

111TH CONGRESS
1ST SESSION

H. R. 3232

To amend the Emergency Economic Stabilization Act of 2008 to require certain warrants held by the Secretary of the Treasury to be sold at public auction upon the repayment of the associated assistance provided under the Troubled Asset Relief Program.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2009

Ms. KILROY (for herself, Mr. SHERMAN, Ms. SUTTON, Ms. FUDGE, Mr. BOCCIERI, Ms. SPEIER, and Mr. GRAYSON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Emergency Economic Stabilization Act of 2008 to require certain warrants held by the Secretary of the Treasury to be sold at public auction upon the repayment of the associated assistance provided under the Troubled Asset Relief Program.

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 “Provide a Return on
5 Financial Investment for the Taxpayer Act of 2009” or
6 as the “PROFIT Act of 2009”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to maximize the American
3 taxpayers' return on its investment in troubled financial
4 institutions through the Troubled Asset Relief Program
5 (TARP).

6 **SEC. 3. FINDINGS.**

7 The Congress finds the following:

8 (1) During the wake of the economic crisis in
9 the fall of 2008, American taxpayers assumed an
10 enormous financial risk when they bailed out trou-
11 bled financial institutions.

12 (2) To compensate for the risk assumed by
13 American taxpayers, banks that received TARP
14 funds were required to give the Department of
15 Treasury warrants for the future purchase of com-
16 mon shares, allowing American taxpayers an oppor-
17 tunity to profit from the possible upside of their ini-
18 tial equity investment.

19 (3) The price at which the warrants are sold is
20 critical as the warrants represent the only oppor-
21 tunity for American taxpayers to benefit from the
22 risk they assumed in bailing out troubled financial
23 institutions.

24 (4) However, in a July 10, 2009, oversight re-
25 port, the TARP Congressional Oversight Panel
26 (COP) found that the process used by the Depart-

1 ment of Treasury to allow the initial 11 banks to re-
2 purchase their warrants did so at just 66 percent of
3 the actual value of the warrants. If these warrants
4 had been sold for their current market value, Amer-
5 ican taxpayers would have recovered \$10 million
6 more.

7 (5) Furthermore, COP found that if the De-
8 partment of Treasury uses this same approach to re-
9 purchase all remaining outstanding warrants, the
10 shortfall to taxpayers could be as much as \$2.7 bil-
11 lion.

12 (6) Finally, COP found that the Department of
13 Treasury would be more likely to maximize taxpayer
14 returns if it sold the warrants through an open, pub-
15 lic auction, as an auction would allow competitive
16 market pressures in the bidding process to push bids
17 higher, thus maximizing the American taxpayers
18 overall return on its initial investment.

19 **SEC. 4. SALE OF WARRANTS THROUGH A PUBLIC AUCTION.**

20 Section 111 of the Emergency Economic Stabilization
21 Act of 2008 (12 U.S.C. 5221) is amended—

22 (1) by redesignating subsection (h) as sub-
23 section (i); and

24 (2) by inserting after subsection (g) the fol-
25 lowing new subsection:

1 “(h) SALE OF WARRANTS THROUGH A PUBLIC AUC-
2 TION.—

3 “(1) IN GENERAL.—Each time a financial insti-
4 tution makes a repayment of assistance provided
5 under this title, the Secretary shall sell warrants as-
6 sociated with such assistance through a public auc-
7 tion.

8 “(2) EXCEPTION.—The requirement under
9 paragraph (1) shall not apply to warrants associated
10 with a repayment made by a financial institution
11 that has received less than \$250,000,000 of assist-
12 ance under this title.”.

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