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HURRICANES RITA AND WILMA FINANCIAL SERVICES RELIEF ACT OF 2005

NOVEMBER 10, 2005.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services, submitted the following

R E P O R T

[To accompany H.R. 4146]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (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, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4146—Hurricanes Rita and Wilma Financial Services Relief Act of 2005

H.R. 4146 ensures that existing law governing the regulation of insured depository institutions and insured credit unions does not further complicate the recovery from the damage caused by Hurricanes Rita and Wilma. The legislation provides three key points of short-term and measured regulatory relief to facilitate the stabilization of the financial services industry in the disaster declared areas:

Capital and Net Worth Flexibility.—H.R. 4146 authorizes federal financial regulators to offer flexibility from prompt corrective action under limited circumstances if the regulator determines an institution, if provided such flexibility, can successfully execute a capital or net worth recovery plan in a manner consistent with safe and sound regulation.

Short-term Increase in Deposits and Assets.—H.R. 4146 authorizes federal financial regulators to offer flexibility from leverage limit and reserve requirements if an institution experiences a short-term significant increase in deposits due to the payment of customer insurance claims or federal disaster benefits. The institution is only granted such flexibility if the regulator approves the institution's plan to accommodate the short-term increase in its assets and deposits that is consistent with safe and sound regulation.

Waiver of Federal Reserve Wire Transfer Fees.—H.R. 4146 requires the Federal Reserve System to waive, for a period of 180 days from the date the major disasters were declared for Hurricanes Rita and Wilma. One 30-day discretionary extension is provided. Federal financial regulators have strongly encouraged all financial institutions to waive most fees associated with the cost of business; including any wire transfer service charge a financial institution may assess its customers. By waiving Federal Reserve wire transfer fees for 180 days, H.R. 4146 ensures financial institutions already under duress are not forced to continue a needed service at a loss.

BACKGROUND AND NEED FOR LEGISLATION

In early September 2005, the House Financial Services Committee held a briefing for members by the financial services industry and Federal financial regulators in the aftermath of Hurricane Katrina to provide an outline of relief efforts. The Committee also held two hearings in response to Hurricane Katrina in September 2005. The Financial Institutions and Consumer Credit Subcommittee held a hearing on September 14, 2005, that focused on the financial services response to Hurricane Katrina and regulatory and legislative relief recommendations to facilitate their efforts. The Housing and Community Opportunity Subcommittee held a hearing on September 15, 2005, that focused on the industry's relief efforts to provide for critical housing needs in the aftermath of Hurricane Katrina. Many recommendations were provided to the Committee at these hearings and H.R. 4146 addresses some of these hurricane relief suggestions.

After Hurricane Katrina, Hurricanes Rita and Wilma continued to wreak havoc in the Gulf States. This devastation has signifi-

cantly harmed the regional economy by dislocating homeowners, businesses and financial institutions. The area's economic recovery will require long-term efforts, which will require local lenders to be present to meet the liquidity needs of borrowers affected by these hurricanes.

This bill is similar to H.R. 3945, the Hurricane Katrina Financial Services Relief Act of 2005, which passed the House on October 27, 2005, under suspension of the rules by a vote of 411–0.

HEARINGS

The Subcommittee on Financial Institutions and Consumer Credit held a hearing on September 14, 2005, on "Hurricane Katrina: The Financial Institutions' Response." The following witnesses testified:

Mr. McKinley W. "Mac" Deaver, Executive Director, Mississippi Bankers Association, representing American Bankers Association;

Mr. Ken Bordelon, President and CEO, E Federal Credit Union (LA), representing National Association of Federal Credit Unions;

Mr. C. R. "Rusty" Cloutier, President and CEO, MidSouth Bank, N.A. (LA), representing Independent Community Bankers of America;

Mr. Charles Elliott, President and CEO, Mississippi Credit Union Association, representing Credit Union National Association;

Ms. Diane Casey-Landry, President and CEO, America's Community Bankers;

Mr. David Gibbons, Senior Executive Vice President and Chief Risk Officer, HSBC North America (IL), representing American Financial Services Association; and

Mr. Hilary Shelton, Director, Washington Bureau, NAACP.

The Subcommittee on Housing and Community Opportunity held a hearing on September 15, 2005, on "Emergency Housing Needs in the Aftermath of Hurricane Katrina." The following witnesses testified:

Mr. Henry A. Alvarez III, President and CEO, San Antonio Housing Authority, San Antonio, TX, testifying on behalf of National Association of Housing and Redevelopment Officials;

Ms. Sharon M. Daly, Senior Advisor for Public Policy, Catholic Charities USA;

Ms. J. K. Huey, Senior Vice President, IndyMac Bank, Pasadena, CA, testifying of behalf of the Mortgage Bankers Association;

Ms. Kay Miller, President, T.A. Miller, Inc. and Tra-Dor, Inc.; Management, Shreveport, LA, testifying on behalf of the Council for Affordable and Rural Housing;

Mr. David A. Roberson, President and CEO, Cavalier Homes, Inc., Addison, AL, testifying on behalf of Manufactured Housing Institute and the Manufactured Housing Association for Regulatory Reform;

Ms. Nan P. Roman, President, National Alliance to End Homelessness;

Ms. Barbara Thompson, Executive Director, National Council of State Housing Agencies;

Mr. David F. Wilson, Homebuilder, Ketchum, ID, President, National Association of Home Builders;

Mr. Clanton Beamon, Executive Director, Delta Housing Development Corporation, Indianola, MS, testifying on behalf of the National Rural Housing Coalition;

Mr. Jeffrey I. Brodsky, President, Related Management Company, LLC, New York City, NY, testifying on behalf of the National Multi Housing Council and National Leased Housing Association;

Ms. Judith A. Kennedy, President and CEO, National Association of Affordable Housing Lenders;

Ms. Michelle Norris, Senior Vice President of Development, National Church Residences, testifying on behalf of the American Association of Homes and Services for the Aging;

Ms. Ellen Lee, Deputy Executive Assistant for Neighborhood Development, City of New Orleans, LA, testifying on behalf of the National Community Development Association (submitted for the record); and

National Association of Realtors (submitted for the record).

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on October 27, 2005, and ordered reported H.R. 4146, Hurricanes Rita and Wilma Financial Services Relief Act of 2005, favorably reported to the House by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. No amendments were considered. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee previously held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The temporary waivers of certain regulatory requirements and fees imposed on depository institutions and credit unions will facilitate recovery from the effects of Hurricanes Rita and Wilma.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by

the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

NOVEMBER 9, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4146, the Hurricanes Rita and Wilma Financial Services Relief Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Barbara Edwards (for federal revenues and Kathleen Gramp (for federal costs).

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

H.R. 4146—Hurricanes Rita and Wilma Financial Services Relief Act of 2005

H.R. 4146 would provide certain forms of relief to financial institutions whose deposits are largely derived from residents and businesses located in areas designated as disaster areas after Hurricanes Rita and Wilma. It would direct the Federal Reserve to waive or rebate transaction fees for wire transfer services that otherwise would be due from eligible institutions. The waiver would be in effect for at least 180 days after enactment; it could be extended for an additional 30 days by an action of the Board of Governors of the Federal Reserve System. Other provisions in the bill would authorize the Federal Deposit Insurance Corporation (FDIC) and National Credit Union Administration (NCUA) to temporarily use different criteria when evaluating the financial condition of institutions in those disaster areas if doing so would facilitate their recovery and be consistent with safe and sound practices.

Based on information from the Federal Reserve, CBO estimates that enacting this bill would reduce federal revenues by $2 million in fiscal year 2006. The Federal Reserve remits its net income to the Treasury, and those payments are classified as governmental receipts, or revenues, in the federal budget. Any additional income or costs to the Federal Reserve, therefore, can affect revenues. In this instance, CBO estimates that waiving fees for wire services for eligible institutions would reduce the Federal Reserve's profits by about $2 million, reducing federal revenues by a corresponding

amount. CBO estimates that enacting this bill would have no significant effect on direct spending by the FDIC or the NCUA.

H.R. 4146 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.

The CBO staff contacts for this estimate are Barbara Edwards (for federal revenues) and Kathleen Gramp (for federal costs). This estimate was approved by G. Thomas Woodward, Assistant Director for Tax Analysis, and Robert A. Sunshine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the "Hurricanes Rita and Wilma Financial Services Relief Act of 2005."

Section 2. Definitions

This section establishes definitions for the terms appropriate federal banking agency, insured depository institution, insured credit union and qualified disaster area.

Section 3. Sense of the Congress on cashing of government checks

This section expresses the sense of the Congress that financial institutions continue to provide financial services to victims of Hurricanes Rita and Wilma and encourages the Secretary of the Treasury and the Federal financial regulators to educate insured depository institutions and insured credit unions on the application of the guidance the Treasury Department published in the Federal Register.

Section 4. Waiver of Federal Reserve Board fees for certain services

This section waives fees charged by the Board of Governors to affected financial institutions for wire transfer services.

Section 5. Flexibility in capital and net worth standards for affected institutions

This section allows federal financial regulators to waive prompt corrective action requirements for affected financial institutions if (1) the institution derives more than 50 percent of its total deposits from within the disaster area, (2) the institution was at least adequately capitalized prior to the date of disaster, (3) the reduction in capital or net worth is the direct result of the disaster, and (4) the waiver would facilitate the institution's recovery in a safe and sound manner. The section has an 18-month effective date.

Section 6. Deposit of insurance proceeds

This section authorizes federal financial regulators to allow financial institutions to subtract from their total assets the amount equal to insurance and government payments deposited in the institution when determining leverage limits. The waiver authority applies to those institutions where (1) the institution derives more than 50 percent of its deposits within the disaster area, (2) the institution was at least adequately capitalized prior to the disaster, and (3) the institution has an acceptable plan to manage the increase in its assets and deposits. The section has an 18-month effective date.

Section 7. Effective period

The provisions of the Act, except Section 3(2), Section 5(a), and Section 6(a), are effective for a period of 180 days, beginning on the date of enactment. One 30-day extension may be granted by the Federal Reserve with respect to Section 4.

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