

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3702

To provide emergency assistance to agricultural producers who have suffered losses as a result of drought, Hurricane Katrina, and other natural disasters occurring during 2005, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 8, 2005

Mr. BERRY introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To provide emergency assistance to agricultural producers who have suffered losses as a result of drought, Hurricane Katrina, and other natural disasters occurring during 2005, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This title may be cited as the “Agricultural Assist-  
5       ance Act of 2005”.

6       **SEC. 2. DEFINITIONS.**

7       In this title:

1           (1) COVERED COMMODITY.—The term “covered  
2 commodity” has the meaning given the term in sec-  
3 tion 1001 of the Farm Security and Rural Invest-  
4 ment Act of 2002 (7 U.S.C. 7901).

5           (2) DISASTER COUNTY.—The term “disaster  
6 county” means a county included in the geographic  
7 area covered by a natural disaster declaration and  
8 each county contiguous to a county included in the  
9 geographic area covered by a natural disaster dec-  
10 laration.

11           (3) ELIGIBLE NONINSURABLE COMMODITY.—  
12 The term “eligible noninsurable commodity” means  
13 an eligible crop for which the producers on a farm  
14 are eligible to obtain assistance under section 196 of  
15 the Federal Agriculture Improvement and Reform  
16 Act of 1996 (7 U.S.C. 7333).

17           (4) INSURABLE COMMODITY.—The term “insur-  
18 able commodity” means an agricultural commodity  
19 (excluding livestock) produced in an area that is eli-  
20 gible for coverage under a policy or plan of insur-  
21 ance under the Federal Crop Insurance Act (7  
22 U.S.C. 1501 et seq.).

23           (5) LIVESTOCK ASSISTANCE PROGRAM.—The  
24 term “livestock assistance program” means—

1 (A) the 2002 Cattle Feed Program an-  
2 nounced by the Secretary on September 3, 2002  
3 (67 Fed. Reg. 56260), to the extent extended to  
4 cover 2005 natural disaster declarations;

5 (B) the 2002 Livestock Compensation Pro-  
6 gram, as announced by the Secretary on Octo-  
7 ber 10, 2002 (67 Fed. Reg. 63070), and modi-  
8 fied in accordance with section 203(a) of the  
9 Agricultural Assistance Act of 2003 (title II of  
10 division N of the Consolidated Appropriations  
11 Resolution, 2003 (Public Law 108–7; 117 Stat.  
12 539; 7 U.S.C. 3801 note) and section 5(a); and

13 (C) the livestock loss assistance program  
14 required by section 5(b).

15 (6) NATURAL DISASTER DECLARATION.—The  
16 term “natural disaster declaration” means—

17 (A) a natural disaster declared by the Sec-  
18 retary during calendar year 2005 under section  
19 321(a) of the Consolidated Farm and Rural  
20 Development Act (7 U.S.C. 1961(a)) or de-  
21 clared by the Secretary during calendar year  
22 2006 under such section, but regarding which a  
23 request was pending as of December 31, 2005;  
24 or

1 (B) a major disaster or emergency des-  
2 ignated by the President during calendar year  
3 2005 under the Robert T. Stafford Disaster  
4 Relief and Emergency Assistance Act (42  
5 U.S.C. 5121 et seq.) or designated by the Presi-  
6 dent during calendar year 2006 under such Act,  
7 but regarding which a request was pending as  
8 of December 31, 2005.

9 (7) SECRETARY.—The term “Secretary” means  
10 the Secretary of Agriculture.

11 **SEC. 3. SUPPLEMENTAL DIRECT PAYMENTS FOR COVERED**  
12 **COMMODITIES.**

13 (a) PAYMENTS REQUIRED.—The Secretary shall  
14 make payments to producers on a farm eligible for direct  
15 payments for the 2005 crop of a covered commodity under  
16 section 1103 of the Farm Security and Rural Investment  
17 Act of 2002 (7 U.S.C. 7913) if—

18 (1) the farm is located in a disaster county; or

19 (2) the producers on the farm have incurred  
20 qualifying crop losses with respect to the 2005 crop  
21 of a covered commodity due to damaging weather or  
22 related condition, as determined by the Secretary,  
23 using the same loss thresholds for the quantity and  
24 quality losses as were used in administering section  
25 815 of the Agriculture, Rural Development, Food

1 and Drug Administration, and Related Agencies Ap-  
2 propriations Act, 2001 (Public Law 106–387; 114  
3 Stat. 1549, 1549A–55).

4 (b) AMOUNT.—The amount of the payment made to  
5 the producers on a farm under this section shall be equal  
6 to 50 percent of the amount of the direct payment the  
7 producers on the farm are eligible to receive for the 2005  
8 crop under sections 1103 of the Farm Security and Rural  
9 Investment Act of 2002 (7 U.S.C. 7913).

10 (c) CROP INSURANCE.—As a condition of the receipt  
11 of a payment under this section, the producers on the farm  
12 shall enter into a contract with the Secretary under which  
13 the producers on the farm agree—

14 (1) in the case of the covered commodity and  
15 all other insurable commodities produced on the  
16 farm for each of the next two crop years—

17 (A) to obtain at least catastrophic risk pro-  
18 tection coverage for those commodities under  
19 the Federal Crop Insurance Act (7 U.S.C. 1501  
20 et seq.); and

21 (B) in the event of violation of the con-  
22 tract, to repay to the Secretary any payment re-  
23 ceived under this section; and

1           (2) in the case of all eligible noninsurable com-  
2           modities produced on the farm for each of the next  
3           two crop or calendar years, as applicable—

4                   (A) to file the required paperwork, and pay  
5                   the administrative fee by the applicable State  
6                   filing deadline, for those commodities under sec-  
7                   tion 196 of the Federal Agriculture Improve-  
8                   ment and Reform Act of 1996 (7 U.S.C. 7333);  
9                   and

10                   (B) in the event of violation of the con-  
11                   tract, to repay to the Secretary any payment re-  
12                   ceived under this section.

13           (d) ADMINISTRATION.—The total amount of pay-  
14           ments made to a person under this section for one or more  
15           covered commodities shall not exceed the dollar amounts  
16           that are specified in section 1001(b)(1) of the Food Secu-  
17           rity Act of 1985 (7 U.S.C. 1308(b)(1)).

18           (e) RELATION TO OTHER ASSISTANCE.—Persons  
19           that elect to receive payments under this section for a cov-  
20           ered commodity are not eligible for crop loss assistance  
21           under section 4 for the same commodity.

22           (f) TIME FOR PAYMENT.—The Secretary shall make  
23           payments under this section as soon as practicable after  
24           the date of enactment of this Act.

1 **SEC. 4. CROP LOSS ASSISTANCE.**

2 (a) ASSISTANCE AVAILABLE.—The Secretary shall  
3 use such sums as are necessary of the funds of the Com-  
4 modity Credit Corporation to make emergency financial  
5 assistance available to producers on a farm that have in-  
6 curred losses in a disaster county as a result of the dis-  
7 aster for which the natural disaster declaration was made,  
8 as determined by the Secretary.

9 (b) ADMINISTRATION.—Subject to subsection (a), the  
10 Secretary shall make assistance available under this sec-  
11 tion in the same manner as provided under section 1102  
12 of the Agriculture, Rural Development, Food and Drug  
13 Administration, and Related Agencies Appropriations Act,  
14 1999 (7 U.S.C. 1421 note; Public Law 105–277), includ-  
15 ing using the same loss thresholds as were used in admin-  
16 istering that section.

17 (c) QUALIFYING LOSSES.—Assistance under this sec-  
18 tion may be made for losses associated with crops that  
19 are, as determined by the Secretary—

20 (1) quantity losses;

21 (2) quality losses; or

22 (3) severe economic losses due to damaging  
23 weather or related condition.

24 (d) CROPS COVERED.—Assistance under this section  
25 shall be applicable to losses for all crops (including losses  
26 of trees from which a crop is harvested, livestock, and fish-

1 eries), as determined by the Secretary, due to the disaster  
2 for which the natural disaster declaration was made.

3 (e) **RELATION TO OTHER ASSISTANCE.**—Persons  
4 that elect to receive assistance under this section for a  
5 covered commodity are not eligible for supplemental direct  
6 payments for the same covered commodity under section  
7 3.

8 (f) **CROP INSURANCE.**—In carrying out this section,  
9 the Secretary shall not discriminate against or penalize  
10 producers on a farm that have purchased crop insurance  
11 under the Federal Crop Insurance Act (7 U.S.C. 1501 et  
12 seq.).

13 **SEC. 5. LIVESTOCK ASSISTANCE.**

14 (a) **CONTINUATION OF ASSISTANCE PROGRAM.**—  
15 Subject to subsection (c), the Secretary shall continue to  
16 carry out the 2002 Livestock Compensation Program an-  
17 nounced by the Secretary on October 10, 2002 (67 Fed.  
18 Reg. 63070), and under such Program, the Secretary shall  
19 provide assistance to any applicant that—

20 (1) conducts a livestock operation that is phys-  
21 ically located in a disaster county and meets all  
22 other eligibility requirements established by the Sec-  
23 retary for the Program; or

24 (2) produces an animal described in section  
25 10806(a)(1) of the Farm Security and Rural Invest-

1       ment Act of 2002 (21 U.S.C. 321d(a)(1)) and meets  
2       all other eligibility requirements established by the  
3       Secretary for the Program.

4       (b) LIVESTOCK LOSS ASSISTANCE PROGRAM.—Sub-  
5       ject to subsection (c), the Secretary shall use  
6       \$250,000,000 of funds of the Commodity Credit Corpora-  
7       tion to carry out a program to make payments to pro-  
8       ducers for livestock losses occurring in a disaster county.  
9       The payments shall be made using the criteria established  
10      to carry out the 1999 Livestock Assistance Program.

11      (c) RELATIONSHIP OF LIVESTOCK ASSISTANCE PRO-  
12      GRAMS.—The amount of assistance that the producers on  
13      a farm would receive for a loss under a livestock assistance  
14      program, in the absence of the operation of this sub-  
15      section, shall be reduced by the amount of the assistance  
16      that the producers on the farm receive under any other  
17      livestock assistance program.

18      (d) USE OF COMMODITY CREDIT CORPORATION  
19      FUNDS.—Effective beginning on the date of enactment of  
20      this Act, the Secretary shall carry out the 2002 Livestock  
21      Compensation Program using funds of the Commodity  
22      Credit Corporation.

23      **SEC. 6. EMERGENCY SURPLUS REMOVAL.**

24      The Secretary shall transfer \$250,000,000 of funds  
25      of the Commodity Credit Corporation to the fund estab-

1 lished by section 32 of the Act of August 24, 1935 (7  
2 U.S.C. 612c), to carry out emergency surplus removal of  
3 agricultural commodities.

4 **SEC. 7. SPECIALTY CROPS.**

5       The Secretary shall use \$50,000,000 of funds of the  
6 Commodity Credit Corporation to provide assistance to  
7 producers directly or through grants to States, or take  
8 such other action as the Secretary determines is appro-  
9 priate, to assist producers of fruits and vegetables.

10 **SEC. 8. COTTONSEED.**

11       The Secretary shall use \$50,000,000 of funds of the  
12 Commodity Credit Corporation to provide assistance to  
13 producers and first handlers of the 2005 crop of cotton-  
14 seed.

15 **SEC. 9. ADDITIONAL HURRICANE ASSISTANCE.**

16       (a) IN GENERAL.—In any State described in section  
17 359f(e)(1)(A) of the Agricultural Adjustment Act of 1938  
18 (7 U.S.C. 1359ff(e)(1)(A)) in a which a natural disaster  
19 declaration is in effect, the Secretary shall make available  
20 to first processors that are eligible to obtain a loan under  
21 section 156(a) of the Federal Agriculture Improvement  
22 and Reform Act of 1996 (7 U.S.C. 7272(a)) assistance  
23 in the form of payments, or commodities in the inventory  
24 of the Commodity Credit Corporation from carrying out  
25 that section, to partially compensate producers and first

1 processors for crop and other losses that are related to  
2 the natural disaster declaration.

3 (b) ADMINISTRATION.—Assistance under this section  
4 shall be—

5 (1) shared by an affected first processor with  
6 affected producers that provide commodities to the  
7 processor in a manner that reflects contracts entered  
8 into between the processor and the producers; and

9 (2) made available under such terms and condi-  
10 tions as the Secretary determines are necessary to  
11 carry out this section.

12 (c) QUANTITY.—To carry out this section, the Sec-  
13 retary shall—

14 (1) use 200,000 tons of commodities in the in-  
15 ventory of the Commodity Credit Corporation under  
16 section 156(a) of the Federal Agriculture Improve-  
17 ment and Reform Act of 1996 (7 U.S.C. 7272(a));

18 (2) make payments in an aggregate amount  
19 equal to the market value of 200,000 tons of com-  
20 modities described in paragraph (1); or

21 (3) take any combination of actions described in  
22 paragraphs (1) and (2) using commodities or pay-  
23 ments with a total market value of 200,000 tons of  
24 commodities described in paragraph (1).

1 **SEC. 10. FUNDING.**

2 (a) IN GENERAL.—The Secretary shall use the funds,  
3 facilities, and authorities of the Commodity Credit Cor-  
4 poration to carry out this Act, and such funds shall remain  
5 available until expended.

6 (b) ADMINISTRATION.—The Secretary, acting  
7 through the Farm Service Agency, may use not more than  
8 \$70,000,000 of funds of the Commodity Credit Corpora-  
9 tion to cover administrative costs associated with the im-  
10 plementation of this Act and title I of the Farm Security  
11 and Rural Investment Act of 2002 (7 U.S.C. 7901 et  
12 seq.), and such funds shall remain available until ex-  
13 pended.

14 **SEC. 11. REGULATIONS.**

15 (a) IN GENERAL.—The Secretary may promulgate  
16 such regulations as are necessary to implement this Act.

17 (b) PROCEDURE.—The promulgation of the regula-  
18 tions and administration of this Act shall be made without  
19 regard to—

20 (1) the notice and comment provisions of sec-  
21 tion 553 of title 5, United States Code;

22 (2) the Statement of Policy of the Secretary of  
23 Agriculture effective July 24, 1971 (36 Fed. Reg.  
24 13804), relating to notices of proposed rulemaking  
25 and public participation in rulemaking; and

1           (3) chapter 35 of title 44, United States Code  
2           (commonly known as the “Paperwork Reduction  
3           Act”).

4           (c) CONGRESSIONAL REVIEW OF AGENCY RULE-  
5           MAKING.—In carrying out this section, the Secretary shall  
6           use the authority provided under section 808 of title 5,  
7           United States Code.

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