

109TH CONGRESS
1ST SESSION

H. R. 3208

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that the religious status of a private nonprofit facility does not preclude the facility from receiving assistance under the Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2005

Mr. JINDAL (for himself, Mr. WEINER, and Mr. SOUDER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify that the religious status of a private nonprofit facility does not preclude the facility from receiving assistance under the Act.

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. SHORT TITLE.**

4 This Act may be cited as the “Disaster Relief Equity
5 Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Federal Emergency Management Agen-
2 cy (in this section referred to as “FEMA”) provides
3 critical assistance to eligible categories of facilities
4 damaged in natural disasters.

5 (2) FEMA may contribute funds for the repair,
6 restoration, reconstruction, or replacement of a pri-
7 vate nonprofit facility damaged or destroyed by a
8 major disaster.

9 (3) In February 2001, the Seattle Hebrew
10 Academy, a private nonprofit educational facility for
11 Jewish students, suffered damage to its facilities in
12 the Nisqually Earthquake.

13 (4) The Seattle Hebrew Academy applied to
14 FEMA for Federal financial assistance to address
15 the damage.

16 (5) FEMA denied the Academy’s application on
17 the basis that the facility was not “open to the gen-
18 eral public” and therefore was not a “private non-
19 profit facility” as defined by the Robert T. Stafford
20 Disaster Relief and Emergency Assistance Act (42
21 U.S.C. 5121 et seq.).

22 (6) After reviewing its interpretation of the
23 Robert T. Stafford Disaster Relief and Emergency
24 Assistance Act, FEMA concluded that the Act did
25 not require educational facilities to be open to the

1 general public to be eligible for assistance under the
2 Act.

3 (7) The Department of Justice published a
4 legal memorandum on whether the establishment
5 clause of the first amendment of the Constitution
6 would still require a religious nonprofit facility, such
7 as the Seattle Hebrew Academy, to be denied Fed-
8 eral financial assistance to repair or restore disaster
9 stricken facilities due to its religious status.

10 (8) The Department of Justice memorandum
11 properly concluded that FEMA aid is “made avail-
12 able on the basis of neutral criteria to a . . . class
13 of beneficiaries defined without reference to religion
14 and including . . . a host of . . . public and pri-
15 vate institutions . . .” and, therefore, the disburse-
16 ment of FEMA assistance to a religiously owned or
17 operated private non-profit facility would not violate
18 the establishment clause of the first amendment.

19 (9) On May 23, 2003, FEMA published policy
20 number 9521.3, Private Nonprofit Facility (PNP)
21 Eligibility, which clarifies the eligibility of a reli-
22 giously owned or operated private non-profit facility
23 for assistance under the Robert T. Stafford Disaster
24 Relief and Emergency Assistance Act.

1 **SEC. 3. ELIGIBILITY OF PRIVATE NONPROFIT FACILITIES**
2 **FOR DISASTER ASSISTANCE.**

3 (a) DEFINITION.—Section 102(9) of the Robert T.
4 Stafford Disaster Relief and Emergency Assistance Act
5 (42 U.S.C. 5122(9)) is amended to read as follows:

6 “(9) PRIVATE NONPROFIT FACILITY.—

7 “(A) IN GENERAL.—The term ‘private
8 nonprofit facility’ means private nonprofit edu-
9 cational, utility, irrigation, emergency, medical,
10 rehabilitational, and temporary or permanent
11 custodial care facilities (including those for the
12 aged and disabled) and facilities on Indian res-
13 ervations as defined by the President.

14 “(B) ADDITIONAL FACILITIES.—In addi-
15 tion to the facilities described in subparagraph
16 (A), the term ‘private nonprofit facility’ in-
17 cludes any private nonprofit facility that pro-
18 vides essential services of a governmental na-
19 ture to the general public, as defined by the
20 President.”.

21 (b) REPAIR, RESTORATION, AND REPLACEMENT OF
22 DAMAGED FACILITIES.—Section 406(a)(3) of such Act
23 (42 U.S.C. 5172(a)(3)) is amended by adding at the end
24 the following:

25 “(C) NONDISCRIMINATION.—Consistent
26 with section 308(a), the President shall ensure

1 that the distribution of supplies, the processing
2 of applications, and other relief and assistance
3 activities under this section shall be accom-
4 plished in an equitable and impartial manner,
5 without discrimination on the grounds of race,
6 color, religion, nationality, sex, age, or economic
7 status.”.

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