

109TH CONGRESS
1ST SESSION

H. R. 3945

IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 2005

Received

OCTOBER 28, 2005

Read twice and referred to the Committee on Banking, Housing, and Urban
Affairs

AN ACT

To facilitate recovery from the effects of Hurricane Katrina by providing greater flexibility for, and temporary waivers of certain requirements and fees imposed on, depository institutions, credit unions, and Federal regulatory agencies, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hurricane Katrina Fi-
5 nancial Services Relief Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) On August 29, 2005, Hurricane Katrina, a
9 category 4 storm with an impact area of 90,000
10 square miles, reached landfall devastating the States
11 of Louisiana, Mississippi and Alabama, causing loss
12 of life and property.

13 (2) Levee breaches in the flood control system
14 for the city of New Orleans as a result of Hurricane
15 Katrina resulted in tragic flooding, causing addi-
16 tional loss of life and property.

17 (3) Due to the substantial damage to both
18 property and infrastructure, more than 1,000,000
19 people were made homeless or brought under finan-
20 cial duress by the effects of Hurricane Katrina.

21 (4) At least 120 insured depository institutions
22 and 96 insured credit unions are located in the areas
23 of Texas, Louisiana, Mississippi and Alabama, de-
24 clared as major disaster areas by the President.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) APPROPRIATE FEDERAL BANKING AGEN-
5 CY.—The term “appropriate Federal banking agen-
6 cy” has the same meaning as in section 3 of the
7 Federal Deposit Insurance Act.

8 (2) INSURED CREDIT UNION.—The term “in-
9 sured credit union” has the same meaning as in sec-
10 tion 101 of the Federal Credit Union Act.

11 (3) INSURED DEPOSITORY INSTITUTION.—The
12 term “insured depository institution” has the same
13 meaning as in section 3 of the Federal Deposit In-
14 surance Act.

15 (4) QUALIFIED DISASTER AREA.—The term
16 “qualified disaster area” means any area within Ala-
17 bama, Louisiana, Florida, or Mississippi in which
18 the President, pursuant to section 401 of the Robert
19 T. Stafford Disaster Relief and Emergency Assist-
20 ance Act, has determined, on or after August 25,
21 2005, that a major disaster exists due to Hurricane
22 Katrina.

23 **SEC. 4. SENSE OF THE CONGRESS ON CASHING OF GOV-**
24 **ERNMENT CHECKS.**

25 It is the sense of the Congress that—

1 (1) it is vital that insured depository institu-
2 tions and insured credit unions continue to provide
3 financial services to consumers displaced or other-
4 wise affected by Hurricane Katrina, which includes
5 the cashing of Federal government assistance and
6 benefit checks;

7 (2) the Secretary of the Treasury and the Fed-
8 eral financial regulators should seek to educate in-
9 sured depository institutions and insured credit
10 unions on the proper application of the guidance
11 issued by the Secretary on cashing of Federal gov-
12 ernment assistance and benefit checks and published
13 in the Federal Register while such guidance is in ef-
14 fect; and

15 (3) the Federal financial regulators should con-
16 tinue to work with the insured depository institu-
17 tions and insured credit unions operating under ex-
18 traordinary circumstances to facilitate the cashing of
19 Federal government assistance and benefit checks.

20 **SEC. 5. WAIVER OF FEDERAL RESERVE BOARD FEES FOR**
21 **CERTAIN SERVICES.**

22 Notwithstanding section 11A of the Federal Reserve
23 Act or any other provision of law, during the effective pe-
24 riod of this section, a Federal reserve bank shall waive
25 or rebate any transaction fee for wire transfer services

1 that otherwise would be imposed on any insured deposi-
2 tory institution or insured credit union that as of August
3 28, 2005, was headquartered in a qualified disaster area.

4 **SEC. 6. FLEXIBILITY IN CAPITAL AND NET WORTH STAND-**
5 **ARDS FOR AFFECTED INSTITUTIONS.**

6 (a) IN GENERAL.—Notwithstanding section 38 of the
7 Federal Deposit Insurance Act, section 216 of the Federal
8 Credit Union Act, or any other provision of Federal law,
9 during the 18-month period beginning on the date of en-
10 actment of this Act, the appropriate Federal banking
11 agency and the National Credit Union Administration may
12 forbear from taking any action required under any such
13 section or provision, on a case-by-case basis, with respect
14 to any undercapitalized insured depository institution or
15 undercapitalized insured credit union that is not signifi-
16 cantly or critically undercapitalized, if such agency or Ad-
17 ministration determines that—

18 (1) the insured depository institution or insured
19 credit union derives more than 50 percent of its
20 total deposits from persons who normally reside
21 within, or whose principal place of business is nor-
22 mally within, a qualified disaster area;

23 (2) the insured depository institution or insured
24 credit union was at least adequately capitalized as of
25 August 25, 2005;

1 (3) the reduction in the capital or net worth
2 category of the insured depository institution or in-
3 sured credit union is directly attributable to the im-
4 pact of Hurricane Katrina; and

5 (4) forbearance from any such action—

6 (A) would facilitate the recovery of the in-
7 sured depository institution or insured credit
8 union from the disaster in accordance with a re-
9 covery plan or a capital or net worth restoration
10 plan established by such depository institution
11 or credit union; and

12 (B) would be consistent with safe and
13 sound practices.

14 (b) CAPITAL AND NET WORTH CATEGORIES DE-
15 FINED.—For purposes of this section, the terms relating
16 to capital categories for insured depository institutions
17 have the same meaning as in section 38(b)(1) of the Fed-
18 eral Deposit Insurance Act and the terms relating to net
19 worth categories for insured credit unions have the same
20 meaning as in section 216(c)(1) of the Federal Credit
21 Union Act.

22 **SEC. 7. DEPOSIT OF INSURANCE PROCEEDS.**

23 (a) IN GENERAL.—The appropriate Federal banking
24 agency and the National Credit Union Administration
25 may, by order, permit an insured depository institution or

1 insured credit union, during the 18-month period begin-
2 ning on the date of enactment of this Act, to subtract from
3 such institution's or credit union's total assets in calcu-
4 lating compliance with the leverage limit, applicable under
5 section 38 of the Federal Deposit Insurance Act or section
6 216(c)(2) of the Federal Credit Union Act with respect
7 to such insured depository institution or insured credit
8 union, an amount not exceeding the qualifying amount at-
9 tributable to insurance proceeds, if the agency or Adminis-
10 tration determines that—

11 (1) such institution or credit union—

12 (A) derives more than 50 percent of its
13 total deposits from persons who normally reside
14 within, or whose principal place of business is
15 normally within, a qualified disaster area;

16 (B) was at least adequately capitalized as
17 of August 25, 2005; and

18 (C) has an acceptable plan for managing
19 the increase in its total assets and total depos-
20 its; and

21 (2) the subtraction is consistent with the pur-
22 pose of section 38 of the Federal Deposit Insurance
23 Act, in the case of an insured depository institution,
24 and section 216 of the Federal Credit Union Act, in
25 the case of an insured credit union.

1 (b) DEFINITIONS.—For purposes of this section, the
2 following definitions shall apply:

3 (1) LEVERAGE LIMIT.—The term “leverage
4 limit”—

5 (A) with respect to an insured depository
6 institution, has the same meaning as in section
7 38 of the Federal Deposit Insurance Act; and

8 (B) with respect to an insured credit
9 union, means the net worth ratio that cor-
10 responds to the leverage limit, as established in
11 accordance with section 216(c)(2).

12 (2) QUALIFYING AMOUNT ATTRIBUTABLE TO
13 INSURANCE PROCEEDS.—The term “qualifying
14 amount attributable to insurance proceeds” means
15 the amount (if any) by which the institution’s or
16 credit union’s total assets exceed the institution’s or
17 credit union’s average total assets during the cal-
18 endar quarter ending before the date of the earliest
19 Presidential determination referred to in section
20 3(4), because of the deposit of insurance payments
21 or governmental assistance, including government
22 disaster relief payments, made with respect to dam-
23 age caused by, or other costs resulting from, the
24 major disaster within a qualified disaster area.

1 **SEC. 8. EFFECTIVE PERIOD.**

2 (a) IN GENERAL.—Except as provided in sections
3 4(2), 6(a), and 7(a) and subject to subsection (b), the pro-
4 visions of this Act shall not apply after the end of the
5 180-day period beginning on the date of the enactment
6 of this Act.

7 (b) 30-DAY EXTENSION AUTHORIZED.—With respect
8 to the provisions of section 5, the 180-day period referred
9 to in subsection (a) may be extended for 1 additional 30-
10 day period upon a determination by the Board of Gov-
11 ernors of the Federal Reserve System that such extension
12 is appropriate to achieve the purposes of this Act.

Passed the House of Representatives October 27,
2005.

Attest:

JEFF TRANDAHL,
Clerk.