

112TH CONGRESS
2D SESSION

H. R. 6346

To amend the Fair Labor Standards Act of 1938 to provide a specific limited exemption from the overtime pay requirements of such Act for work related to insurance claims adjustment after a major disaster.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2012

Mr. REHBERG (for himself, Mr. HASTINGS of Florida, and Mr. BONNER) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to provide a specific limited exemption from the overtime pay requirements of such Act for work related to insurance claims adjustment after a major disaster.

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. LIMITED EXEMPTION FOR INSURANCE CLAIMS**

4 **ADJUSTERS.**

5 Section 7 of the Fair Labor Standards Act of 1938
6 (29 U.S.C. 207) is amended by adding at the end the fol-
7 lowing:

1 “(s)(1) The provisions of this section shall not apply
2 for a period of 24 months after the occurrence of a major
3 disaster to any employee employed in insurance claims ad-
4 justing by an employer not engaged, directly or through
5 an affiliate, in underwriting, selling, or marketing prop-
6 erty, casualty, or liability insurance policies or contracts
7 and who is working on insurance claims resulting from
8 or relating to such major disaster—

9 “(A) who receives from such employer an aver-
10 age weekly income of not less than \$591.00 per
11 week for the number of weeks such employee is en-
12 gaged in any of the activities described in subpara-
13 graph (B); and

14 “(B) whose duties include any of the following:

15 “(i) interviewing insured individuals, wit-
16 nesses, or physicians;

17 “(ii) inspecting property damage or review-
18 ing factual information to prepare damage esti-
19 mates;

20 “(iii) evaluating and making recommenda-
21 tions regarding coverage of claims or deter-
22 mining liability or value aspects of claims;

23 “(iv) negotiating settlements; or

24 “(v) making recommendations regarding
25 litigation.

1 “(2) Notwithstanding any provision of section 18, in
2 the event of a major disaster, this Act exclusively shall
3 govern all such employers in lieu of any State law or regu-
4 lation or local law or regulation, with respect to the em-
5 ployees described in paragraph (1).

6 “(3) The exemption in this subsection shall not affect
7 the exemption provided by section 13(a)(1).

8 “(4) For purposes of this subsection—

9 “(A) the term ‘major disaster’ means any nat-
10 ural catastrophe, including any hurricane, tornado,
11 storm, high water, winddriven water, tidal wave, tsu-
12 nami, earthquake, volcanic eruption, landslide, mud-
13 slide, snowstorm, or drought, or, regardless of cause,
14 any fire, flood, or explosion;

15 “(B) the term ‘employee employed in insurance
16 claims adjusting’ means an individual who is em-
17 ployed by an employer that has secured or in a time-
18 ly manner secures applicable licensure for itself and
19 its employees as required to engage in and perform
20 the activities described in clauses (i) through (v) of
21 paragraph (1)(B) relating to a major disaster and
22 that maintains worker compensation insurance cov-
23 erage or protection for its employees and withholds
24 applicable Federal, State, and local income and pay-

1 roll taxes from the wages, salaries and benefits of
2 such employees;

3 “(C) the term ‘affiliate’ means a company that,
4 by reason of ownership or control of 25 percent or
5 more of the outstanding shares of any class of voting
6 securities of one or more companies, directly or indi-
7 rectly, controls, is controlled by, or is under common
8 control with, another company.”.

○