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{ REPORT
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EMERGENCY LEASE REQUIREMENTS ACT OF 2005

JANUARY 26, 2006.—Ordered to be printed

Mr. INHOFE, from the Committee on Environment and Public Works, submitted the following

REPORT

[to accompany S. 1708]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1708) to modify requirements relating to the authority of the Administrator of General Services to enter into emergency leases during major disasters and other emergencies, having considered the same reports favorably thereon without amendment and recommends that the bill do pass.

GENERAL STATEMENT AND BACKGROUND

On August 29, 2005, Hurricane Katrina, one of the most destructive natural disasters in our nation's history, struck Louisiana, Mississippi, Alabama, and the panhandle of Florida. This hurricane affected a total of 83 properties in the General Services Administration (GSA) inventory providing more than 3.1 million rentable square feet to house approximately 2,600 Federal employees from 28 different agencies (67 leased locations totaling more than 1.3 million rentable square feet and 16 owned locations totaling more than 1.7 million rentable square feet).

Section 3307 of title 40, United States Code, details the process by which the General Services Administration (GSA) is granted authority to construct, alter or acquire any building to be used as a public building or lease space for public purposes. This process involves submission by GSA of a prospectus for the project and resolutions of approval by both the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure. A prospectus is required only for projects exceeding

a set cost, however, although that set cost may be adjusted annually by the Administrator to reflect increases or decreases in construction costs. For leased space, the law sets the limit at an average annual rental in excess of \$1,500,000; the actual prospectus-level cost for leased space in fiscal year 2005 is an average annual rental in excess of \$2,410,000.

Past experience with emergency leasing showed that a 6-month lease term (180 days) for prospectus-level space was unattainable, due to the reluctance of building owners to agree to such short-term leases for office space with GSA because competitors are able to offer longer lease terms. In addition to this challenge posed by the market, circumstances arising from natural disasters or other unforeseen events will likely necessitate locating displaced Federal workers in emergency housing solutions for greater than the currently allowed 180 days.

OBJECTIVES OF THE LEGISLATION

S. 1708 modifies the requirements relating to the authority of the Administrator of General Services to enter into emergency leases during major disasters and other emergencies. These modifications will ensure that the Administrator is able to provide adequate space to house affected Federal tenants in the wake of disasters.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section provides that this Act may be cited as the “Emergency Lease Requirements Act of 2005”.

Sec. 2. Emergency leases.

This section amends 40 U.S.C. 3307(e) to include disasters declared by heads of Federal agencies under applicable Federal law, extend the maximum length of an emergency lease from not more than 180 days to not more than 5 years and adds a requirement for the Administrator to submit, by April 1 of each year, to the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure a report describing any emergency lease entered into during the preceding year.

Sec. 3. Effective date.

This section clarifies that this Act and the amendments made by the Act affect only those leases entered into after August 1, 2005.

LEGISLATIVE HISTORY

On September 15, 2005, Senators Inhofe, Jeffords, Vitter, Lieberman, Bond, Carper, Warner, Clinton, Chafee, Landrieu, Murkowski and Thune introduced S. 1708, a bill to modify requirements relating to the authority of the Administrator of General Services to enter into emergency leases during major disasters and other emergencies. The bill was read twice and referred to the Committee on Environment and Public Works. The committee met on November 17, 2005, to consider the bill. The bill was ordered reported favorably without amendment by voice vote.

HEARINGS

No committee hearings were held on S. 1708.

ROLL CALL VOTES

The Committee on Environment and Public Works met to consider S. 1708 on November 17, 2005. The bill was ordered favorably reported by voice vote. No roll call votes were taken.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 1708 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 1708 would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

S. 1708, Emergency Lease Requirements Act of 2005, As ordered reported by the Senate Committee on Environment and Public Works on November 17, 2005

CBO estimates that implementing S. 1708 would have no significant impact on the Federal budget. Enacting the bill would not affect direct spending or revenues. S. 1708 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

Under current law, the General Services Administration (GSA) is responsible for leasing privately owned properties for use by Federal agencies. Spending for such activities is subject to appropriation of the necessary amounts for annual lease payments. Leases that are estimated to cost more than \$2.4 million must be approved by the congressional committees with jurisdiction over GSA. During emergency situations, however, GSA is authorized to agree to leases for up to 180 days without approval of the congressional committees with jurisdiction over GSA.

S. 1708 would amend current law to allow GSA, following a major disaster, to enter into emergency lease agreements of up to 5 years without the approval of congressional committees with jurisdiction over GSA. Based on information from GSA, CBO estimates that the proposed change in leasing procedures would not significantly affect GSA's current operations and spending patterns. CBO expects that the bill would not have a significant im-

pact on spending for GSA leases following the recent hurricanes in the Gulf coast. This legislation could lead to faster Federal spending following disasters if the Federal Government is forced to relocate operations to leased space, however, any such spending would be subject to the availability of appropriated funds.

On November 14, 2005, CBO transmitted a cost estimate for H.R. 4125, a bill to permit the Administrator of General Services to make repairs and lease space without approval if the repair or lease is required as a result of damages to buildings or property attributable to Hurricane Katrina and Rita, as ordered reported by the House Committee on Transportation and Infrastructure on October 26, 2005. The two pieces of legislation are similar in providing additional emergency leasing authorities for GSA, but S. 1708 has broader emergency leasing authorities. The cost estimates are identical.

The CBO staff contact is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in italic, existing law in which no change is proposed is shown in roman:

[40 U.S.C. 3307]

TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

SUBTITLE II—PUBLIC BUILDINGS AND WORKS

PART A—GENERAL

CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION

SEC. 3307. CONGRESSIONAL APPROVAL OF PROPOSED PROJECTS

(a) RESOLUTIONS REQUIRED BEFORE APPROPRIATIONS MAY BE MADE.—

* * * * *

[(e) EMERGENCY LEASES BY THE ADMINISTRATOR.—This section does not prevent the Administrator from entering into emergency leases during any period declared by the President to require emergency leasing authority. An emergency lease may not be for more than 180 days without approval of a prospectus for the lease in accordance with subsection (a).]

(e) EMERGENCY LEASES BY THE ADMINISTRATOR.—

(1) *IN GENERAL.*—*Nothing in this section prevents the Administrator from entering into an emergency lease during a major disaster or other emergency declared by—*

(A) the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); or

(B) *the head of a Federal agency under applicable Federal law.*

(2) *LEASE TERM.—The term of an emergency lease under this subsection shall be not more than 5 years, unless the prospectus of the lease is approved under subsection (a).*

(3) *REPORT.—Not later than April 1 of each year, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing any emergency lease entered into under this subsection during the preceding fiscal year.*

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