

DISASTER ASSISTANCE SUPPORT FOR COMMUNITIES AND
HOMEOWNERS ACT OF 2017

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JUNE 26, 2017.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 1684]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1684) to direct the Administrator of the Federal Emergency Management Agency to provide technical assistance to common interest communities regarding eligibility for disaster assistance, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Disaster Assistance Support for Communities and Homeowners Act of 2017”.

SEC. 2. TECHNICAL ASSISTANCE AND RECOMMENDATIONS.

(a) **TECHNICAL ASSISTANCE.**—The Administrator of the Federal Emergency Management Agency shall provide technical assistance to a common interest community that provides essential services of a governmental nature on actions that a common interest community may take in order to be eligible to receive reimbursement from a grantee that receives funds from the Agency for certain activities performed after an event that results in a disaster declaration.

(b) **RECOMMENDATIONS.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a legislative proposal on how to provide eligibility for disaster assistance with respect to common areas of condominiums and housing cooperatives.

PURPOSE OF LEGISLATION

H.R. 1684, as amended, directs the Administrator of the Federal Emergency Management Agency (FEMA) to provide technical assistance to common interest communities regarding eligibility for disaster assistance, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION*Federal Emergency Management Agency: History*

FEMA was established in 1979 by Executive Order 12148 by President Jimmy Carter in response to a number of massive disasters in the 1960’s and 1970’s. As a result of states trying to manage these disasters, the National Governors Association and others made a proposal to streamline and cut the number of agencies states were required to work with following a disaster. Prior to the creation of FEMA, the federal government’s emergency response mechanisms were scattered among many agencies throughout government. The creation of FEMA helped to centralize these authorities and the coordination of the federal government’s response to a disaster. The *Disaster Relief Act of 1974* (P.L. 93–288), which constituted the statutory authority for most federal disaster response activities, especially of FEMA, was later amended by the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act) (P.L. 100–707).

Following more than two decades as an independent agency, the *Homeland Security Act of 2002* (P.L. 107–296) created the Department of Homeland Security (DHS), placed FEMA within DHS, and FEMA’s functions were dispersed among various offices and directorates within DHS. In 2006, following Hurricanes Katrina and Rita and the intensive Congressional investigations and oversight, Congress enacted the *Post-Katrina Emergency Management Reform Act of 2006* (PKEMRA) (P.L. 109–295), which addresses key response roles and authorities and put FEMA back together again within DHS. PKEMRA authorized the National Preparedness System and FEMA for the first time in legislation. Most recently, Congress enacted the *Sandy Recovery Improvement Act* (SRIA) (P.L. 113–2), on January 29, 2013, in the wake of Hurricane Sandy’s impact to the East Coast. SRIA provided additional authorities to expedite and streamline Hurricane Sandy recovery efforts, reduce costs, and improve the effectiveness of several disaster assistance programs authorized by the Stafford Act.

The declaration process

All emergency and major disaster declarations are made solely at the discretion of the President of the United States. Section 401¹ of the Stafford Act states in part that: “All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected state.”. When the President declares a major disaster or emergency, the official declaration triggers certain federal response authorities and financial disaster assistance. In particular, when a declaration is made, FEMA provides direct support and financial assistance to states and local governments and individuals as authorized under the Stafford Act.

Types of disaster assistance

Once a disaster declaration is made, FEMA, as authorized under the Stafford Act, can provide two types of assistance: Individual Assistance and Public Assistance.

Individual Assistance is provided to individuals and families who have sustained losses due to disasters. These grants help pay for temporary housing; emergency home repairs; uninsured and underinsured personal property losses; and medical, dental, and funeral expenses caused by the disaster, along with other serious disaster-related expenses.

Public Assistance is available to fund the repair, restoration, reconstruction, or replacement of a public facility or infrastructure damaged or destroyed by a disaster. Although these funds are awarded to government entities and nonprofits, the Public Assistance program is intended to benefit everyone—neighborhoods, cities, counties, states, and tribes. Public Assistance dollars help clean up communities affected by disaster-related debris, repair the roads and bridges people use every day getting to work and school, put utilities and water systems back in order, repair hospitals and emergency services, rebuild schools and universities, and restore playground equipment in public parks.

Technical assistance and recommendations

H.R. 1684 addresses long-standing eligibility issues for FEMA assistance, specifically for common interest communities. Common interest communities are individually-owned housing units with shared common areas, such as housing cooperatives, condominium associations, and community associations. Shared common areas can include stairwells, elevators, entrances, as well as roads and waterways.

Many common interest communities, such as community associations, provide essential services of a governmental nature, such as trash collection and maintaining roads and waterways. After a disaster declaration is made, however, common interest communities may be denied FEMA disaster assistance for performing these essential services. Often, these common interest communities may have been eligible for FEMA assistance if they had entered into agreements with their local governments before the disaster occurred. Unfortunately, many common interest communities are not aware of this requirement. H.R. 1684, as amended, directs FEMA to provide technical assistance to common interest communities on

¹ 42 U.S.C. § 5170.

actions that may be taken in advance to be eligible to receive reimbursement from FEMA for certain actions taken after a disaster declaration is made.

After Hurricane Sandy struck the New York City metropolitan area, an ambiguity was exposed in FEMA's disaster assistance programs. Specifically, shared common areas are often owned by the condominium or cooperative association yet are essential to the use of the individual housing units. Because the Stafford Act does not include a definition of condominiums or cooperative associations, this ambiguity has led to significant confusion about their eligibility for assistance and made it nearly impossible for residents of condominiums and housing cooperatives to make the common areas of their buildings habitable after a disaster.

Language was included in House Report 114–215, which accompanies the *Fiscal Year 2016 DHS Appropriations Act* (P.L. 114–113), directing FEMA to update its May 2014 report regarding the program implications surrounding Stafford Act changes that would authorize FEMA to provide federal assistance directly to housing cooperatives and condominium associations. In their May 24, 2016, response, FEMA failed to provide Congress with the options for statutory changes to the Stafford Act that would be required to make housing cooperatives, condominium associations, and community associations eligible for disaster assistance. H.R. 1684, as amended, directs FEMA to provide the necessary statutory changes to make housing cooperatives and condominium associations eligible for disaster assistance. FEMA's response should also discuss necessary administrative or regulatory changes and guidance or internal recommendations the agency would have to make to address the gap.

HEARINGS

The Subcommittee on Economic Development, Public Buildings, and Emergency Management, held the following hearings and roundtable discussions on subjects related to matters contained in H.R. 1684, as amended, during the 114th and 115th Congress:

“Rebuilding after the Storm: Lessening Impacts and Speeding Recovery” held on January 27, 2015. The purpose of the hearing was to launch an assessment of the rising costs of disasters, the cost effectiveness of disaster assistance, strategies to reduce disaster losses, and the appropriate roles of government and the private sector, and to consider reforms to save lives through improved alerts and warning systems and search and rescue.

“What is Driving the Increasing Costs and Rising Losses from Disasters?” held on March 18, 2015. The purpose of the roundtable was to examine and discuss data related to disaster costs, the trends observed over time, and the projections for the future given the policies in place today.

“The State of Pennsylvania and FEMA Region III are Leaders in Mitigating Disaster Costs and Losses” held on May 28, 2015. The purpose of the roundtable was to examine disaster costs and losses, focus on hazards impacting Pennsylvania and the region, and identify best practices for mitigating and avoiding disaster impacts.

“Federal Disaster Assistance: Roles, Programs and Coordination” held on June 17, 2015. The purpose of the roundtable was to examine and discuss federal disaster assistance programs, the require-

ments and effectiveness of those programs, and coordination among various agencies and stakeholders.

“Controlling the Rising Cost of Federal Responses to Disaster” held on May 12, 2016. The purpose of the hearing was to begin exploring potential solutions and the principles that should be driving solutions to lower the overall costs of disasters and to help avoid devastating losses.

“Building a 21st Century Infrastructure for America: Mitigating Damage and Recovering Quickly from Disasters” held on April 27, 2017. The purpose of the hearing was to examine how to protect infrastructure against future disaster damage, how to lower the overall disaster costs, and to identify challenges facing FEMA in responding to, recovering from, and mitigating against disasters, both natural and manmade.

LEGISLATIVE HISTORY AND CONSIDERATION

On March 22, 2017, Congressman Jerrold Nadler (D–NY) introduced H.R. 1684, a bill to direct the Administrator of the Federal Emergency Management Agency to provide technical assistance to common interest communities regarding eligibility for disaster assistance, and for other purposes.

On May 24, 2017, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1684. The Committee adopted one amendment by voice vote—an amendment offered by Congressman Jerrold Nadler (D–NY). The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 1684, as amended, or ordering the measure reported. A motion to order H.R. 1684, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the

Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to ensure that the Administrator of FEMA provides technical assistance to common interest communities regarding eligibility for disaster assistance, and for other purposes.

ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill, as amended, includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 1684, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that enacting H.R. 1684, as amended, does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

FEDERAL MANDATE STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4) was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states

that H.R. 1684, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

Section 1: Short title

Section 1 designates the short title as the “Disaster Assistance Support for Communities and Homeowners Act of 2017”.

Section 2: Technical assistance and recommendations

Section 2 directs the Administrator of FEMA to provide technical assistance to a common interest community that provides essential services of a governmental nature on actions that the common interest community may take in order to be eligible to receive reimbursement from a grantee that receives funds from FEMA for certain activities performed after an event that results in a disaster declaration.

Section 2 also requires the Administrator of FEMA to submit to Congress a legislative proposal on how to provide eligibility for disaster assistance with respect to common areas of condominiums and housing cooperatives.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1684, as amended, makes no changes in existing law.