

109TH CONGRESS
1ST SESSION

H. R. 4146

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

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2005

Mr. BAKER (for himself and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To facilitate recovery from the effects of Hurricane Rita and Hurricane Wilma by providing greater flexibility for, and temporary waivers of certain requirements and fees imposed on, depository institutions, credit unions, 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 “Hurricanes Rita and
5 Wilma Financial Services Relief Act of 2005”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) APPROPRIATE FEDERAL BANKING AGEN-
5 CY.—The term “appropriate Federal banking agen-
6 cy” has the same meaning as in section 3 of the
7 Federal Deposit Insurance Act.

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

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

15 (4) QUALIFIED DISASTER AREA.—The term
16 “qualified disaster area” means—

17 (A) any area within Louisiana or Texas in
18 which the President, pursuant to section 401 of
19 the Robert T. Stafford Disaster Relief and
20 Emergency Assistance Act, has determined, on
21 or after September 24, 2005, that a major dis-
22 aster exists due to Hurricane Rita; and

23 (B) any area within Florida in which the
24 President, pursuant to section 401 of the Rob-
25 ert T. Stafford Disaster Relief and Emergency
26 Assistance Act, has determined, on or after Oc-

1 tober 22, 2005, that a major disaster exists due
2 to Hurricane Wilma.

3 **SEC. 3. SENSE OF THE CONGRESS ON CASHING OF GOV-**
4 **ERNMENT CHECKS.**

5 It is the sense of the Congress that—

6 (1) it is vital that insured depository institu-
7 tions and insured credit unions continue to provide
8 financial services to consumers displaced or other-
9 wise affected by Hurricane Rita or Hurricane
10 Wilma, which includes the cashing of Federal gov-
11 ernment assistance and benefit checks;

12 (2) the Secretary of the Treasury and the Fed-
13 eral financial regulators should seek to educate in-
14 sured depository institutions and insured credit
15 unions on the proper application of the guidance
16 issued by the Secretary on cashing of Federal gov-
17 ernment assistance and benefit checks and published
18 in the Federal Register while such guidance is in ef-
19 fect; and

20 (3) the Federal financial regulators should con-
21 tinue to work with the insured depository institu-
22 tions and insured credit unions operating under ex-
23 traordinary circumstances to facilitate the cashing of
24 Federal government assistance and benefit checks.

1 **SEC. 4. WAIVER OF FEDERAL RESERVE BOARD FEES FOR**
2 **CERTAIN SERVICES.**

3 Notwithstanding section 11A of the Federal Reserve
4 Act or any other provision of law, during the effective pe-
5 riod of this section, a Federal reserve bank shall waive
6 or rebate any transaction fee for wire transfer services
7 that otherwise would be imposed on any insured deposi-
8 tory institution or insured credit union that—

9 (1) as of September 24, 2005, was
10 headquartered in a qualified disaster area described
11 in section 2(4)(A); or

12 (2) as of October 22, 2005, was headquartered
13 in a qualified disaster area described in section
14 2(4)(B).

15 **SEC. 5. FLEXIBILITY IN CAPITAL AND NET WORTH STAND-**
16 **ARDS FOR AFFECTED INSTITUTIONS.**

17 (a) IN GENERAL.—Notwithstanding section 38 of the
18 Federal Deposit Insurance Act, section 216 of the Federal
19 Credit Union Act, or any other provision of Federal law,
20 during the 18-month period beginning on the date of en-
21 actment of this Act, the appropriate Federal banking
22 agency and the National Credit Union Administration may
23 forbear from taking any action required under any such
24 section or provision, on a case-by-case basis, with respect
25 to any undercapitalized insured depository institution or
26 undercapitalized insured credit union that is not signifi-

1 cantly or critically undercapitalized, if such agency or Ad-
2 ministration determines that—

3 (1) the insured depository institution or insured
4 credit union derives more than 50 percent of its
5 total deposits from persons who normally reside
6 within, or whose principal place of business is nor-
7 mally within, a qualified disaster area;

8 (2) the insured depository institution or insured
9 credit union was at least adequately capitalized as
10 of—

11 (A) September 24, 2005, if the qualified
12 disaster area referred to in paragraph (1) with
13 respect to such depository institution or credit
14 union is the qualified disaster area described in
15 section 2(4)(A); or

16 (B) October 22, 2005, if the qualified dis-
17 aster area referred to in paragraph (1) with re-
18 spect to such depository institution or credit
19 union is the qualified disaster area described in
20 section 2(4)(B).

21 (3) the reduction in the capital or net worth
22 category of the insured depository institution or in-
23 sured credit union is directly attributable to the im-
24 pact of Hurricane Rita or Hurricane Wilma, as ap-
25 plicable; and

1 (4) forbearance from any such action—

2 (A) would facilitate the recovery of the in-
3 sured depository institution or insured credit
4 union from the disaster in accordance with a re-
5 covery plan or a capital or net worth restoration
6 plan established by such depository institution
7 or credit union; and

8 (B) would be consistent with safe and
9 sound practices.

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

18 **SEC. 6. DEPOSIT OF INSURANCE PROCEEDS.**

19 (a) IN GENERAL.—The appropriate Federal banking
20 agency and the National Credit Union Administration
21 may, by order, permit an insured depository institution or
22 insured credit union, during the 18-month period begin-
23 ning on the date of enactment of this Act, to subtract from
24 such institution's or credit union's total assets in calcu-
25 lating compliance with the leverage limit, applicable under

1 section 38 of the Federal Deposit Insurance Act or section
2 216(c)(2) of the Federal Credit Union Act with respect
3 to such insured depository institution or insured credit
4 union, an amount not exceeding the qualifying amount at-
5 tributable to insurance proceeds, if the agency or Adminis-
6 tration determines that—

7 (1) such institution or credit union—

8 (A) derives more than 50 percent of its
9 total deposits from persons who normally reside
10 within, or whose principal place of business is
11 normally within, a qualified disaster area;

12 (B) was at least adequately capitalized as
13 of—

14 (i) September 24, 2005, if the quali-
15 fied disaster area referred to in subpara-
16 graph (A) with respect to such depository
17 institution or credit union is the qualified
18 disaster area described in section 2(4)(A);

19 (ii) October 22, 2005, if the qualified
20 disaster area referred to in subparagraph
21 (A) with respect to such depository institu-
22 tion or credit union is the qualified dis-
23 aster area described in section 2(4)(B);
24 and

1 (C) has an acceptable plan for managing
2 the increase in its total assets and total depos-
3 its; and

4 (2) the subtraction is consistent with the pur-
5 pose of section 38 of the Federal Deposit Insurance
6 Act, in the case of an insured depository institution,
7 and section 216 of the Federal Credit Union Act, in
8 the case of an insured credit union.

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

11 (1) LEVERAGE LIMIT.—The term “leverage
12 limit”—

13 (A) with respect to an insured depository
14 institution, has the same meaning as in section
15 38 of the Federal Deposit Insurance Act; and

16 (B) with respect to an insured credit
17 union, means the net worth ratio that cor-
18 responds to the leverage limit, as established in
19 accordance with section 216(c)(2).

20 (2) QUALIFYING AMOUNT ATTRIBUTABLE TO
21 INSURANCE PROCEEDS.—The term “qualifying
22 amount attributable to insurance proceeds” means
23 the amount (if any) by which the institution’s or
24 credit union’s total assets exceed the institution’s or
25 credit union’s average total assets during the cal-

1 endar quarter ending before the date of the earliest
2 Presidential determination referred to in section
3 2(4), because of the deposit of insurance payments
4 or governmental assistance, including government
5 disaster relief payments, made with respect to dam-
6 age caused by, or other costs resulting from, the
7 major disaster within a qualified disaster area.

8 **SEC. 7. EFFECTIVE PERIOD.**

9 (a) **IN GENERAL.**—Except as provided in sections
10 3(2), 5(a), and 6(a) and subject to subsection (b), the pro-
11 visions of this Act shall not apply after the end of the
12 180-day period beginning on the date of the enactment
13 of this Act.

14 (b) **30-DAY EXTENSION AUTHORIZED.**—With respect
15 to the provisions of section 4, the 180-day period referred
16 to in subsection (a) may be extended for 1 additional 30-
17 day period upon a determination by the Board of Gov-
18 ernors of the Federal Reserve System that such extension
19 is appropriate to achieve the purposes of this Act.

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