File No. 171049

Committee Item No.____________
Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee________________ **Date**________

Board of Supervisors Meeting **Date** 10/30/2017

Cmte	Board	
☐	☐	Motion
☐	☒	Resolution
☐	☐	Ordinance
☐	☐	Legislative Digest
☐	☐	Budget Analyst Report
☐	☐	Legislative Analyst Report
☐	☒	Introduction Form (for hearings)
☐	☐	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract/Agreement
☐	☐	Award Letter
☐	☐	Application
☐	☐	Public Correspondence

OTHER **(Use back side if additional space is needed)**

☐	☐	
☐	☐	
☐	☐	

Completed by: Brian Dayner **Date** 10/25/2017
Completed by:________ **Date**________

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

[Supporting the Passage of Senate Bill 637 and House of Representative Bill 3125 - Earthquake Insurance Affordability Act]

Resolution supporting the passage of Senate Bill 637 and House of Representative Bill 3125, which would enact the Earthquake Insurance Affordability Act.

WHEREAS, According to the U.S. Geological Survey, earthquakes pose a significant risk to 75 million Americans in 39 states; and

WHEREAS, Having experienced a magnitude 7.1 earthquake on October 17, 1989, residents in the City and County of San Francisco know all too well the devastation that earthquakes can cause; and

WHEREAS, While 80% of Californians live on or near a fault, currently fewer than 10% of California households are covered by earthquake insurance, with many of those who are uninsured citing the high cost as the reason; and

WHEREAS, The extraordinary damage caused by earthquakes points clearly to the importance of having affordable earthquake insurance to help rebuild after disaster strikes; and

WHEREAS, Senators Dianne Feinstein and Barbara Boxer have introduced Senate Bill 637, and an identical companion bill, House of Representative Bill 3125, has been introduced in the House by Congressman John Campbell; and

WHEREAS, Senate Bill 637 and House of Representative Bill 3125 would lower the cost of earthquake insurance for Californians and individuals who purchase coverage from a non-profit, state-run earthquake insurance program; and

WHEREAS, Known as the Earthquake Insurance Affordability Act, Senate Bill 637 and

House of Representative Bill 3125 would establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis; and

WHEREAS, It is critically important for residents and homeowners in California to be able to purchase affordable earthquake insurance in order to increase the number of insured homeowners and hopefully reduce the risk to all taxpayers who may otherwise bear significant costs in the aftermath of a catastrophic earthquake; and

WHEREAS, Access to affordable insurance also helps speed the recovery process, which is essential in rebuilding local communities after a disaster; and

WHEREAS, The Earthquake Insurance Affordability Act allows non-profit insurance programs, including the California Earthquake Authority (CEA), to access federal loan guarantees and more effectively and efficiently capitalize for catastrophic earthquakes, which in turn will allow them to provide lower rates to homeowners and empower more Californians to purchase protection in anticipation of California's next major earthquake; and

WHEREAS, Because the federal government often spends billions of dollars to support response efforts following a major disaster, enacting the Earthquake Insurance Affordability Act could result in lower costs to the federal government, and by extension to local taxpayers; now, therefore, be it

RESOLVED that the San Francisco Board of Supervisors hereby supports the passage of Senate Bill 637and House of Representative Bill 3125.

II

112TH CONGRESS
1ST SESSION

S. 637

To establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2011

Mrs. FEINSTEIN (for herself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

---

A BILL

To establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Earthquake Insurance Affordability Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Major earthquakes are likely in the United States. For example, the United States Geological Survey predicts that there is a 99.7 percent chance that a magnitude 6.7 earthquake will strike in California in the next 30 years and that there is a 46 percent chance that a magnitude 7.5 earthquake will strike in California in the next 30 years. Earthquakes can be caused by volcanic or tectonic events and result in destructive shaking of the earth, fires, landslides, volcanic eruptions, and tsunamis.

(2) Despite the known risk of earthquakes, relatively few homeowners have earthquake insurance. For example, in California, 88 percent of homes insured for fire do not have earthquake insurance. In the event of a catastrophic earthquake, the lack of homeowner earthquake-insurance coverage will slow recovery, create economic hardship, and increase the

risk of mortgage and other credit defaults and adversely affect the Nation's banking system.

(3) It is important that States improve the affordability, availability, and quality of earthquake insurance so that more homeowners will purchase coverage. For example, California has created the California Earthquake Authority to provide earthquake insurance to homeowners through private-sector insurers.

(4) It is a proper role of the Federal Government to help prepare and protect its citizens from catastrophes such as earthquakes and to facilitate consumer protection, victim assistance, and individual and community recovery, including financial recovery.

(b) PURPOSES.—The purposes of this Act are to establish a program—

(1) to promote the availability of private capital to provide liquidity and capacity to State earthquake insurance programs; and

(2) to expedite the payment of claims under State earthquake insurance programs and better assist the financial recovery from significant earthquakes by authorizing the Secretary of the Treasury to guarantee debt for such purposes.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) COMMITMENT TO GUARANTEE.—The term "commitment to guarantee" means a commitment to make debt guarantees to an eligible State program pursuant to section 5.

(2) ELIGIBLE STATE PROGRAM.—The term "eligible State program" means a State program that, pursuant to section 4, is eligible to receive a debt guarantee under this Act.

(3) INSURED LOSS.—The term "insured loss" means any loss resulting from an earthquake, an earthquake-related event, or fire following an earthquake that is determined by an eligible State program as being covered by insurance made available under that eligible State program.

(4) QUALIFYING ASSETS.—The term "qualifying assets" means the policyholder surplus of the eligible State program as stated in the most recent quarterly financial statement filed by the program with the domiciliary regulator of the program in the last quarter ending prior to an insured-loss triggering event or events.

(5) RESIDENTIAL PROPERTY INSURANCE.—The term "residential property insurance" means insurance coverage for—

(A) individually owned residential structures of not more than 4 dwelling units, individually owned condominium units, or individually owned mobile homes, and their contents, located in a State and used exclusively for residential purposes or a tenant's policy written to include personal contents of a residential unit located in the State, but shall not include—

(i) insurance for real property or its contents used for any commercial, industrial, or business purpose, except a structure of not more than 4 dwelling units rented for individual residential purposes; or

(ii) a policy that does not include any of the perils insured against in a standard fire policy or any earthquake policy; or

(B) commercial residential property, which includes property owned by a condominium association or its members, property owned by a cooperative association, or an apartment building.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(7) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, American Samoa, and any other territory or possession of the United States.

SEC. 4. ELIGIBLE STATE PROGRAMS.

(a) ELIGIBLE STATE PROGRAMS.—A State program shall be considered an eligible State program for purposes of this Act if the State program or other State entity authorized to make such determinations certifies to the Secretary, in accordance with the procedures established under subsection (b), that the State program complies with the following requirements:

(1) STATE PROGRAM DESIGN.—The State program is established and authorized by State law as an earthquake insurance program that offers residential property insurance coverage for insured losses to property, contents, and additional living expenses, and which is not a State program that requires insurers to pool resources to provide property insurance coverage for earthquakes.

(2) OPERATION.—The State program shall meet the following requirements:

(A) A majority of the members of the governing body of the State program shall be public officials or appointed by public officials.

(B) The State shall have a financial interest in the State program.

(C) If the State has at any time appropriated amounts from the State program's funds for any purpose other than payments for losses insured under the State program, or payments made in connection with any of the State program's authorized activities, the State shall have returned such amounts to the State fund, together with interest on such amounts.

(3) TAX STATUS.—The State program shall have received from the Secretary (or the Secretary's designee) a written determination, within the meaning of section 6110(b) of the Internal Revenue Code of 1986, that the State program either—

(A) constitutes an "integral part" of the State that has created it; or

(B) is otherwise exempt from Federal income taxation.

(4) EARNINGS.—The State program may not provide for any distribution of any part of any net

profits of the State program to any insurer that participates in the State program.

(5) LOSS PREVENTION AND MITIGATION.—

(A) MITIGATION OF LOSSES.—The State program shall include provisions designed to encourage and support programs to mitigate losses for which the State insurance program was established to provide insurance.

(B) OPERATIONAL REQUIREMENTS.—The State program shall operate in a State that—

(i) has in effect and enforces, or the appropriate local governments within the State have in effect and enforce, nationally recognized building, seismic-design, and safety codes and consensus-based standards; and

(ii) has taken actions to establish an insurance rate structure that takes into account measures to mitigate insured losses.

(6) REQUIREMENTS REGARDING COVERAGE.—The State program—

(A) may not, except for charges or assessments related to post-event financing or bonding, involve cross-subsidization between any separate property-and-casualty insurance lines offered under the State program pursuant to paragraph (1);

(B) shall be subject to a requirement under State law that for earthquake insurance coverage made available under the State insurance program the premium rates charged on such insurance shall be actuarially sound; and

(C) shall make available to all qualifying policyholders insurance coverage and mitigation services on a basis that is not unfairly discriminatory.

(b) ANNUAL CERTIFICATION.—The Secretary shall establish procedures for initial certification and annual recertification as an eligible State program.

SEC. 5. ESTABLISHMENT OF DEBT-GUARANTEE PROGRAM.

(a) AUTHORITY OF SECRETARY.—The Secretary is authorized and shall have the powers and authorities necessary—

(1) to guarantee, and to enter into commitments to guarantee, holders of debt against loss of principal or interest, or both, on any debt issued by eligible State programs for purposes of this Act; and

(2) to certify and recertify State catastrophe insurance programs that cover earthquake peril to be-

come or remain eligible for the benefits of such a debt-guarantee program.

(b) LIMIT ON OUTSTANDING DEBT GUARANTEE.—The aggregate amount of debt covered by the Secretary's guarantees and commitments to guarantee for all eligible State programs outstanding at any time shall not exceed $5,000,000,000, including interest.

(c) FUNDING.—

(1) APPROPRIATION OF FEDERAL PAYMENTS.—Subject to subsection (b), there are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to satisfy debt guarantee commitments extended to eligible State programs under this Act.

(2) CERTIFICATION FEE.—Upon certification or recertification as an eligible State program under section 4(a) or 4(b), a State program shall be charged a certification fee sufficient in the judgement of the Secretary at the time of certification to cover—

(A) applicable administrative costs arising from each certification or recertification, including all pre-certification costs and a proportional share of the costs arising from the administration of the program established under this Act, but in any event not to exceed one-half of 1 percent annum of the aggregate principal amount of the debt for which the eligible State program is issued a guarantee commitment; and

(B) any probable losses on the aggregate principal amount of the debt for which the eligible State program is issued a guarantee commitment.

(3) RULE OF CONSTRUCTION.—Any funds expended or obligated by the Secretary for the payment of administrative expenses for conduct of the debt-guarantee program authorized by this Act shall be deemed appropriated at the time of such expenditure or obligation from the certification and recertification fees collected pursuant to paragraph (2).

(d) CONDITIONS FOR GUARANTEE ELIGIBILITY.—A debt guarantee under this section may be made only if the Secretary has issued a commitment to guarantee to a certified, eligible State program. The commitment to guarantee shall be in force for a period of 3 years from its initial issuance and may be extended by the Secretary for 1 year on each annual anniversary of the issuance of the commitment to guarantee. The commitment to guarantee and each extension of such commitment may be issued by the Secretary only if the following requirements are satisfied:

(1) The eligible State program submits to the Secretary a report setting forth, in such form and including such information as the Secretary shall require, how the eligible State program plans to repay guarantee-eligible debt it may incur.

(2) Based on the eligible State program's report submitted pursuant to paragraph (1), the Secretary determines there is reasonable assurance that the eligible State program can meet its repayment obligation under such debt.

(3) The eligible State program enters into an agreement with the Secretary, as the Secretary shall require, that the eligible State program will not use Federal funds of any kind or from any Federal source (including any disaster or other financial assistance, loan proceeds, and any other assistance or subsidy) to repay the debt.

(4) The commitment to guarantee shall specify and require the payment of the fees for debt guarantee coverage.

(5) The maximum term of the debt specified in a commitment issued under this section may not exceed 30 years.

(e) MANDATORY ASSISTANCE FOR ELIGIBLE STATE PROGRAMS.—The Secretary shall upon the request of an eligible State program and pursuant to a commitment to guarantee issued under subsection (d), provide a guarantee under subsection (f) for such eligible State program in the amount requested by such eligible State program, subject to the limitation under subsection (f)(2).

(f) CATASTROPHE DEBT GUARANTEE.—A debt guarantee under this subsection for an eligible State program shall be subject to the following requirements:

(1) PRECONDITIONS.—The eligible State program shows to the satisfaction of the Secretary that insured losses to the eligible State program arising from the event or events covered by the commitment to guarantee are likely to exceed 80 percent of the eligible State program's qualifying assets available to pay claims, as calculated on the date of the event and based on the eligible State program's most recent quarterly financial statement filed with its domiciliary regulator.

(2) USE OF FUNDS.—Proceeds of debt guaranteed under this section shall be used only to pay the costs of issuing debt and of securing or providing claim-payment capacity for paying the insured losses and loss adjustment expenses incurred by an eligible

State program. Such amounts shall not be used for any other purpose.

SEC. 6. EFFECT OF GUARANTEE.

The issuance of any guarantee by the Secretary under this Act shall be conclusive evidence that—

(1) the guarantee has been properly obtained;

(2) the underlying debt qualified for such guarantee; and

(3) the guarantee is valid, legal, and enforceable.

SEC. 7. ASSESSMENT AT TIME OF GUARANTEE.

To extent not satisfied by the fees collected under section 5(c)(2), the Secretary shall charge and collect fees for each guarantee issued in amounts sufficient in the judgement of the Secretary at the time of issuance of the guarantee to cover applicable administrative costs and probable losses on the guaranteed obligations.

SEC. 8. PAYMENT OF LOSSES.

(a) IN GENERAL.—The Secretary agrees to pay to the duly appointed paying agent or trustee (in this section referred to as the "Fiscal Agent") for the eligible State program that portion of the principal and interest on any debt guaranteed under this Act that shall become due to payment but shall be unpaid by the eligible State program as a result of such program having provided insufficient funds to the Fiscal Agent to make such payments. The Secretary shall make such payments on the date such principal or interest becomes due for payment or on the business day next following the day on which the Secretary shall receive notice of failure on the part of the eligible State program to provide sufficient funds to the Fiscal Agent to make such payments, whichever is later. Upon making such payment, the Secretary shall be subrogated to all the rights of the ultimate recipient of the payment. The Secretary shall be entitled to recover from the eligible State program the amount of any payments made pursuant to any guarantee entered into under this Act.

(b) ROLE OF THE ATTORNEY GENERAL.—The Attorney General shall take such action as may be appropriate to enforce any right accruing, and to collect any and all sums owing, to the United States as a result of the issuance of any guarantee under this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude any forbearance for the benefit of the eligible State program which may be agreed upon by the parties to the guaranteed debt and approved by the Secretary, provided that budget authority for any resulting cost, as such term is defined under the Federal Credit Reform Act of 1990, is available.

(d) RIGHT OF THE SECRETARY.—Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary shall have the right in the discretion of the Secretary to complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by the Secretary pursuant to the provisions of this Act.

SEC. 9. FULL FAITH AND CREDIT.

The full faith and credit of the United States is pledged to the payment of all guarantees issued under this Act with respect to principal and interest.

SEC. 10. BUDGETARY IMPACT; COSTS.

For purposes of section 502(5) of the Federal Credit Reform Act of 1990, the cost of guarantees to be issued under this Act shall be calculated by adjusting the discount rate in section 502(5)(E) of such Act for market risk.

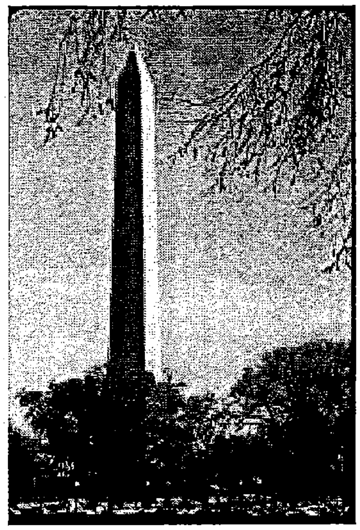
SEC. 11. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out the debt-guarantee program established under this Act.

○

The Earthquake Insurance Affordability Act (EIAA)

Empowering Homeowners / Protecting Taxpayers



The summer of 2011 saw our nation hit by tornadoes, earthquakes, and massive storms—they took lives and damaged homes and businesses across the nation.

And in a profound show of Nature's power, even the iconic Washington Monument was cracked by the East Coast earthquake in August—it was an event lasting less than a minute but created severe damage to the structure that compelled the U.S. Parks Service to hang a "closed to visitors" sign on the Monument entrance.

For more than 150 years now the Monument has been an eloquent symbol of our great nation's strength. But so damaged, it's a different kind of reminder: a visual one, which in our view symbolizes cracks in our country's readiness to recover after disasters strike. The recent passionate debate in Congress about disaster-relief funding further revealed just how deep those cracks run.

Without doubt, completing the disaster-relief and recovery-funding puzzle will require hard work and many different pieces. While the two of us may respectfully differ on the design and shape of many puzzle pieces, there is one on which we totally agree — the need for private-sector solutions to make homeowners' earthquake insurance more affordable and accessible again.

EIAA is an important part of fixing the cracks.

FACT: According to the U.S. Geological Survey, earthquakes pose a significant risk to 75 million Americans in 39 states.

FACT: Despite the imminent threat posed by a catastrophic earthquake, only about ten percent of homeowners have earthquake insurance. It is simply too expensive.

We can't prevent earthquakes, so we must increase access to affordable earthquake insurance – to help residents recover and rebuild without a federal bailout and without any kind of taxpayer subsidy.

That is where the Earthquake Insurance Affordability Act comes in.

SUMMARY OF THE LEGISLATION

At no cost to the federal government or federal taxpayers, EIAA would create a limited, committed federal guarantee to support post-earthquake bonds of highly qualified, actuarially sound state programs that offer residential earthquake insurance.

- EIAA supports families' voluntary access to fairly priced earthquake insurance.
- Qualified state programs could replace some (but by no means all) expensive reinsurance and fully maintain their existing capacity and financial strength.

Getting more homes insured cuts earthquake-recovery costs, which are huge.

After major natural disasters, there's pressure on the federal government to bail out families, communities, and states.

- Eighty percent of Californians live on or near a fault. Yet they're not ready for an earthquake—fewer than 10 percent of California households are covered by earthquake insurance.
- Across the nation more than 75 million people live in earthquake-vulnerable regions, but earthquake insurance for those homes is less available and more expensive every day.
- Most consumers believe earthquake insurance is simply too expensive.
- But earthquakes are expensive, too:
  - Federal taxpayers were on the hook for more than $9 billion after the 1994 Northridge quake, while California's taxpayers chipped in more than half a billion dollars more.
  - It would have been much more expensive for taxpayers had not so many households in 1994 had earthquake insurance for their homes. It was over 25% then—now it's 10%.

Lower-cost earthquake insurance will reduce federal taxpayers' risk.

- Without **affordable** earthquake insurance, federal bailout or taxpayer subsidy is certain.
- In California, the public, nonprofit California Earthquake Authority (CEA) is the state's largest earthquake insurer.
  - Its premiums are driven by the high cost of reinsurance.
  - CEA must spend 40 cents of every premium dollar to buy reinsurance.
  - Since it opened in 1996, the CEA has paid reinsurers $2.9 billion—reinsurers have paid CEA $250,000 for claims.

EIAA protects Federal taxpayers to speed recovery after the "big one" strikes.

- EIAA is simply a debt guarantee, extended only to highly qualified borrowers. It's not a loan. It's not a federal backstop.
- EIAA provides one thing: a committed, but strictly limited, federal guarantee of private-market, post-event debt.
- Bottom line—more homeowners will be able to afford earthquake insurance and more communities will recover more quickly—and with less federal assistance.

The EIAA will cost taxpayers zero: <u>All</u> fees and costs–without exception–are borne by the qualified state program. "The Congressional Budget Office has estimated that [EIAA] comes at no cost to the taxpayer." (Senator Dianne Feinstein, Congressional Record – March 17, 2011)

# # #

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☐ 1. For reference to Committee:

An ordinance, resolution, motion, or charter amendment.

☒ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee:

☐ 4. Request for letter beginning "Supervisor inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No.

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Mar

Subject:

Resolution supporting the passage of S. 637 and H.R. 3125, which would enact the earthquake insurance affordability act.

The text is listed below or attached:

Please see attached.

Signature of Sponsoring Supervisor:

For Clerk's Use Only:

121049