

Hurricane Katrina-related “Immigration Relief” Bill Passed by House Falls Short

Sept. 21, 2005

Today the House of Representatives adopted HR 3827 (Sensenbrenner, R-WI), the Immigration Relief for Hurricane Katrina Victims Act of 2005. The bill now goes to the Senate, which has been working on its own parallel proposal.

The House bill that passed today is disappointing because it leaves in place provisions of our immigration law that threaten to act as a second wave of harm to hurricane survivors whose livelihood has already been destroyed by the storm.

■ Background

Congress has responded to Hurricane Katrina by appropriating more than \$60 billion in assistance and appears poised to eventually ante up as much as \$200 billion. But many in Congress are showing a different face to the noncitizen survivors of the storm and its aftermath. According to U.S. Citizenship and Immigration Services, more than 30,000 nonimmigrants (temporary residents) other than tourists and almost 25,000 lawful permanent residents were affected by Katrina.

Noncitizens in the affected area suffered all the same types of experiences and losses as others, but for many recovery will be complicated by unbending provisions of immigration and public benefits laws. Instead of being given a helping hand, thousands of heretofore lawfully present hurricane survivors will be forced to leave the U.S. due solely to the effects of Katrina unless the law is changed to account for the circumstances of the unprecedented disaster. Specifically, these Katrina survivors lost their right to remain in the U.S. even, in some cases, temporarily when the loved ones whom they accompanied to the U.S. lost their lives or when the jobs they'd come to perform or schools they'd come to attend were swept away by the storm.

HR 3827 addresses the impact of immigration law on these individuals, but despite the efforts of some members of Congress and their staffs, it does not do so in the same generous spirit as does relief legislation directed at other populations. Rather, it nickels and dimes the relief it offers, to such a degree that more of those affected are left out than are included.

■ Major Provisions of HR 3827

HR 3827 provides that non-U.S. citizens who would have been eligible for lawful permanent residence because of their relationship to a U.S. citizen or lawful permanent resident would be able to keep that eligibility even though the citizen or LPR died as a result of Katrina. Nonimmigrants—that is, people who were granted permission to come to the U.S. for a specified purpose and for a set period of time—who were disabled as a result of Katrina would be granted a one-year automatic extension of their visa, as would their spouses and children and the spouses and children of nonimmigrants who passed away due to the storm. Students would be given until February to enroll in a new school.



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In addition, some time limits would be extended for a few months, such as for voluntary departure or to file applications to change status, and various other kinds of immigration relief would be enacted for Katrina survivors.

■ What HR 3827 Fails to Do

• No provision for most nonimmigrants (temporary residents, such as guest workers)

HR 3827 would provide no relief for most nonimmigrants who lost their legal status as a result of the storm, e.g., the job they came for has been destroyed, making them unable to comply with the terms of their visa. Only death or disability would warrant an automatic extension of a nonimmigrant visa, and even then only for a year; and, in general, only the death or disability of the “principal alien” would matter. As a result, most nonimmigrants who have lost everything, even loved ones, due to Katrina must depart the U.S. immediately or face arrest and deportation (and, depending on how long they remain in the U.S., bars to reentry).

• Relief for immigrants limited to physical damage

The draft proposal provides only the most constricted relief for immigrant Katrina survivors who had applied for lawful permanent residence status as employment-based immigrants. To qualify for special immigrant status, an employment-based immigrant applicant would be required to demonstrate that the employer’s business was physically damaged or destroyed. For example, if an applicant worked for a hotel in New Orleans’s French Quarter that escaped physical damage, but could not work there because she had to move due to her housing being destroyed, she and her family would be forced to depart the U.S.

• Inadequate relief for students

For student nonimmigrants, only those who are able to get into school by the first of February would be protected. Those who are unable to do so would have their time counted as “unlawful,” meaning that if they remain until March they would be barred for three years from reentering the U.S.

• No public charge waiver

Many immigrants are afraid to obtain public benefits due to fear that they will later be penalized under the “public charge” provisions of immigration law. As a general rule, most forms of Katrina-related assistance should not create public charge problems, but to ensure that victims can secure the relief that they need to resume productive lives, Congress should confirm that this temporary assistance will not jeopardize their status. HR 2837 does not do so.

■ Conclusion

The Bush administration and many in Congress have touted their concern for immigrants who have “played by the rules” and applied for or obtained legal status in the U.S. But HR 2837 provides little human recognition that these law-abiding people, immigrants and guests in our land, have suffered and deserve some minimum degree of compassion.

■ For More Information

For more information about Katrina-related assistance available to immigrants, as well as about the steps Congress and the administration should take to prevent Katrina’s effects from doubly harming immigrants, see NILC’s Katrina web page: www.nilc.org/disaster_assistance/index.htm.