

109TH CONGRESS  
1ST SESSION

# H. R. 3909

To provide emergency authority for the Federal Deposit Insurance Corporation and the National Credit Union Administration, in accordance with guidance issued by the Board of Governors of the Federal Reserve System, to guarantee checks cashed by insured depository institutions and insured credit unions for the benefit of noncustomers who are victims of certain 2005 hurricanes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2005

Ms. GINNY BROWN-WAITE of Florida (for herself, Ms. HOOLEY, Mr. BACHUS, and Mr. BAKER) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To provide emergency authority for the Federal Deposit Insurance Corporation and the National Credit Union Administration, in accordance with guidance issued by the Board of Governors of the Federal Reserve System, to guarantee checks cashed by insured depository institutions and insured credit unions for the benefit of noncustomers who are victims of certain 2005 hurricanes, 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,*

1 **SECTION 1. SHORT TITLE, PURPOSE.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Hurricane Check Cashing Relief Act of 2005”.

4 (b) PURPOSE.—The purpose of this Act is to reduce  
5 the suffering and financial difficulties of victims of 2005  
6 hurricanes—

7 (1) whose home insured depository institutions  
8 and insured credit unions, or the insured depository  
9 institution or insured credit union on which any  
10 check or share draft payable to any such victim is  
11 drawn, are closed, or whose records are otherwise in-  
12 accessible, due to certain 2005 hurricanes;

13 (2) who lack access to operating automated tell-  
14 er machines for whatever reason as a result of any  
15 such hurricane, including inoperable payment net-  
16 works;

17 (3) who lack some or all of the requisite forms  
18 of identification necessary to cash their own or a  
19 third-party check or share draft; or

20 (4) who are otherwise unable, by reason of any  
21 such hurricane, to access amounts on deposit at an  
22 insured depository institution or insured credit  
23 union.

1 **SEC. 2. EMERGENCY AUTHORITY TO GUARANTEE CHECKS**  
2 **CASHED FOR VICTIMS OF CERTAIN 2005 HUR-**  
3 **RICANES.**

4 (a) FDIC.—

5 (1) IN GENERAL.—Subject to subsection (d),  
6 the Federal Deposit Insurance Corporation shall es-  
7 tablish, in accordance with emergency guidance  
8 issued by the Board of Governors of the Federal Re-  
9 serve System under subsection (d)(1), an emergency  
10 program under which an insured depository institu-  
11 tion may obtain, subject to subsection (d)(2), a com-  
12 mitment from the Corporation to indemnify the in-  
13 sured depository institution for any loss suffered by  
14 the institution through cashing a check or share  
15 draft that—

16 (A) is presented for payment by any indi-  
17 vidual who, as of August 28, 2005, resided in  
18 the State of Florida, Alabama, Mississippi,  
19 Louisiana, or Texas in an area in which the  
20 President, pursuant to section 401 of the Rob-  
21 ert T. Stafford Disaster Relief and Emergency  
22 Assistance Act, determined, on or after August  
23 28, 2005, that a major disaster exists; and

24 (B) is subsequently uncollectible,  
25 in an amount not to exceed \$2,000 for each such  
26 check or share draft.

1           (2) SOURCE OF FUNDS FOR PAYMENTS.—Any  
2       payments required to be made by the Corporation  
3       pursuant to a commitment under paragraph (1) to  
4       an insured depository institution shall be drawn  
5       from funds available for such purposes under sub-  
6       section (c).

7       (b) NCUA.—

8           (1) IN GENERAL.—Subject to subsection (d),  
9       the National Credit Union Administration shall es-  
10      tablish, in accordance with emergency guidance  
11      issued by the Board under subsection (d)(1), an  
12      emergency program under which an insured credit  
13      union may obtain, subject to subsection (d)(2), a  
14      commitment from the Administration to indemnify  
15      the insured credit union for any loss suffered by the  
16      credit union through cashing a share draft or check  
17      that—

18           (A) is presented for payment by any indi-  
19      vidual who, as of August 28, 2005, resided in  
20      the State of Florida, Alabama, Mississippi,  
21      Louisiana, or Texas in an area in which the  
22      President, pursuant to section 401 of the Rob-  
23      ert T. Stafford Disaster Relief and Emergency  
24      Assistance Act, determined, on or after August  
25      28, 2005, that a major disaster exists; and

1 (B) is subsequently uncollectible,  
2 in an amount not to exceed \$2,000 for each such  
3 check or share draft

4 (2) SOURCE OF FUNDS FOR PAYMENTS.—Any  
5 payments required to be made by the National Cred-  
6 it Union Administration pursuant to a commitment  
7 under paragraph (1) to an insured credit union shall  
8 be drawn from funds available for such purposes  
9 under subsection (c).

10 (3) LIMITED EXTENSION OF CHECK CASHING  
11 SERVICES.—Notwithstanding any limitation in sec-  
12 tion 107(12) of the Federal Credit Union Act with  
13 regard to field of membership, an insured credit  
14 union may cash any check presented for payment by  
15 any individual described in paragraph (1)(A).

16 (c) REIMBURSEMENT FROM FEDERAL RESERVE  
17 SURPLUSES.—Section 7(b) of the Federal Reserve Act (12  
18 U.S.C. 289(b)) is amended by adding at the end the fol-  
19 lowing new paragraph:

20 “(4) ADDITIONAL TRANSFERS TO COVER CER-  
21 TAIN RELIEF EFFORTS RESULTING FROM HURRI-  
22 CANE KATRINA.—

23 “(A) IN GENERAL.—Subject to subpara-  
24 graph (C), from the surplus funds of the Fed-  
25 eral reserve banks maintained pursuant to sub-

1 section (a)(2), the Federal reserve banks shall  
2 transfer to the Board of Governors of the Fed-  
3 eral Reserve System for transfer to the Federal  
4 Deposit Insurance Corporation and the Na-  
5 tional Credit Union Administration, such sums  
6 as are necessary to meet any payments required  
7 under subsection (a)(1) or (b)(1) of section 2 of  
8 the Hurricane Check Cashing Relief Act. In the  
9 event that the total amount of requests for in-  
10 demnification received by the Federal Deposit  
11 Insurance Corporation and the National Credit  
12 Union Administration exceed the maximum  
13 amount specified under subparagraph (C), the  
14 sums transferred to the Federal Deposit Insur-  
15 ance Corporation and the National Credit  
16 Union Administration, respectively, shall be in  
17 proportion to the amount of payments required  
18 under subsection (a)(1) and (b)(1) of section 2  
19 of the Hurricane Check Cashing Relief Act of  
20 2005, respectively.

21 “(B) ALLOCATION BY FEDERAL RESERVE  
22 BOARD.—Of the total amount required to be  
23 paid by the Federal reserve banks, the Board of  
24 Governors of the Federal Reserve System shall

1 determine the amount each such bank shall  
2 pay.

3 “(C) MAXIMUM AMOUNT.—The total  
4 amount transferred under subparagraph (A)  
5 from all Federal reserve banks shall not exceed  
6 \$200,000,000.

7 “(D) REPLENISHMENT OF SURPLUS FUND  
8 PROHIBITED.—No Federal reserve bank may  
9 replenish such bank’s surplus fund by the  
10 amount of any transfer by such bank under  
11 subparagraph (A).”.

12 (d) EMERGENCY GUIDANCE AND LIMITATIONS.—

13 (1) IN GENERAL.—The Board, after consulting  
14 the Federal Deposit Insurance Corporation and the  
15 National Credit Union Administration, shall, upon  
16 the enactment of this Act, promptly issue appro-  
17 priate guidance—

18 (A) to carry out the purposes of this sec-  
19 tion and administer the programs established in  
20 accordance with this section;

21 (B) to reduce the incidence of fraud and  
22 any other cause of loss to the greatest extent  
23 possible, consistent with the purpose of this  
24 Act;

1           (C) to require insured depository institu-  
2           tions and insured credit unions to exercise due  
3           diligence in determining the eligibility of any  
4           check presented by any individual for indem-  
5           nification under this section, including such  
6           measures as verification of Social Security num-  
7           bers and other identifying information as the  
8           Board may determine to be practicable;

9           (D) to provide insured depository institu-  
10          tions and insured credit unions with reasonable  
11          guidance, in light of the emergency cir-  
12          cumstances presented by certain 2005 hurri-  
13          canes, so as to meet the requirements for in-  
14          demnification under this section, including the  
15          sharing of information on checks that have been  
16          presented for indemnification; and

17          (E) notwithstanding any Federal or State  
18          law, to provide for the right of the Board of  
19          Governors of the Federal Reserve System, on  
20          behalf of the Federal reserve banks and  
21          through the Federal Deposit Insurance Cor-  
22          poration and the National Credit Union Admin-  
23          istration, to recover from any insured deposi-  
24          tory institution or insured credit union the  
25          amount of any indemnification paid to such de-

1           pository institution or credit union with respect  
2           to any check, to the extent of the amount so  
3           paid, if the insured depository institution or in-  
4           sured credit union collects on the check.

5           (2) COMPLIANCE WITH GUIDANCE CONDI-  
6           TION.—The emergency guidance issued under para-  
7           graph (1) shall require any insured depository insti-  
8           tution or insured credit union seeking a commitment  
9           under subsection (a)(1) or (b)(1) to demonstrate  
10          that the institution or credit union is in compliance  
11          with the guidance in such manner as the Board de-  
12          termines to be appropriate and practicable.

13          (3) PER INDIVIDUAL PER INSTITUTION LIMITA-  
14          TION.—No specific insured depository institution or  
15          insured credit union may be indemnified for losses  
16          in excess of \$2,000 with respect to checks and share  
17          drafts presented by any one individual.

18          (e) DEFINITIONS.—For purposes of this Act, the fol-  
19          lowing definitions shall apply:

20               (1) BOARD.—The term “Board” means the  
21               Board of Governors of the Federal Reserve System.

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

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

5       (f) RULE OF CONSTRUCTION.—No provision of this  
6       section shall be construed as affecting any right or obliga-  
7       tion of an insured depository institution or insured credit  
8       union to take any action against any person in connection  
9       with a fraudulent check, a fraudulent negotiation of a  
10      check, or any other wrongful act.

11      (g) EFFECTIVE DATE.—

12           (1) IN GENERAL.—Subject to paragraph (2),  
13      the provisions of this section shall apply to checks or  
14      share drafts presented to an insured depository in-  
15      stitution or an insured credit union during the pe-  
16      riod beginning on August 28, 2005, and ending Oc-  
17      tober 31, 2005.

18           (2) LIMITED EXTENSION.—The period de-  
19      scribed in paragraph (2) may be extended once for  
20      an additional 60 days if—

21           (A) the Board, after consulting with the  
22           Federal Deposit Insurance Corporation and the  
23           National Credit Union Administration, deter-  
24           mines that the continuing impact of the 2005  
25           hurricane disasters on financial intermediation

1           between consumers and financial institutions,  
2           on payment networks, and on other forms of  
3           communication require an extension of the pro-  
4           grams established under this section in order to  
5           continue to meet the immediate needs of victims  
6           of the disaster; and

7                   (B) notice of such determination is pub-  
8           lished in the Federal Register at least 5 days  
9           before the end of the period described in para-  
10          graph (1).

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