

Calendar No. 1031

110TH CONGRESS
2D SESSION**H. R. 3247****[Report No. 110-471]**

IN THE SENATE OF THE UNITED STATES

OCTOBER 30, 2007

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

SEPTEMBER 18 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. LIEBERMAN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To improve the provision of disaster assistance for
Hurricanes Katrina and Rita, 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 Katrina~~
5 ~~and Rita Recovery Facilitation Act of 2007~~”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions apply:

1 (1) COVERED HURRICANE DAMAGES.—The
2 term “covered hurricane damages” means damages
3 suffered in the States of Louisiana and Mississippi
4 as a result of Hurricanes Katrina and Rita.

5 (2) PRESIDENT.—The term “President” means
6 the President acting through the Administrator of
7 the Federal Emergency Management Agency.

8 (3) STAFFORD ACT.—The term “Stafford Act”
9 means the Robert T. Stafford Disaster Relief and
10 Emergency Assistance Act (42 U.S.C. 5121 et seq.).

11 **SEC. 3. SPECIAL RULES FOR COVERED HURRICANE DAM-**
12 **AGES.**

13 (a) IN LIEU CONTRIBUTIONS.—In providing con-
14 tributions under section 406(e) of the Stafford Act (42
15 U.S.C. 5172(e)) for covered hurricane damages, the Presi-
16 dent shall substitute 90 percent for the otherwise applica-
17 ble percentage specified in paragraphs (1)(A) and (2)(A)
18 of such section.

19 (b) PARTICIPATION IN PILOT PROJECTS.—The
20 States of Louisiana and Mississippi and local governments
21 in such States shall be eligible to participate in the pilot
22 program established by section 689j of the Department
23 of Homeland Security Appropriations Act, 2007 (6 U.S.C.
24 777) with respect to covered hurricane damages.

1 (c) ALTERNATIVE DISPUTE RESOLUTION PROCE-
2 DURES.—

3 (1) IN GENERAL.—Notwithstanding section 423
4 of the Stafford Act (42 U.S.C. 5189a) or any regula-
5 tion, the President is authorized and encouraged to
6 use alternative dispute resolution procedures for ap-
7 peals of decisions made under sections 403, 406,
8 and 407 of the Stafford Act (42 U.S.C. 5179b,
9 5172, and 5173) regarding the award or denial of
10 assistance, or the amount of assistance, provided to
11 a State, local government, or owner or operator of
12 a private facility for covered hurricane damages.

13 (2) DENIALS OF REQUESTS.—

14 (A) WRITTEN NOTICE.—If a State, local
15 government, or owner or operator of a private
16 facility requests the use of alternative dispute
17 resolution procedures for an appeal pursuant to
18 paragraph (1) and the President denies the re-
19 quest, the President shall provide to the State,
20 local government, or owner or operator written
21 notice of the denial, including the reasons for
22 the denial.

23 (B) QUARTERLY REPORTS.—The President
24 shall submit to the Committee on Transpor-
25 tation and Infrastructure of the House of Rep-

1 representatives and the Committee on Homeland
2 Security and Governmental Affairs of the Sen-
3 ate, on at least a quarterly basis, a report con-
4 taining information on any denial described in
5 subparagraph (A) made by the President dur-
6 ing the period covered by the report, including
7 the reasons for the denial.

8 (3) APPLICABILITY.—Paragraph (1) shall apply
9 to an appeal made by a State, local government, or
10 owner or operator of a private facility within 60
11 days after the date on which the State, local govern-
12 ment, or owner or operator is notified of the decision
13 that is the subject of the appeal.

14 (4) REPORT TO CONGRESS.—Not later than one
15 year after the date of enactment of this Act, the
16 President shall submit to the Committee on Trans-
17 portation and Infrastructure of the House of Rep-
18 resentatives and the Committee on Homeland Secu-
19 rity and Governmental Affairs of the Senate a report
20 containing a description of how alternative dispute
21 resolution procedures are being used pursuant to
22 this subsection and recommendations on whether the
23 President should be given the authority to use such
24 procedures under the Stafford Act on a permanent
25 basis.

1 (d) ESSENTIAL ASSISTANCE.—In providing assist-
2 ance under section 403 of the Stafford Act for covered
3 hurricane damages, the President may provide assistance
4 for the re-interment of human remains at a privately-
5 owned or private nonprofit cemetery.

6 (e) USE OF SIMPLIFIED PROCEDURES.—For covered
7 hurricane damages, the President may use, if requested
8 by a State or local government or the owner or operator
9 of a private nonprofit facility, section 422 of the Stafford
10 Act (42 U.S.C. 5189) for a project for which the Federal
11 estimate of the cost is less than \$100,000.

12 (f) USE OF TEMPORARY HOUSING UNITS TO PRO-
13 VIDE HOUSING TO VOLUNTEERS.—

14 (1) IN GENERAL.—In providing assistance
15 under title IV of the Stafford Act (42 U.S.C. 5170
16 et seq.) for covered hurricane damages, the Presi-
17 dent may provide temporary housing units pur-
18 chased under section 408 of the Stafford Act (42
19 U.S.C. 5174) to State and local governments and
20 appropriate private nonprofit entities for the purpose
21 of providing housing to volunteers assisting in the
22 recovery from such damages.

23 (2) FEASIBILITY DETERMINATION.—The Presi-
24 dent may provide temporary housing units for the
25 purposes described in paragraph (1) only if the

1 President determines that such assistance is appro-
2 priate, cost effective, and would not unduly interfere
3 with the ability of the Federal Emergency Manage-
4 ment Agency to provide housing for individuals and
5 households with respect to other major disasters.

6 (g) CONTRIBUTIONS FOR PUBLIC FACILITIES USED
7 TO HOST PUBLIC EVENTS.—

8 (1) IN GENERAL.—Notwithstanding sections
9 403 and 406 of the Stafford Act (42 U.S.C. 5170b
10 and 5172), the President may make contributions to
11 the State of Louisiana for—

12 (A) costs incurred for the repair or res-
13 toration of a public facility used to host public
14 events if the facility was damaged as a result
15 of use in conducting response activities for Hur-
16 ricane Katrina or Rita;

17 (B) costs incurred because response activi-
18 ties for Hurricane Katrina or Rita precluded
19 the normal use of a public facility used to host
20 public events;

21 (C) costs incurred for necessary materials
22 provided to evacuees of Hurricane Katrina or
23 Rita in a public facility used to host public
24 events; and

1 ~~(D)~~ the reasonable costs of renting or leas-
2 ing a public facility used to host public events
3 that was used for conducting response activities
4 for Hurricane Katrina or Rita.

5 ~~(2) LIMITATIONS.—~~

6 ~~(A) CONTRIBUTIONS FOR REPAIR AND~~
7 ~~RESTORATION COSTS.—~~Contributions made
8 under paragraph ~~(1)(A)~~ shall be limited to re-
9 pair and restoration costs associated with dam-
10 ages described in paragraph ~~(1)(A)~~ that oc-
11 curred—

12 ~~(i)~~ in the case of damages related to
13 Hurricane Katrina, on or before October
14 27, 2005; and

15 ~~(ii)~~ in the case of damages related to
16 Hurricane Rita, on or before November 23,
17 2005.

18 ~~(B) CONTRIBUTIONS FOR COSTS INCURRED~~
19 ~~FOR CANCELLED EVENTS.—~~

20 ~~(i) EVENT REQUIREMENTS.—~~Con-
21 tributions made under paragraph ~~(1)(B)~~
22 shall be limited to costs that are docu-
23 mented for an event—

1 (I) for which there was a binding
2 commitment for use of the facility in
3 effect prior to August 29, 2005; and

4 (H) that was scheduled to be
5 held on or before December 31, 2005,
6 at the facility.

7 (ii) LOST REVENUES.—Contributions
8 under paragraph (1)(B) shall not be made
9 for any lost revenues.

10 (C) CONTRIBUTIONS FOR REASONABLE
11 COSTS OF RENTING OR LEASING.—Contribu-
12 tions made under paragraph (1)(D) shall be
13 limited to the reasonable costs of renting or
14 leasing the facility during the period beginning
15 on August 29, 2005, and ending on January 6,
16 2006.

17 (3) COSTS RECOVERABLE FROM OTHER
18 SOURCES.—Costs that may be recovered by the
19 State of Louisiana from any other program or from
20 insurance or another source shall not be eligible for
21 assistance under this subsection.

22 (4) LIMITATION ON STATUTORY CONSTRU-
23 TION.—Nothing in this section shall be construed to
24 affect eligibility for assistance under section 403 or
25 406 of the Stafford Act (42 U.S.C. 5170b or 5172);

1 except to the extent that such assistance would re-
2 sult in a duplication of benefits.

3 ~~(5) FEDERAL SHARE.—~~The Federal share of
4 assistance under this subsection shall be 100 percent
5 of the eligible costs.

6 ~~(6) FUNDING.—~~Amounts appropriated to carry
7 out sections 403 and 406 of the Stafford Act (42
8 U.S.C. 5170b and 5172) shall be available to carry
9 out this section, including amounts appropriated be-
10 fore the date of enactment of this Act.

11 ~~(h) STATUS REPORT.—~~Not later than 180 days after
12 the date of enactment of this Act, the President shall sub-
13 mit to the Committee on Transportation and Infrastruc-
14 ture of the House of Representatives and the Committee
15 on Homeland Security and Government Affairs of the Sen-
16 ate a report regarding the status of recovery for the States
17 of Louisiana and Mississippi from Hurricanes Katrina and
18 Rita.

19 ~~(i) HAZARD MITIGATION PROJECTS.—~~

20 ~~(1) IN GENERAL.—~~A project for covered hurri-
21 cane damages initiated by the State of Louisiana or
22 Mississippi in the period beginning on August 29,
23 2005, and ending on the date of enactment of this
24 Act may contribute toward the non-Federal share of

1 assistance under section 404 of the Stafford Act (42
2 U.S.C. 5170e) if the project—

3 (A) complies with all applicable Federal
4 laws governing assistance under such section;
5 and

6 (B) otherwise is eligible to contribute to
7 the non-Federal share of assistance under such
8 section;

9 notwithstanding any requirement for approval of the
10 eligibility and compliance of a project by the Presi-
11 dent prior to the initiation of the project contrib-
12 uting toward the non-Federal share.

13 (2) APPLICATIONS.—The States of Louisiana
14 and Mississippi may submit an application to the
15 President under section 404 of the Stafford Act with
16 respect to any project described in paragraph (1).

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Hurricanes Katrina and*
19 *Rita Recovery Facilitation Act of 2008”.*

20 **SEC. 2. DEFINITIONS.**

21 *In this Act:*

22 (1) *COVERED HURRICANE DAMAGES.*—*The term*
23 *“covered hurricane damages” means damages suffered*
24 *in the State of Louisiana or the State of Mississippi*

1 *as a result of Hurricane Katrina of 2005 or Hurri-*
2 *cane Rita of 2005.*

3 (2) *MAJOR DISASTER.*—*The term “major dis-*
4 *aster” has the meaning given that term in section 102*
5 *of the Stafford Act (42 U.S.C. 5122).*

6 (3) *PRESIDENT.*—*The term “President” means*
7 *the President acting through the Administrator of the*
8 *Federal Emergency Management Agency.*

9 (4) *STAFFORD ACT.*—*The term “Stafford Act”*
10 *means the Robert T. Stafford Disaster Relief and*
11 *Emergency Assistance Act (42 U.S.C. 5121 et seq.).*

12 **SEC. 3. SPECIAL RULES FOR COVERED HURRICANE DAM-**
13 **AGES.**

14 (a) *IN LIEU CONTRIBUTIONS.*—*In providing contribu-*
15 *tions under section 406(c) of the Stafford Act (42 U.S.C.*
16 *5172(c)) for covered hurricane damages, the President shall*
17 *substitute 90 percent for the otherwise applicable percentage*
18 *under paragraphs (1)(A) and (2)(A) of such section.*

19 (b) *PARTICIPATION IN PILOT PROGRAM.*—*The pilot*
20 *program established under section 689i of the Department*
21 *of Homeland Security Appropriations Act, 2007 (6 U.S.C.*
22 *776) shall apply to any assistance that—*

23 (1) *is being provided under any major disaster*
24 *declaration relating to Hurricane Katrina of 2005 or*
25 *Hurricane Rita of 2005; and*

1 (2) *otherwise qualifies for participation under*
2 *such pilot program.*

3 (c) *ALTERNATIVE DISPUTE RESOLUTION PROCE-*
4 *DURES.—*

5 (1) *AUTHORIZATION.—*

6 (A) *IN GENERAL.—Notwithstanding section*
7 *423 of the Stafford Act (42 U.S.C. 5189a) or any*
8 *other provision of law, the President is author-*
9 *ized and encouraged to use alternative dispute*
10 *resolution procedures for an appeal described in*
11 *subparagraph (B).*

12 (B) *APPEALS.—An appeal described in this*
13 *subparagraph is an appeal of a decision regard-*
14 *ing the award or denial of assistance, or the*
15 *amount of assistance, provided to a State, local*
16 *government, or owner or operator of a private*
17 *facility for covered hurricane damages under sec-*
18 *tion 403, 406, or 407 of the Stafford Act (42*
19 *U.S.C. 5170b, 5172, and 5173) for a project the*
20 *total amount of which is more than \$500,000.*

21 (2) *DENIALS OF REQUESTS.—*

22 (A) *WRITTEN NOTICE.—If a State, local*
23 *government, or owner or operator of a private*
24 *facility requests the use of alternative dispute*
25 *resolution procedures for an appeal described in*

1 *paragraph (1) and the President denies the re-*
2 *quest, the President shall provide to the State,*
3 *local government, or owner or operator written*
4 *notice of the denial, including the reasons for the*
5 *denial.*

6 *(B) ANNUAL REPORTS.—The President shall*
7 *submit to the Committee on Transportation and*
8 *Infrastructure of the House of Representatives*
9 *and the Committee on Homeland Security and*
10 *Governmental Affairs of the Senate, on at least*
11 *an annual basis, a report containing informa-*
12 *tion on any denial described in subparagraph*
13 *(A) made by the President during the period cov-*
14 *ered by the report, including the reasons for the*
15 *denial.*

16 *(3) APPLICABILITY.—Paragraph (1) shall apply*
17 *to an appeal made by a State, local government, or*
18 *owner or operator of a private facility not later than*
19 *60 days after the date on which the State, local gov-*
20 *ernment, or owner or operator is notified of the deci-*
21 *sion that is the subject of the appeal.*

22 *(4) REPORT TO CONGRESS.—Not later than 1*
23 *year after the date of enactment of this Act, the Presi-*
24 *dent shall submit to the Committee on Transportation*
25 *and Infrastructure of the House of Representatives*

1 *and the Committee on Homeland Security and Gov-*
2 *ernmental Affairs of the Senate a report containing*
3 *a description of how alternative dispute resolution*
4 *procedures are being used under this subsection and*
5 *recommendations on whether the President should be*
6 *given the authority to use such procedures under the*
7 *Stafford Act on a permanent basis.*

8 *(d) USE OF SIMPLIFIED PROCEDURES.—For covered*
9 *hurricane damages, the President may, if requested by a*
10 *State or local government or the owner or operator of a*
11 *private nonprofit facility, use the procedures under section*
12 *422 of the Stafford Act (42 U.S.C. 5189) for a project for*
13 *which the Federal estimate of the cost is less than \$100,000.*

14 *(e) USE OF TEMPORARY HOUSING UNITS TO PROVIDE*
15 *HOUSING TO VOLUNTEERS.—*

16 *(1) IN GENERAL.—In providing assistance under*
17 *title IV of the Stafford Act (42 U.S.C. 5170 et seq.)*
18 *for covered hurricane damages, the President may*
19 *provide temporary housing units that are determined*
20 *to be safe for occupancy through appropriate testing*
21 *and are purchased under section 408 of the Stafford*
22 *Act (42 U.S.C. 5174) to State and local governments*
23 *and appropriate private nonprofit entities for the*
24 *purpose of providing housing to volunteers assisting*
25 *in the recovery from such damages.*

1 (2) *FEASIBILITY DETERMINATION.*—*The Presi-*
2 *dent may provide temporary housing units for the*
3 *purposes described in paragraph (1) only if the Presi-*
4 *dent determines that such assistance is appropriate,*
5 *cost effective, and would not unduly interfere with the*
6 *ability of the Federal Emergency Management Agency*
7 *to provide housing for individuals and households*
8 *with respect to other major disasters.*

9 (f) *STATUS REPORT.*—*Not later than 180 days after*
10 *the date of enactment of this Act, the President shall submit*
11 *to the Committee on Transportation and Infrastructure of*
12 *the House of Representatives and the Committee on Home-*
13 *land Security and Governmental Affairs of the Senate a*
14 *report regarding the status of recovery for the States of Lou-*
15 *isiana and Mississippi from Hurricane Katrina of 2005*
16 *and Hurricane Rita of 2005.*

17 **SEC. 4. PUBLIC ASSISTANCE PROGRAM.**

18 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
19 *sion of law, and not later than 30 days after the date of*
20 *submission of a request for a single payment, the President*
21 *shall provide a single payment for any eligible costs under*
22 *section 406 of the Stafford Act (42 U.S.C. 5172) for any*
23 *type of facility described in subsection (d) of this section*
24 *that was damaged by Hurricane Katrina of 2005 or Hurri-*
25 *cane Rita of 2005.*

1 (b) *ALTERNATE USE.*—

2 (1) *IN GENERAL.*—*Notwithstanding section 3, the*
3 *President shall not reduce the amount of assistance*
4 *provided under section 406(c)(1) of the Stafford Act*
5 *(42 U.S.C. 5172(c)(1)) for a type of facility described*
6 *in subsection (d) of this section that was damaged by*
7 *Hurricane Katrina of 2005 or Hurricane Rita of*
8 *2005.*

9 (2) *RULE OF CONSTRUCTION.*—*Nothing in this*
10 *subsection may be construed to alter the appeals or*
11 *review process relating to assistance provided under*
12 *section 406 of the Stafford Act (42 U.S.C. 5172).*

13 (c) *FLOOD ASSISTANCE.*—*The President shall not re-*
14 *duce the amount of assistance provided to a local govern-*
15 *ment under section 406(d) of the Stafford Act (42 U.S.C.*
16 *5172(d)) more than once for each type of facility described*
17 *in subsection (d) of this section for which that local govern-*
18 *ment is receiving assistance under section 406 of the Staf-*
19 *ford Act relating to Hurricane Katrina of 2005 or Hurri-*
20 *cane Rita of 2005.*

21 (d) *TYPES OF FACILITIES.*—*The types of facilities de-*
22 *scribed in this subsection are a fire station, police station,*
23 *or criminal justice facility.*

1 **SEC. 5. CASE MANAGEMENT.**

2 *The President may provide services or assistance under*
3 *section 426 of the Stafford Act (42 U.S.C. 5189d) for vic-*
4 *tims of any major disaster relating to Hurricane Katrina*
5 *of 2005 or Hurricane Rita of 2005.*

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