

109TH CONGRESS
1ST SESSION

S. 1059

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to specify procedures for the conduct of preliminary damage assessments, to direct the Secretary of Homeland Security to vigorously investigate and prosecute instances of fraud, including fraud in the handling and approval of claims for Federal emergency assistance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2005

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to specify procedures for the conduct of preliminary damage assessments, to direct the Secretary of Homeland Security to vigorously investigate and prosecute instances of fraud, including fraud in the handling and approval of claims for Federal emergency assistance, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
- 2 **SECTION 1. FINDINGS AND PURPOSES.**
- 3 (a) FINDINGS.—Congress finds that—

17 (b) PURPOSES.—The purposes of this Act are—

20 (2) to protect disaster victims; and

21 (3) to require more stringent background
22 checks for contractors of the Federal Emergency
23 Management Agency.

1 **SEC. 2. PRELIMINARY DAMAGE ASSESSMENTS.**

2 Section 401 of the Robert T. Stafford Disaster Relief
3 and Emergency Assistance Act (42 U.S.C. 5170) is
4 amended—

5 (1) by striking “All requests for” and inserting
6 the following:

7 “(a) IN GENERAL.—All requests for”; and

8 (2) by adding at the end the following:

9 “(b) PRELIMINARY DAMAGE ASSESSMENTS.—

10 “(1) DEFINITIONS.—In this subsection:

11 “(A) ASSESSMENT.—The term ‘assessment’
12 means a preliminary damage assessment
13 described in paragraph (2)(A).

14 “(B) DIRECTOR.—The term ‘Director’
15 means the Director of FEMA.

16 “(C) FEMA.—The term ‘FEMA’ means
17 the Federal Emergency Management Agency.

18 “(D) INCIDENT.—The term ‘incident’
19 means a condition or occurrence that causes
20 such damage or hardship as may result in a
21 Presidential declaration of a major disaster or
22 emergency.

23 “(E) SECRETARY.—The term ‘Secretary’
24 means the Secretary of Homeland Security, act-
25 ing through the Director.

26 “(2) PRELIMINARY DAMAGE ASSESSMENT.—

1 “(A) PREASSESSMENT BY THE STATE.—

2 Except as provided in subparagraph (E), on oc-
3 currence of an incident, or if a State determines
4 that the occurrence of an incident is imminent,
5 and the State official responsible for disaster
6 operations determines that the State and local
7 governments may lack the capability to ade-
8 quately respond to the incident, the State
9 shall—

10 “(i) verify the information of the
11 State used to make the determination; and

12 “(ii) request the Regional Director to
13 perform a joint FEMA-State preliminary
14 damage assessment of the type, extent,
15 and location of any damage caused by the
16 incident.

17 “(B) DAMAGE ASSESSMENT TEAMS.—Each
18 State shall appoint a damage assessment team
19 to carry out assessments described in subpara-
20 graph (A) that is composed of—

21 “(i) at least 1 representative of the
22 Federal Government;

23 “(ii) a least 1 representative of the
24 State;

1 “(iii) if practicable, a local govern-
2 ment representative who is familiar with
3 the extent and location of damage or po-
4 tential damage in any applicable commu-
5 nities; and

6 “(iv) such additional representatives
7 from Federal and State agencies and vol-
8 untary relief organizations as are nec-
9 essary, as determined by the State.

10 “(C) RESPONSIBILITY OF STATE.—A State
11 shall assume responsibility for—

12 “(i) coordination of State and local
13 participation in an assessment conducted
14 under this paragraph; and

15 “(ii) ensuring that participants in the
16 assessment receive timely notification con-
17 cerning the schedule of activities for the
18 assessment.

19 “(D) RESPONSIBILITY OF FEMA.—The
20 Secretary shall designate an official of
21 FEMA—

22 “(i) to brief members of the assess-
23 ment team on—

24 “(I) damage criteria;

1 “(II) the kind of information to
2 be collected for the particular incident
3 that is the subject of the assessment;
4 and

5 “(III) applicable reporting re-
6 quirements; and

7 “(ii) on completion of the assessment,
8 to consult with State officials to discuss
9 findings and reconcile any differences.

10 “(E) WAIVER.—

11 “(i) IN GENERAL.—The State, in con-
12 sultation with the Regional Director or
13 FEMA, may elect not to carry out an as-
14 sessment—

15 “(I) in the case of an incident of
16 unusual severity and magnitude that
17 does not require any field damage as-
18 sessments to determine the need for
19 supplemental Federal assistance
20 under this Act; or

21 “(II) in other appropriate cases,
22 as determined by the State, in con-
23 sultation with the Regional Director
24 of FEMA.

1 “(ii) MANAGERIAL RESPONSE.—Nothing in this subparagraph prevents the conduct of an assessment to determine unmet needs for managerial response purposes.”.

5 **SEC. 3. FRAUD.**

6 (a) PENALTIES.—Section 314(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5157(d)) is amended by striking “\$5,000” and inserting “\$10,000”.

10 (b) FRAUD INVESTIGATIONS.—Section 318 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5161) is amended by adding at the end the following:

14 “(d) FRAUD INVESTIGATIONS.—

15 “(1) IN GENERAL.—The President shall—

16 “(A) vigorously investigate allegations and instances of fraud under this Act, including fraud relating to the handling and approval of claims for Federal emergency assistance; and

20 “(B) refer to the Attorney General of the United States, in accordance with section 314(c), such allegations, instances, and results of investigations described in subparagraph (A) as the President determines to be appropriate.

1 “(2) ATTORNEY GENERAL.—The Attorney Gen-
2 eral of the United States shall—

3 “(A) give serious consideration to any alle-
4 gations or instances of fraud referred under
5 paragraph (1)(B);

6 “(B) not later than 10 days after the date
7 of receipt of such a referral, begin an investiga-
8 tion into the allegation; and

9 “(C) not later than 45 days after the date
10 of receipt of the referral, submit to the Sec-
11 retary of Homeland Security a report describing
12 the progress and results of the investigation.

13 “(3) FEDERAL EMERGENCY MANAGEMENT
14 AGENCY.—

15 “(A) PROCEDURES AND GUIDELINES.—
16 Not later than 120 days after the date of enact-
17 ment of this subsection, the Director of the
18 Federal Emergency Management Agency (re-
19 ferred to in this paragraph as the ‘Director’)
20 shall—

21 “(i) propose new inspection proce-
22 dures that more accurately identify dis-
23 aster-related losses of household items for
24 which applicants should be compensated;

1 “(ii) modify guidelines relating to in-
2 dividual and housing inspections to require
3 inspectors to specify any item that was not
4 available for inspection;

5 “(iii) develop eligibility criteria for
6 funding vehicle damage, taking into consid-
7 eration damage to a vehicle sustained as a
8 result of a disaster;

9 “(iv) propose new inspection guide-
10 lines that prohibit inspectors from entering
11 into a contract with any individual or enti-
12 ty for whom the inspector performs an in-
13 spection for purposes of determining eligi-
14 bility for assistance from the Federal
15 Emergency Management Agency;

16 “(v) modify guidelines to require con-
17 tract inspectors to—

18 “(I) document vehicle damage to
19 allow the Director to justify an award
20 based on disaster-related need; and

21 “(II) base any funding rec-
22 ommendation of the contract inspector
23 for miscellaneous items on disaster-re-
24 lated need;

1 “(vi) modify guidelines to establish a
2 reasonable replacement value for destroyed
3 vehicles, as determined by the Director,
4 taking into consideration the cost of ac-
5 quiring a comparable vehicle;

6 “(vii) develop criteria and guidelines
7 for defining the term ‘disaster-related
8 death’, including a requirement that an
9 employee of the Federal Emergency Man-
10 agement Agency document each request
11 for funeral expenses assistance in order to
12 support the approval or disapproval of the
13 assistance;

14 “(viii) modify home inspection pro-
15 cedures to require contract inspectors to doc-
16 ument—

17 “(I) any reason why the con-
18 tractor determined a home was un-
19 safe; and

20 “(II) any instance of deferred
21 maintenance, including an evaluation
22 of the severity of housing conditions;

23 “(ix) modify inspection guidelines for
24 repair and replacement of homes to require
25 inspectors to justify a determination that a

1 home is destroyed by identifying and docu-
2 menting each type of damage sustained by
3 the home; and

1 dures and guidelines of the Federal Emergency
2 Management Agency.

3 “(C) BACKGROUND CHECKS.—The Director
4 shall include in any contract with an inspec-
5 tor the requirements that—

6 “(i) a background check shall be per-
7 formed on the inspector;

8 “(ii) the results of the background
9 check shall be submitted to the Director
10 not later than 7 days after the date on
11 which the inspector is hired by the Director
12 and

13 “(iii) an inspector who has been con-
14 victed of criminal misconduct (including
15 fraud, robbery, burglary, forgery, and fel-
16 ony drug possession) shall not be employed
17 by the Federal Emergency Management
18 Agency as an inspector.”.

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