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2D SESSION

H. R. 3827

IN THE SENATE OF THE UNITED STATES

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Read twice and referred to the Committee on the Judiciary

AN ACT

To preserve certain immigration benefits for victims of
Hurricane Katrina, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Immigration Relief for
3 Hurricane Katrina Victims Act of 2005”.

4 **SEC. 2. SPECIAL IMMIGRANT STATUS.**

5 (a) IN GENERAL.—For purposes of the Immigration
6 and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary
7 of Homeland Security may provide an alien described in
8 subsection (b) with the status of a special immigrant
9 under section 101(a)(27) of such Act (8 U.S.C.
10 1101(a)(27)), if the alien—

11 (1) files with the Secretary of Homeland Secu-
12 rity a petition under section 204 of such Act (8
13 U.S.C. 1154) for classification under section
14 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

15 (2) is otherwise eligible to receive an immigrant
16 visa and is otherwise admissible to the United States
17 for permanent residence, except in determining such
18 admissibility, the grounds for inadmissibility speci-
19 fied in section 212(a)(4) of such Act (8 U.S.C.
20 1182(a)(4)) shall not apply.

21 (b) ALIENS DESCRIBED.—

22 (1) PRINCIPAL ALIENS.—An alien is described
23 in this subsection if—

24 (A) the alien was the beneficiary of—

1 (i) a petition that was filed with the
2 Secretary of Homeland Security on or be-
3 fore August 29, 2005—

4 (I) under section 204 of the Im-
5 migration and Nationality Act (8
6 U.S.C. 1154) to classify the alien as
7 a family-sponsored immigrant under
8 section 203(a) of such Act (8 U.S.C.
9 1153(a)) or as an employment-based
10 immigrant under section 203(b) of
11 such Act (8 U.S.C. 1153(b)); or

12 (II) under section 214(d) (8
13 U.S.C. 1184(d)) of such Act to au-
14 thorize the issuance of a non-
15 immigrant visa to the alien under sec-
16 tion 101(a)(15)(K) of such Act (8
17 U.S.C. 1101(a)(15)(K)); or

18 (ii) an application for labor certifi-
19 cation under section 212(a)(5)(A) of such
20 Act (8 U.S.C. 1182(a)(5)(A)) that was
21 filed under regulations of the Secretary of
22 Labor on or before such date; and

23 (B) such petition or application was re-
24 voked or terminated (or otherwise rendered
25 null), either before or after its approval, due to

1 a specified hurricane disaster that had as a con-
2 sequence—

3 (i) the death or disability of the peti-
4 tioner, applicant, or alien beneficiary; or

5 (ii) loss of employment due to physical
6 damage to, or destruction of, the business
7 of the petitioner or applicant.

8 (2) SPOUSES AND CHILDREN.—

9 (A) IN GENERAL.—An alien is described in
10 this subsection if—

11 (i) the alien was, on August 29, 2005,
12 the spouse or child of a principal alien de-
13 scribed in paragraph (1); and

14 (ii) the alien—

15 (I) is accompanying such prin-
16 cipal alien; or

17 (II) is following to join such prin-
18 cipal alien not later than August 29,
19 2007.

20 (B) CONSTRUCTION.—For purposes of
21 construing the terms “accompanying” and “fol-
22 lowing to join” in subparagraph (A)(ii), any
23 death of a principal alien that is described in
24 paragraph (1)(B)(i) shall be disregarded.

1 (3) GRANDPARENTS OF ORPHANS.—An alien is
2 described in this subsection if the alien is a grand-
3 parent of a child, both of whose parents died as a
4 consequence of a specified hurricane disaster, if ei-
5 ther of such deceased parents was, on August 29,
6 2005 a citizen or national of the United States or
7 an alien lawfully admitted for permanent residence
8 in the United States.

9 (c) PRIORITY DATE.—Immigrant visas made avail-
10 able under this section shall be issued to aliens in the
11 order in which a petition on behalf of each such alien is
12 filed with the Secretary of Homeland Security under sub-
13 section (a)(1), except that if an alien was assigned a pri-
14 ority date with respect to a petition described in sub-
15 section (b)(1)(A)(i), the alien may maintain that priority
16 date.

17 (d) NUMERICAL LIMITATIONS.—For purposes of the
18 application of sections 201 through 203 of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1151–1153) in any fis-
20 cal year, aliens eligible to be provided status under this
21 section shall be treated as special immigrants described
22 in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27))
23 who are not described in subparagraph (A), (B), (C), or
24 (K) of such section.

1 **SEC. 3. EXTENSION OF FILING OR REENTRY DEADLINES.**

2 (a) AUTOMATIC EXTENSION OF NONIMMIGRANT STA-
3 TUS.—

4 (1) IN GENERAL.—Notwithstanding section 214
5 of the Immigration and Nationality Act (8 U.S.C.
6 1184), in the case of an alien described in paragraph
7 (2) who was lawfully present in the United States as
8 a nonimmigrant on August 29, 2005, the alien may
9 remain lawfully in the United States in the same
10 nonimmigrant status until the later of—

11 (A) the date such lawful nonimmigrant
12 status otherwise would have terminated if this
13 subsection had not been enacted; or

14 (B) 1 year after the death or onset of dis-
15 ability described in paragraph (2).

16 (2) ALIENS DESCRIBED.—

17 (A) PRINCIPAL ALIENS.—An alien is de-
18 scribed in this paragraph if the alien was dis-
19 abled as a consequence of a specified hurricane
20 disaster.

21 (B) SPOUSES AND CHILDREN.—An alien is
22 described in this paragraph if the alien was, on
23 August 29, 2005, the spouse or child of—

24 (i) a principal alien described in sub-
25 paragraph (A); or

1 (ii) an alien who died as a con-
2 sequence of a specified hurricane disaster.

3 (3) AUTHORIZED EMPLOYMENT.—During the
4 period in which a principal alien or alien spouse is
5 in lawful nonimmigrant status under paragraph (1),
6 the alien shall be provided an “employment author-
7 ized” endorsement or other appropriate document
8 signifying authorization of employment not later
9 than 30 days after the alien requests such authoriza-
10 tion.

11 (b) NEW DEADLINES FOR EXTENSION OR CHANGE
12 OF NONIMMIGRANT STATUS.—

13 (1) FILING DELAYS.—In the case of an alien
14 who was lawfully present in the United States as a
15 nonimmigrant on August 29, 2005, if the alien was
16 prevented from filing a timely application for an ex-
17 tension or change of nonimmigrant status due to a
18 circumstance described in paragraph (3)(A) that is
19 a consequence of a specified hurricane disaster, the
20 alien’s application shall be considered timely filed if
21 it is filed not later than 180 days after it otherwise
22 would have been due.

23 (2) DEPARTURE DELAYS.—In the case of an
24 alien who was lawfully present in the United States
25 as a nonimmigrant on August 29, 2005, if the alien

1 was prevented from timely departing the United
2 States due to a circumstance described in paragraph
3 (3)(B) that is a consequence of a specified hurricane
4 disaster, the alien shall not be considered to have
5 been unlawfully present in the United States during
6 the period beginning on August 30, 2005, and end-
7 ing on the date of the alien's departure, if such de-
8 parture occurs on or before December 31, 2005.

9 (3) CIRCUMSTANCES PREVENTING TIMELY AC-
10 TION.—

11 (A) FILING DELAYS.—For purposes of
12 paragraph (1), circumstances preventing an
13 alien from filing a timely application are—

14 (i) injury;

15 (ii) office closures;

16 (iii) mail or courier service cessations
17 or delays; and

18 (iv) other closures, cessations, or
19 delays affecting case processing or travel
20 necessary to satisfy legal requirements.

21 (B) DEPARTURE DELAYS.—For purposes
22 of paragraph (2), circumstances preventing an
23 alien from timely departing the United States
24 are—

25 (i) injury;

- 1 (ii) office closures;
- 2 (iii) airline flight cessations or delays;
- 3 and
- 4 (iv) other closures, cessations, or
- 5 delays affecting case processing or travel
- 6 necessary to satisfy legal requirements.

7 (c) DIVERSITY IMMIGRANTS.—

8 (1) WAIVER OF FISCAL YEAR LIMITATION.—

9 Notwithstanding section 203(e)(2) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1153(e)(2)), an
11 immigrant visa number issued to an alien under sec-
12 tion 203(c) of such Act for fiscal year 2005 may be
13 used by the alien during the period beginning on Oc-
14 tober 1, 2005, and ending on April 1, 2006, if the
15 alien establishes that the alien was prevented from
16 using it during fiscal year 2005 due to a cir-
17 cumstance described in paragraph (4) that is a con-
18 sequence of a specified hurricane disaster.

19 (2) WORLDWIDE LEVEL.—In the case of an
20 alien entering the United States as a lawful perma-
21 nent resident, or adjusting to that status, under
22 paragraph (1) or (3), the alien shall be counted as
23 a diversity immigrant for fiscal year 2005 for pur-
24 poses of section 201(e) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1151(e)), unless the world-

1 wide level under such section for such year has been
2 exceeded, in which case the alien shall be counted as
3 a diversity immigrant for fiscal year 2006.

4 (3) TREATMENT OF FAMILY MEMBERS OF CER-
5 TAIN ALIENS.—In the case of a principal alien
6 issued an immigrant visa number under section
7 203(c) of the Immigration and Nationality Act (8
8 U.S.C. 1153(c)) for fiscal year 2005, if such prin-
9 cipal alien died as a consequence of a specified hur-
10 ricane disaster, the aliens who were, on August 29,
11 2005, the spouse and children of such principal alien
12 shall, until June 30, 2006, if not otherwise entitled
13 to an immigrant status and the immediate issuance
14 of a visa under subsection (a), (b), or (c) of section
15 203 of such Act, be entitled to the same status, and
16 the same order of consideration, that would have
17 been provided to such alien spouse or child under
18 section 203(d) of such Act as if the principal alien
19 were not deceased and as if the spouse or child's
20 visa application had been adjudicated by September
21 30, 2005.

22 (4) CIRCUMSTANCES PREVENTING TIMELY AC-
23 TION.—For purposes of paragraph (1), cir-
24 cumstances preventing an alien from using an immi-
25 grant visa number during fiscal year 2005 are—

1 (A) office closures;

2 (B) mail or courier service cessations or
3 delays;

4 (C) airline flight cessations or delays; and

5 (D) other closures, cessations, or delays af-
6 fecting case processing or travel necessary to
7 satisfy legal requirements.

8 (d) EXTENSION OF EXPIRATION OF IMMIGRANT
9 VISAS.—

10 (1) IN GENERAL.—Notwithstanding the limita-
11 tions under section 221(c) of the Immigration and
12 Nationality Act (8 U.S.C. 1201(c)), in the case of
13 any immigrant visa issued to an alien that expires
14 or expired before February 26, 2006 if the alien was
15 unable to effect entry into the United States due to
16 a circumstance described in paragraph (2) that is a
17 consequence of a specified hurricane disaster, then
18 the period of validity of the visa is extended until
19 February 26, 2006, unless a longer period of validity
20 is otherwise provided under this Act.

21 (2) CIRCUMSTANCES PREVENTING ENTRY.—For
22 purposes of paragraph (1), circumstances preventing
23 an alien from effecting entry into the United States
24 are—

1 (A) destruction of, or damage rendering
2 uninhabitable, the intended residence of the
3 alien;

4 (B) a legal prohibition on inhabiting or ac-
5 cessing the intended residence of the alien;

6 (C) office closures;

7 (D) airline flight cessations or delays; and

8 (E) other closures, cessations, or delays af-
9 fecting case processing or travel necessary to
10 satisfy legal requirements.

11 (e) GRANTS OF PAROLE EXTENDED.—

12 (1) IN GENERAL.—In the case of any parole
13 granted by the Secretary of Homeland Security
14 under section 212(d)(5) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1182(d)(5)) that expires on
16 a date on or after August 26, 2005, if the alien ben-
17 eficiary of the parole was unable to return to the
18 United States prior to the expiration date due to a
19 circumstance described in paragraph (2) that is a
20 consequence of a specified hurricane disaster, the
21 parole is deemed extended for an additional 90 days.

22 (2) CIRCUMSTANCES PREVENTING RETURN.—
23 For purposes of paragraph (1), circumstances pre-
24 venting an alien from timely returning to the United
25 States are—

1 (A) office closures;

2 (B) airline flight cessations or delays; and

3 (C) other closures, cessations, or delays af-
4 fecting case processing or travel necessary to
5 satisfy legal requirements.

6 (f) VOLUNTARY DEPARTURE.—Notwithstanding sec-
7 tion 240B of the Immigration and Nationality Act (8
8 U.S.C. 1229c), if a period for voluntary departure of an
9 alien under such section expired during the period begin-
10 ning on August 26, 2005, and ending on October 26,
11 2005, and the alien was unable voluntarily to depart as
12 a consequence of a specified hurricane disaster, such vol-
13 untary departure period is deemed extended for an addi-
14 tional 60 days.

15 **SEC. 4. HUMANITARIAN RELIEF FOR CERTAIN SURVIVING**
16 **SPOUSES AND CHILDREN.**

17 (a) TREATMENT AS IMMEDIATE RELATIVES.—

18 (1) SPOUSES.—Notwithstanding the second
19 sentence of section 201(b)(2)(A)(i) of the Immigra-
20 tion and Nationality Act (8 U.S.C.
21 1151(b)(2)(A)(i)), in the case of an alien who was
22 the spouse of a citizen of the United States at the
23 time of the citizen's death and was not legally sepa-
24 rated from the citizen at the time of the citizen's
25 death, if the citizen died as a consequence of a speci-

1 fied hurricane disaster, the alien (and each child of
2 the alien) shall be considered, for purposes of section
3 201(b) of such Act, to be an immediate relative after
4 the date of the citizen's death, but only if the alien
5 files a petition under section 204(a)(1)(A)(ii) of such
6 Act within 2 years after such date and only until the
7 date the alien remarries. For purposes of such sec-
8 tion 204(a)(1)(A)(ii), an alien granted relief under
9 the preceding sentence shall be considered an alien
10 spouse described in the second sentence of section
11 201(b)(2)(A)(i) of such Act.

12 (2) CHILDREN.—

13 (A) IN GENERAL.—In the case of an alien
14 who was the child of a citizen of the United
15 States at the time of the citizen's death, if the
16 citizen died as a consequence of a specified hur-
17 ricane disaster, the alien shall be considered,
18 for purposes of section 201(b) of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1151(b)), to
20 remain an immediate relative after the date of
21 the citizen's death (regardless of changes in age
22 or marital status thereafter), but only if the
23 alien (or a parent or guardian of the alien) files
24 a petition under subparagraph (B) within 2
25 years after such date.

1 (B) PETITIONS.—An alien (or parent or
2 guardian) described in subparagraph (A) may
3 file a petition with the Secretary of Homeland
4 Security for classification of the alien under
5 section 201(b)(2)(A)(i) of the Immigration and
6 Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)).
7 For purposes of such Act, such a petition shall
8 be considered a petition filed under section
9 204(a)(1)(A) of such Act (8 U.S.C.
10 1154(a)(1)(A)).

11 (3) UNCONDITIONAL STATUS.—An alien who
12 obtains the status of an alien lawfully admitted for
13 permanent residence pursuant to this subsection
14 shall not be considered to have obtained such status
15 on a conditional basis, and shall not be subject to
16 section 216 of the Immigration and Nationality Act
17 (8 U.S.C. 1186a).

18 (b) SPOUSES, CHILDREN, UNMARRIED SONS AND
19 DAUGHTERS OF LAWFUL PERMANENT RESIDENT
20 ALIENS.—

21 (1) IN GENERAL.—Any spouse, child, or unmar-
22 ried son or daughter of an alien described in para-
23 graph (3) who is included in a petition for classifica-
24 tion as a family-sponsored immigrant under section
25 203(a)(2) of the Immigration and Nationality Act (8

1 U.S.C. 1153(a)(2)) that was filed by such alien be-
2 fore August 29, 2005, shall be considered (if the
3 spouse, child, son, or daughter has not been admit-
4 ted or approved for lawful permanent residence by
5 such date) a valid petitioner for preference status
6 under such section with the same priority date as
7 that assigned prior to the death described in para-
8 graph (3)(A). No new petition shall be required to
9 be filed. Such spouse, child, son, or daughter may be
10 eligible for deferred action and work authorization.

11 (2) SELF-PETITIONS.—Any spouse, child, or
12 unmarried son or daughter of an alien described in
13 paragraph (3) who is not a beneficiary of a petition
14 for classification as a family-sponsored immigrant
15 under section 203(a)(2) of the Immigration and Na-
16 tionality Act may file a petition for such classifica-
17 tion with the Secretary of Homeland Security, if the
18 spouse, child, son, or daughter was present in the
19 United States on August 29, 2005. Such spouse,
20 child, son, or daughter may be eligible for deferred
21 action and work authorization.

22 (3) ALIENS DESCRIBED.—An alien is described
23 in this paragraph if the alien—

24 (A) died as a consequence of a specified
25 hurricane disaster; and

1 (B) on the day of such death, was lawfully
2 admitted for permanent residence in the United
3 States.

4 (4) UNCONDITIONAL STATUS.—An alien who
5 obtains the status of an alien lawfully admitted for
6 permanent residence pursuant to this subsection
7 shall not be considered to have obtained such status
8 on a conditional basis, and shall not be subject to
9 section 216 of the Immigration and Nationality Act
10 (8 U.S.C. 1186a).

11 (c) APPLICATIONS FOR ADJUSTMENT OF STATUS BY
12 SURVIVING SPOUSES AND CHILDREN OF EMPLOYMENT-
13 BASED IMMIGRANTS.—

14 (1) IN GENERAL.—Any alien who was, on Au-
15 gust 29, 2005, the spouse or child of an alien de-
16 scribed in paragraph (2), and who applied for ad-
17 justment of status prior to the death described in
18 paragraph (2)(A), may have such application adju-
19 dicated as if such death had not occurred.

20 (2) ALIENS DESCRIBED.—An alien is described
21 in this paragraph if the alien—

22 (A) died as a consequence of a specified
23 hurricane disaster; and

24 (B) on the day before such death, was—

1 (i) an alien lawfully admitted for per-
2 manent residence in the United States by
3 reason of having been allotted a visa under
4 section 203(b) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1153(b)); or

6 (ii) an applicant for adjustment of
7 status to that of an alien described in
8 clause (i), and admissible to the United
9 States for permanent residence.

10 (d) APPLICATIONS FOR ASYLUM OR ADMISSION AS
11 REFUGEE BY SURVIVING SPOUSES AND CHILDREN OF
12 ASYLEES AND REFUGEES.—

13 (1) ASYLUM.—

14 (A) IN GENERAL.—Any alien who was, on
15 August 29, 2005, the spouse or child of an indi-
16 vidual described in subparagraph (B), may have
17 the alien's eligibility to be granted asylum de-
18 termined under section 208(b)(3) of the Immi-
19 gration and Nationality Act (8 U.S.C.
20 1158(b)(3)) as if such individual had not died.

21 (B) PRINCIPALS DESCRIBED.—An indi-
22 vidual is described in this subparagraph if the
23 individual—

24 (i) died as a consequence of a speci-
25 fied hurricane disaster; and

1 (ii) before such death, was granted
2 asylum under section 208 of such Act (8
3 U.S.C. 1158).

4 (2) ADMISSION AS A REFUGEE.—

5 (A) IN GENERAL.—Any alien who was, on
6 August 29, 2005, the spouse or child of an indi-
7 vidual described in subparagraph (B), may have
8 the alien's eligibility to be admitted to the
9 United States as a refugee determined under
10 section 207(c)(2) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1157(c)(2)) as if such
12 individual had not died.

13 (B) PRINCIPALS DESCRIBED.—An indi-
14 vidual is described in this subparagraph if the
15 individual—

16 (i) died as a consequence of a speci-
17 fied hurricane disaster; and

18 (ii) before such death, was admitted
19 to the United States as a refugee under
20 section 207 of such Act (8 U.S.C. 1157).

21 (e) WAIVER OF PUBLIC CHARGE GROUNDS.—In de-
22 termining the admissibility of any alien accorded an immi-
23 gration benefit under this section, the grounds for inad-
24 missibility specified in section 212(a)(4) of the Immigra-

tion and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply.

SEC. 5. NATURALIZATION.

(a) IN GENERAL.—With respect to an applicant for naturalization who resided, on August 29, 2005, within a portion of a district of U.S. Citizenship and Immigration Services that was declared by the President to be affected by a specified hurricane disaster, the Secretary of Homeland Security may administer the provisions of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) without regard to any provision of such title otherwise requiring residence to be maintained, or any other action to be taken, in any specific State or district of U.S. Citizenship and Immigration Services.

(b) COURT AUTHORITY TO ADMINISTER OATHS.—Notwithstanding section 310(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1421(b)(1)), with respect to an applicant for naturalization described in subsection (a), an eligible court (as defined in section 310(b)(5) of such Act (8 U.S.C. 1421(b)(5))) may administer the oath of allegiance under section 337(a) of such Act (8 U.S.C. 1448(a)) to the applicant regardless of whether the applicant is permanently residing within the jurisdiction of the court.

1 **SEC. 6. FOREIGN STUDENTS AND EXCHANGE PROGRAM**
2 **PARTICIPANTS.**

3 (a) IN GENERAL.—In the case of an nonimmigrant
4 alien described in subsection (b), the alien's nonimmigrant
5 status shall be considered to have been maintained during
6 the period beginning on August 29, 2005, and ending on
7 February 1, 2006, if, on February 1, 2006, the alien is
8 enrolled in a course of study, or participating in a des-
9 ignated exchange visitor program, sufficient to satisfy the
10 terms and conditions of the alien's nonimmigrant status
11 on August 29, 2005.

12 (b) ALIENS DESCRIBED.—An alien is described in
13 this subsection if the alien—

14 (1) was, on August 29, 2005, lawfully present
15 in the United States in the status of a non-
16 immigrant described in subparagraph (F), (J), or
17 (M) of section 101(a)(15) of the Immigration and
18 Nationality Act (8 U.S. C. 1101(a)(15)); and

19 (2) fails to satisfy a term or condition of such
20 status as a consequence of a specified hurricane dis-
21 aster.

22 **SEC. 7. NOTICES OF CHANGE OF ADDRESS.**

23 (a) IN GENERAL.—In the case of any notice of
24 change of address otherwise required to be submitted to
25 the Secretary of Homeland Security by an alien described
26 in subsection (b)—

1 (1) if the notice relates to a change of address
2 occurring during the period beginning on August 29,
3 2005, and ending on November 15, 2005, the alien
4 shall have until December 1, 2005, to submit such
5 notice; and

6 (2) if the notice relates to a change of address
7 occurring during the period beginning on November
8 16, 2005, and ending on February 16, 2006, the
9 alien shall have until February 28, 2006, to submit
10 such notice.

11 (b) **ALIENS DESCRIBED.**—An alien is described in
12 this subsection if the alien—

13 (1) resided, on August 29, 2005, within a dis-
14 trict of U.S. Citizenship and Immigration Services
15 that was declared by the President to be affected by
16 a specified hurricane disaster; and

17 (2) is required, under section 265 of the Immi-
18 gration and Nationality Act (8 U.S.C. 1305) or any
19 other provision of law, to notify the Secretary of
20 Homeland Security in writing of a change of ad-
21 dress.

22 **SEC. 8. TEMPORARY ADMINISTRATIVE RELIEF.**

23 The Secretary of Homeland Security, for humani-
24 tarian purposes or to ensure family unity, may provide
25 temporary administrative relief to any alien who—

1 (1) was lawfully present in the United States on
2 August 29, 2005;

3 (2) was on such date the spouse, parent, or
4 child of an individual who died or was disabled as
5 a consequence of a specified hurricane disaster; and

6 (3) is not otherwise entitled to relief under any
7 other provision of this Act.

8 **SEC. 9. EMPLOYMENT VERIFICATION DURING EFFECTIVE-**
9 **NESS OF MAJOR DISASTER DECLARATION.**

10 (a) IN GENERAL.—Section 274A(b)(1) of the Immi-
11 gration and Nationality Act (8 U.S.C. 1324a(b)(1)) is
12 amended—

13 (1) in subparagraph (A), by striking “The per-
14 son” and inserting “Subject to subparagraph (F),
15 the person”; and

16 (2) by adding at the end the following:

17 “(F) SPECIAL RULE DURING MAJOR DIS-
18 ASTER DECLARATION.—In a case in which the
19 President has declared a major disaster under
20 the Robert T. Stafford Disaster Relief and
21 Emergency Assistance Act (42 U.S.C. 5121 et
22 seq.), the Secretary of Homeland Security may
23 provide, in the Secretary’s sole and
24 unreviewable discretion and only during the pe-
25 riod in which such declaration is in effect, that

1 a person or other entity hiring, recruiting, or
2 referring an individual for employment in the
3 United States is not required to make the attes-
4 tation or conduct the verification required
5 under subparagraph (A) until, at the latest, 90
6 days after the hiring, recruitment, or referral, if
7 the individual hired, recruited or referred at-
8 tests under penalty of perjury at the time of
9 being hired, recruited, or referred that the indi-
10 vidual does not possess the documents nec-
11 essary to satisfy clause (i) or (ii) of subpara-
12 graph (A) as a result of such disaster.”.

13 (b) CONFORMING AMENDMENT.—Section 274A(b)(2)
14 of the Immigration and Nationality Act (8 U.S.C.
15 1324a(b)(2)) is amended by adding at the end the fol-
16 lowing:

17 “Paragraph (1)(F) shall not be construed to affect
18 the obligation under the preceding sentence.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of the enactment
21 of this Act and shall apply to hiring, recruitment, or refer-
22 ral of an individual for employment in the United States
23 occurring on or after August 29, 2005.

1 **SEC. 10. REPLACEMENT OF DOCUMENTS EVIDENCING**
2 **IDENTITY AND EMPLOYMENT AUTHORIZA-**
3 **TION FOR VICTIMS OF HURRICANE KATRINA.**

4 (a) IMMEDIATE ASSISTANCE.—

5 (1) DOCUMENT REPLACEMENT.—The Secretary
6 of Homeland Security is authorized to provide imme-
7 diate assistance in States in which persons displaced
8 by a specified hurricane disaster are residing for the
9 purpose of replacing for such persons documents
10 that were—

11 (A) previously issued by the Secretary and
12 described in subparagraph (B), (C), or (D) of
13 section 274A(b)(1) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1324a(b)(1)); and

15 (B) lost, stolen, or destroyed due to such
16 disaster.

17 (2) SUBSTITUTE.—Where replacement of a doc-
18 ument described in paragraph (1) is not feasible, the
19 Secretary of Homeland Security may provide to a
20 displaced person described in such paragraph a tem-
21 porary substitute document.

22 (b) PROCEDURES FOR DOCUMENT REPLACEMENT.—
23 The Secretary of Homeland Security shall ensure that,
24 when the Secretary replaces (or provides a temporary sub-
25 stitute for) a document relating to an alien and described
26 in subparagraph (B), (C), or (D) of section 274A(b)(1)

1 of the Immigration and Nationality Act (8 U.S.C.
2 1324a(b)(1)) that was lost, stolen, or destroyed due to a
3 specified hurricane disaster, the Secretary—

4 (1) authenticates information using biometric
5 identifiers contained in records of the Department of
6 Homeland Security; and

7 (2) annotates the records in U.S. Citizenship
8 and Immigration Services information systems in
9 such a way as to indicate that the replacement or
10 substitute document was issued in the absence of an
11 original due to such disaster.

12 (c) WAIVER OF FEES FOR DATABASE ACCESS.—

13 (1) U.S. CITIZENSHIP AND IMMIGRATION SERV-
14 ICES.—The Director of U.S. Citizenship and Immi-
15 gration Services is authorized to waive fees and costs
16 associated with a request, made by a person or agen-
17 cy described in paragraph (2), for use of the
18 Verification Information System database associated
19 with the Systematic Alien Verification for Entitle-
20 ments Program in order to verify immigration status
21 or employment eligibility with respect to a displaced
22 person described in subsection (a)(1).

23 (2) REQUESTING PERSONS.—The persons de-
24 scribed in this paragraph are as follows:

25 (A) Employers.

1 (B) State or local government agencies.

2 (C) The American National Red Cross.

3 (D) Organizations described in section
4 501(c)(3) of the Internal Revenue Code of 1986
5 and exempt from tax under section 501(a) of
6 such Code whose mission is to assist displaced
7 persons described in subsection (a)(1).

8 **SEC. 11. AGE-OUT PROTECTIONS.**

9 In administering Federal immigration laws, the Sec-
10 retary of Homeland Security may grant any application
11 or benefit notwithstanding the applicant or beneficiary (in-
12 cluding a derivative beneficiary of a principal applicant or
13 beneficiary) reaching an age that would render the appli-
14 cant or beneficiary ineligible for the relief or benefit
15 sought, if the failure to meet the age requirement is a con-
16 sequence of a specified hurricane disaster.

17 **SEC. 12. EVIDENCE OF DEATH, DISABILITY, OR LOSS OF EM-**
18 **PLOYMENT.**

19 (a) IN GENERAL.—The Secretary of Homeland Secu-
20 rity shall establish appropriate standards for evidence
21 demonstrating, for purposes of this Act, that any of the
22 following occurred as a consequence of a specified hurri-
23 cane disaster.

24 (1) Death.

25 (2) Disability.

1 (3) Loss of employment due to physical damage
2 to, or destruction of, a business.

3 (b) DEATH CERTIFICATES.—The standards estab-
4 lished under subsection (a) shall authorize the Secretary
5 to make a determination of death in the absence of a death
6 certificate, where appropriate.

7 (c) AFFIDAVIT OF SURVIVING SPOUSE.—For pur-
8 poses of a benefit under section 2, or subsection (b) or
9 (c) of section 4, that is conditioned on the beneficiary hav-
10 ing been the spouse of an individual who died as a con-
11 sequence of a specified hurricane disaster, the standards
12 established under subsection (a) shall authorize the Sec-
13 retary to make a determination of death based on the
14 sworn affidavit of such surviving spouse, in the absence
15 of evidence to the contrary.

16 **SEC. 13. WAIVER OF REGULATIONS.**

17 The Secretary of Homeland Security shall carry out
18 this Act as expeditiously as possible. The Secretary of
19 Homeland Security is not required to promulgate regula-
20 tions prior to implementing this Act.

21 **SEC. 14. DEFINITIONS.**

22 (a) APPLICATION OF IMMIGRATION AND NATION-
23 ALITY ACT PROVISIONS.—Except as otherwise specifically
24 provided in this Act, the definitions used in the Immigra-
25 tion and Nationality Act (excluding the definitions appli-

1 cable exclusively to title III of such Act) shall apply in
2 the administration of this Act.

3 (b) SPECIFIED HURRICANE DISASTER.—For pur-
4 poses of this Act, the term “specified hurricane disaster”
5 means any major disaster resulting from Hurricane
6 Katrina declared by the President under the Robert T.
7 Stafford Disaster and Emergency Assistance Act (42
8 U.S.C. 5121 et seq.).

Passed the House of Representatives September 21,
2005.

Attest:

JEFF TRANDAHL,

Clerk.