

110TH CONGRESS
1ST SESSION

H. R. 3644

To establish a nonpartisan Commission on Natural Catastrophe Risk
Management and Insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2007

Mr. SHAYS (for himself and Mr. BLUMENAUER) introduced the following bill;
which was referred to the Committee on Financial Services

A BILL

To establish a nonpartisan Commission on Natural Catastrophe Risk Management and Insurance, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Commission on Natural Catastrophe Risk Management
6 and Insurance Act of 2007”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Establishment.

- Sec. 4. Membership.
- Sec. 5. Duties of the Commission.
- Sec. 6. Timing.
- Sec. 7. Powers of the Commission.
- Sec. 8. Commission personnel matters.
- Sec. 9. Termination.
- Sec. 10. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) catastrophic hazards, including tornadoes,
4 earthquakes, volcanoes, landslides, tsunamis, flood-
5 ing, and hurricanes, directly affect hundreds of mil-
6 lions of people each year;

7 (2) during the 1990s, 2,800 natural disasters
8 killed more than 500,000 people and directly af-
9 fected 1,300,000,000 people worldwide;

10 (3) property damage from natural catastrophes
11 has dramatically increased in recent decades, rough-
12 ly doubling every seven years—a 14-fold increase
13 over the past 40 years;

14 (4) risk costs have particularly soared in coastal
15 areas, where hurricane frequency and severity has
16 significantly increased, along with home values and
17 building costs;

18 (5) increased risk costs are being reflected in
19 increased catastrophe insurance and reinsurance
20 costs;

21 (6) an inefficient legal and regulatory environ-
22 ment in some States has further exacerbated insur-

1 ance cost increases, including through ineffective
2 price controls, restrictions on capital movement, sub-
3 optimal solvency regulation, and duplicative or un-
4 necessary regulation;

5 (7) consumers further suffer from temporary
6 rate and availability volatility after major catas-
7 trophes while the marketplace adjusts to the losses;

8 (8) government catastrophe mitigation require-
9 ments have been sub-optimal, sometimes ineffective,
10 and uncoordinated;

11 (9) some State efforts to reduce insurance
12 prices in catastrophe-prone areas have sometimes re-
13 duced long-term availability and competitive afford-
14 ability of coverage, as well as subsidized excessive
15 development in environmentally sensitive areas at
16 the expense of taxpayers;

17 (10) several proposals have been introduced in
18 the Congress to address the affordability of natural
19 catastrophe insurance, but there is little consensus
20 on the appropriate role of the Federal Government
21 in facilitating the private insurance marketplace
22 while avoiding cross-subsidies; and

23 (11) therefore, an efficient and effective ap-
24 proach to assessing natural catastrophe risk man-
25 agement and insurance is to establish a nonpartisan

1 commission to study the management of natural ca-
2 tastrophe risk, and to require such commission to
3 report to the Congress on its findings before the
4 next hurricane season begins.

5 **SEC. 3. ESTABLISHMENT.**

6 There is established a nonpartisan Commission on
7 Natural Catastrophe Risk Management and Insurance (in
8 this Act referred to as the “Commission”).

9 **SEC. 4. MEMBERSHIP.**

10 (a) APPOINTMENT.—The Commission shall be com-
11 posed of 16 members, of whom—

12 (1) 2 members shall be appointed by the Major-
13 ity Leader of the Senate;

14 (2) 2 members shall be appointed by the Minor-
15 ity Leader of the Senate;

16 (3) 2 members shall be appointed by the Speak-
17 er of the House of Representatives;

18 (4) 2 members shall be appointed by the Minor-
19 ity Leader of the House of Representatives;

20 (5) 2 members shall be appointed by the Chair-
21 man of the Committee on Banking, Housing, and
22 Urban Affairs of the Senate;

23 (6) 2 members shall be appointed by the Rank-
24 ing Member of the Committee on Banking, Housing,
25 and Urban Affairs of the Senate;

1 (7) 2 members shall be appointed by the Chair-
2 man of the Committee on Financial Services of the
3 House of Representatives; and

4 (8) 2 members shall be appointed by the Rank-
5 ing Member of the Committee on Financial Services
6 of the House of Representatives.

7 (b) QUALIFICATION OF MEMBERS.—

8 (1) IN GENERAL.—Members of the Commission
9 shall be appointed under subsection (a) from among
10 persons who—

11 (A) have expertise in insurance, reinsur-
12 ance, insurance regulation, policyholder con-
13 cerns, emergency management, risk manage-
14 ment, public finance, financial markets, actu-
15 arial analysis, flood mapping and planning,
16 structural engineering, building standards, land
17 use planning, natural catastrophes, meteor-
18 ology, seismology, environmental issues, or
19 other pertinent qualifications or experience; and

20 (B) are not officers or employees of the
21 United States Government or of any State gov-
22 ernment.

23 (2) DIVERSITY.—In making appointments to
24 the Commission—

1 (A) every effort shall be made to ensure
2 that the members are representative of a broad
3 cross section of perspectives within the United
4 States; and

5 (B) each member of Congress described in
6 subsection (a) shall appoint not more than 1
7 person from any single primary area of exper-
8 tise described in paragraph (1)(A) of this sub-
9 section.

10 (c) PERIOD OF APPOINTMENT.—

11 (1) IN GENERAL.—Each member of the Com-
12 mission shall be appointed for the duration of the
13 Commission.

14 (2) VACANCIES.—A vacancy on the Commission
15 shall not affect its powers, but shall be filled in the
16 same manner as the original appointment.

17 (d) QUORUM.—

18 (1) MAJORITY.—A majority of the members of
19 the Commission shall constitute a quorum, but a
20 lesser number, as determined by the Commission,
21 may hold hearings.

22 (2) APPROVAL ACTIONS.—All recommendations
23 and reports of the Commission required by this Act
24 shall be approved only by a two-thirds vote of all of
25 the members of the Commission.

1 (e) CHAIRPERSON.—The Commission shall, by ma-
2 jority vote of all of the members, select 1 member to serve
3 as the Chairperson of the Commission (in this Act referred
4 to as the “Chairperson”).

5 (f) MEETINGS.—The Commission shall meet at the
6 call of its Chairperson or a majority of the members.

7 **SEC. 5. DUTIES OF THE COMMISSION.**

8 The Commission shall examine and report to the Con-
9 gress on the natural catastrophe insurance marketplace,
10 including the extent to which insurance costs and avail-
11 ability are affected by the factors described in section 2,
12 which factors the Federal Government can and should ad-
13 dress to increase catastrophe insurance availability and
14 competitiveness, and which actions the Federal Govern-
15 ment can undertake to achieve this goal without requiring
16 a long-term cross-subsidy from the taxpayers. In devel-
17 oping its report, the Commission shall consider—

18 (1) the current condition of, as well as the out-
19 look for, the availability and affordability of insur-
20 ance and reinsurance for natural catastrophes in all
21 regions of the United States;

22 (2) the current ability of States, communities,
23 and individuals to mitigate their natural catastrophe
24 risks, including the affordability and feasibility of
25 such activities;

1 (3) the impact of Federal and State laws, regu-
2 lations, and policies (including rate regulation, mar-
3 ket access requirements, reinsurance regulations, ac-
4 counting and tax policies, State residual markets,
5 and State catastrophe funds) on—

6 (A) the affordability and availability of ca-
7 tastrophe insurance;

8 (B) the ability of the private insurance
9 market to cover losses inflicted by natural ca-
10 tastrophes;

11 (C) the commercial and residential develop-
12 ment of high-risk areas; and

13 (D) the costs of natural catastrophes to
14 Federal and State taxpayers;

15 (4) the benefits and costs of—

16 (A) a national, regional, or other pooling
17 mechanism designed to provide adequate insur-
18 ance coverage and increased underwriting ca-
19 pacity to insurers and reinsurers, including pri-
20 vate-public partnerships to increase insurance
21 capacity in constrained markets, including pro-
22 posed Federal natural catastrophe insurance
23 programs (specifically addressing the costs to
24 taxpayers, tax equity considerations, and the
25 record of other government insurance programs,

1 particularly with regard to charging actuarially
2 sound prices);

3 (B) improving Federal and State tax policy
4 to allow insurers or individuals to set aside ca-
5 tastrophe reserves;

6 (C) directing existing Federal agencies to
7 begin selling catastrophe insurance to individ-
8 uals;

9 (D) creating a consortium of Federal and
10 State officials to facilitate state catastrophe
11 bonds and reinsurance purchasing as well as
12 providing temporary Federal disaster loans to
13 the States for insurance purposes;

14 (E) expanding the Liability Risk Retention
15 Act of 1986 to allow businesses to pool together
16 to buy insurance and set up their own insur-
17 ance funds;

18 (F) providing temporary Federal assist-
19 ance to low-income individual homeowners
20 whose catastrophe insurance rates have in-
21 creased beyond a certain level after a major dis-
22 aster, with the possibility that the assistance
23 would be repaid upon sale of the underlying
24 home;

1 (G) providing for limited Federal develop-
2 ment and oversight of the sale of catastrophe
3 insurance in high-risk areas during periods of
4 relative unavailability; and

5 (H) facilitating further growth of the ca-
6 tastrophe bond marketplace and other competi-
7 tive alternatives to the traditional insurance
8 and reinsurance marketplace;

9 (5) the present and long-term financial condi-
10 tion of State residual markets and catastrophe funds
11 in high-risk regions, including the likelihood of insol-
12 vency following a natural catastrophe, the concentra-
13 tion of risks within such funds, the reliance on post-
14 event assessments and State funding, the adequacy
15 of rates, and the degree to which such entities have
16 been actuarially solvent in comparison to comparably
17 sized private insurers;

18 (6) the need for strengthened land use regula-
19 tions and building codes in States at high risk for
20 natural catastrophes, and methods to strengthen the
21 risk assessment and enforcement of structural miti-
22 gation and vulnerability reduction measures, such as
23 zoning and building code compliance;

24 (7) the ability of the private insurance market
25 in the United States—

1 (A) to cover insured losses caused by nat-
2 ural catastrophes, including an estimate of the
3 maximum amount of insured losses that could
4 be sustained during a single year and the prob-
5 ability of natural catastrophes occurring in a
6 single year that would inflict more insured
7 losses than the United States insurance and re-
8 insurance markets could sustain; and

9 (B) to recover after covering substantial
10 insured losses caused by natural catastrophes;

11 (8) the impact that demographic trends could
12 have on the amount of insured losses inflicted by fu-
13 ture natural catastrophes;

14 (9) the appropriate role, if any, for the Federal
15 Government in stabilizing the property and casualty
16 insurance and reinsurance markets; and

17 (10) the role of the Federal, State, and local
18 governments in providing incentives for feasible risk
19 mitigation efforts.

20 **SEC. 6. TIMING.**

21 Before the beginning of the 2008 hurricane season,
22 which for purposes of this section shall be considered to
23 be June 1, 2008, the Commission shall submit to the Com-
24 mittee on Financial Services of the House of Representa-

1 tives and the Committee on Banking, Housing, and Urban
2 Affairs of the Senate a final report containing—

3 (1) a detailed statement of the findings and as-
4 assessments conducted by the Commission pursuant to
5 section 5; and

6 (2) specific and detailed recommendations for
7 legislative, regulatory, administrative, or other ac-
8 tions at the Federal, State, or local levels that the
9 Commission considers appropriate, in accordance
10 with the requirements of section 5.

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

12 (a) MEETINGS; HEARINGS.—The Commission may
13 hold such hearings, sit and act at such times and places,
14 take such testimony, and receive such evidence as the
15 Commission considers necessary to carry out the purposes
16 of this Act. Members may attend meetings of the Commis-
17 sion and vote in person, via telephone conference, or via
18 video conference.

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

23 (c) OBTAINING OFFICIAL DATA.—

24 (1) AUTHORITY.—Notwithstanding any provi-
25 sion of section 552a of title 5, United States Code,

1 the Commission may secure directly from any de-
2 partment or agency of the United States any infor-
3 mation necessary to enable the Commission to carry
4 out this Act.

5 (2) PROCEDURE.—Upon request of the Chair-
6 person, the head of such department or agency shall
7 furnish to the Commission the information re-
8 quested.

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

13 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
14 the request of the Commission, the Administrator of Gen-
15 eral Services shall provide to the Commission, on a reim-
16 bursable basis, any administrative support services nec-
17 essary for the Commission to carry out its responsibilities
18 under this Act.

19 (f) ACCEPTANCE OF GIFTS.—The Commission may
20 accept, hold, administer, and utilize gifts, donations, and
21 bequests of property, both real and personal, for the pur-
22 poses of aiding or facilitating the work of the Commission.
23 The Commission shall issue internal guidelines governing
24 the receipt of donations of services or property.

1 (g) VOLUNTEER SERVICES.—Notwithstanding the
2 provisions of section 1342 of title 31, United States Code,
3 the Commission may accept and utilize the services of vol-
4 unteers serving without compensation. The Commission
5 may reimburse such volunteers for local travel and office
6 supplies, and for other travel expenses, including per diem
7 in lieu of subsistence, as authorized by section 5703 of
8 title 5, United States Code.

9 (h) FEDERAL PROPERTY AND ADMINISTRATIVE
10 SERVICES ACT OF 1949.—Subject to the Federal Property
11 and Administrative Services Act of 1949, the Commission
12 may enter into contracts with Federal and State agencies,
13 private firms, institutions, and individuals for the conduct
14 of activities necessary to the discharge of its duties and
15 responsibilities.

16 (i) LIMITATION ON CONTRACTS.—A contract or other
17 legal agreement entered into by the Commission may not
18 extend beyond the date of the termination of the Commis-
19 sion.

20 **SEC. 8. COMMISSION PERSONNEL MATTERS.**

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

1 regular places of business in the performance of services
2 for the Commission.

3 (b) SUBCOMMITTEES.—The Commission may estab-
4 lish subcommittees and appoint members of the Commis-
5 sion to such subcommittees as the Commission considers
6 appropriate.

7 (c) STAFF.—Subject to such policies as the Commis-
8 sion may prescribe, the Chairperson may appoint and fix
9 the pay of such additional personnel as the Chairperson
10 considers appropriate to carry out the duties of the Com-
11 mission. The Commission shall confirm the appointment
12 of the executive director by majority vote of all of the
13 members of the Commission.

14 (d) APPLICABILITY OF CERTAIN CIVIL SERVICE
15 LAWS.—Staff of the Commission may be—

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

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

1 (e) EXPERTS AND CONSULTANTS.—In carrying out
2 its objectives, the Commission may procure temporary and
3 intermittent services of consultants and experts under sec-
4 tion 3109(b) of title 5, United States Code, at rates for
5 individuals which do not exceed the daily equivalent of the
6 annual rate of basic pay prescribed for GS-15 of the Gen-
7 eral Schedule under section 5332 of that title.

8 (f) DETAIL OF GOVERNMENT EMPLOYEES.—Upon
9 request of the Chairperson, any Federal Government em-
10 ployee may be detailed to the Commission to assist in car-
11 rying out the duties of the Commission—

12 (1) on a reimbursable basis; and

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

15 **SEC. 9. TERMINATION.**

16 The Commission shall terminate 90 days after the
17 date on which the Commission submits its report under
18 section 6.

19 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to the Com-
21 mission, such sums as may be necessary to carry out this
22 Act, to remain available until expended.

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