To authorize the Secretary of Housing and Urban Development to provide disaster assistance to States and units of general government under a community development block grant disaster recovery program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on

A BILL

To authorize the Secretary of Housing and Urban Development to provide disaster assistance to States and units of general government under a community development block grant disaster recovery program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reforming Disaster Recovery Act of 2019”.
SEC. 2. COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY PROGRAM.

(a) IN GENERAL.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

“SEC. 123. CDBG-DISASTER RECOVERY ASSISTANCE.

“(a) AUTHORITY; USE.—The Secretary may provide assistance under this section to States, units of general local government, and Indian tribes for necessary expenses for activities authorized under this title related to disaster relief, resiliency, long-term recovery, restoration of infrastructure and housing, mitigation, and economic revitalization in the most impacted and distressed areas resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(b) TIMING.—

“(1) DEADLINES FOR ALLOCATION OF AMOUNTS.—Except as provided in paragraph (2), after the enactment of an Act making funds available for assistance under this section, the Secretary shall allocate for grantees, based on the best available data—

“(A) not less than one-third of funds provided for assistance under this section, within
60 days of the date of the enactment of such Act; and

“(B) all remaining unallocated funds to be provided to grantees, within 180 days of such date of enactment.

“(2) Inapplicability of deadlines based on insufficient information.—The deadlines under paragraph (1) for allocation of funds shall not apply in the case of funds made available for assistance under this section if Federal Emergency Management Agency has not made sufficient information available to the Secretary regarding relevant unmet recovery needs to make allocations in accordance with such deadlines.

“(3) Disbursement of amounts.—Subject to subsection (c)(1), the Secretary shall provide for the disbursement of the amounts allocated for a grantee over time in accordance with obligations of the grantee, but shall require the grantee to be in substantial compliance with the requirements of this section before each such disbursement.

“(c) Plan for use of assistance.—

“(1) Requirement.—Not later than 120 days after the allocation pursuant to subsection (b)(1)(B) of the funds made available by an appropriations
Act for assistance under this section and before the Secretary obligates any of such funds for a grantee, the grantee shall submit a plan to the Secretary for approval detailing the proposed use of all funds, which shall include, at a minimum—

“(A) criteria for eligibility and a description of how the use of such funds will address disaster relief, resiliency, long-term recovery and restoration of infrastructure and housing, and mitigation and economic revitalization in the most impacted and distressed areas;

“(B) identification of officials and offices responsible for administering such funds and identifying and recovering duplicate benefits;

“(C) an agreement to share data, disaggregated by the smallest census tract, block group, or block possible for the data set, with Federal agencies and other providers of disaster relief, which shall include information the grantee has regarding the matters described in subparagraph (B)

“(D) a plan for ensuring compliance with the Fair Housing Act, which may include providing for partnerships with local fair housing organizations and funding set-aside for local
fair housing organizations to handle complaints relating to assistance with amounts made available for use under this section.

“(2) APPROVAL.—The Secretary shall, by regulation, specify criteria for approval of plans under paragraph (1), including approval of substantial amendments to such plans.

“(3) DISAPPROVAL.—The Secretary shall disapprove a plan or substantial amendment to a plan if—

“(A) the plan or substantial amendment does not meet the approval criteria;

“(B) based on damage and unmet needs assessments of the Secretary and the Federal Emergency Management Administration or such other information as may be available, the plan or amendment does not provide for equitable allocation of resources—

“(i) between infrastructure and housing projects; or

“(ii) between homeowners, renters, and persons experiencing homelessness;

“(C) the plan or amendment does not provide a credible plan for ensuring compliance with the Fair Housing Act;
“(D) the plan or amendment does not prioritize the one-for-one replacement of public housing and other federally subsidized housing that provides affordable housing for the lowest income households; or

“(E) the plan or amendment does not provide a process to provide applicants—

“(i) notice by grantee of applicant’s right to appeal any adverse action or inaction;

“(ii) right to full discovery of applicant’s entire application file; and

“(iii) right to appeal to a court of competent jurisdiction in the vicinage of the applicant’s residence at the time of the appeal.

“(4) PUBLIC CONSULTATION.— In developing the plan required under paragraph (1), a grantee shall, at a minimum—

“(A) consult with affected residents, stakeholders, local governments, and public housing authorities to assess needs;

“(B) publish the plan in accordance with the requirements set forth by the Secretary, including a requirement to prominently post the
plan on the website of the grantee for not less
than 14 days;

“(C) ensure equal access for individuals
with disabilities and individuals with limited
English proficiency; and

“(D) publish the plan in a manner that af-
foards citizens, affected local governments, and
other interested parties a reasonable oppor-
tunity to examine the contents of the plan and
provide feedback.

“(5) RESUBMISSION.—The Secretary shall per-
mit a grantee to revise and resubmit a disapproved
plan.

“(6) TIMING.—The Secretary shall approve or
disapprove a plan not later than 120 days after sub-
mission of the plan to the Secretary.

“(d) FINANCIAL CONTROLS.—

“(1) COMPLIANCE SYSTEM.—The Secretary
shall develop and maintain a system to ensure that
each grantee has in place—

“(A) proficient financial controls and proc-
curement processes;

“(B) adequate procedures to ensure that
all eligible families and individuals are approved
for assistance with amounts made available
under this section and that recipients are pro-
vided the full amount of assistance for which
they are eligible;

“(C) adequate procedures to prevent any
duplication of benefits, as defined by section
312 of the Robert T. Stafford Disaster Relief
and Emergency Assistance Act (42 U.S.C.
5155), to ensure timely expenditure of funds,
and to detect and prevent waste, fraud, and
abuse of funds; and

“(D) adequate procedures to ensure the
grantee will maintain comprehensive and pub-
licly accessible websites that make available in-
formation regarding all disaster recovery activi-
ties assisted with such funds, which information
shall include—

“(i) full and unredacted copies of all
requests for qualification for assistance or
for procurement with such funds, however
styled;

“(ii) all responses to such requests;

“(iii) the identity of any individual or
entity that reviews, evaluates, scores, or
otherwise influences or determines the dis-
position of such requests;
“(iv) all reports, however styled, containing the reviewing individual or entity’s scores, findings, and conclusions regarding such requests; and

“(v) any resulting contract, agreement, or other disposition of such requests; except that such procedures shall ensure that personally identifiable information regarding recipients of assistance provided from funds made available under this section shall not be made publicly available.

“(2) CERTIFICATION.—As a condition of making any grant, the Secretary shall certify in advance that the grantee has in place the processes and procedures required under subparagraphs (A) through (D) of paragraph (1).

“(e) USE OF FUNDS.—

“(1) ADMINISTRATIVE COSTS.—

“(A) IN GENERAL.—A State, unit of general local government, or Indian tribe receiving a grant under this section may use not more than 10 percent of the amount of grant funds received, or not more than such other percentage as may be established pursuant to subparagraph (B), for administrative costs and shall
document the use of funds for such purpose in accordance with such requirements as the Secretary shall establish.

“(B) DISCRETION TO ESTABLISH SLIDING SCALE.—The Secretary may establish a series of percentage limitations on the amount of grant funds received that may be used by a grantee for administrative costs, but only if—

“(i) such percentage limitations are based on the amount of grant funds received by a grantee;

“(ii) such series provides that the percentage that may be so used is lower for grantees receiving a greater amount of grant funds and such percentage that may be so used is higher for grantees receiving a lesser amount of grant funds; and

“(iii) in no case may a grantee so use more than 10 percent of grant funds received.

“(2) LIMITATION ON USE.—Amounts from a grant under this section may not be used for activities reimbursable by, or for which funds are made available by—
“(A) the Federal Emergency Management Agency, including under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Program; or

“(B) the Army Corps of Engineers.

“(3) HUD ADMINISTRATIVE COSTS.—

“(A) LIMITATION.—Of any funds made available for use under this section by any single appropriations Act, the Secretary may use 0.5 percent of any such amount exceeding $1,000,000,000 for necessary costs, including information technology costs, of administering and overseeing the obligation and expenditure of amounts made available for use under this section.

“(B) TRANSFER OF FUNDS.—Any amounts made available for use in accordance with subparagraph (A) shall—

“(i) be transferred to the account for ‘Program Office Salaries and Expenses—Community Planning and Development’ for the Department;

“(ii) shall remain available until expended; and
“(iii) may be used for such administrative costs for administering any funds appropriated to the Department for any disaster and related purposes in any prior or future Act making funds available for use under this section, notwithstanding the disaster for which such funds were appropriated.

“(4) INSPECTOR GENERAL.—Of any funds made available for use in accordance with paragraph (3)(A), 10 percent shall be transferred to the Office of the Inspector General for necessary costs of audits, reviews, oversight, evaluation, and investigations relating to amounts made available for use under this section.

“(5) CAPACITY BUILDING.—Of any funds made available for use under this section, not more than 0.1 percent or $15,000,000, whichever is less, shall be made available for capacity building and technical assistance, including assistance regarding contracting and procurement processes, to support grantees and subgrantees receiving funds under this section.

“(6) COMPLIANCE WITH STORM WATER PROTECTIONS.—The Secretary shall provide that no
funds made available under this section may be used for construction, repair, or rehabilitation of any infrastructure unless the infrastructure assisted complies with any minimum standards for protection from floods and stormwaters, including the Federal Flood Risk Management Standards of the Federal Emergency Management Agency.

“(7) FLOOD RISK MITIGATION.—

“(A) REQUIREMENTS.—Subject to subparagraph (B), the Secretary shall require that any structure that is located in an area having special flood hazards and that is newly constructed, for which substantial damage is repaired, or that is substantially improved, using amounts made available under this section, shall be elevated with the lowest floor, including the basement, at least two feet above the base flood level.

“(B) MULTIFAMILY HOUSING.—In the case of structures consisting of multifamily housing, the Secretary, in consultation with the Administrator of the Federal Emergency Management Agency, shall provide for alternative forms of mitigation (in addition to elevation) and shall exempt from the requirement under
subparagraph (A) any such structure that meets the standards for such an alternative form of mitigation.

“(C) DEFINITIONS.—For purposes of subparagraph (A), the terms ‘area having special flood hazards’, ‘newly constructed’, ‘substantial damage’, ‘substantial improvement’, and ‘base flood level’ have the same meanings as under the Flood Disaster Protection Act of 1973 and the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

“(f) ADMINISTRATION.—In administering any amounts made available for assistance under this section, the Secretary—

“(1) may not allow a grantee to use any such amounts for any purpose other than the purpose approved by the Secretary in the plan submitted under subsection (c)(1) to the Secretary for use of such amounts;

“(2) may not permit a grantee to amend a plan to retroactively approve a beneficiary’s use of funds for an eligible activity other than an activity for which the funds were originally approved in the plan; and
“(3) shall prohibit a grantee from delegating, by contract or otherwise, the responsibility for inherent government functions.

“(g) Training for Grant Management for Subgrantees.—The Secretary shall require each grantee to provide ongoing training to all staff and subgrantees.

“(h) Procurement Processes and Procedures for States.—

“(1) State processes and procedures.—In procuring property or services to be paid for in whole or in part with amounts from a grant under this section, a State shall—

“(A) follow its own procurement processes and procedures, but only if the Secretary makes a determination that such processes and procedures comply with the requirements under paragraph (2); or

“(B) comply with such processes and procedures as the Secretary shall, by regulation, establish for purposes of this section.

“(2) Requirements.—The requirements under this paragraph with respect to the procurement processes and procedures of a State are that such processes and procedures shall—
“(A) provide for full and open competition and require cost or price analysis;

“(B) include requirements for procurement policies and procedures for subgrantees, based on full and open competition;

“(C) specify methods of procurement and their applicability, but not allow for cost-plus-a-percentage-of cost or percentage-of-construction-cost methods of procurement;

“(D) include standards of conduct governing employees engaged in the award or administration of contracts;

“(E) ensure that all purchase orders and contracts include any clauses required by Federal Statute, Executive Order, or implementing regulation.

“(3) NONCOMPLIANCE.—In the case of a State for which the Secretary finds pursuant to paragraph (1)(A) that its procurement processes and procedures do not comply with paragraph (2), the Secretary shall—

“(A) provide the State with specific written notice of the elements of noncompliance and the changes necessary to such processes and procedures to provide for compliance;
“(B) provide the State a reasonable period of time to come into compliance; and

“(C) during such period allow the State to proceed with procuring property and services paid for in whole or in part with amounts from a grant under this section in compliance with the procurement processes and procedures of the State, but only if the Secretary determines the State is making a good faith effort to effectuate compliance with the requirements of paragraph (2).

“(i) TREATMENT OF CDBG ALLOCATIONS.—
Amounts made available for use under this section shall not be considered relevant to the non-disaster formula allocations made pursuant to section 106 of this title (42 U.S.C. 5306).

“(j) WAIVERS.—

“(1) AUTHORITY.—Subject to the other provisions of this section, in administering amounts made available for use under this section, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of such funds (except for requirements related to fair
housing, nondiscrimination, labor standards, and the
environment and except for the requirements of this
section), if the Secretary makes a public finding that
good cause exists for the waiver or alternative re-
requirement and such waiver or alternative require-
ment would not be inconsistent with the overall pur-
pose of this title.

“(2) NOTICE AND PUBLICATION.—Any waiver
of or alternative requirement pursuant to paragraph
(1) shall not take effect before the expiration of the
5-day period beginning upon the publication of no-
tice in the Federal Register of such waiver or alter-
native requirement.

“(3) LOW- AND MODERATE-INCOME USE.—A
waiver pursuant to paragraph (1) may not reduce
the percentage of funds that must be used for activi-
ties that benefit persons of low and moderate income
to less than 70 percent, unless the Secretary specifi-
cally finds that there is compelling need to further
reduce the percentage requirement and that funds
are not necessary to address the housing needs of
low- and moderate-income residents.

“(4) PROHIBITION.—The Secretary may not
waive any provision of this section pursuant to the
authority under paragraph (1).
“(k) ENVIRONMENTAL REVIEW.—

“(1) ADOPTION.—Notwithstanding subsection (j)(1), recipients of funds provided under this section that use such funds to supplement Federal assistance provided under section 402, 403, 404, 406, 407, 408(c)(4), 428, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) may adopt, without review or public comment, any environmental review, approval, or permit performed by a Federal agency, and such adoption shall satisfy the responsibilities of the recipient with respect to such environmental review, approval, or permit under section 104(g)(1) of this title (42 U.S.C. 5304(g)(1)).

“(2) RELEASE OF FUNDS.—Notwithstanding section 104(g)(2) of this title (42 U.S.C. 5304(g)(2)), the Secretary may, upon receipt of a request for release of funds and certification, immediately approve the release of funds for an activity or project assisted with amounts made available for use under this section if the recipient has adopted an environmental review, approval or permit under paragraph (1) or the activity or project is categorically excluded from review under the National Envi-
The Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(l) Collection of Information; Audits and Oversight.—

“(1) Collection of Information.—For each major disaster for which assistance is made available under this section, the Secretary shall collect information regarding all recovery efforts so assisted and shall make such information available to the public and to the Inspector General for the Department of Housing and Urban Development, and shall report to the Congress regarding such efforts. Information collected and reported shall be disaggregated by race, income, geography, and all protected classes of individuals under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Americans with Disabilities Act of 1990, the Fair Housing Act, the Civil Rights Act of 1964, and other civil rights and nondiscrimination protections.

“(2) Availability of Information.—In carrying out this paragraph, the Secretary may make full and unredacted information available to academic and research institutions for the purpose of research into the equitable distribution of recovery
funds, adherence to civil rights protections, and other areas.

“(3) PROTECTION OF INFORMATION.—The Secretary shall take such actions as may be necessary to ensure that personally identifiable information regarding recipients of assistance provided from funds made available under this section shall not made publicly available.

“(4) AUDITS AND OVERSIGHT.—In conducting audits, reviews, oversight, evaluation, and investigations, in addition to activities designed to prevent and detect waste, fraud, and abuse, the Inspector General shall review programs of grantees under this section for providing disaster relief and recovery assistance to ensure such programs fulfill their purposes and serve all eligible applicants for disaster relief or recovery assistance.

“(m) PRE-CERTIFICATION FOR UNITS OF GENERAL LOCAL GOVERNMENT.—

“(1) IN GENERAL.—The Secretary shall carry out a program under this subsection to provide for units of general local government to pre-certify as eligible grantees for assistance under this section.
“(2) REQUIREMENTS.—To be eligible for pre-certification under the program under this subsection a unit of general local government shall—

“(A) demonstrate to the satisfaction of the Secretary compliance with the requirements of this section; and

“(B) have previously received assistance as a grantee or subgrantee under this section, or with amounts made available for the Community Development Block Grant—Disaster Recovery account, in connection with two or more major disasters declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(3) DURATION.—Pre-certification under the program under this subsection shall be effective for a term of 10 years.

“(n) DEPOSIT OF UNUSED AMOUNTS IN FUND.—

“(1) IN GENERAL.—If any amounts made available for assistance under this section to grantees remain unexpended upon the earlier of—

“(A) the date that the grantee of such amounts notifies the Secretary that the grantee has completed all activities identified in the grantee’s plan for use of such amounts that was
approved by the Secretary in connection with such grant; or

“(B) the expiration of the 6-year period beginning upon the Secretary obligating such amounts to the grantee, as such period may be extended pursuant to paragraph (2), the Secretary shall transfer such unexpended amounts to the Secretary of the Treasury for deposit into the Community Development Block Grant Disaster Recovery Reserve Fund established under section 124, except that the Secretary may, by regulation, permit the grantee to retain amounts needed to close out the grant.

“(2) EXTENSION OF PERIOD FOR USE OF FUNDS.—The period under paragraph (1)(B) shall be extended by not more than 3 years if, before the expiration of such 6-year period, the Director of the Office of Management and Budget, upon a request by the Secretary, waives this requirement and submits a written justification for such waiver to the Committees on Appropriations of the House of Representatives and the Senate that specifies the period of such extension.
“SEC. 124. COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY RESERVE FUND.

(a) Establishment.—There is established in the Treasury of the United States an account to be known as the Community Development Block Grant Disaster Recovery Reserve Fund (in this section referred to as the ‘Fund’).

(b) Amounts.—The Fund shall consist of any amounts appropriated to or deposited into the Fund, including amounts deposited into the Fund pursuant to section 123(n).

(c) Use.—Amounts in the Fund shall be available only for providing assistance under section 123, but only to the extent provided in advance in appropriations Acts.”.

(b) Regulations.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue regulations to carry out sections 123 and 124 of the Housing and Community Development Act of 1974, as added by the amendment made by subsection (a) of this section.