

113TH CONGRESS
1ST SESSION

H. R. 737

To establish a national catastrophic risk consortium to ensure the availability and affordability of homeowners' insurance coverage for catastrophic events.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2013

Ms. WILSON of Florida (for herself and Ms. BROWN of Florida) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a national catastrophic risk consortium to ensure the availability and affordability of homeowners' insurance coverage for catastrophic events.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Homeowners’ Defense Act of 2013”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Establishment; status; principal office; membership.
- Sec. 4. Functions.
- Sec. 5. Powers.

Sec. 6. Nonprofit entity; conflicts of interest; audits.

Sec. 7. Management.

Sec. 8. Staff; experts and consultants.

Sec. 9. Federal liability.

Sec. 10. Authorization of appropriations.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) the United States has a history of cata-
4 strophic natural disasters, including hurricanes, tor-
5 nadoes, flood, fire, earthquakes, and volcanic erup-
6 tions;

7 (2) although catastrophic natural disasters
8 occur infrequently, they will continue to occur and
9 are predictable;

10 (3) such disasters generate large economic
11 losses and a major component of those losses comes
12 from damage and destruction to homes;

13 (4) for the majority of Americans, their invest-
14 ment in their home represents their single biggest
15 asset and the protection of that investment is para-
16 mount to economic and social stability;

17 (5) the United States needs to take and support
18 State actions to be better prepared for and better
19 protected from catastrophes;

20 (6) as the risk of catastrophic losses grows, so
21 do the risks that any premiums collected by private
22 insurers for extending coverage will be insufficient to
23 cover future catastrophes, and private insurers, in

1 an effort to protect their shareholders and policy-
2 holders (in the case of mutually owned companies),
3 have thus significantly raised premiums and cur-
4 tailed insurance coverage in States exposed to major
5 catastrophes;

6 (7) such effects on the insurance industry have
7 been harmful to economic activity in States exposed
8 to major catastrophes and have placed significant
9 burdens on residents of such States;

10 (8) Hurricanes Katrina, Rita, and Wilma
11 struck the United States in 2005, causing over
12 \$200,000,000,000 in total economic losses, and in-
13 sured losses to homeowners in excess of
14 \$50,000,000,000;

15 (9) while the total costs of Hurricane Sandy
16 have not yet been calculated, Fitch Ratings, a global
17 credit ratings agency, has estimated that insured
18 losses will amount to between \$20,000,000,000 and
19 \$25,000,000,000;

20 (10) the Federal Government has provided and
21 will continue to provide resources to pay for losses
22 from future catastrophes; and

23 (11) it is the proper role of the Federal Govern-
24 ment to prepare for and protect its citizens from ca-
25 tastrophes and to facilitate consumer protection, vic-

1 tim assistance, and recovery, including financial re-
2 covery.

3 (b) PURPOSES.—The purpose of this Act is to estab-
4 lish a national catastrophic risk consortium to ensure the
5 availability and affordability of homeowners’ insurance
6 coverage for catastrophic events.

7 **SEC. 3. ESTABLISHMENT; STATUS; PRINCIPAL OFFICE;**
8 **MEMBERSHIP.**

9 (a) ESTABLISHMENT.—There is established an entity
10 to be known as the “National Catastrophe Risk Consor-
11 tium” (in this Act referred to as the “Consortium”).

12 (b) STATUS.—The Consortium is not a department,
13 agency, or instrumentality of the United States Govern-
14 ment.

15 (c) PRINCIPAL OFFICE.—The principal office and
16 place of business of the Consortium shall be such location
17 within the United States determined by the Board of Di-
18 rectors to be the most advantageous for carrying out the
19 purpose and functions of the Consortium.

20 (d) MEMBERSHIP.—Any State that has established a
21 reinsurance fund or has authorized the operation of a
22 State residual insurance market entity, or State-sponsored
23 provider of natural catastrophe insurance, shall be eligible
24 to participate in the Consortium.

1 **SEC. 4. FUNCTIONS.**

2 The Consortium shall—

3 (1) work with all States, particularly those par-
4 ticipating in the Consortium, to gather and maintain
5 an inventory of catastrophe risk obligations held by
6 State reinsurance funds, State residual insurance
7 market entities, and State-sponsored providers of
8 natural catastrophe insurance;

9 (2) at the discretion of the affected members
10 and on a conduit basis, issue securities and other fi-
11 nancial instruments linked to the catastrophe risks
12 insured or reinsured through members of the Con-
13 sortium in the capital markets;

14 (3) coordinate reinsurance contracts between
15 participating, qualified reinsurance funds and pri-
16 vate parties;

17 (4) act as a centralized repository of State risk
18 information that can be accessed by private-market
19 participants seeking to participate in the trans-
20 actions described in paragraphs (2) and (3) of this
21 section;

22 (5) establish a catastrophe risk database to per-
23 form research and analysis that encourages stand-
24 ardization of the risk-linked securities market;

25 (6) perform any other functions, other than as-
26 suming risk or incurring debt, that are deemed nec-

1 essary to aid in the transfer of catastrophe risk from
2 participating States to private parties; and

3 (7) submit annual reports to Congress describ-
4 ing the activities of the Consortium for the pre-
5 ceding year, and the first such annual report shall
6 include an assessment of the costs to States and re-
7 gions associated with catastrophe risk and an anal-
8 ysis of the costs and benefits, for States not partici-
9 pating in the Consortium, of such nonparticipation.

10 **SEC. 5. POWERS.**

11 The Consortium—

12 (1) may make and perform such contracts and
13 other agreements with any individual or other pri-
14 vate or public entity however designated and wher-
15 ever situated, as may be necessary for carrying out
16 the functions of the Consortium; and

17 (2) shall have such other powers, other than the
18 power to assume risk or incur debt, as may be nec-
19 essary and incident to carrying out this Act.

20 **SEC. 6. NONPROFIT ENTITY; CONFLICTS OF INTEREST; AU-**
21 **DITS.**

22 (a) NONPROFIT ENTITY.—The Consortium shall be
23 a nonprofit entity and no part of the net earnings of the
24 Consortium shall inure to the benefit of any member,
25 founder, contributor, or individual.

1 (b) CONFLICTS OF INTEREST.—No director, officer,
2 or employee of the Consortium shall in any manner, di-
3 rectly or indirectly, participate in the deliberation upon or
4 the determination of any question affecting his or her per-
5 sonal interests or the interests of any Consortium, part-
6 nership, or organization in which he or she is directly or
7 indirectly interested.

8 (c) AUDITS.—

9 (1) ANNUAL AUDIT.—The financial statements
10 of the Consortium shall be audited annually in ac-
11 cordance with generally accepted auditing standards
12 by independent certified public accountants.

13 (2) REPORTS.—The report of each annual audit
14 pursuant to paragraph (1) shall be included in the
15 annual report submitted in accordance with section
16 4(7).

17 (d) PROHIBITION ON ELECTION AND LOBBYING AC-
18 TIVITIES.—

19 (1) FEDERAL.—The Consortium may not—

20 (A) make any contribution to a candidate
21 for election for Federal office or to a political
22 committee;

23 (B) employ or retain—

1 (i) a registered lobbyist under the
2 Lobbying Disclosure Act of 1995 (2 U.S.C.
3 1601 et seq.); or

4 (ii) an organization that employs one
5 or more lobbyists and is registered under
6 section 4(a)(2) of such Act (2 U.S.C.
7 1603(a)(2)); or

8 (C) provide any thing of value, other than
9 educational materials or information, to any
10 elected official of the Federal Government.

11 For purposes of this paragraph, the terms “con-
12 tribution”, “candidate”, “Federal office”, and “po-
13 litical committee” have the meanings given such
14 terms in section 301 of the Federal Election Cam-
15 paign Act of 1971 (2 U.S.C. 431).

16 (2) CONSORTIUM.—The Consortium may not—

17 (A) make any contribution to a candidate
18 for election for any State or local office or to
19 any committee, club, association, or other group
20 that receives contributions or makes expendi-
21 tures for the purpose of influencing any such
22 election;

23 (B) employ or retain any person who en-
24 gages in influencing legislating (as such term is
25 defined in section 4911(d) of the Internal Rev-

1 enue Code of 1986 (26 U.S.C. 4911(d))) of any
2 State or local legislative body; or

3 (C) provide any thing of value, other than
4 educational materials or information, to any
5 elected official of any State or local government.

6 **SEC. 7. MANAGEMENT.**

7 (a) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNA-
8 TION OF CHAIRPERSON.—

9 (1) BOARD OF DIRECTORS.—The management
10 of the Consortium shall be vested in a board of di-
11 rectors (referred to in this Act as the “Board”) com-
12 posed of not less than 3 members.

13 (2) CHAIRPERSON.—The Secretary of the
14 Treasury, or the designee of the Secretary, shall
15 serve as the chairperson of the Board.

16 (3) MEMBERSHIP.—The members of the Board
17 shall include—

18 (A) the Secretary of Homeland Security
19 and the Secretary of Commerce, or the des-
20 ignees of such Secretaries, respectively, but only
21 during such times as there are fewer than two
22 States participating in the Consortium; and

23 (B) a member from each State partici-
24 pating in the Consortium, who shall be ap-
25 pointed by such State.

1 (b) BYLAWS.—The Board may prescribe, amend, and
2 repeal such bylaws as may be necessary for carrying out
3 the functions of the Consortium.

4 (c) COMPENSATION, ACTUAL, NECESSARY, AND
5 TRANSPORTATION EXPENSES.—

6 (1) NON-FEDERAL EMPLOYEES.—A member of
7 the Board who is not otherwise employed by the
8 Federal Government shall be entitled to receive the
9 daily equivalent of the annual rate of basic pay pay-
10 able for level IV of the Executive Schedule under
11 section 5315 of title 5, United States Code, as in ef-
12 fect from time to time, for each day (including travel
13 time) during which such member is engaged in the
14 actual performance of duties of the Consortium.

15 (2) FEDERAL EMPLOYEES.—A member of the
16 Board who is an officer or employee of the Federal
17 Government shall serve without additional pay (or
18 benefits in the nature of compensation) for service
19 as a member of the Consortium.

20 (3) TRAVEL EXPENSES.—Members of the Con-
21 sortium shall be entitled to receive travel expenses,
22 including per diem in lieu of subsistence, equivalent
23 to those set forth in subchapter I of chapter 57 of
24 title 5, United States Code.

1 (d) QUORUM.—A majority of the Board shall con-
2 stitute a quorum.

3 (e) EXECUTIVE DIRECTOR.—The Board shall ap-
4 point an executive director of the Consortium on such
5 terms as the Board may determine.

6 **SEC. 8. STAFF; EXPERTS AND CONSULTANTS.**

7 (a) STAFF.—

8 (1) APPOINTMENT.—The Board of the Consor-
9 tium may appoint and terminate such other staff as
10 are necessary to enable the Consortium to perform
11 its duties.

12 (2) COMPENSATION.—The Board of the Con-
13 sortium may fix the compensation of the executive
14 director and other staff.

15 (b) EXPERTS AND CONSULTANTS.—The Board shall
16 procure the services of experts and consultants as the
17 Board considers appropriate.

18 **SEC. 9. FEDERAL LIABILITY.**

19 The Federal Government and the Consortium shall
20 not bear any liabilities arising from the actions of the Con-
21 sortium. Participating States shall retain all catastrophe
22 risk until the completion of a transaction described in
23 paragraphs (2) and (3) of section 4.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to carry out
3 this Act \$20,000,000 for each of fiscal years 2014 through
4 2018.

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