IBHS edits to

RESIDENTIAL MITIGATION GRANT PROGRAM MODEL ACT

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Section 1. Short Title

This Act shall be known and may be cited as the Strengthen [insert state] Homes Program Act.

Section 2. Legislative Findings and Purpose

A. The Legislature finds that:

(1) Perils resulting from natural hazards and weather events, including but not limited to hurricanes, tornadoes, straight-line winds, wildfires, earthquakes, and severe convective storms, pose a recurring threat to residential structures, public safety, cost of housing , and the stability of property insurance markets;

(2) Proven, code-informed and standard-based mitigation measures can significantly reduce hazard-related damage, loss of life, and post-disaster recovery costs;

(3) State-administered residential mitigation grant programs have demonstrated measurable benefits by incentivizing property owners to retrofit existing dwellings to higher resilience standards to preserve existing housing stock;

(4) [OPTIONAL: Encouraging resilient design and construction of new residential structures, in addition to retrofitting existing housing stock, helps expand the availability of affordable, hazard-resistant housing and avoids adding new structures to the pool of properties that may require future mitigation investment;]

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Drafting Note: This Act is drafted to focus on retrofitting existing residential structures to higher resilience standards. A state may wish to extend Program eligibility to new construction that exceeds applicable building-code requirements, or to address new construction through the eligibility and prioritization provisions of Section 8 and by rule.

(5) Coordination among state agencies, insurers, mitigation professionals, and property owners strengthens market confidence and supports insurance availability and cost;

(6) Exposure to natural hazards and the cost of mitigation fall unevenly across geographic, economic, and demographic groups; and

(7) Reducing the frequency and severity of losses from natural hazards and weather events through mitigation efforts supports the availability and cost of property insurance, promotes stable underwriting conditions, and reduces the risk of market disruption following catastrophic events.

Drafting Note: This finding can be modified to let a state anchor the Act's insurance market purpose (see Section 2B(4) below) to conditions specific to that state. States contemplating how to scope this finding to their state may wish to consider (i) which market indicators to cite, (ii) how specifically to cite them, and (iii) how to keep the finding evergreen.

B. The purposes of this Act are to:

(1) Establish a [statewide] residential mitigation grant program to reduce structural vulnerability of existing residential properties;

Drafting Note: A state may wish to begin the Program as a regional or peril-specific pilot rather than as a statewide program, and to provide statutory authority for the Commissioner to expand the Program by rule. The bracketed term "[statewide]" should be conformed to the scope the adopting state selects.

(2) Encourage voluntary adoption of recognized mitigation standards and best practices;

(3) Improve the resilience of the housing stock while preserving property owner choice and flexibility; and

(4) Support stable, competitive, and affordable property insurance markets.

Section 3. Definitions

As used in this Act:

A. "Commissioner" means the chief insurance regulatory official of the state, or the chief insurance regulatory official's designee.

B. "Department" means the [insert name of insurance regulatory body].

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C. "Designated Peril" means a natural hazard identified by the Commissioner by rule as eligible for mitigation funding under the Program, based on the prevalence and severity of the hazard in this State, the availability of recognized mitigation standards or engineering-based pathways, and the expected loss-reduction benefits of mitigation.

Drafting Note: If a Legislature wishes to guarantee Program coverage of a particular hazard without waiting for rulemaking, a state may wish to name one or more specific perils directly in statute by altering the definition of "Designated Peril" to be "[insert specific natural hazard] and any additional natural hazards…" The Commissioner's authority to designate additional perils by rule applies whether or not a specific hazard is added to the definition; the Commissioner's authority would be limited in that any hazard named in statute would require legislative amendment to remove.

D. "Eligible Residence" means a residential structure located within this State that meets the eligibility criteria set forth in Section 8A and any additional eligibility criteria established by the Commissioner under Section 8B.

Drafting Note: "Eligible Residence" can reach any number of residential structures depending on the permutation of eligibility criteria the Department decides upon, such as owner-occupied single-family homes, owner-occupied structures of a set number of dwelling units (for example, a duplex), or single-family rental homes. Eligibility or exclusions can be wholly addressed in Section 8A or core eligibility criteria or exclusionary criteria can be included in the Eligible Residence definition with "and other eligibility criteria established by the Commissioner under Section 8B." Examples of how the definition and Section 8A(1) could be framed, from narrowest to broadest, include: (i) owner-occupied single-family homes only; (ii) owner-occupied structures of up to four dwelling units, such as a duplex, triplex, or fourplex, in which the owner occupies at least one unit; (iii) single-family or one-to-four-unit rental properties, conditioned on landlord participation requirements; and (iv) multifamily structures of five or more dwelling units, conditioned on owner occupancy of at least one unit or on cost commitments. In Section 8A(1), Options (a) through (d) implement these examples. A state may also tailor eligibility by Designated Peril or region; see the Drafting Notes to Section 2B(1) and Section 8B. Whichever option a state selects, the definition of "Eligible Residence" or Section 8A(1) can include exclusionary criteria that excludes vacation rentals, short-term rentals, and properties held for resale. A state wishing to prioritize low- and moderate-income households may wish to extend the definition to multifamily structures by qualifying or removing the owner-occupancy requirement, in which case the state will also need to conform to Section 8A(1) and Section 9.

E. "Enrolled Contractor" means a contractor enrolled with the Department to perform Qualified Mitigation Measures or implement Recognized Mitigation Standards under the Program and that otherwise meets the eligibility requirements of Section 7 of this Act.

F. "Grant Recipient" means an eligible property owner approved to receive funding under the Program, provided, however, that grant funds shall be disbursed as set forth in Section 6 and shall not be paid directly to a Grant Recipient.

G. "Independent Third-Party Verifier" means a person approved by the Department to assess or evaluate a Qualified Mitigation Measure or document adherence to a Recognized Mitigation Standard and that otherwise meets the eligibility requirements of Sections 7C, 7D, 7E, and 7F of this Act.

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H. "Premium Benchmark Table" means the schedule of minimum premium discounts adopted by the Commissioner under Section 9, expressed as percentages applied to the homeowner's [or dwelling] insurance premium as determined by the Commissioner.

I. "Program" means the Strengthen [insert state] Homes Program established under this Act.

J. "Qualified Mitigation Measures" means construction or retrofit activities that materially reduce the risk of loss from one or more Designated Perils, as approved by the Commissioner under Section 5.

K. "Recognized Mitigation Standard" means a verifiable, science-based building standard or consensus standard addressing hazard mitigation for one or more Designated Perils that is developed and maintained by a nationally or regionally recognized standard-setting organization, incorporates independent verification of compliance, and is supported by documented, peril-specific loss-reduction evidence, as adopted by the Commissioner under Section 5.

Drafting Note: To keep this model standard-neutral, specific proprietary standards are not named in the Act. A state may recognize the FORTIFIED or the Wildfire Prepared standards published by the Insurance Institute for Business & Home Safety (IBHS), including the FORTIFIED Roof, FORTIFIED Silver, and FORTIFIED Gold designation, and the Wildfire Prepared Essential and Enhanced designations, or other specific Recognized Mitigation Standards by rule. See Section 5. Alternatively, if a Legislature wishes to guarantee Program coverage of a particular standard without waiting for rulemaking, a state may wish to name one or more specific standards directly in statute by altering the definition of "Recognized Mitigation Standard" to be "[insert specific standard] and any additional verifiable, science-based building standard…" The Commissioner's authority to designate additional standards by rule applies whether or not a specific standard is added to the definition; the Commissioner's authority would be limited in that any standard named in statute would require legislative amendment to remove. A state that names a standard in statute should confirm that the standard satisfies the evidentiary requirements of Section 5A.

Section 4. Establishment of the Mitigation Grant Program

A. The Department shall establish and administer the Strengthen [insert state] Homes Program to provide financial assistance to eligible property owners for the purpose of implementing Qualified Mitigation Measures or Recognized Mitigation Standards for Eligible Residences. Grant awards under the Program are subject to available appropriations and to such other funding as may be made available under Section 15.

Drafting Note: A state may wish to define Program scope in terms of existing structures, to extend eligibility to qualifying new construction, and to address the relative priority of retrofit versus new construction through the prioritization criteria in Section 8. A state that includes new construction should consider the apportionment of the new-construction's share of total grant funding, or phasing it in after a specified period, to balance retrofit of existing higher-risk housing stock as a Program goal. A state that extends the Program to rental or other investor-owned properties should also consider how to balance support for property owners against support for housing investors, whether through the options and Drafting Note to Section 8A(1) or the prioritization criteria in Section 8C.

B. Participation in the Program by property owners, contractors, and persons performing pre- and

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post-mitigation evaluations shall be voluntary.

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C. Nothing in this Act shall be construed to create an entitlement to grant funding. Approval of an application does not guarantee availability of funds, and the Department may limit, suspend, or discontinue grant awards based on the availability of funds.

Section 5. Use of Recognized Mitigation Standards and Qualified Mitigation Measures

A. The Commissioner shall, by rule, designate Designated Perils and adopt one or more Recognized Mitigation Standards for compliance with Program requirements for each Designated Peril. The Commissioner shall periodically review approved standards and may add, modify, or remove standards as the science of mitigation, available consensus standards, or market conditions evolve. In adding, modifying, or removing standards, the Commissioner may consult actuaries, catastrophe modelers, engineers, or building-science experts. Before adopting a Recognized Mitigation Standard, the Commissioner shall determine that the standard:

(1) Is a verifiable, science-based building standard or consensus standard addressing hazard mitigation for one or more Designated Perils;

(2) Is developed and maintained by a nationally or regionally recognized standard-setting organization;

(3) Incorporates independent verification of compliance; and

(4) Is supported by documented, peril-specific loss-reduction evidence, which may include credible data, engineering analysis, peer-reviewed research, catastrophe modeling, or actuarial studies.

B. The Commissioner may authorize additional standards, mitigation tiers, or engineering-based approaches for a Designated Peril, based upon the same evidentiary showing required under Section 5A. Any alternative approach authorized under this subsection shall be deemed a Recognized Mitigation Standard for the purposes of this Act and shall be eligible for funding under the Program.

C. ~~Approval of any particular Recognized Mitigation Standard shall not be construed to exclude or preempt approval of other standards, methodologies, or engineering-based approaches that meet or exceed the Program's risk-reduction objectives.~~In the absence of a Recognized Mitigation Standard for a designated peril, the Commissioner may apply a Qualified Mitigation Measure based on the same evidentiary showing required under Section 5A(4)

Section 6. Grant Amounts and Cost Sharing

A. The Department shall establish maximum grant award amounts, which may vary based on geographic location, hazard exposure, mitigation tier, household income, or cost of mitigation.

B. The Department may require property owner cost sharing under the Program, except that the Department may reduce or waive such requirements for low- to moderate-income households consistent with the purposes of this Act.

C. Grant awards shall be used for approved Qualified Mitigation Measures or Recognized Mitigation

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Standards and may, as determined by the Commissioner by rule, be used for other costs related to Qualified Mitigation Measures or Recognized Mitigation Standards.

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Drafting Note: The Commissioner's authority under this subsection is intentionally flexible. Costs a Commissioner may wish to authorize by rule include evaluations and inspections, certifications, building permits, verification activities by Independent Third-Party Verifiers, and administrative costs.

D. The Department shall disburse grant awards directly to the Enrolled Contractor designated for the Eligible Residence. The Commissioner shall establish by rule disbursement processes and procedures, which may include documentation of completion of the Qualified Mitigation Measure or meeting the Recognized Mitigation Standard.

E. Where property owner cost sharing is required under Section 6B, the Commissioner may require evidence that the Grant Recipient's cost share has been paid or secured before, or pro-rata with, any grant award disbursement.

F. The Department is not a party to the contract related to work funded, in whole or in part, by the Program among and between the Grant Recipient and the Enrolled Contractor or among and between the Grant Recipient and the Independent Third-Party Verifier. The Department shall not be liable for any act or omission of any party, including breach of contract or any issue arising under such contract, or the workmanship or intentional, reckless, or negligent misconduct by the Enrolled Contractor, Independent Third-Party Verifier, or Grant Recipient.

G. The Department may offset or withhold disbursements for non-performance, deficient documentation, or suspected fraud, and may recoup amounts disbursed in error or for work or other actions that violate this Act pursuant to Section 14.

H. [OPTIONAL: Funds available under this Program are in addition to, and not in lieu of, any funds available for qualified mitigation expenses under a program adopted by the State providing for mitigation, catastrophe, or disaster savings accounts and the tax advantages afforded thereby for mitigation and resiliency efforts.]

Drafting Note: Several states have adopted, or have pending legislation to adopt, mitigation/catastrophe/disaster savings accounts, which function similarly to Health Savings Accounts and may offer state tax advantages for contributions, interest earned, and qualified distributions for mitigation expenses. This subsection clarifies that Program grants are additive to, not a substitute for, any such state framework, allowing property owners to combine both financing tools for a mitigation project.

Section 7. Contractor and Verifier Eligibility Requirements

A. Qualified Mitigation Measures and Recognized Mitigation Standards funded under the Program shall be performed by Enrolled Contractors who are licensed, bonded, and insured as may be required by state law.

B. The Commissioner may establish by rule eligibility or other requirements, including additional insurance, training, or credentialing requirements or compliance with all applicable regulatory authorities, for Program participation by Enrolled Contractors.

Drafting Note: A state should consider the degree of oversight, if any, the Department will exercise over the conduct of Enrolled Contractors in the Program. Enrollment under this Act is not a license; it establishes eligibility

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to perform work funded under the Program and is not intended to displace the contractor-licensing authority of

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the state department responsible for licensing contractors. A state may wish to calibrate the Department's oversight, audit, and enforcement role accordingly. States may wish to consider what good standing an Enrolled Contractor – or Independent Third-Party Verifier in Section 7D – should maintain with other regulatory authorities like licensure boards, business registration agencies, or taxation authorities.

C. Independent Third-Party Verifiers shall:

(1) Conduct evaluations of work intended to meet a Recognized Mitigation Standard, and

(2) Be independent from the Grant Recipient and the Enrolled Contractor performing work intended to meet a Recognized Mitigation Standard.

D. The Commissioner may establish by rule eligibility or other requirements, including additional insurance, training, or credentialing requirements or compliance with all applicable regulatory authorities,, for Program participation by Independent Third-Party Verifiers.

E. If a Recognized Mitigation Standard requires the use of a credentialed Independent Third-Party Verifier, the Independent Third-Party Verifier shall:

(1) Hold current credentials issued by the standard-setting organization, or its successor organization;

(2) Remain in good standing with the standard-setting organization for the applicable Recognized Mitigation Standard, as may be applicable; and

(3) Comply with all documentation, reporting, and verification requirements.

F. The Department may place on probation, suspend, or revoke the eligibility of an Enrolled Contractor or Independent Third-Party Verifier for participation in the Program due to noncompliance, poor workmanship, or violations of Program rules, after providing notice and an opportunity to be heard [consistent with the State's administrative procedure act]. The Commissioner shall by rule establish the terms and conditions of probation, suspension, and revocation.

Drafting Note: Drafters recognize that a state's administrative procedure act may not be the law governing these types of agency actions, so the bracketed text should be replaced with the appropriate reference to the controlling body of law.

G. Suspension or revocation of an Enrolled Contractor's or Independent Third-Party Verifier's enrollment under this section shall not, by itself, invalidate mitigation work satisfactorily completed before the effective date of the suspension or revocation. The Commissioner shall establish by rule procedures addressing grant disbursements for mitigation work that is in progress, or under contract, at the time of an Enrolled Contractor's or Independent Third-Party Verifier's suspension or revocation, including procedures allowing a Grant Recipient to complete the work with a different Enrolled Contractor or Independent Third-Party Verifier.

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H. An Enrolled Contractor shall not serve as the Independent Third-Party Verifier for the same Eligible Residence, and the Commissioner shall by rule prohibit other conflicts of interest among Enrolled Contractors, Independent Third-Party Verifiers, and Grant Recipients.

I. The Department's approval of an Enrolled Contractor or Independent Third-Party Verifier for enrollment shall not constitute an endorsement of workmanship or pricing of the Enrolled Contractor or Independent Third-Party Verifier, and shall not constitute a contract with the State. An Independent Third-Party Verifier's evaluation under, certification documentation for, or adherence to the requirements of the applicable Recognized Mitigation Standard shall not constitute a guarantee or warranty of the workmanship, means, or methods of the Enrolled Contractor.

Section 8. Applicant Eligibility, Application, and Selection

A. To be eligible for a grant under the Program, an applicant shall:

(1) Be the owner of record of an Eligible Residence that:

(a) Is an owner-occupied single family residential structure;

(b) [OPTIONAL: Is a residential structure containing not more than [four] dwelling units, at least one of which is occupied by the owner as a dwelling;]

(c) [OPTIONAL: Is a single-family residential structure, or a residential structure containing not more than [four] dwelling units, that is not occupied by the owner, provided that the owner satisfies landlord participation requirements established by the Department by rule, [which may include cost or tenant-protection commitments for a stated period or a limit on the number of properties for which a single owner may receive grants];]

(d) [OPTIONAL: Is a residential structure containing [five] or more dwelling units, provided that (i) the owner occupies at least one unit, or (ii) the owner satisfies landlord participation requirements established by the Department by rule[, which shall include a cost commitment for low- and moderate-income households for a stated period]; or

(e) [OPTIONAL: Description of any other Eligible Residence(s) the state selects];];

Drafting Note: A state that wishes to reach larger multi-family or other renter-occupied properties may condition eligibility on owner occupancy of at least one unit, on a stated percentage of owner-occupied units, or on landlord participation requirements established by the Department by rule. Options (b) through (d) are alternatives, ordered from narrowest to broadest, and a state may select one, combine several, or substitute its own description in Option (e). Because Options (c) and (d) extend Program funds to properties owned by landlords and other housing investors, a state selecting either should consider how to balance owner-occupant and investor participation, for example by capping the share of Program funding available for non-owner-occupied properties, limiting the number of properties or grants per owner, requiring an owner contribution, requiring cost or tenant-protection commitments, or giving priority to owner-occupied residences under Section 8C. A state should also

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decide how to treat condominium units, townhomes, cooperatives, and manufactured homes, and whether to exclude vacation rentals, short-term rentals, and properties held for resale (see the Drafting Note to the definition of "Eligible Residence").

(2) Maintain an in-force homeowner's [or dwelling] insurance policy issued by an insurer authorized to write business in this State, be eligible for coverage through the residual market if not otherwise eligible for coverage in the admitted market, or otherwise meet hardship criteria established by the Department;

Drafting Note: In the alternative, a state may omit the insurance-coverage eligibility requirement from the Act and authorize the Department to establish coverage-related eligibility criteria by rule. Because single-family rental properties are commonly insured under dwelling policies rather than homeowner's policies, this paragraph offers an option for both. A state should also consider conforming Sections 9 and 10, which are written in terms of homeowner's insurance, so that the premium discount and endorsement provisions reach policies covering Eligible Residences.

(3) Be current on property taxes and mortgage obligations, or otherwise meet hardship criteria established by the Department; and

(4) Agree to comply with all Program requirements, inspections, and documentation.

B. The Commissioner may establish by rule additional eligibility requirements consistent with the Program's purpose and goals.

Drafting Note: Depending on the Designated Perils addressed by the Program, a state may wish to specify the type of coverage an applicant must maintain—for example, fire, wind, or other peril-specific coverage—rather than homeowner's insurance generally.

C. The Commissioner may establish prioritization criteria consistent with Program funding sources.

Drafting Note: A state may wish to authorize the Commissioner to establish prioritization criteria by rule rather than to fix them in statute. In establishing priorities, a state may wish to consider giving priority to: residences located in areas of higher exposure to one or more Designated Perils; applicants insured in the admitted or residual market; low- to moderate-income households; projects demonstrating higher relative loss reduction once mitigated; existing residences; applicants residing on tribal lands or in historically underserved communities; and applicants who are elderly, disabled, or veterans, consistent with applicable nondiscrimination laws.

D. The Department shall establish an application process for grants under the Program, including eligibility verification and documentation requirements.

E. The Department may enter into agreements with non-profit organizations, community development financial institutions, and tribal entities to conduct outreach, accept and process applications, and assist applicants with documentation.

Section 9. Insurance Premium Discounts and Optional Endorsements

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A. Any insurer authorized to write homeowner's [or dwelling] insurance in this State shall provide an actuarially justified premium discount or rate reduction to a policyholder who completes and maintains a Qualified Mitigation Measure or meets a Recognized Mitigation Standard irrespective of the funding source for the Qualified Mitigation Measure or Recognized Mitigation Standard, retains documentation of such completion and maintenance, and provides documentation to the insurer. An insurer may satisfy this requirement by filing its own actuarially supported discount or rate reduction consistent with the insurer's rating plan with the Department, provided the filed discount or rate reduction is not less than the applicable minimum set forth in the Premium Benchmark Table under Section 9C, unless the insurer demonstrates to the Commissioner's satisfaction that a different discount or rate reduction is actuarially justified based on credible data, catastrophe modeling, engineering analysis, actuarial studies, or a combination thereof.

Drafting Note: The drafters considered permissive language ("may") but used "shall" because a mandatory discount was viewed as stronger and more consistent with the purposes of this Act. This subsection does not limit the discount to Qualified Mitigation Measures completed or Recognized Mitigation Standards met "under the Program." The discount is intended to be available to any policyholder who completes Qualified Mitigation Measures or meets a Recognized Mitigation Standard and maintains documentation, regardless of whether the work was grant-funded. The phrase "or rate reduction" accommodates states whose rating laws characterize a mandated mitigation credit as a rate reduction rather than a premium discount. A state that adopts this terminology should carry it through the remainder of Section 9. The Premium Benchmark Table in Section 9C operates as a presumptive minimum from which an insurer may depart only with actuarial support, which preserves the mandatory discount while allowing for insurer-specific data. A state that prefers to authorize, rather than require, a statewide benchmark may wish to modify Sections 9C through 9F, replacing "shall" with "may" in Section 9E and treating the Premium Benchmark Table as a reference point rather than a binding minimum

B. Premium discounts for Qualified Mitigation Measures and Recognized Mitigation Standards shall apply to the homeowner's [or dwelling] insurance premium as determined by the Commissioner. The discount shall remain in effect for so long as the Qualified Mitigation Measure is maintained or the Recognized Mitigation Standard is met and shall continue, subject to verification by the insurer, upon transfer of the property to a new owner who maintains the Qualified Mitigation Measure or status of the Recognized Mitigation Standard.

Drafting Note: In some states, insurers do not separately rate for specific hazards (for example, wind or hail). A state should conform this subsection to its rating framework and may direct the Commissioner to determine how mitigation discounts apply where the insurer does not separately rate for the relevant Designated Peril.

C. The Department shall develop, publish, and maintain a Premium Benchmark Table setting forth reference discount levels associated with the completion and maintenance of Qualified Mitigation Measures or attainment of a Recognized Mitigation Standard. An insurer may adopt the benchmark discount levels or file different discount levels, whether higher or lower, supported by actuarial data, catastrophe modeling, claims experience, relevant research, or other justification deemed reasonable by the Department. The benchmark levels do not establish required minimums or create a presumption that a different discount level is unreasonable.

D. The Premium Benchmark Table shall:

(1) Reflect the relative loss-reduction value of mitigation measures represented by the discount;

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(2) Be informed by actuarial data, catastrophe modeling, claims experience, relevant research, or other justification deemed reasonable by the Department, as available and appropriate; and

(3) Set forth reference discount percentages that insurers may adopt, without precluding an insurer from filing appropriately justified alternative discount percentages as described in Section 9C; and

(4) Be maintained through review when changes to the information described in Section 9D(2) may affect the reference discount percentages or when a Qualified Mitigation Measure or Recognized Mitigation Standard on which the table is based is revised, and be updated and republished if the Department determines that such changes materially affect the table.

E. Insurers shall file and maintain rating plans consistent with the Premium Benchmark Table, subject to Section 9A, and applicable rating laws.

F. Nothing in this section shall be construed to prohibit insurers from offering additional incentives, credits, or enhanced discounts beyond the minimum discount levels set forth in the Premium Benchmark Table.

G. Subject to eligibility criteria described in Section 9I, an insurer authorized to write homeowner's [or dwelling] insurance in this State shall make available an optional coverage endorsement for Eligible Residences that have not completed one or more Qualified Mitigation Measures or met a Recognized Mitigation Standard.

H. The coverage endorsement under Section 9G shall:

(1) Provide coverage, for a fee, which pays following a specific covered loss, the additional cost of replacing a damaged, unmitigated feature of an Eligible Residence with a feature that meets a Recognized Mitigation Standard or Qualified Mitigation Measure, as approved by the Department, above the cost of like-kind-and-quality replacement of the damaged feature;

Drafting Note: A state should specify how closely a covered loss must relate to the mitigation feature being upgraded for the endorsement to correspond—for example, whether the endorsement corresponds only when the damaged feature is one addressed by the applicable Recognized Mitigation Standard or Qualified Mitigation Measure. The Department may address this relationship by rule. Coverage "for a fee" is to indicate that insurers are not expected to provide or offer zero-cost endorsements.

(2) Remain in effect for the useful life of the Eligible Residence and policy period, subject to reasonable maintenance and inspection requirements; and

(3) Be filed with and approved by the Department consistently with applicable insurance laws.

I. The Commissioner may establish minimum endorsement features, eligibility criteria to include inspection of Eligible Residence features for suitability to mitigate prior to collection of premium,

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documentation requirements, and consumer disclosures to ensure consistency and transparency for optional coverage endorsement.

Drafting Note: This subsection contemplates that, before an optional endorsement is issued and premium is collected, the insurer or its designee may inspect the Eligible Residence to confirm that its features are suitable to be mitigated to the applicable standard, so that the endorsement is underwritten and priced based on the residence's actual mitigation potential.

Section 10. Insurer Data Collection

A. An insurer authorized to write homeowner's [or dwelling] insurance in this State shall, upon request and in a form prescribed by the Commissioner, provide loss-experience and policy-level data necessary to support the Premium Benchmark Table required under Section 9.

B. An insurer authorized to write homeowner's [or dwelling] insurance in this State shall annually report to the Department the number and type of endorsements under Section 9G, by zip code, and how the insurer verifies endorsement by peril.

Section 11. Confidentiality

A. Any documents, materials, or other information in the control or possession of the Department that are furnished by a person applying for a grant under the Program or a Grant Recipient pursuant to Sections 8 and 6E, an Enrolled Contractor pursuant to Section 7, an Independent Third-Party Verifier pursuant to Section 7D, or an insurer pursuant to Sections 9E, or any information obtained by the Department in an investigation or audit pursuant to Sections 7F, 7G, and 14, shall be confidential by law and privileged, shall not be subject to [insert reference to state open records, freedom of information, sunshine, or other appropriate law], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory duties, including but not limited to program evaluation, hazard mitigation planning, and reporting, or in any regulatory or legal action brought as a part of the Commissioner's duties.

Drafting Note: The confidentiality protection in this subsection should be coordinated with the adopting state's public-records/open-records act and its insurance information and privacy protection laws. A state should consider what property owner-specific information the Program will collect, how long it will be retained, the property owner's right to access and correct that information, and the limited circumstances in Section 11D in which it may be shared. A state may wish to provide that personally identifiable property owner information is exempt from disclosure except in aggregated, de-identified form.

B. Any documents, materials, or other information in the control or possession of the Department that are furnished by an insurer pursuant to Section 10 shall be treated as proprietary trade-secret information and shall be confidential by law and privileged, shall not be subject to [insert reference to state open records, freedom of information, sunshine, or other appropriate law], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

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C. Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be required to testify in any private civil action concerning any confidential documents, materials, or information subject to Section 11A of this Act.

D. In order to assist in the performance of the Commissioner's duties under this Act, the Commissioner may:

(1) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Section 11A, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information;

(2) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials or other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

(3) Share documents, materials, or other information subject to Section 11A with non-profit organizations, community development financial institutions, or tribal entities pursuant to Section 8E, provided the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information;

(4) Share documents, materials, or other information subject to Section 11A with a Grant Recipient or a person applying for a grant under the Program for the purpose of identifying Enrolled Contractors and Independent Third-Party Verifiers;

(5) Share with a Grant Recipient, a person applying for a grant under the Program, an Enrolled Contractor, or an Independent Third-Party Verifier, documents, materials, or other information subject to Section 11A that were previously submitted to the Department by or on behalf of that person, including any written correspondence between the Department and that person; and

(6) Enter into agreements governing sharing and use of information consistent with this Act.

E. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this Act or as a result of sharing as authorized in Section 11D.

F. Nothing in this Act shall prohibit the Commissioner from sharing documents, materials, or other information in an aggregated and de-identified manner, and that are shared for the purpose of

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evaluating or reporting on Program operations, Program effectiveness, or market conditions as prescribed by Section 12.

Section 12. Program Evaluation and Reporting; Market Condition.

A. The Department shall periodically evaluate Program performance, which may include participation rates, mitigation outcomes, cost-effectiveness, and market condition.

B. The Department shall [no less than annually] submit a report to the [Governor and] Legislature summarizing Program activity and recommendations for improvement, presented in an aggregated, de-identified form.

Drafting Note: While routine periodic reporting on the Program is recommended, drafters recognized that the specific cycle on which reports should be produced will likely depend on a logical period for the adopting state, such as its fiscal year or legislative session, so that the report is useful to policymakers considering appropriations or other Program changes. A state may also wish to leave the specific time interval to be determined by rule of the Commissioner, rather than fixing it in statute. Additionally, Departments may routinely report to the Governor in addition to its Legislature; if that is the case, then the Governor should be included in the recipient list.

Section 13. Rulemaking Authority

A. The Commissioner may, in accordance with [the state statute setting forth the ability of the Department to adopt regulations] adopt rules as the Commissioner deems necessary to carry out the provisions of this Act, including, but not limited to, eligibility criteria, mitigation standards, grant administration procedures, and compliance requirements.

B. Where this Act, or rules adopted by the Commissioner, assigns a duty to the Department, the Department may, by interagency agreement, delegate operational responsibilities to another appropriate state agency, provided that policy authority over the Program remains with the Department.

Section 14. Audit, Anti-Fraud, and Penalties

A. The Department shall establish an audit program for grants disbursed under this Program, which may include, but are not limited to, risk-based sampling of completed projects, contractor billing reviews, and post-mitigation inspection verification.

B. It is a violation of this Act for a person to make a false statement, misrepresentation, or omission in connection with an application for a grant or in connection with mitigation work performed under this Act if that person knew or should have known of its falsity or omission.

C. The Commissioner may, at the Commissioner's discretion, impose on any person who violates Section 14B:

(1) Civil penalties of not more than the amount authorized under [reference to State's existing penalty statute] per violation;

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Drafting Note: States vary in the civil penalty amounts authorized for comparable insurance-related or grant-related fraud violations. A state should cross-reference the penalties available under its existing insurance fraud, consumer protection, or state grant fraud statutes, and may wish to authorize enhanced penalties for repeat or knowing violations.

(2) Suspension from the Program;

(3) Revocation of eligibility to participate in the Program; and

(4) Restitution of any Program funds wrongfully obtained.

D. The penalties prescribed in Section 14C shall be in addition to any other remedies available under law.

E. Where disbursements have been made directly to an Enrolled Contractor for work in violation of Section 14C, the Department shall seek recovery solely from the Enrolled Contractor and any surety or bond, unless other parties are found to have participated in the false statement, misrepresentation, or omission.

Drafting Note: This subsection is limited to recovery of Program funds from the Enrolled Contractor and any surety or bond. A state that wishes to authorize the Department to recover interest on wrongfully disbursed funds, or attorneys' fees and costs incurred in a recovery action, should add explicit statutory authorization here, as some states require express authority before a state agency may seek interest or fee-shifting in a civil recovery action.

Section 15. Funding

A. The Program may be funded through legislative appropriations, federal grants, assessments, private contributions, or other lawful sources. The Department may apply for, accept, and expend gifts, grants, bequests, donations, and other funds from public or private sources to support the Program.

B. Funds shall be used exclusively for the purposes of this Act and related administrative costs in administering the Program. The Program may make grants or funding available to nonprofit entities for projects to [construct or] retrofit Eligible Residences to resist loss due to Designated Perils if such grants or funding to nonprofit entities are allowable under the Program's rules, requirements, guidelines, or criteria. However, a nonprofit entity shall agree to administer the grants or funds as the Program would be required to administer grants or funds, and the entity shall provide documentation to the Department in a timely manner as requested by the Commissioner.

Drafting Note: "Related administrative costs" is intended to include the Department's costs of staffing and operating the Program, including personnel, systems, and contractor or verifier oversight. A state may wish to cap administrative costs at a specified percentage of appropriated or collected Program funds to ensure that the majority of funding reaches property owners. Consistent with the drafting notes to Section 2A(4), this subsection brackets "construct or" because this Act is drafted to focus on retrofitting existing residential structures. A state that extends Program or nonprofit grant eligibility to new construction should remove the brackets and confirm that Eligible Residences is conformed to, or replaced with, a defined term encompassing new construction.

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C. There is hereby created in the State Treasury the Strengthen [insert state] Homes Trust Fund, into which all Program revenues and appropriations shall be deposited and from which all Program expenditures shall be made. Moneys in the Trust Fund shall not lapse, shall not revert, and shall not be transferred or appropriated for any purpose other than this Act. Interest earned on Trust Fund balances shall be retained by the Trust Fund.

Drafting Note: The non-lapsing, non-reverting structure of the Trust Fund is intended to ensure that appropriated and collected Program funds remain available for mitigation grants from year to year and are not swept into a state's general fund at the close of the fiscal period. A state should confirm that this structure is consistent with its constitutional and budgetary requirements governing dedicated or special funds.

D. Any Program funds recovered by the Department and civil penalties imposed pursuant to Section 14 shall be remitted or otherwise reverted to the Strengthen [insert state] Homes Trust Fund established in Section 15C.

Drafting Note: If a state adds authority to recover interest or attorneys' fees consistent with the drafting note to Section 14E, it should specify here whether those amounts are also remitted or reverted to the Trust Fund. In addition, some states require civil penalties collected by a state agency be deposited into a state's general fund or another fund designated by law, rather than a program-specific trust fund. A state should conform this subsection to its law governing the disposition of civil penalties collected by state agencies.

Section 16. Severability

If any provision of this Act or its application is held invalid, such invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application.

Section 17. Effective Date

A. This Act shall take effect on [insert date], which shall in no case be earlier than one year following enactment. The Commissioner may phase implementation of the Program over a period of [time] or through a regional pilot program.

Drafting Note: Consistent with the drafting note to Section 2A(1), a state that begins the Program as a regional- or peril-specific pilot should specify, either here or in Section 4, how and when the pilot phase transitions to statewide implementation. A state should also coordinate the effective date and any phase-in period with the Program's rulemaking timeline under Section 12 and its appropriations process, so that the Commissioner has adequate lead time to adopt implementing rules before the Program becomes operative. Drafters also note that the authority to create a pilot program may, by custom and practice in a given state, be found elsewhere in the enabling legislation such as an enactment clause rather than in the body of the Act as found in this model.

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