

SEC. 4. USE OF PROFESSIONAL JUDGMENT.

At the time of publishing any waivers or modifications pursuant to section 2(b), the Secretary shall publish examples of measures that institutions may take in the appropriate exercise of discretion under section 479A of the Higher Education Act of 1965 (20 U.S.C. 1087tt) to adjust financial need and aid eligibility determinations for affected individuals.

SEC. 5. DEFINITIONS.

In this Act:

(1) **ACTIVE DUTY.**—The term “active duty” has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

(2) **AFFECTED INDIVIDUAL.**—The term “affected individual” means an individual who—

(A) is serving on active duty during the national emergency;

(B) is serving on National Guard duty during the national emergency;

(C) resides or is employed in an area that is declared a disaster area by any Federal, State, or local official in connection with the national emergency; or

(D) suffered direct economic hardship as a direct result of the national emergency, as determined under a waiver or modification issued under this Act.

(3) **FEDERAL STUDENT LOAN.**—The term “Federal student loan” means a loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 20 U.S.C. 1087a et seq., and 20 U.S.C. 1087aa et seq.).

(4) **NATIONAL EMERGENCY.**—The term “national emergency” means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

(5) **SERVING ON ACTIVE DUTY DURING THE NATIONAL EMERGENCY.**—The term “serving on active duty during the national emergency” shall include service by an individual who is—

(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with such emergency or subsequent actions or conditions, regardless of the location at which such active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

(6) **SERVING ON NATIONAL GUARD DUTY DURING THE NATIONAL EMERGENCY.**—The term “serving on National Guard duty during the national emergency” shall include performing training or other duty authorized by section 502(f) of title 32, United States Code, as a member of the National Guard, at the request of the President, for or in support of an operation during the national emergency.

SEC. 6. TERMINATION OF AUTHORITY.

The provisions of this Act shall cease to be effective on September 30, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. MCKEON) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. MCKEON).

GENERAL LEAVE

Mr. MCKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill, S. 1793.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1793, the Higher Education Relief Opportunities for Students Act. This legislation is extremely important and will serve students in a number of ways. First, as my colleagues know, the House overwhelmingly passed H.R. 3086, its version of the bill, on October 23 by a vote of 415 to zero. We showed our commitment to those directly affected by the attacks of September 11, and now our colleagues in the Senate have shown that same commitment.

It is important to ensure that the Secretary of Education has the ability to address the needs of students, their families, institutions of higher education, and loan providers as they relate to the events of September 11.

The legislation before us is almost identical to the bill that this body passed previously, with one exception. This version of the HEROES legislation, as passed by our colleagues in the other body, makes clear that those individuals called to active duty in the National Guard in response to the national emergency called by the President would be included in those individuals eligible to participate in the regulatory relief provided by the Secretary of Education.

As my colleagues know, under the bipartisan HEROES bill, the Education Secretary can grant waivers so that reservists leaving their jobs and families may be relieved from making student loan payments for a time. Victims' families may be relieved from receiving collection calls from lenders, and consecutive requirements for loan forgiveness programs may be considered uninterrupted.

This legislation will provide relief for the men and women of our military who are defending the freedoms of this great Nation. As families send loved ones into harm's way, the Higher Education Relief Opportunities for Students Act will allow the Secretary of Education to reduce some of the effects of that disruption here at home.

This bill is an indication of the Congress's commitment to our military and to our students and families, as well as to those on the front lines who make higher education accessible.

I urge my colleagues to vote “yes” on this bill, renew the commitment they put forward just 2 short months ago, and let us move forward with the goal of assisting those affected by the tragedy of September 11.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased to support the Higher Education Relief Opportunities Student Act of 2001, and I thank the gentleman from California (Mr. MCKEON) for his hard work and the bipartisan spirit which he brought to this important bill.

This act will give the Secretary of Education the authority to adjust the laws governing student aid programs, if necessary, in response to the September 11 attacks. It will allow the Secretary to ensure that members of the armed services and students are not punished financially by the attacks.

We obviously support this legislation. I find it ironic that we are doing this piece of legislation, but we are not going to do the previous legislation under discussion to help these families who have been devastated by these attacks.

Mr. Speaker, I yield back the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MCKEON) that the House suspend the rules and pass the Senate bill, S. 1793.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GEORGE MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AUTHORIZING SPEAKER TO ENTERTAIN MOTION TO SUSPEND THE RULES ON H.R. 2869

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to entertain a motion to suspend the rules relating to H.R. 2869, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GEORGE MILLER of California. Mr. Speaker, reserving the right to object. I would also like to ask unanimous consent to add H.R. 3163 to the Suspension Calendar to provide student loan relief to surviving spouses of victims to the September 11 tragedies. I do not believe anybody would oppose this.

The SPEAKER pro tempore. Under the additional request by the gentleman from California (Mr. GEORGE

MILLER) and under the guidelines consistently issued by successive speaker, as recorded in section 956 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leadership.

Is there objection to the original request of the gentleman from Ohio?

There was no objection.

SMALL BUSINESS LIABILITY PROTECTION ACT

Mr. GILLMOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2869) to provide certain relief for small businesses from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to amend such Act to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Liability Relief and Brownfields Revitalization Act".

TITLE I—SMALL BUSINESS LIABILITY PROTECTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Liability Protection Act".

SEC. 102. SMALL BUSINESS LIABILITY RELIEF.

(a) EXEMPTIONS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following new subsections:

“(o) DE MICROMIS EXEMPTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under this Act if liability is based solely on paragraph (3) or (4) of subsection (a), and the person, except as provided in paragraph (4) of this subsection, can demonstrate that—

“(A) the total amount of the material containing hazardous substances that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at the facility was less than 110 gallons of liquid materials or less than 200 pounds of solid materials (or such greater or lesser amounts as the Administrator may determine by regulation); and

“(B) all or part of the disposal, treatment, or transport concerned occurred before April 1, 2001.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply in a case in which—

“(A) the President determines that—

“(i) the materials containing hazardous substances referred to in paragraph (1) have contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility; or

“(ii) the person has failed to comply with an information request or administrative

subpoena issued by the President under this Act or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility; or

“(B) a person has been convicted of a criminal violation for the conduct to which the exemption would apply, and that conviction has not been vitiated on appeal or otherwise.

“(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2)(A) shall not be subject to judicial review.

“(4) NONGOVERNMENTAL THIRD-PARTY CONTRIBUTION ACTIONS.—In the case of a contribution action, with respect to response costs at a facility on the National Priorities List, brought by a party, other than a Federal, State, or local government, under this Act, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraph (1)(A) and (B) of this subsection are not met.

“(p) MUNICIPAL SOLID WASTE EXEMPTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under paragraph (3) of subsection (a) for municipal solid waste disposed of at a facility if the person, except as provided in paragraph (5) of this subsection, can demonstrate that the person is—

“(A) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated with respect to the facility;

“(B) a business entity (including a parent, subsidiary, or affiliate of the entity) that, during its 3 taxable years preceding the date of transmittal of written notification from the President of its potential liability under this section, employed on average not more than 100 full-time individuals, or the equivalent thereof, and that is a small business concern (within the meaning of the Small Business Act (15 U.S.C. 631 et seq.)) from which was generated all of the municipal solid waste attributable to the entity with respect to the facility; or

“(C) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code that, during its taxable year preceding the date of transmittal of written notification from the President of its potential liability under this section, employed not more than 100 paid individuals at the location from which was generated all of the municipal solid waste attributable to the organization with respect to the facility.

For purposes of this subsection, the term 'affiliate' has the meaning of that term provided in the definition of 'small business concern' in regulations promulgated by the Small Business Administration in accordance with the Small Business Act (15 U.S.C. 631 et seq.).

“(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the President determines that—

“(A) the municipal solid waste referred to in paragraph (1) has contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility;

“(B) the person has failed to comply with an information request or administrative subpoena issued by the President under this Act; or

“(C) the person has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility.

“(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2) shall not be subject to judicial review.

“(4) DEFINITION OF MUNICIPAL SOLID WASTE.—

“(A) IN GENERAL.—For purposes of this subsection, the term 'municipal solid waste' means waste material—

“(i) generated by a household (including a single or multifamily residence); and

“(ii) generated by a commercial, industrial, or institutional entity, to the extent that the waste material—

“(I) is essentially the same as waste normally generated by a household;

“(II) is collected and disposed of with other municipal solid waste collection services; and

“(III) contains a relative quantity of hazardous substances no greater than the relative quantity of hazardous substances contained in waste material generated by a typical single-family household.

“(B) EXAMPLES.—Examples of municipal solid waste under subparagraph (A) include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

“(C) EXCLUSIONS.—The term 'municipal solid waste' does not include—

“(i) combustion ash generated by resource recovery facilities or municipal incinerators; or

“(ii) waste material from manufacturing or processing operations (including pollution control operations) that is not essentially the same as waste normally generated by households.

“(5) BURDEN OF PROOF.—In the case of an action, with respect to response costs at a facility on the National Priorities List, brought under section 107 or 113 by—

“(A) a party, other than a Federal, State, or local government, with respect to municipal solid waste disposed of on or after April 1, 2001; or

“(B) any party with respect to municipal solid waste disposed of before April 1, 2001, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraphs (1) and (4) for exemption for entities and organizations described in paragraph (1)(B) and (C) are not met.

“(6) CERTAIN ACTIONS NOT PERMITTED.—No contribution action may be brought by a party, other than a Federal, State, or local government, under this Act with respect to circumstances described in paragraph (1)(A).

“(7) COSTS AND FEES.—A nongovernmental entity that commences, after the date of the enactment of this subsection, a contribution action under this Act shall be liable to the defendant for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees, if the defendant is not liable for contribution based on an exemption under this subsection or subsection (o).”.

(b) EXPEDITED SETTLEMENT.—Section 122(g) of such Act (42 U.S.C. 9622(g)) is amended by adding at the end the following new paragraphs:

“(7) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

“(A) IN GENERAL.—The condition for settlement under this paragraph is that the potentially responsible party is a person who demonstrates to the President an inability or a limited ability to pay response costs.

“(B) CONSIDERATIONS.—In determining whether or not a demonstration is made under subparagraph (A) by a person, the President shall take into consideration the ability of the person to pay response costs