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113TH CONGRESS
1ST SESSION

H. R. 3179

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 disaster or catastrophe claims adjustment after a major disaster.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2013

Mr. HUDSON (for himself, Mr. HASTINGS of Florida, Mr. PAYNE, Mr. MCKEON, Mr. MCINTYRE, Mr. BACHUS, Mr. GARCIA, Ms. WILSON of Florida, Mr. ENYART, Mr. WILSON of South Carolina, Mr. HUNTER, Mr. ROONEY, Ms. WASSERMAN SCHULTZ, Mr. SALMON, Mr. ANDREWS, Mr. BISHOP of New York, Mr. COLE, and Mr. RICHMOND) 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 disaster or catastrophe claims adjustment after a major disaster.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITED EXEMPTION FOR DISASTER OR CATASTROPHE CLAIMS ADJUSTERS.

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

''(s)(1) The provisions of this section shall not apply for a period of 2 years after the occurrence of a major disaster to any employee—

''(A) employed to adjust or evaluate claims resulting from or relating to such major disaster, by an employer not engaged, directly or through an affiliate, in underwriting, selling, or marketing property, casualty, or liability insurance policies or contracts;

''(B) who receives from such employer on average weekly compensation of not less than $591.00 per week or any minimum weekly amount established by the Secretary, whichever is greater, for the number of weeks such employee is engaged in any of the activities described in subparagraph (C); and

''(C) whose duties include any of the following:

''(i) interviewing insured individuals, individuals who suffered injuries or other damages or losses arising from or relating to a disaster, witnesses, or physicians;

“(ii) inspecting property damage or reviewing factual information to prepare damage estimates;

“(iii) evaluating and making recommendations regarding coverage or compensability of claims or determining liability or value aspects of claims;

“(iv) negotiating settlements; or

“(v) making recommendations regarding litigation.

“(2) Notwithstanding any other provision of section 18, in the event of a major disaster, this Act exclusively shall govern all such employers in lieu of any State or other Federal law or regulation or local law or regulation, with respect to the employees described in paragraph (1).

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

“(4) For purposes of this subsection—

“(A) the term ‘major disaster’ means any natural catastrophe, including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought, or, regardless of cause, any other catastrophe, including fire, flood, explosion, land collapse, avalanche, or pollutant or chemical release;

"(B) the term 'employee employed to adjust or evaluate claims resulting from or relating to such major disaster' means an individual who timely secured or secures a license required by applicable law to engage in and perform the activities described in clauses (i) through (v) of paragraph (1)(C) relating to a major disaster, and is employed by an employer that maintains worker compensation insurance coverage or protection for its employees, if required by applicable law, and withholds applicable Federal, State, and local income and payroll taxes from the wages, salaries and any benefits of such employees; and

"(C) the term 'affiliate' means a company that, by reason of ownership or control of twenty-five percent (25%) or more of the outstanding shares of any class of voting securities of one or more companies, directly or indirectly, controls, is controlled by, or is under common control with, another company.".

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