

110TH CONGRESS
1ST SESSION

S. 863

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2007

Referred to the Committee on the Judiciary

AN ACT

To amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency and Dis-
3 aster Assistance Fraud Penalty Enhancement Act of
4 2007”.

5 **SEC. 2. FRAUD IN CONNECTION WITH MAJOR DISASTER OR**
6 **EMERGENCY BENEFITS.**

7 (a) IN GENERAL.—Chapter 47 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 1040. Fraud in connection with major disaster or**
11 **emergency benefits**

12 “(a) Whoever, in a circumstance described in sub-
13 section (b) of this section, knowingly—

14 “(1) falsifies, conceals, or covers up by any
15 trick, scheme, or device any material fact; or

16 “(2) makes any materially false, fictitious, or
17 fraudulent statement or representation, or makes or
18 uses any false writing or document knowing the
19 same to contain any materially false, fictitious, or
20 fraudulent statement or representation,

21 in any matter involving any benefit authorized, trans-
22 ported, transmitted, transferred, disbursed, or paid in con-
23 nection with a major disaster declaration under section
24 401 of the Robert T. Stafford Disaster Relief and Emer-
25 gency Assistance Act (42 U.S.C. 5170) or an emergency
26 declaration under section 501 of the Robert T. Stafford

1 Disaster Relief and Emergency Assistance Act (42 U.S.C.
2 5191), or in connection with any procurement of property
3 or services related to any emergency or major disaster dec-
4 laration as a prime contractor with the United States or
5 as a subcontractor or supplier on a contract in which there
6 is a prime contract with the United States, shall be fined
7 under this title, imprisoned not more than 30 years, or
8 both.

9 “(b) A circumstance described in this subsection is
10 any instance where—

11 “(1) the authorization, transportation, trans-
12 mission, transfer, disbursement, or payment of the
13 benefit is in or affects interstate or foreign com-
14 merce;

15 “(2) the benefit is transported in the mail at
16 any point in the authorization, transportation, trans-
17 mission, transfer, disbursement, or payment of that
18 benefit; or

19 “(3) the benefit is a record, voucher, payment,
20 money, or thing of value of the United States, or of
21 any department or agency thereof.

22 “(c) In this section, the term ‘benefit’ means any
23 record, voucher, payment, money or thing of value, good,
24 service, right, or privilege provided by the United States,
25 a State or local government, or other entity.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for chapter 47 of title 18, United States Code, is amended
 3 by adding at the end the following new item:

“1040. Fraud in connection with major disaster or emergency benefits.”.

4 **SEC. 3. INCREASED CRIMINAL PENALTIES FOR ENGAGING**
 5 **IN WIRE, RADIO, AND TELEVISION FRAUD**
 6 **DURING AND RELATION TO A PRESI-**
 7 **DENTIALLY DECLARED MAJOR DISASTER OR**
 8 **EMERGENCY.**

9 Section 1343 of title 18, United States Code, is
 10 amended by inserting: “occurs in relation to, or involving
 11 any benefit authorized, transported, transmitted, trans-
 12 ferred, disbursed, or paid in connection with, a presi-
 13 dentially declared major disaster or emergency (as those
 14 terms are defined in section 102 of the Robert T. Stafford
 15 Disaster Relief and Emergency Assistance Act (42 U.S.C.
 16 5122)), or” after “If the violation”.

17 **SEC. 4. INCREASED CRIMINAL PENALTIES FOR ENGAGING**
 18 **IN MAIL FRAUD DURING AND RELATION TO A**
 19 **PRESIDENTIALLY DECLARED MAJOR DIS-**
 20 **ASTER OR EMERGENCY.**

21 Section 1341 of title 18, United States Code, is
 22 amended by inserting: “occurs in relation to, or involving
 23 any benefit authorized, transported, transmitted, trans-
 24 ferred, disbursed, or paid in connection with, a presi-
 25 dentially declared major disaster or emergency (as those

1 terms are defined in section 102 of the Robert T. Stafford
2 Disaster Relief and Emergency Assistance Act (42 U.S.C.
3 5122)), or” after “If the violation”.

4 **SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.**

5 (a) IN GENERAL.—Pursuant to its authority under
6 section 994(p) of title 28, United States Code, and in ac-
7 cordance with this section, the United States Sentencing
8 Commission forthwith shall—

9 (1) promulgate sentencing guidelines or amend
10 existing sentencing guidelines to provide for in-
11 creased penalties for persons convicted of fraud or
12 theft offenses in connection with a major disaster
13 declaration under section 401 of the Robert T. Staf-
14 ford Disaster Relief and Emergency Assistance Act
15 (42 U.S.C. 5170) or an emergency declaration under
16 section 501 of the Robert T. Stafford Disaster Relief
17 and Emergency Assistance Act (42 U.S.C. 5191);
18 and

19 (2) submit to the Committee on the Judiciary
20 of the Senate and the Committee on the Judiciary
21 of the House of Representatives an explanation of
22 actions taken by the Commission pursuant to para-
23 graph (1) and any additional policy recommenda-
24 tions the Commission may have for combating of-
25 fenses described in that paragraph.

1 (b) REQUIREMENTS.—In carrying out this section,
2 the Sentencing Commission shall—

3 (1) ensure that the sentencing guidelines and
4 policy statements reflect the serious nature of the of-
5 fenses described in subsection (a) and the need for
6 aggressive and appropriate law enforcement action
7 to prevent such offenses;

8 (2) assure reasonable consistency with other
9 relevant directives and with other guidelines;

10 (3) account for any aggravating or mitigating
11 circumstances that might justify exceptions, includ-
12 ing circumstances for which the sentencing guide-
13 lines currently provide sentencing enhancements;

14 (4) make any necessary conforming changes to
15 the sentencing guidelines; and

16 (5) assure that the guidelines adequately meet
17 the purposes of sentencing as set forth in section
18 3553(a)(2) of title 18, United States Code.

19 (c) EMERGENCY AUTHORITY AND DEADLINE FOR
20 COMMISSION ACTION.—The Commission shall promulgate
21 the guidelines or amendments provided for under this sec-
22 tion as soon as practicable, and in any event not later than
23 the 30 days after the date of enactment of this Act, in
24 accordance with the procedures set forth in section 21(a)

1 of the Sentencing Reform Act of 1987, as though the au-
2 thority under that Act had not expired.

Passed the Senate December 4, 2007.

Attest:

NANCY ERICKSON,

Secretary.