

109TH CONGRESS
2D SESSION

H. R. 5891

To establish a bipartisan commission on insurance reform.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2006

Ms. WASSERMAN SCHULTZ (for herself, Mr. CASTLE, Mr. MELANCON, Mr. McHENRY, Mrs. MCCARTHY, Ms. HOOLEY, Mr. ACKERMAN, Mr. ISRAEL, Mr. BISHOP of New York, and Mr. CROWLEY) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a bipartisan commission on insurance reform.

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 “Catastrophic Disaster
5 Risk and Insurance Commission Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Hurricanes Katrina, Rita, and Wilma,
9 which struck the United States in 2005, caused
10 more than \$200 billion in total economic losses, in-
11 cluding insured and uninsured losses.

1 (2) In the United States, expanded development
2 in exposed geographic areas and rising property val-
3 ues have combined to result in dramatic increases in
4 both insured and economic losses resulting from na-
5 tional catastrophes. Nationally recognized experts in
6 risk management expect these trends to continue.
7 According to a 2004 study based on United States
8 Census data and published by the National Oceanic
9 and Atmospheric Administration, 53 percent of the
10 population of the United States (153 million people)
11 lived in coastal counties (including those that abut
12 the Great Lakes) in 2003. This compares to the
13 1960 average of 187 people living on each square
14 mile of the United States coast, excluding Alaska. In
15 1994, that figure was 274 persons per square mile,
16 and it is expected to reach 327 people by 2015.

17 (3) Although private sector insurance is cur-
18 rently available to spread some catastrophe-related
19 losses throughout the United States and abroad,
20 most experts believe there will be significant insur-
21 ance and reinsurance shortages, resulting in dra-
22 matic rate increases for consumers and businesses,
23 and the unavailability of catastrophe insurance.

24 (4) The Federal Government has provided and
25 will continue to provide billions of dollars and re-

1 sources to pay for losses from catastrophes, includ-
2 ing hurricanes, volcanic eruptions, tsunamis, tor-
3 nados, and other disasters, at huge costs to Amer-
4 ican taxpayers.

5 (5) The Federal Government has a critical in-
6 terest in ensuring that the management of catas-
7 trophes is appropriate and fiscally responsible, and
8 to mitigate, reduce and prevent, where possible, cost
9 to taxpayers. Mortgages require reliable property in-
10 surance, and the unavailability of reliable property
11 insurance would make most real estate transactions
12 impossible. In addition, the public health, safety,
13 and welfare demand that structures damaged or de-
14 stroyed in a catastrophe be reconstructed as soon as
15 possible. Therefore, the potential of unmitigated cost
16 to the American taxpayer and the inability of the
17 private sector insurance and reinsurance markets to
18 maintain sufficient capacity to enable Americans to
19 obtain property insurance coverage in the private
20 sector endanger the national economy and the public
21 health, safety, and welfare.

22 (6) Multiple proposals have been introduced in
23 the United States Congress over the past decade to
24 address catastrophic risk insurance, including the
25 creation of a national catastrophic reinsurance fund

1 and the revision of the Federal tax code to allow in-
2 surers to use tax-deferred catastrophe funds, yet
3 Congress has failed to act on any of these proposals.

4 (7) To the extent the United States faces in-
5 creased risks from catastrophe exposure, essential
6 technical information about market capacity, finan-
7 cial structures, risk management structures, and in-
8 novations in the catastrophe insurance market is
9 needed.

10 (8) The most efficient and effective approach to
11 assessing the catastrophe insurance problem in the
12 public policy context is to establish a bipartisan com-
13 mission of experts to study the management of cata-
14 strophic disaster risk, and to require such commis-
15 sion to timely report its recommendations to Con-
16 gress so that Congress can quickly craft a solution
17 to protect the American people.

18 **SEC. 3. ESTABLISHMENT.**

19 There is established a bipartisan Catastrophic Dis-
20 aster Risk and Insurance Commission (in this Act referred
21 to as the “Commission”).

22 **SEC. 4. MEMBERSHIP.**

23 (a) MEMBERS.—The Commission shall be composed
24 of the following:

1 (1) 2 members who shall be former members of
2 Congress that were members of a committee of ap-
3 propriate jurisdiction, of whom—

4 (A) one shall be a Republican; and

5 (B) one shall be a Democrat.

6 (2) The Secretary of the Treasury or a designee
7 of the Secretary.

8 (3) The Director of the Federal Emergency
9 Management Agency or a designee of the Director.

10 (4) The Administrator of the National Oceanic
11 and Atmospheric Administration or a designee of the
12 Administrator.

13 (5) 12 additional members or their designees of
14 whom one shall be—

15 (A) a representative of a consumer group;

16 (B) a representative of a primary property
17 and casualty insurance company;

18 (C) a representative of a reinsurance com-
19 pany;

20 (D) an independent insurance agent with
21 experience in writing property and casualty in-
22 surance policies;

23 (E) a representative of a national realty
24 company;

25 (F) a State insurance regulator;

1 (G) a State emergency operations official;

2 (H) a physical scientist with expertise in
3 natural disasters;

4 (I) a faculty member of an accredited uni-
5 versity with experience in risk management;

6 (J) a member of nationally recognized
7 think tank with experience in risk management;

8 (K) a homebuilder with experience in
9 structural engineering;

10 (L) a lender with expertise in both com-
11 mercial and residential mortgage lending; and

12 (M) a licensed attorney who is a nationally
13 recognized expert in antitrust law.

14 (b) MANNER OF APPOINTMENT.—

15 (1) IN GENERAL.—Any member of the Commis-
16 sion described under paragraph (1) or (5) of sub-
17 section (a) shall be appointed only upon unanimous
18 agreement of—

19 (A) the majority leader of the Senate;

20 (B) the minority leader of the Senate;

21 (C) the Speaker of the House of Rep-
22 resentatives; and

23 (D) the minority leader of the House of
24 Representatives.

1 (2) CONSULTATION.—In making any appoint-
2 ment under paragraph (1), each individual described
3 in paragraph (1) shall consult with the President.

4 (3) TIME OF APPOINTMENT.—Members of the
5 commission appointed under this subsection shall be
6 appointed not later than 30 days after the date of
7 the enactment of this Act.

8 (c) ELIGIBILITY LIMITATION.—Except as provided in
9 subsection (a), no member or officer of the Congress, or
10 other member or officer of the Executive Branch of the
11 United States Government or any State government may
12 be appointed to be a member of the Commission.

13 (d) PERIOD OF APPOINTMENT.—

14 (1) IN GENERAL.—Each member of the Com-
15 mission shall be appointed for the life of the Com-
16 mission.

17 (2) VACANCIES.—A vacancy on the Commission
18 shall not affect its powers, but shall be filled in the
19 same manner as the original appointment was made.

20 (e) QUORUM.—

21 (1) MAJORITY.—A majority of the members of
22 the Commission shall constitute a quorum, but a
23 lesser number may hold hearings.

24 (2) APPROVAL ACTIONS.—All recommendations
25 and reports of the Commission required by this Act

1 shall be approved only by a majority vote of a
2 quorum of the Commission.

3 (f) CHAIR AND VICE CHAIR.—The majority leader of
4 the Senate, the minority leader of the Senate, the Speaker
5 of the House of Representatives, and the minority leader
6 of the House of Representatives shall jointly select 1 mem-
7 ber appointed pursuant to subsection (a)(1) to serve as
8 the Chair of the Commission and the other member ap-
9 pointed pursuant to subsection (a)(1) to serve as the Vice
10 Chair.

11 (g) MEETINGS.—The Council shall meet at the call
12 of its Chairperson or a majority of its members at any
13 time.

14 **SEC. 5. DUTIES OF COMMISSION.**

15 The Commission shall—

16 (1) assess—

17 (A) the condition of the property and cas-
18 ualty insurance and reinsurance markets in the
19 aftermath of Hurricanes Katrina, Rita, and
20 Wilma in 2005, and the 4 major hurricanes
21 that struck the United States in 2004; and

22 (B) the ongoing exposure of the United
23 States to hurricanes, typhoons, earthquakes,
24 volcanic eruptions, tsunamis, floods, wild fires,

1 and other extreme weather events or natural
2 disasters as determined by the Commission; and

3 (2) recommend and report, as required under
4 section 6, any necessary legislative and regulatory
5 changes that will—

6 (A) improve the participation of domestic
7 and international market participants and in-
8 crease competitiveness of such markets;

9 (B) assure consumers of the—

10 (i) availability of adequate private in-
11 surance coverage when an insured event
12 occurs; and

13 (ii) best possible range of insurance
14 products at fair and competitive prices;
15 and

16 (C) minimize liability to the Federal Gov-
17 ernment and taxpayers by—

18 (i) reducing the likelihood of fraud
19 and abuse of a federal repayment program;
20 and

21 (ii) hedging the risk exposure as-
22 sumed by the Federal Government by the
23 adoption of a national catastrophe pro-
24 gram.

1 **SEC. 6. REPORT.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 appointment of Commission members under section 4, the
4 Commission shall submit to the President and the Con-
5 gress a final report containing a detailed statement of its
6 findings, together with any recommendations for legisla-
7 tion or administrative action that the Commission con-
8 siders appropriate, in accordance with the requirements
9 of section 5.

10 (b) CONSIDERATIONS.—In developing any rec-
11 ommendations under subsection (a), the Commission shall
12 consider—

13 (1) the catastrophic insurance and reinsurance
14 market structures and the relevant commercial prac-
15 tices in such insurance industries in providing insur-
16 ance protection to different sectors of the American
17 population;

18 (2) the constraints and opportunities in imple-
19 menting a catastrophic insurance system that can
20 resolve key obstacles currently impeding broader im-
21 plementation of catastrophe risk management and
22 financing with insurance;

23 (3) methods to improve risk underwriting prac-
24 tices, including—

25 (A) analysis of modalities of risk transfer
26 for potential financial losses;

1 (B) assessment of private securitization of
2 insurances risks;

3 (C) private-public partnerships to increase
4 insurance capacity in constrained markets; and

5 (D) the financial feasibility and sustain-
6 ability of a national catastrophe pool or regional
7 catastrophe pools designed to provide adequate
8 insurance coverage and increased underwriting
9 capacity to insurers and reinsurers;

10 (4) approaches for implementing a public insur-
11 ance scheme for low-income communities, in order to
12 promote risk reduction and explicit insurance cov-
13 erage in such communities;

14 (5) methods to strengthen insurance regulatory
15 requirements and supervision of such requirements,
16 including solvency for catastrophic risk reserves;

17 (6) methods to promote public insurance poli-
18 cies linked to programs for loss reduction in the un-
19 insured sectors of the American population;

20 (7) methods to strengthen the risk assessment
21 and enforcement of structural mitigation and vulner-
22 ability reduction measures, such as zoning and
23 building code compliance;

1 (8) methods that incentivize the public to pur-
2 chase and retain risk insurance coverage throughout
3 the ownership of insured property;

4 (9) the appropriate role for States in stabilizing
5 the property and casualty insurance and reinsurance
6 markets, with an analysis of—

7 (A) the best way to allow, or whether it is
8 in the best interest to allow, a State govern-
9 ment to set up a method to address the risks
10 facing such State; and

11 (B) any lessons learned from the success
12 or failure of a State in setting up such method;

13 (10) the appropriate role for the Federal Gov-
14 ernment in stabilizing the property and casualty in-
15 surance and reinsurance markets, with an analysis
16 of—

17 (A) options such as—

18 (i) a reinsurance mechanism;

19 (ii) the modernization of Federal tax-
20 ation policies; and

21 (iii) an “insurance of last resort”
22 mechanism;

23 (B) how to fund such options;

24 (C) how best to hedge any risk exposure
25 assumed by the Federal Government; and

1 (D) how the establishment of a Federal
2 disaster plan would affect existing State dis-
3 aster plans;

4 (11) the merits of the legislative proposals cur-
5 rently pending in the 109th Congress, including pro-
6 posals for—

7 (A) the creation of a Federal catastrophe
8 fund to act as a backup to State catastrophe
9 funds;

10 (B) tax-deferred catastrophe accounts for
11 insurers; and

12 (C) tax-free catastrophe accounts for pol-
13 icyholders; and

14 (12) the merits of pursuing a policy for the
15 Federal Government to hedge its risk exposure.

16 **SEC. 7. POWERS OF THE COMMISSION.**

17 (a) HEARINGS.—The Commission or, at the direction
18 of the Commission, any subcommittee or member of the
19 Commission, may, for the purpose of carrying out this
20 Act—

21 (1) hold such public hearings in such cities and
22 countries, sit and act at such times and places, take
23 such testimony, receive such evidence, and admin-
24 ister such oaths or affirmations as the Commission

1 or such subcommittee or member considers advis-
2 able; and

3 (2) require, by subpoena or otherwise, the at-
4 tendance and testimony of such witnesses and the
5 production of such books, records, correspondence,
6 memoranda, papers, documents, tapes, and materials
7 as the Commission or such subcommittee or member
8 considers advisable.

9 (b) ISSUANCE AND ENFORCEMENT OF SUB-
10 POENAS.—

11 (1) ISSUANCE.—Subpoenas issued under sub-
12 section (a) shall bear the signature of the Chair-
13 person of the Commission and shall be served by any
14 person or class of persons designated by the Chair-
15 person for that purpose.

16 (2) ENFORCEMENT.—In the case of contumacy
17 or failure to obey a subpoena issued under sub-
18 section (a), the United States district court for the
19 judicial district in which the subpoenaed person re-
20 sides, is served, or may be found may issue an order
21 requiring such person to appear at any designated
22 place to testify or to produce documentary or other
23 evidence. Any failure to obey the order of the court
24 may be punished by the court as a contempt of that
25 court.

1 (3) CONFIDENTIALITY.—

2 (A) IN GENERAL.—Information obtained
3 under a subpoena issued under subsection (a)
4 which is deemed confidential, or with reference
5 to which a request for confidential treatment is
6 made by the person furnishing such informa-
7 tion—

8 (i) shall be exempt from disclosure
9 under section 552 of title 5, United States
10 Code; and

11 (ii) shall not be published or disclosed
12 unless the Commission determines that the
13 withholding of such information is contrary
14 to the interest of the United States.

15 (B) EXCEPTION.—The requirements of
16 subparagraph (A) shall not apply to the publi-
17 cation or disclosure of any data aggregated in
18 a manner that ensures protection of the identity
19 of the person furnishing such data.

20 (c) AUTHORITY OF MEMBERS OR AGENTS OF THE
21 COMMISSION.—Any member or agent of the Commission
22 may, if authorized by the Commission, take any action
23 which the Commission is authorized to take by this Act.

24 (d) OBTAINING OFFICIAL DATA.—

1 (1) AUTHORITY.—Notwithstanding any provi-
2 sion of section 552a of title 5, United States Code,
3 the Commission may secure directly from any de-
4 partment or agency of the United States any infor-
5 mation necessary to enable the Commission to carry
6 out the purposes of this Act.

7 (2) PROCEDURE.—Upon request of the Chair-
8 person of the Commission, the head of that depart-
9 ment or agency shall furnish the information re-
10 quested to the Commission.

11 (e) POSTAL SERVICES.—The Commission may use
12 the United States mails in the same manner and under
13 the same conditions as other departments and agencies of
14 the Federal Government.

15 (f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the
16 request of the Commission, the Administrator of General
17 Services shall provide to the Commission, on a reimburs-
18 able basis, any administrative support services necessary
19 for the Commission to carry out its responsibilities under
20 this Act.

21 (g) GIFTS.—

22 (1) IN GENERAL.—The Commission may ac-
23 cept, use, and dispose of gifts or donations of serv-
24 ices or property.

1 (2) REGULATIONS.—The Commission shall
2 adopt internal regulations governing the receipt of
3 gifts or donations of services or property similar to
4 those described in part 2601 of title 5, Code of Fed-
5 eral Regulations.

6 **SEC. 8. COMMISSION PERSONNEL MATTERS.**

7 (a) COMPENSATION OF MEMBERS.—Each member of
8 the Commission who is not an officer or employee of the
9 Federal Government shall be compensated at a rate equal
10 to the daily equivalent of the annual rate of basic pay pre-
11 scribed for GS–18 of the General Schedule under section
12 5332 of title 5, United States Code, for each day (includ-
13 ing travel time) during which such member is engaged in
14 the performance of the duties of the Commission. All
15 members of the Commission who are officers or employees
16 of the United States shall serve without compensation in
17 addition to that received for their services as officers or
18 employees of the United States.

19 (b) TRAVEL EXPENSES.—The members of the Com-
20 mission shall be allowed travel expenses, including per
21 diem in lieu of subsistence, at rates authorized for employ-
22 ees of agencies under subchapter I of chapter 57 of title
23 5, United States Code, while away from their homes or
24 regular places of business in the performance of services
25 for the Commission.

1 (c) SUBCOMMITTEES.—The Commission may estab-
2 lish subcommittees and appoint persons to such sub-
3 committees as the Commission considers appropriate.

4 (d) STAFF.—Subject to such policies as the Commis-
5 sion may prescribe, the Chairperson of the Commission
6 may appoint and fix the pay of such additional personnel
7 as the Chairperson considers appropriate to carry out the
8 duties of the Commission.

9 (e) APPLICABILITY OF CERTAIN CIVIL SERVICE
10 LAWS.—Subcommittee members and staff of the Commis-
11 sion may be—

12 (1) appointed without regard to the provisions
13 of title 5, United States Code, governing appoint-
14 ments in the competitive service; and

15 (2) paid without regard to the provisions of
16 chapter 51 and subchapter III of chapter 53 of that
17 title relating to classification and General Schedule
18 pay rates, except that an individual so appointed
19 may not receive pay in excess of the annual rate of
20 basic pay prescribed for GS–18 of the General
21 Schedule under section 5332 of that title.

22 (f) EXPERTS AND CONSULTANTS.—In carrying out
23 its objectives, the Commission may procure temporary and
24 intermittent services of consultants and experts under sec-
25 tion 3109(b) of title 5, United States Code, at rates for

1 individuals which do not exceed the daily equivalent of the
2 annual rate of basic pay prescribed for GS-18 of the Gen-
3 eral Schedule under section 5332 of that title.

4 (g) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon
5 request of the Chairperson of the Commission, any Fed-
6 eral Government employee may be detailed to the Commis-
7 sion to assist in carrying out the duties of the Commis-
8 sion—

9 (1) on a reimbursable basis; and

10 (2) such detail shall be without interruption or
11 loss of civil service status or privilege.

12 **SEC. 9. TERMINATION.**

13 The Commission shall terminate 60 days after the
14 date on which the Commission submits its report under
15 section 6.

16 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated \$5,000,000
18 to carry out the purposes of this Act.

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