

109TH CONGRESS
1ST SESSION

H. R. 3945

To facilitate recovery from the effects of Hurricane Katrina by providing greater flexibility for, and temporary waivers of certain requirements and fees imposed on, depository institutions and Federal regulatory agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2005

Mr. BAKER (for himself, Mr. JEFFERSON, Mr. BOUSTANY, Mr. McCRERY, Mr. JINDAL, Mr. ALEXANDER, and Mr. MELANCON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To facilitate recovery from the effects of Hurricane Katrina by providing greater flexibility for, and temporary waivers of certain requirements and fees imposed on, depository institutions 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 “Hurricane Katrina Fi-
5 nancial Services Relief Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) On August 29, 2005, Hurricane Katrina, a
2 category 4 storm with an impact area of 90,000
3 square miles, reached landfall devastating the States
4 of Louisiana, Mississippi and Alabama, causing loss
5 of life and property.

6 (2) Levee breaches in the flood control system
7 for the city of New Orleans as a result of Hurricane
8 Katrina resulted in tragic flooding, causing addi-
9 tional loss of life and property.

10 (3) Due to the substantial damage to both
11 property and infrastructure, more than 1,000,000
12 people were made homeless or brought under finan-
13 cial duress by the effects of Hurricane Katrina.

14 (4) At least 120 insured depository institutions
15 and 96 insured credit unions are located in the areas
16 of Louisiana, Mississippi and Alabama, declared as
17 major disaster areas by the President.

18 **SEC. 3. DEFINITIONS.**

19 For purposes of this Act, the following definitions
20 shall apply:

21 (1) **APPROPRIATE FEDERAL BANKING AGEN-**
22 **CY.**—The term “appropriate Federal banking agen-
23 cy” has the same meaning as in section 3 of the
24 Federal Deposit Insurance Act.

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

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

8 (4) QUALIFIED DISASTER AREA.—The term
9 “qualified disaster area” means any area within Ala-
10 bama, Louisiana, or Mississippi in which the Presi-
11 dent, pursuant to section 401 of the Robert T. Staf-
12 ford Disaster Relief and Emergency Assistance Act,
13 has determined, on or after August 28, 2005, that
14 a major disaster exists due to Hurricane Katrina.

15 **SEC. 4. SENSE OF THE CONGRESS ON CASHING OF GOV-**
16 **ERNMENT CHECKS.**

17 It is the sense of the Congress that—

18 (1) it is vital that insured depository institu-
19 tions and insured credit unions continue to provide
20 financial services to consumers displaced or other-
21 wise affected by Hurricane Katrina, which includes
22 the cashing of Federal government assistance and
23 benefit checks;

24 (2) the Secretary of the Treasury and the Fed-
25 eral financial regulators should seek to educate in-

1 sured depository institutions and insured credit
2 unions on the proper application of the guidance
3 issued by the Secretary on cashing of Federal gov-
4 ernment assistance and benefit checks and published
5 in the Federal Register; and

6 (3) the Federal financial regulators should con-
7 tinue to work with the insured depository institu-
8 tions and insured credit unions operating under ex-
9 traordinary circumstances to facilitate the cashing of
10 Federal government assistance and benefit checks.

11 **SEC. 5. WAIVER OF FEDERAL RESERVE BOARD FEES FOR**
12 **CERTAIN SERVICES.**

13 Notwithstanding section 11A of the Federal Reserve
14 Act or any other provision of law, during the effective pe-
15 riod of this Act, a Federal reserve bank shall waive or re-
16 bate any transaction fee for wire transfer services that
17 otherwise would be imposed on any insured depository in-
18 stitution or insured credit union that, as of August 28,
19 2005, was headquartered in a qualified disaster area.

20 **SEC. 6. 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 adequately capitalized as of August
16 28, 2005;

17 (3) the reduction in the capital or net worth
18 category of the insured depository institution or in-
19 sured credit union is a direct result of Hurricane
20 Katrina; and

21 (4) forbearance from any such action—

22 (A) would facilitate the recovery of the in-
23 sured depository institution or insured credit
24 union from the disaster in accordance with a re-
25 covery plan or a capital or net worth restoration

1 plan established by such depository institution
2 or credit union; and

3 (B) would be consistent with safe and
4 sound practices.

5 (b) CAPITAL AND NET WORTH CATEGORIES DE-
6 FINED.—For purposes of this section, the terms relating
7 to capital categories for insured depository institutions
8 have the same meaning as in section 38(b)(1) of the Fed-
9 eral Deposit Insurance Act and the terms relating to net
10 worth categories for insured credit unions have the same
11 meaning as in section 216(c)(1) of the Federal Credit
12 Union Act.

13 **SEC. 7. DEPOSIT OF INSURANCE PROCEEDS.**

14 (a) IN GENERAL.—The appropriate Federal banking
15 agency and the National Credit Union Administration
16 may, by order, permit an insured depository institution or
17 insured credit union, during the 18-month period begin-
18 ning on the date of enactment of this Act, to subtract from
19 such institution's or credit union's total assets, in calcu-
20 lating compliance with the leverage limit applicable, under
21 section 38 of the Federal Deposit Insurance Act or section
22 216(c)(2) of the Federal Credit Union Act, with respect
23 to such insured depository institution or insured credit
24 union, an amount not exceeding the qualifying amount at-

1 tributable to insurance proceeds, if the agency or Adminis-
2 tration determines that—

3 (1) such institution or credit union—

4 (A) derives more than 50 percent of its
5 total deposits from persons who normally reside
6 within, or whose principal place of business is
7 normally within, a qualified disaster area;

8 (B) was adequately capitalized as of Au-
9 gust 28, 2005; and

10 (C) has an acceptable plan for managing
11 the increase in its total assets and total depos-
12 its; and

13 (2) the subtraction is consistent with the pur-
14 pose of section 38 of the Federal Deposit Insurance
15 Act and section 216 of the Federal Credit Union
16 Act.

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

19 (1) LEVERAGE LIMIT.—The term “leverage
20 limit”—

21 (A) with respect to an insured depository
22 institution, has the same meaning as in section
23 38 of the Federal Deposit Insurance Act; and

24 (B) with respect to an insured credit
25 union, means the net worth ratio that cor-

1 responds to the leverage limit, as established in
2 accordance with section 216(c)(2).

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

16 **SEC. 8. EFFECTIVE PERIOD.**

17 (a) IN GENERAL.—Except as provided in sections
18 6(a) and 7(a) and subject to subsection (b), the provisions
19 of this Act shall not apply after the end of the 180-day
20 period beginning on the date of the enactment of this Act.

21 (b) 30-DAY EXTENSION AUTHORIZED.—With respect
22 to the provisions of section 5, the 180-day period referred
23 to in subsection (a) may be extended for 1 additional 30-
24 day period upon a determination by the Board of Gov-

- 1 errors of the Federal Reserve System that such extension
- 2 is appropriate to achieve the purposes of this Act.

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