

Union Calendar No. 153

109TH CONGRESS
1ST SESSION

H. R. 4146

[Report No. 109–282]

To facilitate recovery from the effects of Hurricane Rita and Hurricane Wilma 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.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2005

Mr. BAKER (for himself and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on Financial Services

NOVEMBER 10, 2005

Additional sponsors: Mr. FRANK of Massachusetts, Mr. PAUL, Mr. AL GREEN of Texas, and Mr. HINOJOSA

NOVEMBER 10, 2005

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To facilitate recovery from the effects of Hurricane Rita and Hurricane Wilma 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 “Hurricanes Rita and
5 Wilma Financial Services Relief Act of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act, the following definitions
8 shall apply:

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

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

16 (3) INSURED DEPOSITORY INSTITUTION.—The
17 term “insured depository institution” has the same
18 meaning as in section 3 of the Federal Deposit In-
19 surance Act.

20 (4) QUALIFIED DISASTER AREA.—The term
21 “qualified disaster area” means—

22 (A) any area within Louisiana or Texas in
23 which the President, pursuant to section 401 of
24 the Robert T. Stafford Disaster Relief and
25 Emergency Assistance Act, has determined, on

1 or after September 24, 2005, that a major dis-
2 aster exists due to Hurricane Rita; and

3 (B) any area within Florida in which the
4 President, pursuant to section 401 of the Rob-
5 ert T. Stafford Disaster Relief and Emergency
6 Assistance Act, has determined, on or after Oc-
7 tober 22, 2005, that a major disaster exists due
8 to Hurricane Wilma.

9 **SEC. 3. SENSE OF THE CONGRESS ON CASHING OF GOV-**
10 **ERNMENT CHECKS.**

11 It is the sense of the Congress that—

12 (1) it is vital that insured depository institu-
13 tions and insured credit unions continue to provide
14 financial services to consumers displaced or other-
15 wise affected by Hurricane Rita or Hurricane
16 Wilma, which includes the cashing of Federal gov-
17 ernment assistance and benefit checks;

18 (2) the Secretary of the Treasury and the Fed-
19 eral financial regulators should seek to educate in-
20 sured depository institutions and insured credit
21 unions on the proper application of the guidance
22 issued by the Secretary on cashing of Federal gov-
23 ernment assistance and benefit checks and published
24 in the Federal Register while such guidance is in ef-
25 fect; and

1 (3) the Federal financial regulators should con-
 2 tinue to work with the insured depository institu-
 3 tions and insured credit unions operating under ex-
 4 traordinary circumstances to facilitate the cashing of
 5 Federal government assistance and benefit checks.

6 **SEC. 4. WAIVER OF FEDERAL RESERVE BOARD FEES FOR**
 7 **CERTAIN SERVICES.**

8 Notwithstanding section 11A of the Federal Reserve
 9 Act or any other provision of law, during the effective pe-
 10 riod of this section, a Federal reserve bank shall waive
 11 or rebate any transaction fee for wire transfer services
 12 that otherwise would be imposed on any insured deposi-
 13 tory institution or insured credit union that—

14 (1) as of September 24, 2005, was
 15 headquartered in a qualified disaster area described
 16 in section 2(4)(A); or

17 (2) as of October 22, 2005, was headquartered
 18 in a qualified disaster area described in section
 19 2(4)(B).

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

22 (a) IN GENERAL.—Notwithstanding section 38 of the
 23 Federal Deposit Insurance Act, section 216 of the Federal
 24 Credit Union Act, or any other provision of Federal law,
 25 during the 18-month period beginning on the date of en-

1 actment of this Act, the appropriate Federal banking
2 agency and the National Credit Union Administration may
3 forbear from taking any action required under any such
4 section or provision, on a case-by-case basis, with respect
5 to any undercapitalized insured depository institution or
6 undercapitalized insured credit union that is not signifi-
7 cantly or critically undercapitalized, if such agency or Ad-
8 ministration determines that—

9 (1) the insured depository institution or insured
10 credit union derives more than 50 percent of its
11 total deposits from persons who normally reside
12 within, or whose principal place of business is nor-
13 mally within, a qualified disaster area;

14 (2) the insured depository institution or insured
15 credit union was at least adequately capitalized as
16 of—

17 (A) September 24, 2005, if the qualified
18 disaster area referred to in paragraph (1) with
19 respect to such depository institution or credit
20 union is the qualified disaster area described in
21 section 2(4)(A); or

22 (B) October 22, 2005, if the qualified dis-
23 aster area referred to in paragraph (1) with re-
24 spect to such depository institution or credit

1 union is the qualified disaster area described in
2 section 2(4)(B);

3 (3) the reduction in the capital or net worth
4 category of the insured depository institution or in-
5 sured credit union is directly attributable to the im-
6 pact of Hurricane Rita or Hurricane Wilma, as ap-
7 plicable; and

8 (4) forbearance from any such action—

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

15 (B) would be consistent with safe and
16 sound practices.

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

1 **SEC. 6. DEPOSIT OF INSURANCE PROCEEDS.**

2 (a) IN GENERAL.—The appropriate Federal banking
3 agency and the National Credit Union Administration
4 may, by order, permit an insured depository institution or
5 insured credit union, during the 18-month period begin-
6 ning on the date of enactment of this Act, to subtract from
7 such institution's or credit union's total assets in calcu-
8 lating compliance with the leverage limit, applicable under
9 section 38 of the Federal Deposit Insurance Act or section
10 216(c)(2) of the Federal Credit Union Act with respect
11 to such insured depository institution or insured credit
12 union, an amount not exceeding the qualifying amount at-
13 tributable to insurance proceeds, if the agency or Adminis-
14 tration determines that—

15 (1) such institution or credit union—

16 (A) derives more than 50 percent of its
17 total deposits from persons who normally reside
18 within, or whose principal place of business is
19 normally within, a qualified disaster area;

20 (B) was at least adequately capitalized as
21 of—

22 (i) September 24, 2005, if the quali-
23 fied disaster area referred to in subpara-
24 graph (A) with respect to such depository
25 institution or credit union is the qualified
26 disaster area described in section 2(4)(A);

1 (ii) October 22, 2005, if the qualified
2 disaster area referred to in subparagraph
3 (A) with respect to such depository institu-
4 tion or credit union is the qualified dis-
5 aster area described in section 2(4)(B);
6 and

7 (C) has an acceptable plan for managing
8 the increase in its total assets and total depos-
9 its; and

10 (2) the subtraction is consistent with the pur-
11 pose of section 38 of the Federal Deposit Insurance
12 Act, in the case of an insured depository institution,
13 and section 216 of the Federal Credit Union Act, in
14 the case of an insured credit union.

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

17 (1) LEVERAGE LIMIT.—The term “leverage
18 limit”—

19 (A) with respect to an insured depository
20 institution, has the same meaning as in section
21 38 of the Federal Deposit Insurance Act; and

22 (B) with respect to an insured credit
23 union, means the net worth ratio that cor-
24 responds to the leverage limit, as established in
25 accordance with section 216(c)(2).

1 (2) QUALIFYING AMOUNT ATTRIBUTABLE TO
2 INSURANCE PROCEEDS.—The term “qualifying
3 amount attributable to insurance proceeds” means
4 the amount (if any) by which the institution’s or
5 credit union’s total assets exceed the institution’s or
6 credit union’s average total assets during the cal-
7 endar quarter ending before the date of the earliest
8 Presidential determination referred to in section
9 2(4), because of the deposit of insurance payments
10 or governmental assistance, including government
11 disaster relief payments, made with respect to dam-
12 age caused by, or other costs resulting from, the
13 major disaster within a qualified disaster area.

14 **SEC. 7. EFFECTIVE PERIOD.**

15 (a) IN GENERAL.—Except as provided in sections
16 3(2), 5(a), and 6(a) and subject to subsection (b), the pro-
17 visions of this Act shall not apply after the end of the
18 180-day period beginning on the date of the enactment
19 of this Act.

20 (b) 30-DAY EXTENSION AUTHORIZED.—With respect
21 to the provisions of section 4, the 180-day period referred
22 to in subsection (a) may be extended for 1 additional 30-
23 day period upon a determination by the Board of Gov-
24 ernors of the Federal Reserve System that such extension
25 is appropriate to achieve the purposes of this Act.

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