Consumer Federation of America

November 26, 2019

The Honorable Maxine Waters
United States House of Representatives
Washington, DC 20510

The Honorable Patrick McHenry
United States House of Representatives
Washington, DC 20510

Re: H.R. 4523, The Nonprofit Property Protection Act (Green) – Support

Dear Chairwoman Waters and Ranking Member McHenry:

Consumer Federation of America (CFA), an association of non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education, supports H.R. 4523, the Nonprofit Property Protection Act, introduced by Representative Green. CFA urges the passage of this legislation, which would address an impending and critical problem facing nonprofits that rely on Risk Retention Groups (RRGs) for their liability insurance by allowing organizations to also obtain their property and auto physical damage policies from the RRGs that have provided liability coverage to this sector of the economy for decades.

For a variety of reasons, many small and mid-sized nonprofit organizations have come to rely on the RRG model for their coverage. One key reason is that during periods of tight insurance markets, commercial carriers simply refused to offer coverage to nonprofits leaving them dangerously exposed. Another important reason that RRGs have been crucial to many nonprofits is that RRGs, in which nonprofits collectively insure each other, can offer insurance coverage tailored to the unique needs of nonprofits because the RRGs solely underwrite this type of entity. These organizations' risk profiles – with elements such as significant use of volunteers, transporting fragile clients, and maintaining publicly accessible facilities, including temporary housing and other services – has meant that the standard commercial market has often been unable or unwilling to craft policies that reflect nonprofits' needs.

Because property insurance has been excluded from the law allowing nonprofits to join RRGs, and because virtually no insurance companies will write standalone policies for this property exposure, many nonprofits cannot get the coverage they need. The fact that the commercial market has failed to address the particular needs of nonprofits is not surprising; a similar failure in the 1980s led to the Liability Risk Retention Act of 1986, which allowed nonprofits to create these groups in the first place. Organizations find themselves similarly situated now and Congress should step in, solve this problem, and allow RRGs, some of which are nonprofit organizations themselves, to fill this gap as they did during the liability gap more than 30 years ago.

If nonprofits cannot access property coverage through their own RRGs, we fear that organizations will be left to obtain less appropriately tailored coverage while the groups they have built up over the past 30 years wither. Then, when another hard market turns the commercial carriers away from nonprofits again, there will be nowhere for these important public-serving organizations to turn.

RRGs have been stable and financially sound underwriters of nonprofits' liability insurance for decades. There is no good reason to stop nonprofits and the RRGs they have founded and joined, from serving the community with a fuller suite of insurance products than is currently allowed. Nevertheless, H.R. 4523 would not freely expand the coverages available from RRGs, instead it would establish standards RRGs must meet to add an additional layer of protection for the nonprofits that would be their customers. Additionally, for those skeptical of the contention that the commercial market is insufficient for nonprofits, H.R. 4523 would only allow the expansion of offerings where it can be demonstrated that the market is not attending to nonprofits' coverage needs. In any state in which the insurance market is meaningfully serving nonprofits, RRGs cannot expand their offerings under this bill. But in those states where nonprofits need property coverage and cannot add it from a private sector carrier, RRGs would be allowed to step into the breach.

For the reasons described above, we urge your support of H.R. 4523 and would be pleased to discuss our views on this matter.

Sincerely,

Douglas Heller
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CC: Members of the House Financial Services Committee