—The
12 term ‘earthquake loss mitigation’ means an activity
13 that reduces seismic risks to a residential structure
14 or its contents.

15 “(4) SEISMIC.—The term ‘seismic’ has the
16 meaning given such term by section 4(3) of the
17 Earthquake Hazards Reduction Act of 1977 (42
18 U.S.C. 7703(3)).

19 “(5) NO INCREASE IN BASIS.—Notwithstanding
20 any other provision of this subtitle, no increase in
21 the basis or adjusted basis of any property shall re-
22 sult from any amount excluded under this subsection
23 with respect to such property.

24 “(c) DENIAL OF DOUBLE BENEFIT.—Notwith-
25 standing any other provision of this subtitle, no deduction

1 or credit shall be allowed for, or by reason of, any expendi-
2 ture to the extent of the amount excluded under sub-
3 section (a) for any qualified earthquake mitigation pay-
4 ment which was provided with respect to such expendi-
5 ture.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for part III of subchapter B of chapter 1 of such Code
8 is amended by inserting after the item relating to section
9 139G the following new item:

“Sec. 139H. State-based earthquake loss mitigation programs.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 2018.

CONGRESSMAN MIKE THOMPSON

Serving California's 5th Congressional District

PRESS RELEASE

For Immediate Release:

April 3, 2019

Contact:

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Jason Gagnon (Calvert) 951-277-0042

Meaghan Lynch (Harris) 202-228-5648

Adam Russell (Feinstein) 202-224-9629

THOMPSON, CALVERT, HARRIS AND FEINSTEIN REINTRODUCE EARTHQUAKE MITIGATION LEGISLATION *BILL WOULD EXCLUDE MITIGATION INCENTIVES FROM FEDERAL TAXATION*

Washington – Today House Ways and Means Subcommittee on Select Revenue Measures Chairman Mike Thompson (CA-05), Rep. Ken Calvert (CA-42), Senator Kamala Harris (D-CA), and Senator Dianne Feinstein (D-CA) announced the reintroduction of the **Earthquake Mitigation Incentive and Tax Parity Act**, legislation that makes incentives for residential seismic retrofits tax-free at the federal level. This will help expand earthquake mitigation efforts and bring the federal policy in line with California state policy.

“Nearly five years ago, my constituents were rocked by the South-Napa Earthquake, which left more than 1,500 homes seriously damaged – many were shaken from their foundations. Disasters in our district and across our nation are devastating and we must do everything we can right now to prepare and mitigate their harmful impacts,” said **Chairman Thompson**. “That’s why I am proud to reintroduce the bipartisan and bicameral Earthquake Mitigation Incentive and Tax Parity Act, which allows homeowners to more easily retrofit their homes to better withstand earthquakes. This saves the taxpayer money upfront, keeps people safer, and saves the government money when it comes time to clean up after a disaster. These incentives have already been widely successful in California and I look forward to making this our policy nationwide.”

“It’s critical that we take the steps necessary to prepare for major earthquakes. That’s why I’m proud to join Rep. Mike Thompson and cosponsor the Earthquake Mitigation Incentive and Tax Parity Act to incentivize homeowners to make seismic retrofits,” said **Rep. Calvert**. “Congress should approve this bill to encourage these potentially life-saving investments.”

“Homeowners in earthquake-prone areas understand that they need to be prepared for potential disaster, and the federal government must work with them as a supportive partner,” said **Senator**

Harris. “This legislation would ensure that homeowners in California and across the country aren’t unfairly penalized for investing in new projects to protect their homes.”

“The federal government should be doing everything it can to help make homes earthquake-safe,” **said Senator Feinstein** “Incentivizing homeowners for participating in state and local earthquake home-improvement programs will make these vital upgrades more affordable and encourage families to make these lifesaving improvements.”

“Scientists say the next big earthquake is inevitable, and a home built prior to 1980 is like a ticking time bomb,” **said Glenn Pomeroy, CEO of the California Earthquake Authority.** “Californians who do the right thing, and retrofit their older home, should not be penalized by being taxed on their retrofit grant.”

Under current law, the federal government taxes residents on the grants they receive to retrofit their homes to better withstand earthquakes. This bill would eliminate those taxes, giving homeowners greater incentive to make those accommodations.

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Congressman Mike Thompson is proud to represent California's 5th Congressional District, which includes all or part of Contra Costa, Lake, Napa, Solano and Sonoma Counties. He is a senior member of the House Committee on Ways and Means where he chairs the Subcommittee on Tax Policy. Rep. Thompson is Chairman of the House Gun Violence Prevention Task Force. He is also Co-Chair of the bipartisan, bicameral Congressional Wine Caucus and a member of the fiscally-conservative Blue Dog Coalition.

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