

112TH CONGRESS
1ST SESSION

S. 826

To require the Secretary of the Treasury to establish a program to provide loans and loan guarantees to enable eligible public entities to acquire interests in real property that are in compliance with habitat conservation plans approved by the Secretary of the Interior under the Endangered Species Act of 1973, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 2011

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To require the Secretary of the Treasury to establish a program to provide loans and loan guarantees to enable eligible public entities to acquire interests in real property that are in compliance with habitat conservation plans approved by the Secretary of the Interior under the Endangered Species Act of 1973, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Infrastructure Facili-
5 tation and Habitat Conservation Act of 2011”.

1 **SEC. 2. CONSERVATION LOAN AND LOAN GUARANTEE PRO-**
2 **GRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) ELIGIBLE PUBLIC ENTITY.—The term “eli-
5 gible public entity” means a political subdivision of
6 a State, including—

7 (A) a duly established town, township, or
8 county;

9 (B) an entity established for the purpose
10 of regional governance;

11 (C) a special purpose entity; and

12 (D) a joint powers authority, or other enti-
13 ty certified by the Governor of a State, to have
14 authority to implement a habitat conservation
15 plan pursuant to section 10(a) of the Endan-
16 gered Species Act of 1973 (16 U.S.C. 1539(a)).

17 (2) PROGRAM.—The term “program” means
18 the conservation loan and loan guarantee program
19 established by the Secretary under subsection (b)(1).

20 (3) SECRETARY.—The term “Secretary” means
21 the Secretary of the Treasury.

22 (b) LOAN AND LOAN GUARANTEE PROGRAM.—

23 (1) ESTABLISHMENT.—As soon as practicable
24 after the date of enactment of this Act, the Sec-
25 retary shall establish a program to provide loans and
26 loan guarantees to eligible public entities to enable

1 eligible public entities to acquire interests in real
2 property that are acquired pursuant to habitat con-
3 servation plans approved by the Secretary of the In-
4 terior under section 10 of the Endangered Species
5 Act of 1973 (16 U.S.C. 1539).

6 (2) APPLICATION; APPROVAL PROCESS.—

7 (A) APPLICATION.—

8 (i) IN GENERAL.—To be eligible to re-
9 ceive a loan or loan guarantee under the
10 program, an eligible public entity shall sub-
11 mit to the Secretary an application at such
12 time, in such form and manner, and in-
13 cluding such information as the Secretary
14 may require.

15 (ii) SOLICITATION OF APPLICA-
16 TIONS.—Not less frequently than once per
17 calendar year, the Secretary shall solicit
18 from eligible public entities applications for
19 loans and loan guarantees in accordance
20 with this section.

21 (B) APPROVAL PROCESS.—

22 (i) SUBMISSION OF APPLICATIONS TO
23 SECRETARY OF THE INTERIOR.—As soon
24 as practicable after the date on which the
25 Secretary receives an application under

1 subparagraph (A), the Secretary shall sub-
2 mit the application to the Secretary of the
3 Interior for review.

4 (ii) REVIEW BY SECRETARY OF THE
5 INTERIOR.—

6 (I) REVIEW.—As soon as prac-
7 ticable after the date of receipt of an
8 application by the Secretary under
9 clause (i), the Secretary of the Inte-
10 rior shall conduct a review of the ap-
11 plication to determine whether—

12 (aa) the eligible public entity
13 is implementing a habitat con-
14 servation plan that has been ap-
15 proved by the Secretary of the
16 Interior under section 10 of the
17 Endangered Species Act of 1973
18 (16 U.S.C. 1539);

19 (bb) the habitat acquisition
20 program of the eligible public en-
21 tity would very likely be com-
22 pleted; and

23 (cc) the eligible public entity
24 has adopted a complementary
25 plan for sustainable infrastruc-

1 ture development that provides
2 for the mitigation of environ-
3 mental impacts.

4 (II) REPORT TO SECRETARY.—

5 Not later than 60 days after the date
6 on which the Secretary of the Interior
7 receives an application under sub-
8 clause (I), the Secretary of the Inte-
9 rior shall submit to the Secretary a
10 report that contains—

11 (aa) an assessment of each
12 factor described in subclause (I);
13 and

14 (bb) a recommendation re-
15 garding the approval or dis-
16 approval of a loan or loan guar-
17 antee to the eligible public entity
18 that is the subject of the applica-
19 tion.

20 (III) CONSULTATION WITH SEC-

21 RETARY OF COMMERCE.—To the ex-
22 tent that the Secretary of the Interior
23 considers to be appropriate to carry
24 out this clause, the Secretary of the

1 Interior may consult with the Sec-
2 retary of Commerce.

3 (iii) APPROVAL BY SECRETARY.—

4 (I) IN GENERAL.—Not later than
5 120 days after receipt of an applica-
6 tion under subparagraph (A), the Sec-
7 retary shall approve or disapprove the
8 application.

9 (II) FACTORS.—In approving or
10 disapproving an application of an eli-
11 gible public entity under subclause (I),
12 the Secretary may consider—

13 (aa) whether the financial
14 plan of the eligible public entity
15 for habitat acquisition is sound
16 and sustainable;

17 (bb) whether the eligible
18 public entity has the ability to
19 repay a loan or meet the terms of
20 a loan guarantee under the pro-
21 gram;

22 (cc) any factor that the Sec-
23 retary determines to be appro-
24 priate; and

1 (dd) the recommendation of
2 the Secretary of the Interior.

3 (III) PREFERENCE.—In approv-
4 ing or disapproving applications of eli-
5 gible public entities under subclause
6 (I), the Secretary shall give preference
7 to eligible public entities located in
8 biologically rich regions in which rapid
9 growth and development threaten suc-
10 cessful implementation of approved
11 habitat conservation plans, as deter-
12 mined by the Secretary in cooperation
13 with the Secretary of the Interior.

14 (C) ADMINISTRATION OF LOANS AND LOAN
15 GUARANTEES.—

16 (i) REPORT TO SECRETARY OF THE
17 INTERIOR.—Not later than 60 days after
18 the date on which the Secretary approves
19 or disapproves an application under sub-
20 paragraph (B)(iii), the Secretary shall sub-
21 mit to the Secretary of the Interior a re-
22 port that contains the decision of the Sec-
23 retary to approve or disapprove the appli-
24 cation.

1 (ii) DUTY OF SECRETARY.—As soon
2 as practicable after the date on which the
3 Secretary approves an application under
4 subparagraph (B)(iii), the Secretary
5 shall—

6 (I) establish the loan or loan
7 guarantee with respect to the eligible
8 public entity that is the subject of the
9 application (including such terms and
10 conditions as the Secretary may pre-
11 scribe); and

12 (II) carry out the administration
13 of the loan or loan guarantee.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary to carry
16 out this section such sums as are necessary.

17 (d) TERMINATION OF AUTHORITY.—The authority
18 under this section shall terminate on the date that is 10
19 years after the date of enactment of this Act.

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