

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3909
OFFERED BY MR. BACHUS OF ALABAMA

Strike all after the enacting clause and insert the following:

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;



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

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

8 **SEC. 2. EMERGENCY AUTHORITY TO GUARANTEE CHECKS**
9 **CASHED FOR VICTIMS OF CERTAIN 2005 HUR-**
10 **RICANES.**

11 (a) FDIC.—

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

23 (A) is presented for payment by any indi-
24 vidual who, as of August 25, 2005, resided in
25 the State of Florida, Alabama, Mississippi,



1 Louisiana, or Texas in an area in which the
2 President, pursuant to section 401 of the Rob-
3 ert T. Stafford Disaster Relief and Emergency
4 Assistance Act, determined, on or after August
5 25, 2005, that a major disaster exists; and

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

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

15 (b) NCUA.—

16 (1) IN GENERAL.—Subject to subsection (d),
17 the National Credit Union Administration shall es-
18 tablish, in accordance with emergency guidance
19 issued by the Board under subsection (d)(1), an
20 emergency program under which an insured credit
21 union may obtain, subject to subsection (d)(2), a
22 commitment from the Administration to indemnify
23 the insured credit union for any loss suffered by the
24 credit union through cashing a share draft or check
25 that—



1 (A) is presented for payment by any indi-
2 vidual who, as of August 25, 2005, resided in
3 the State of Florida, Alabama, Mississippi,
4 Louisiana, or Texas in an area in which the
5 President, pursuant to section 401 of the Rob-
6 ert T. Stafford Disaster Relief and Emergency
7 Assistance Act, determined, on or after August
8 25, 2005, that a major disaster exists; and

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

12 (2) SOURCE OF FUNDS FOR PAYMENTS.—Any
13 payments required to be made by the National Cred-
14 it Union Administration pursuant to a commitment
15 under paragraph (1) to an insured credit union shall
16 be drawn from funds available for such purposes
17 under subsection (c).

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

24 (c) REIMBURSEMENT FROM FEDERAL RESERVE
25 SURPLUSES.—Section 7(b) of the Federal Reserve Act (12



1 U.S.C. 289(b)) is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(4) ADDITIONAL TRANSFERS TO COVER CER-
4 TAIN RELIEF EFFORTS RESULTING FROM HURRI-
5 CANES OF 2005.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (C), from the surplus funds of the Fed-
8 eral reserve banks maintained pursuant to sub-
9 section (a)(2), the Federal reserve banks shall
10 transfer to the Board of Governors of the Fed-
11 eral Reserve System for transfer to the Federal
12 Deposit Insurance Corporation and the Na-
13 tional Credit Union Administration, such sums
14 as are necessary to meet any payments required
15 under subsection (a)(1) or (b)(1) of section 2 of
16 the Hurricane Check Cashing Relief Act. In the
17 event that the total amount of requests for in-
18 demnification received by the Federal Deposit
19 Insurance Corporation and the National Credit
20 Union Administration exceed the maximum
21 amount specified under subparagraph (C), the
22 sums transferred to the Federal Deposit Insur-
23 ance Corporation and the National Credit
24 Union Administration, respectively, shall be in
25 proportion to the amount of payments required



1 under subsection (a)(1) and (b)(1) of section 2
2 of the Hurricane Check Cashing Relief Act of
3 2005, respectively.

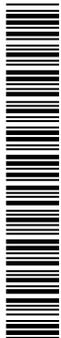
4 “(B) ALLOCATION BY FEDERAL RESERVE
5 BOARD.—Of the total amount required to be
6 paid by the Federal reserve banks, the Board of
7 Governors of the Federal Reserve System shall
8 determine the amount each such bank shall
9 pay.

10 “(C) MAXIMUM AMOUNT.—The total
11 amount transferred under subparagraph (A)
12 from all Federal reserve banks shall not exceed
13 \$200,000,000.

14 “(D) REPLENISHMENT OF SURPLUS FUND
15 PROHIBITED.—No Federal reserve bank may
16 replenish such bank’s surplus fund by the
17 amount of any transfer by such bank under
18 subparagraph (A).”.

19 (d) EMERGENCY GUIDANCE AND LIMITATIONS.—

20 (1) IN GENERAL.—The Board, after consulting
21 the Federal Deposit Insurance Corporation and the
22 National Credit Union Administration, shall, upon
23 the enactment of this Act, promptly issue appro-
24 priate guidance—



1 (A) to carry out the purposes of this sec-
2 tion and administer the programs established in
3 accordance with this section;

4 (B) to reduce the incidence of fraud and
5 any other cause of loss to the greatest extent
6 possible, consistent with the purpose of this
7 Act;

8 (C) to require insured depository institu-
9 tions and insured credit unions to exercise due
10 diligence in determining the eligibility of any
11 check presented by any individual for indem-
12 nification under this section, including such
13 measures as verification of Social Security num-
14 bers and other identifying information as the
15 Board may determine to be practicable;

16 (D) to provide insured depository institu-
17 tions and insured credit unions with reasonable
18 guidance, in light of the emergency cir-
19 cumstances presented by certain 2005 hurri-
20 canes, so as to meet the requirements for in-
21 demnification under this section, including the
22 sharing of information on checks that have been
23 presented for indemnification; and

24 (E) notwithstanding any Federal or State
25 law, to provide for the right of the Board of



1 Governors of the Federal Reserve System, on
2 behalf of the Federal reserve banks and
3 through the Federal Deposit Insurance Cor-
4 poration and the National Credit Union Admin-
5 istration, to recover from any insured deposi-
6 tory institution or insured credit union the
7 amount of any indemnification paid to such de-
8 pository institution or credit union with respect
9 to any check, to the extent of the amount so
10 paid, if the insured depository institution or in-
11 sured credit union collects on the check.

12 (2) COMPLIANCE WITH GUIDANCE CONDI-
13 TION.—The emergency guidance issued under para-
14 graph (1) shall require any insured depository insti-
15 tution or insured credit union seeking a commitment
16 under subsection (a)(1) or (b)(1) to demonstrate
17 that the institution or credit union is in compliance
18 with the guidance in such manner as the Board de-
19 termines to be appropriate and practicable.

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



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

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

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

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

12 (f) RULE OF CONSTRUCTION.—No provision of this
13 section shall be construed as affecting any right or obliga-
14 tion of an insured depository institution or insured credit
15 union to take any action against any person in connection
16 with a fraudulent check, a fraudulent negotiation of a
17 check, or any other intentional act of a fraudulent or de-
18 ceptive nature.

19 (g) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Subject to paragraph (2),
21 the provisions of this section shall apply to checks or
22 share drafts presented to an insured depository in-
23 stitution or an insured credit union during the pe-
24 riod beginning on August 25, 2005, and ending No-
25 vember 15, 2005.



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

4 (A) the Board, after consulting with the
5 Federal Deposit Insurance Corporation and the
6 National Credit Union Administration, deter-
7 mines that the continuing impact of the 2005
8 hurricane disasters on financial intermediation
9 between consumers and financial institutions,
10 on payment networks, and on other forms of
11 communication require an extension of the pro-
12 grams established under this section in order to
13 continue to meet the immediate needs of victims
14 of the disaster; and

15 (B) notice of such determination is pub-
16 lished in the Federal Register at least 5 days
17 before the end of the period described in para-
18 graph (1).

