

111TH CONGRESS  
1ST SESSION

# S. 762

To promote fire safe communities and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2009

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

---

## A BILL

To promote fire safe communities 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 “Fire Safe Communities  
5 Act of 2009”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

8               (1) FIRE HAZARD AREA.—The term “fire haz-  
9       ard area” means an area at significant risk from  
10       wildland fire as determined by—

11                       (A) the applicable State forestry agency or  
12       equivalent State agency; or

1 (B) the Under Secretary.

2 (2) FIRE SAFE COMMUNITY.—The term “fire  
3 safe community” means—

4 (A) a subdivision of a State that has  
5 adopted a national wildland fire code, standard,  
6 or ordinance; or

7 (B) a municipality at risk that has adopted  
8 local ordinances that—

9 (i) are consistent with more than one  
10 of the elements set out in paragraph  
11 (4)(C)(ii); and

12 (ii) the Under Secretary determines  
13 provide generally accepted levels of fire  
14 protection.

15 (3) MUNICIPALITY AT RISK.—The term “mu-  
16 nicipality at risk” means a subdivision of a State  
17 that is located in, or contains, a fire hazard area.

18 (4) NATIONAL WILDLAND FIRE CODE, STAND-  
19 ARD, OR ORDINANCE.—The term “national wildland  
20 fire code, standard, or ordinance” means—

21 (A) the most recent publication of National  
22 Fire Protection Association code number 1141,  
23 1142, or 1144;

1 (B) the most recent publication of the  
2 International Wildland-Urban Interface Code of  
3 the International Code Council; or

4 (C) any other code which—

5 (i) the Under Secretary determines  
6 provides the same, or better, standards for  
7 protection against wildland fire as a code  
8 described in subparagraph (A) or (B); and

9 (ii) may include—

10 (I) specifications for construction  
11 materials and techniques for use in  
12 municipalities at risk;

13 (II) guidelines for the placement  
14 of utilities, defensible space, and vege-  
15 tation management;

16 (III) enforcement mechanisms for  
17 compliance with defensible space re-  
18 quirements;

19 (IV) zoning and site design  
20 standards for new residential con-  
21 struction, including the width and  
22 placement of surrounding fuel breaks  
23 and description of unsafe areas to lo-  
24 cate new homes, such as the top of

1 highly dangerous canyons that funnel  
2 wildfire heat;

3 (V) specifications for water sup-  
4 plies for firefighting;

5 (VI) requirements for adequate  
6 firefighting protection, including re-  
7 quirements for fire stations and  
8 equipment;

9 (VII) guidelines for the participa-  
10 tion of fire professionals in the devel-  
11 opment of local fire protection models;

12 (VIII) standards for the protec-  
13 tion of roads and bridges;

14 (IX) standards for the egress ca-  
15 pacities of roads and bridges;

16 (X) guidelines for the marking of  
17 buildings and homes; and

18 (XI) requirements for the re-  
19 placement of combustible roofing ma-  
20 terial on existing homes.

21 (5) UNDER SECRETARY.—The term “Under  
22 Secretary” means the Under Secretary for Federal  
23 Emergency Management of the Department of  
24 Homeland Security.

1 **SEC. 3. ADDITIONAL FIRE MANAGEMENT ASSISTANCE**  
2 **GRANTS FOR FIRE SAFE COMMUNITIES.**

3 (a) IN GENERAL.—The Under Secretary may reduce  
4 the amount of the share of non-Federal funds required  
5 by the Fire Management Assistance Grant Program to 10  
6 percent of the grant amount for a municipality at risk if  
7 such municipality has adopted a—

8 (1) national wildland fire code, standard, or or-  
9 dinance; or

10 (2) local ordinance, standard, or code that re-  
11 quires the retrofit of existing construction that pro-  
12 vides for increased protection for the municipality  
13 from the threat of wildfire, such as a requirement to  
14 replace combustible roofing material used in existing  
15 structures.

16 (b) RULEMAKING.—Not later than 1 year after the  
17 date of the enactment of this Act, the Under Secretary  
18 shall publish in the Federal Register a final rule that in-  
19 cludes a definition of the term “local ordinance, standard,  
20 or code that requires the retrofit of existing construction  
21 that provides for increased protection for the municipality  
22 from the threat of wildfire” as used in subsection (a)(2).

23 (c) FIRE MANAGEMENT ASSISTANCE GRANT PRO-  
24 GRAM DEFINED.—In this section, the term “Fire Manage-  
25 ment Assistance Grant Program” means the fire manage-  
26 ment assistance grant program carried out pursuant to

1 section 420 of the Robert T. Stafford Disaster Relief and  
2 Emergency Assistance Act (42 U.S.C. 5187).

3 **SEC. 4. GRANTS FOR RESPONSIBLE DEVELOPMENT.**

4 (a) IN GENERAL.—Subject to the availability of  
5 funds for this purpose, the Under Secretary shall award  
6 grants to municipalities at risk—

7 (1) to encourage responsible development in  
8 such municipalities;

9 (2) to mitigate the catastrophic effects of fires;  
10 and

11 (3) to encourage the retrofit of existing wildfire-  
12 prone structures.

13 (b) USE OF FUNDS.—Grants awarded under this sec-  
14 tion may be used as follows:

15 (1) To enforce requirements related to haz-  
16 ardous fuel reduction or brush clearing requirements  
17 on private land.

18 (2) To enforce requirements related to residen-  
19 tial construction or the code-inspection of new and  
20 existing construction with respect to wildland fire.

21 (3) To award subgrants to be used for the re-  
22 placement of combustible roofs with roofs made of  
23 non-combustible roofing material, or for enclosing  
24 eaves according to the standards recommended.

1           (4) To carry out programs to educate commu-  
2           nity planners and zoning officials on historic wildfire  
3           patterns and fire-resistant community planning.

4           (c) MAXIMUM GRANT AMOUNT.—The amount of a  
5           grant awarded under this section may not exceed  
6           \$1,000,000.

7           (d) APPLICATIONS.—

8           (1) IN GENERAL.—An application for a grant  
9           under this section shall be made at such time and  
10          in such manner as the Under Secretary shall re-  
11          quire.

12          (2) MATCHING REQUIREMENT.—

13           (A) IN GENERAL.—Subject to subpara-  
14           graph (B), the Under Secretary shall require  
15           that a person awarded a grant under this sec-  
16           tion for a purpose described in subsection (a)  
17           provide non-Federal funds in an amount equal  
18           to 25 percent of the amount of such grant for  
19           such purpose.

20           (B) WAIVER.—The Under Secretary may  
21           waive the requirement of subparagraph (A) in  
22           extraordinary circumstances.

23          (3) REVIEW.—Applications for grants under  
24          this section shall be reviewed by a panel of individ-  
25          uals who—

1 (A)(i) are fire protection experts; or

2 (ii) have significant expertise in fire man-  
3 agement, fire policy, community planning, or  
4 issues related to a fire hazard area; and

5 (B) are appointed by the Under Secretary.

6 (4) PRIORITY.—The panel under paragraph (3)  
7 shall give priority to the application for a grant  
8 under this section of a municipality at risk that has  
9 adopted an ordinance that requires the mandatory  
10 replacement of combustible roofing materials on ex-  
11 isting structures.

12 (e) AVAILABILITY OF FUNDS.—A grant awarded  
13 under this section shall be expended not later than 3 years  
14 after the date the grant is awarded.

15 (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
16 authorized to be appropriated to carry out this section  
17 \$25,000,000 for fiscal year 2009 and each fiscal year  
18 thereafter.

19 **SEC. 5. FOREST SERVICE AND DEPARTMENT OF THE INTE-**  
20 **RIOR GRANTS.**

21 Section 10A of the Cooperative Forestry Assistance  
22 Act of 1978 (16 U.S.C. 2106c) is amended—

23 (1) in subsection (a)—

24 (A) in the matter preceding paragraph

25 (1)—

1 (i) by inserting “and the Secretary of  
2 the Interior” after “The Secretary”; and

3 (ii) by striking “State foresters and  
4 equivalent State officials” and inserting  
5 “State foresters, equivalent State officials,  
6 and local officials”;

7 (B) in paragraph (3)—

8 (i) by striking “trees and forests” and  
9 inserting “trees, forests, and rangelands”;  
10 and

11 (ii) by inserting “and rangeland”  
12 after “overall forest”; and

13 (C) in paragraph (4)—

14 (i) by inserting “and rangeland” after  
15 “all forest”; and

16 (ii) by inserting “and other vegeta-  
17 tion” after “forest cover”;

18 (2) in subsection (b)—

19 (A) in paragraph (1)—

20 (i) in subparagraph (C), by striking  
21 “and” at the end;

22 (ii) in subparagraph (D), by striking  
23 “wildfires.” and inserting “wildfires; and”;  
24 and

1 (iii) by adding at the end the fol-  
2 lowing new subparagraph:

3 “(E) to enhance the capacity of local gov-  
4 ernments to integrate fire-resistant community  
5 and home design into local planning, zoning,  
6 building codes, property maintenance codes,  
7 and brush clearing ordinances.”;

8 (B) by amending paragraph (2) to read as  
9 follows:

10 “(2) ADMINISTRATION AND IMPLEMENTA-  
11 TION.—The Program shall be—

12 “(A) administered by the Chief of the For-  
13 est Service and the Secretary of the Interior;  
14 and

15 “(B) implemented through State foresters  
16 or equivalent State officials.”;

17 (C) in paragraph (3)—

18 (i) in the matter preceding subpara-  
19 graph (A), by striking “Secretary,” and in-  
20 sserting “Secretary and the Secretary of the  
21 Interior,”;

22 (ii) by redesignating subparagraphs  
23 (F), (G), and (H) as subparagraphs (G),  
24 (H), and (I), respectively; and

1 (iii) by inserting after subparagraph  
2 (E) the following:

3 “(F) programs to build the capacity of  
4 local governments to design and maintain fire-  
5 resistant communities;”;

6 (D) in paragraph (4), by inserting “or the  
7 Secretary of the Interior” after “by the Sec-  
8 retary”; and

9 (E) in paragraph (5), by inserting “and  
10 the Secretary of the Interior” after “The Sec-  
11 retary”;

12 (3) by redesignating subsections (c) and (d) as  
13 subsections (d) and (e), respectively;

14 (4) by inserting after subsection (b), the fol-  
15 lowing new subsection (c):

16 “(c) PILOT PROGRAM FOR FIRE SAFE COMMUNITIES  
17 TO COORDINATE ACROSS JURISDICTIONAL BOUND-  
18 ARIES.—

19 “(1) AUTHORITY.—The Secretary and the Sec-  
20 retary of the Interior may carry out a pilot program  
21 to assess the feasibility and advisability of awarding  
22 grants to fire safe communities located near Federal  
23 land to assist in Federal efforts to prevent and man-  
24 age fires.

1           “(2) USE OF GRANT FUNDS.—A grant awarded  
2 under the pilot program may be used as follows:

3           “(A) To implement or enforce local ordi-  
4 nances consistent with a nationally recognized  
5 wildland fire code, standard, or ordinance.

6           “(B) To complete cooperative fire agree-  
7 ments that articulate the roles and responsibil-  
8 ities for Federal, State, and local government  
9 entities in local wildfire suppression and protec-  
10 tion.

11           “(C) To develop or implement community  
12 wildfire protection plans to better focus re-  
13 sources to address priority areas for hazardous  
14 fuels reduction projects.

15           “(D) To expand education programs to  
16 raise the awareness of homeowners and citizens  
17 of wildland fire protection practices.

18           “(E) To implement training programs for  
19 firefighters on wildland firefighting techniques  
20 and mitigation strategies.

21           “(F) To acquire equipment to facilitate  
22 wildland fire preparedness and mitigation.

23           “(3) MATCHING REQUIREMENT.—

24           “(A) IN GENERAL.—Subject to subpara-  
25 graph (B), a person awarded a grant under the

1 pilot program to assist in Federal efforts to  
2 prevent and manage fires shall provide non-  
3 Federal funds in an amount equal to 25 percent  
4 of the amount of such grant for such purpose.

5 “(B) WAIVER.—The Secretary or the Sec-  
6 retary of the Interior may waive the require-  
7 ments of subparagraph (A) in extraordinary cir-  
8 cumstances.

9 “(4) FIRE SAFE COMMUNITY DEFINED.—In this  
10 subsection, the term ‘fire safe community’ has the  
11 meaning given that term in section 2 of the Fire  
12 Safe Communities Act of 2009.”;

13 (5) in subsection (d), as redesignated by para-  
14 graph (3), by inserting “and the Secretary of the In-  
15 terior” after “section, the Secretary”; and

16 (6) in subsection (e), as redesignated by para-  
17 graph (3)—

18 (A) in the matter preceding paragraph (1),  
19 by striking “to the Secretary”;

20 (B) in paragraph (1), by striking “and” at  
21 the end; and

22 (C) by striking paragraph (2) and insert-  
23 ing the following:

24 “(2) to the Secretary—

1           “(A) \$35,000,000 for each of fiscal years  
2           2009 through 2013; and

3           “(B) such sums as are necessary for each  
4           fiscal year thereafter; and

5           “(3) to the Secretary of the Interior—

6           “(A) \$15,000,000 for each of fiscal years  
7           2009 through 2013; and

8           “(B) such sums as are necessary for each  
9           fiscal year thereafter.”.

○