

Union Calendar No. 20

111TH CONGRESS
1ST SESSION

H. R. 1575

[Report No. 111-50]

To authorize the Attorney General to limit or recover excessive compensation paid or payable by entities that have received Federal financial assistance on or after September 1, 2008.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2009

Mr. CONYERS (for himself, Mr. COHEN, Mr. NADLER of New York, Mr. DELAHUNT, Mr. JOHNSON of Georgia, Mr. PIERLUISI, Ms. FUDGE, and Mr. TONKO) introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 24, 2009

Additional sponsors: Ms. WASSERMAN SCHULTZ, Mr. BOSWELL, Mr. BACA, Ms. JACKSON-LEE of Texas, Ms. ESHOO, Ms. HIRONO, and Mr. SHERMAN

MARCH 24, 2009

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To authorize the Attorney General to limit or recover excessive compensation paid or payable by entities that have received Federal financial assistance on or after September 1, 2008.

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 Act may be cited as the “End Government Re-
5 imbursement of Excessive Executive Disbursements (End
6 GREED) Act”.

7 **SEC. 2. STATEMENT OF AUTHORITY.**

8 Congress hereby elects to use its authority under arti-
9 cle I, section 8, clause 4, and article I, section 8, clause
10 18, of the Constitution—

11 (1) to establish a uniform law on bankruptcy
12 that applies to entities that have received extraor-
13 dinary financial assistance from the United States
14 on or after September 1, 2008, and

15 (2) to authorize the Attorney General of the
16 United States (hereinafter in this Act referred to as
17 the Attorney General), after consultation with the
18 Secretary of the Treasury (hereinafter in this Act
19 referred to as the Secretary)—

20 (A) to seek recovery of previous excessive
21 payments of compensation made by such enti-
22 ties after receiving such assistance, and

23 (B) to limit excessive payments of com-
24 pensation to be made by such entities.

1 **SEC. 3. RECOVERY OF EXCESSIVE COMPENSATION.**

2 (a) REVIEW OF CONTRACTS AND PAYMENTS.—The
3 Attorney General, after consultation with the Secretary,
4 on behalf of the Government may review any employment
5 contract made by a recipient entity, and any payment
6 made on or after September 1, 2008, by a recipient entity
7 to an employee.

8 (b) CIVIL ACTION FOR FRAUDULENT TRANSFER.—
9 The Attorney General may commence a civil action in an
10 appropriate district court of the United States to avoid
11 any payment made by a recipient entity to an employee
12 (including a payment under an employment contract) that
13 was made on or after September 1, 2008, if such entity
14 received less than a reasonably equivalent value in ex-
15 change for such payment and such entity—

16 (1) was insolvent on the date that such pay-
17 ment was made, not taking into account any—

18 (A) line of credit,

19 (B) loan, or

20 (C) payment in exchange for stock of such
21 entity,

22 received by such entity from the United States on or
23 after September 1, 2008, or

24 (2) was engaged in business or a transaction, or
25 was about to engage in business or a transaction, for

1 which property remaining in the recipient entity was
2 an unreasonably small capital.

3 For purposes of this subsection, the Attorney General may
4 avoid any transfer of an interest of a recipient entity in
5 property, or any obligation incurred by such entity, that
6 is avoidable under applicable law by a creditor holding an
7 unsecured claim against such entity.

8 (c) CIVIL ACTION TO AVOID CONTRACTUAL OBLIGA-
9 TIONS TO PAY EXCESSIVE COMPENSATION.—The Attor-
10 ney General may commence a civil action in an appro-
11 priate district court of the United States to limit the
12 amount of the compensation paid or payable on or after
13 the date of the enactment of this Act by a recipient entity
14 under an employment contract if such compensation is
15 greater than an amount equal to 10 times the amount of
16 the mean amount of compensation paid or payable to non-
17 management employees of such entity for any purpose
18 during the calendar year in which compensation was paid
19 or payable by such entity.

20 **SEC. 4. SUBPOENA AUTHORITY.**

21 The Attorney General is authorized to issue a sub-
22 poena requiring the attendance and testimony of witnesses
23 and the production of documentary evidence relating to
24 any matter relevant to the implementation of this Act, in-
25 cluding the circumstances surrounding any employment

1 contract or payment of compensation, which subpoena, in
2 the case of contumacy or refusal to obey, shall be enforce-
3 able by order of an appropriate district court of the United
4 States.

5 **SEC. 5. RULE OF CONSTRUCTION.**

6 Other than limiting compensation paid or payable
7 under employment contracts or providing for the recovery
8 of previously paid compensation, nothing in this Act shall
9 be construed to have any impact on a recipient entity, its
10 financial status, or the financial status of its creditors.

11 **SEC. 6. DEFINITIONS.**

12 For purposes of this Act—

13 (1) the term “employment contract” means an
14 employment contract that provides for the payment
15 of compensation (including performance or incentive
16 compensation, a bonus of any kind, or any other fi-
17 nancial return designed to replace or enhance incen-
18 tive, stock, or other compensation), and

19 (2) the term “recipient entity” means a person
20 (including any subsidiary of such person) that re-
21 ceives, during any period beginning on or after Sep-
22 tember 1, 2008, from the United States—

23 (A) a line of credit or a loan,

24 (B) a payment in exchange for stock of
25 such person (or such subsidiary), or

1 (C) any combination of credit, loans, or
2 payments,
3 that exceeds \$10,000,000,000 in the aggregate.

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