

CJ'S HOME PROTECTION ACT OF 2007

OCTOBER 30, 2007.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial Services, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2787]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2787) to amend the National Manufactured Housing Construction and Safety Standards Act of 1974 to require that weather radios be installed in all manufactured homes manufactured or sold in the United States, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

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 “CJ’s Home Protection Act of 2007”.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) nearly 20,000,000 Americans live in manufactured homes, which often provide a more accessible and affordable way for many families to buy their own homes;

(2) manufactured housing plays a vital role in providing housing for low- and moderate-income families in the United States;

(3) NOAA Weather Radio (NWR) is a nationwide network of radio stations broadcasting continuous weather information directly from a nearby National Weather Service (NWS) office, and broadcasts NWS warnings, watches, forecasts, and other all-hazard information 24 hours a day;

(4) the operators of manufactured housing communities should be encouraged to provide a safe place of shelter for community residents or a plan for the evacuation of community residents to a safe place of shelter within a reasonable distance of the community for use by community residents in times of severe weather, including tornados and high winds, and local municipalities should be encouraged to require approval of these plans;

(5) the operators of manufactured housing communities should be encouraged to provide a written reminder semiannually to all owners of manufactured homes in the manufactured housing community to replace the batteries in their weather radios; and

(6) weather radio manufacturers should include, in the packaging of weather radios, a written reminder to replace the batteries twice each year and written instructions on how to do so.

SEC. 3. FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARD.

Section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) is amended by adding at the end the following new subsection:

“(i) WEATHER RADIOS.—

“(1) CONSTRUCTION AND SAFETY STANDARD.—The Federal manufactured home construction and safety standards established by the Secretary under this section shall require that each manufactured home delivered for sale shall be supplied with a weather radio inside the manufactured home that—

“(A) is capable of broadcasting emergency information relating to local weather conditions;

“(B) is equipped with a tone alarm;

“(C) is equipped with Specific Alert Message Encoding, or SAME technology; and

“(D) complies with Consumer Electronics Association (CEA) Standard 2009–A (or current revision thereof) Performance Specification for Public Alert Receivers.

“(2) LIABILITY PROTECTIONS.—

“(A) No aspect of the function, operation, performance, capabilities, or utilization of the weather radio required under this subsection, or any instructions related thereto, shall be subject to the requirements of section 613 or 615 or any regulations promulgated by the Secretary pursuant to the authority under such sections.

“(B) Manufacturers of manufactured homes, as such term is defined in section 603, shall be immune from common law civil liability for any aspect of the function, operation, performance, capabilities, or utilization of the weather radio receiver mandated by the Federal manufactured home construction and safety standard promulgated in accordance with this subsection, including any instructions related thereto.

“(C) Any reminder, assistance, or instructions provided by the operator of a manufactured housing community concerning the function of a weather radio contained in a manufactured home shall not subject the operator, an owner or employee of the manufactured home community, or the manufac-

turer of the manufactured home to liability for the functionality of that weather radio.”.

SEC. 4. ESTABLISHMENT.

Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the consensus committee established pursuant to section 604(a)(3) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5304(a)(3)) shall develop and submit to the Secretary of Housing and Urban Development a proposed Federal manufactured home construction and safety standard required under section 604(i) of such Act (as added by the amendment made by section 3 of this Act). Notwithstanding section 604(a)(5)(B) of such Act, the Secretary of Housing and Urban Development shall issue a final order promulgating the standard required by such section 604(i) not later than the expiration of the 90-day period beginning upon receipt by the Secretary of the proposed standard developed and submitted by the consensus committee.

SEC. 5. STUDY.

The Secretary of Housing and Urban Development shall conduct a study regarding conditioning the applicability of the requirement under the amendment made by section 3 of this Act (relating to supplying weather radios in manufactured homes) on the geographic location at which a manufactured home is placed, but only to the extent that such requirement applies to new manufactured homes and new site-built homes. In conducting such study and making determinations under the study, the Secretary shall take into consideration severe weather conditions, such as high winds and flooding, and wind zones and other severe weather data available from the National Weather Service. Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Secretary shall complete the study and submit a report regarding the results of the study to the Committee on Financial Services of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate.

PURPOSE AND SUMMARY

H.R. 2787, “CJ’s Home Protection Act of 2007,” requires the Department of Housing and Urban Development (“HUD”) to promulgate a new construction and safety standard requiring the installation of weather radios in manufactured homes.

The bill amends the Manufactured Housing Construction and Safety Standards Act of 1974 to require weather radios be installed in all manufactured homes manufactured or sold in the U.S. The standard, to be established by the Secretary of Housing and Urban Development upon recommendation of the Manufactured Housing Consensus Committee, will require each manufactured home delivered for sale to be supplied with a weather radio. These weather radios must be:

- Capable of broadcasting emergency information relating to local weather conditions;
- Equipped with a tone alarm;
- Equipped with Specific Alert Message Encoding, or SAME technology;
- Comply with Consumer Electronics Association (CEA) Standard 2009–A Performance Specification for Public Alert Receivers.

The bill also includes liability protection for mobile home manufacturers, mobile home community operators, owners and employees. It states that any reminder, assistance, or instructions provided by an operator of a mobile home community concerning the function of a weather radio contained in a manufactured home will not subject the operator, an owner or employee of the mobile home community, or the mobile home manufacturer to liability for the functionality of the weather radio.

During markup of the legislation Chairman Frank offered a manager's amendment, which passed by voice vote. The manager's amendment changed the bill in four ways: (1) the findings in the bill were amended to encourage the operators of manufactured housing communities to provide a safe place of shelter and plan of evacuation for manufactured housing community residents, and encourages semiannual replacement of batteries in the weather radios; (2) liability protections were clarified for manufacturers of manufactured housing regarding the radios; (3) requiring the Manufactured Housing Consensus Committee to develop the rule for requiring the radios pursuant to the National Manufactured Housing Construction and Safety Standards Act within 90 days, and requires the HUD Secretary to issue a final order promulgating the new standard not later than 90 days after receiving the rule from the Consensus Committee; and (4) requiring HUD to conduct a study regarding the conditioning and applicability of the weather radio requirement to certain geographic locations at which manufactured homes are placed.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2787, CJ's Home Protection Act of 2007, represents a consensus forged by the bill's sponsors and the manufactured housing industry to promulgate a new HUD safety standard for the installation of NOAA weather radios in manufactured homes.

On November 6, 2005, Mr. Ellsworth's congressional district was hit by a tornado that destroyed the Eastbrook Mobile Home Park community in Evansville, Indiana. The tornado killed 19 people, including two-year-old CJ Martine for whom this legislation is named, and wounding hundreds of other residents. The storm struck at 2 a.m. and the majority of Eastbrook residents were asleep and unable to respond to the tornado warnings issued in advance by NOAA's National Weather Service. CJ's family and Mr. Ellsworth have worked closely with the manufactured housing industry to develop this legislation to provide early warning systems within homes with the hope of preventing future death and injury from such storms.

HEARINGS

No hearings were held on this legislation in the 110th Congress.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on September 18, 2007, and ordered H.R. 2787, CJ's Home Protection Act of 2007, as amended, reported by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote.

During the consideration of the bill, the following amendment was considered:

An amendment by Mr. Frank, No. 1, a manager's amendment making various technical and substantive changes, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 2787, "CJ's Home Protection Act of 2007," requires HUD to promulgate a new construction and safety standard requiring the installation of weather radios in manufactured homes with the goal of making residents living in such homes safer from injury resulting from destruction of the home caused by violent wind.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 2007.

Hon. BARNEY FRANK,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2787, the CJ's Home Protection Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 2787—CJ's Home Protection Act of 2007

H.R. 2787 would require the Department of Housing and Urban Development (HUD) to issue a new standard requiring that each manufactured home delivered for sale be supplied with a weather radio that meets certain performance specifications and can receive broadcasts of emergency information related to local weather conditions. Under current law, a committee representing both producers and users of manufactured housing makes recommendations to HUD on regulations concerning such homes. H.R. 2787 would require the committee to develop a proposed standard meeting the requirements specified in the bill; HUD would be required to finalize the standard within 90 days of receiving that proposal. The bill also would require HUD to prepare a report to the Congress that examines whether the requirement to provide weather radios in new manufactured homes should be limited to homes located in specific geographic areas.

Under current law, HUD monitors and enforces manufactured home safety standards through a joint federal and state program funded by inspection fees paid by builders of the manufactured homes. Such fees are recorded on the budget as discretionary off-setting collections and may be spent subject to provisions in appropriation acts. Based on information from HUD, CBO estimates that implementing H.R. 2787 would have no significant net effect on spending subject to appropriation in any year. Enacting H.R. 2787 would not affect direct spending or revenues.

The bill's requirement that each manufactured home delivered for sale be equipped with a weather radio would extend an existing preemption of state and local authority that prohibits state and local governments from establishing, or continuing in effect, laws regarding the safety of manufactured homes if those standards are not identical to the federal standards. CBO has identified safety standards for manufactured homes in at least one state that are similar but not identical to the requirements in H.R. 2787. Preempting such state laws is an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). However, because the preemption would simply prohibit the application of state law, CBO estimates that the mandate would impose no significant costs on state, local, or tribal governments and would be well below the threshold established by UMRA (\$66 million in 2007, adjusted annually for inflation).

H.R. 2787 would impose a private-sector mandate, as defined in UMRA, on manufacturers of manufactured housing. The bill would require all manufactured homes delivered for sale to be supplied with weather radios equipped with a tone alarm and specific alert message encoding, and in compliance with the Consumer Electronics Association's performance standards for public alert receivers. Based on information from industry sources, the cost of such radio equipment could amount to \$30 per radio and up to \$50 when

including the overhead costs associated with supplying each radio, such as storage, shipment fees, and taxes. According to information from HUD, approximately 100,000 manufactured homes are expected to be sold in 2008. That number is expected to decrease in subsequent years if the current trend in sales of manufactured homes continues. Consequently, CBO expects that the direct cost of the mandate would fall below the annual threshold established by UMRA for private-sector mandates (\$131 million in 2007, adjusted annually for inflation).

The CBO staff contacts for this estimate are Susan Willie (for federal costs), Lisa Ramirez-Branum (for the state and local impact), and MarDestinee Perez (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

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

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO 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.

EARMARK IDENTIFICATION

H.R. 2787 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1—Short title

CJ's Home Protection Act of 2007.

Section 2—Congressional findings

The Congress finds that—

- (1) Nearly 20,000,000 Americans live in manufactured homes, which often provide a more accessible and affordable way for many families to buy their own homes;

(2) Manufactured housing plays a vital role in providing housing for low- and moderate-income families in the United States;

(3) NOAA Weather Radio (NWR) is a nationwide network of radio stations broadcasting continuous weather information directly from a nearby National Weather Service (NWS) office, and broadcasts NWS warnings, watches, forecasts, and other all hazard information 24 hours a day;

(4) the operators of manufactured housing communities should be encouraged to provide a safe place of shelter for community residents or a plan for the evacuation of community residents to a safe place of shelter within a reasonable distance of the community for use by community residents in times of severe weather, including tornados and high winds, and local municipalities should be encouraged to require approval of these plans;

(5) the operators of manufactured housing communities should be encouraged to provide a written reminder semiannually to all owners of manufactured homes in the manufactured housing community to replace the batteries in their weather radios; and

(6) Weather radio manufacturers should include, in the packaging of weather radios, a written reminder to replace the batteries twice each year and written instructions on how to do so.

Section 3—Federal manufactured home construction and safety standard

This section amends the Manufactured Housing Construction and Safety Standards Act of 1974 by directing the Secretary of the Department of Housing and Urban Development (HUD) to require that each manufactured home delivered for sale be supplied with a weather radio inside the manufactured home. These weather radios shall meet the following standards:

- Capable of broadcasting emergency information relating to local weather conditions;
- Equipped with a tone alarm;
- Equipped with Specific Alert Message Encoding, or SAME technology;
- Comply with Consumer Electronics Association (CEA) Standard 2009-A Performance Specification for Public Alert Receivers.

This section also establishes liability protections for manufacturers of manufactured homes and manufactured housing community operators, owners, and employees. No aspect of the function, operation, performance, capabilities, or utilization of the weather radio shall subject the manufacturer of manufactured homes to common law civil liability. This section also states that any reminder, assistance, or instructions provided by an operator of a manufactured home community concerning the function of a weather radio contained in a manufactured home will not subject the operator, an owner or employee of the manufactured home community to liability for the functionality of the weather radio.

Section 4—Establishment

This section establishes that within 90-days of enactment of this act, the Manufactured Housing Consensus Committee shall develop and submit to the Secretary of HUD a proposed manufactured housing construction and safety standard requiring that each manufactured home delivered for sale shall be supplied with a weather radio inside the manufactured home. The Secretary of HUD must issue the final order promulgating this standard within 90-days upon receipt of the proposed standard from the Manufactured Housing Consensus Committee.

Section 5—Study

This section directs the Secretary of HUD to conduct a study on the applicability of the weather radio requirement to certain geographic locations at which manufactured homes are placed. The Secretary should take into consideration severe weather conditions, such as high winds and flooding, and wind zones and other severe weather data available from the National Weather Service. This study is to be conducted no later than 18-months after the enactment of this act and shall be submitted to the Committee on Financial Services of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

SECTION 604 OF THE NATIONAL MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974

FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

SEC. 604. (a) * * *

* * * * *

(i) WEATHER RADIOS.—

(1) CONSTRUCTION AND SAFETY STANDARD.—The Federal manufactured home construction and safety standards established by the Secretary under this section shall require that each manufactured home delivered for sale shall be supplied with a weather radio inside the manufactured home that—

(A) is capable of broadcasting emergency information relating to local weather conditions;

(B) is equipped with a tone alarm;

(C) is equipped with Specific Alert Message Encoding, or SAME technology; and

(D) complies with Consumer Electronics Association (CEA) Standard 2009-A (or current revision thereof) Performance Specification for Public Alert Receivers.

(2) LIABILITY PROTECTIONS.—

(A) No aspect of the function, operation, performance, capabilities, or utilization of the weather radio required under this subsection, or any instructions related thereto, shall be subject to the requirements of section 613 or 615 or any regulations promulgated by the Secretary pursuant to the authority under such sections.

(B) Manufacturers of manufactured homes, as such term is defined in section 603, shall be immune from common law civil liability for any aspect of the function, operation, performance, capabilities, or utilization of the weather radio receiver mandated by the Federal manufactured home construction and safety standard promulgated in accordance with this subsection, including any instructions related thereto.

(C) Any reminder, assistance, or instructions provided by the operator of a manufactured housing community concerning the function of a weather radio contained in a manufactured home shall not subject the operator, an owner or employee of the manufactured home community, or the manufacturer of the manufactured home to liability for the functionality of that weather radio.

ADDITIONAL VIEWS OF RANKING MEMBER SPENCER
BACHUS

H.R. 2787, “CJ’s Home Protection Act,” is a bipartisan bill which amends the Manufactured Housing Construction and Safety Standards Act of 1974 by requiring the installation of National Oceanic & Atmospheric Administration (NOAA) weather radios in all manufactured homes built or sold in the United States. These weather radios will provide immediate broadcasts of severe weather warnings and civil emergency messages, including tornado and flood warnings, AMBER alerts for child abductions, and chemical spill notifications.

The legislation is named in memory of CJ Martin, a two year old boy who was killed during a tornado in southwest Indiana in 2005. His mother, Kathryn, helped pass a state law requiring the manufactured housing industry to install NOAA weather radios in all newly built units and has been a strong advocate of federal legislation to accomplish the same objective.

Despite rapid advances in tornado warning technologies, residents of manufactured housing communities often do not have adequate access to proper shelter. That is why I introduced H.R. 23, the Tornado Shelters Act, which was signed into law in 2003. That bipartisan legislation authorized communities to use Community Development Block Grant (CDBG) funds to construct or improve tornado-safe shelters located in manufactured housing parks. Unfortunately, this program is not used nearly often enough.

H.R. 2787 represents the final link in protecting families and residents in these communities. Weather radios will get warnings out to those who need to hear them, sometimes as much as a half hour or more before a severe storm arrives. We have the ability to build shelters. Now we are going to give residents an opportunity to hear these warnings earlier so they can take shelter from the storm. The cost of installing these radios is very small. This is going to save lives. It is going to save families.

Every year, approximately 800 tornadoes sweep across the United States, resulting in an average of 80 deaths, more than 1,500 injuries, and millions of dollars in property damage. One of nature’s most powerful and violent storms, large tornadoes often record wind speeds in excess of 250 miles per hour. Natural catastrophes can often strike with little warning, forcing communities to confront a loss of infrastructure, and, unfortunately, a loss of life. In my home state of Alabama in early March, eight people were killed, including students, when a powerful tornado ripped through a high school.

Often in the face of a tornado threat it is said we can do two things—pray and prepare. Pray it won’t happen again and prepare for the next line of twisters. While our citizens can pray, our gov-

ernment and this Committee through the passing of CJ's Home Protection Act can continue to help them prepare.

SPENCER BACHUS.

