

PUBLIC LAW 110-179—JAN. 7, 2008

EMERGENCY AND DISASTER ASSISTANCE
FRAUD PENALTY ENHANCEMENT ACT OF
2007

Public Law 110-179
110th Congress

An Act

Jan. 7, 2008

[S. 863]

Emergency and
Disaster
Assistance Fraud
Penalty
Enhancement
Act of 2007.
18 USC 1 note.

To amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

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 “Emergency and Disaster Assistance Fraud Penalty Enhancement Act of 2007”.

SEC. 2. FRAUD IN CONNECTION WITH MAJOR DISASTER OR EMERGENCY BENEFITS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“§ 1040. Fraud in connection with major disaster or emergency benefits

“(a) Whoever, in a circumstance described in subsection (b) of this section, knowingly—

“(1) falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or

“(2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation,

in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191), or in connection with any procurement of property or services related to any emergency or major disaster declaration as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, shall be fined under this title, imprisoned not more than 30 years, or both.

“(b) A circumstance described in this subsection is any instance where—

“(1) the authorization, transportation, transmission, transfer, disbursement, or payment of the benefit is in or affects interstate or foreign commerce;

“(2) the benefit is transported in the mail at any point in the authorization, transportation, transmission, transfer, disbursement, or payment of that benefit; or

“(3) the benefit is a record, voucher, payment, money, or thing of value of the United States, or of any department or agency thereof.

“(c) In this section, the term ‘benefit’ means any record, voucher, payment, money or thing of value, good, service, right, or privilege provided by the United States, a State or local government, or other entity.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

“1040. Fraud in connection with major disaster or emergency benefits.”.

SEC. 3. INCREASED CRIMINAL PENALTIES FOR ENGAGING IN WIRE, RADIO, AND TELEVISION FRAUD DURING AND RELATION TO A PRESIDENTIALLY DECLARED MAJOR DISASTER OR EMERGENCY.

Section 1343 of title 18, United States Code, is amended by inserting: “occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or” after “If the violation”.

SEC. 4. INCREASED CRIMINAL PENALTIES FOR ENGAGING IN MAIL FRAUD DURING AND RELATION TO A PRESIDENTIALLY DECLARED MAJOR DISASTER OR EMERGENCY.

Section 1341 of title 18, United States Code, is amended by inserting: “occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or” after “If the violation”.

SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission forthwith shall—

(1) promulgate sentencing guidelines or amend existing sentencing guidelines to provide for increased penalties for persons convicted of fraud or theft offenses in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191); and

(2) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives an explanation of actions taken by the Commission pursuant to paragraph (1) and any additional policy recommendations the Commission may have for combating offenses described in that paragraph.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in

Guidelines.
28 USC 994 note.

subsection (a) and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) make any necessary conforming changes to the sentencing guidelines; and

(5) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 30 days after the date of enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

Approved January 7, 2008.

LEGISLATIVE HISTORY—S. 863:

SENATE REPORTS: No. 110-69 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 153 (2007):

Dec. 4, considered and passed Senate.

Dec. 19, considered and passed House.

