

111TH CONGRESS
1ST SESSION

H. R. 74

To establish the Financial Oversight Commission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. ISSA introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish the Financial Oversight Commission, 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 Act may be cited as the “Financial Oversight
5 Commission Act of 2009”.

6 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

7 There is established in the legislative branch the Fi-
8 nancial Oversight Commission (hereafter in this Act re-
9 ferred to as the “Commission”).

10 **SEC. 3. PURPOSES.**

11 The purposes of the Commission are to—

1 (1) examine and report upon the facts and
2 causes relating to the financial crisis of 2008;

3 (2) ascertain, evaluate, and report on the evi-
4 dence developed by all relevant governmental agen-
5 cies regarding the facts and circumstances sur-
6 rounding the crisis;

7 (3) build upon the investigations of other enti-
8 ties, and avoid unnecessary duplication, by reviewing
9 the findings, conclusions, and recommendations of
10 other executive branch, congressional, or inde-
11 pendent commission investigations into the financial
12 crisis of 2008;

13 (4) make a full and complete accounting of the
14 circumstances surrounding the crisis, the private
15 sector and government role in causing the crisis, and
16 the extent of the United States preparedness for,
17 and immediate response to, the crisis; and

18 (5) investigate and report to the President and
19 Congress on its findings, conclusions, and rec-
20 ommendations for corrective measures that can be
21 taken to prevent further economic breakdown.

22 **SEC. 4. COMPOSITION OF COMMISSION.**

23 (a) MEMBERS.—The Commission shall be composed
24 of 10 members, of whom—

1 (1) 1 member shall be appointed by the Presi-
2 dent, who shall serve as chairman of the Commis-
3 sion;

4 (2) 1 member shall be appointed by the leader
5 of the Senate (majority or minority leader, as the
6 case may be) of the Democratic Party, in consulta-
7 tion with the leader of the House of Representatives
8 (majority or minority leader, as the case may be) of
9 the Democratic Party, who shall serve as vice chair-
10 man of the Commission;

11 (3) 2 members shall be appointed by the senior
12 member of the Senate leadership of the Democratic
13 Party;

14 (4) 2 members shall be appointed by the senior
15 member of the leadership of the House of Represent-
16 atives of the Republican Party;

17 (5) 2 members shall be appointed by the senior
18 member of the Senate leadership of the Republican
19 Party; and

20 (6) 2 members shall be appointed by the senior
21 member of the leadership of the House of Represent-
22 atives of the Democratic Party.

23 (b) QUALIFICATIONS; INITIAL MEETING.—

1 (1) POLITICAL PARTY AFFILIATION.—Not more
2 than 5 members of the Commission shall be from
3 the same political party.

4 (2) NONGOVERNMENTAL APPOINTEES.—An in-
5 dividual appointed to the Commission may not be an
6 officer or employee of the Federal Government or
7 any State or local government.

8 (3) OTHER QUALIFICATIONS.—It is the sense of
9 Congress that individuals appointed to the Commis-
10 sion should be prominent United States citizens,
11 with national recognition and significant depth of ex-
12 perience in such professions as governmental service,
13 financial services, economics, law, public administra-
14 tion, commerce, and foreign markets.

15 (4) DEADLINE FOR APPOINTMENT.—All mem-
16 bers of the Commission shall be appointed before the
17 end of the 60-day period beginning on the date of
18 the enactment of this Act.

19 (5) INITIAL MEETING.—The Commission shall
20 meet and begin the operations of the Commission as
21 soon as practicable.

22 (c) QUORUM; VACANCIES.—After its initial meeting,
23 the Commission shall meet upon the call of the chairman
24 or a majority of its members. Six members of the Commis-
25 sion shall constitute a quorum. Any vacancy in the Com-

1 mission shall not affect its powers, but shall be filled in
2 the same manner in which the original appointment was
3 made.

4 **SEC. 5. FUNCTIONS OF COMMISSION.**

5 (a) IN GENERAL.—The functions of the Commission
6 are to—

7 (1) conduct an investigation that—

8 (A) investigates relevant facts and cir-
9 cumstances relating to the financial crisis of
10 2008, including any relevant legislation, Execu-
11 tive order, regulation, plan, policy, practice, or
12 procedure; and

13 (B) may include relevant facts and cir-
14 cumstances relating to—

15 (i) government sponsored enterprises
16 (GSE), including the Federal National
17 Mortgage Association (Fannie Mae), and
18 the Federal Home Loan Mortgage Cor-
19 poration (Freddie Mac);

20 (ii) the stock market;

21 (iii) the housing market;

22 (iv) credit rating agencies;

23 (v) the financial services sector, in-
24 cluding hedge funds, private equity and the
25 insurance industry;

1 (vi) the role of congressional oversight
2 and resource allocation; and

3 (vii) other areas of the public and pri-
4 vate sectors determined relevant by the
5 Commission for its inquiry;

6 (2) identify, review, and evaluate the lessons
7 learned from the financial crisis of 2008, regarding
8 the structure, coordination, management policies,
9 and procedures of the Federal Government, and, if
10 appropriate, State and local governments and non-
11 governmental entities, relative to detecting, pre-
12 venting, and responding to such financial crises; and

13 (3) submit to the President and Congress such
14 reports as are required by this Act containing such
15 findings, conclusions, and recommendations as the
16 Commission shall determine, including proposing or-
17 ganization, coordination, planning, management ar-
18 rangements, procedures, rules, and regulations, and
19 reports of the on-going review by the Commission
20 under section 11(c) after the submission of the final
21 investigative report.

22 **SEC. 6. POWERS OF COMMISSION.**

23 (a) IN GENERAL.—

24 (1) HEARINGS AND EVIDENCE.—The Commis-
25 sion or, on the authority of the Commission, any

1 subcommittee or member thereof, may, for the pur-
2 pose of carrying out this Act—

3 (A) hold such hearings and sit and act at
4 such times and places, take such testimony, re-
5 ceive such evidence, administer such oaths; and

6 (B) subject to paragraph (2)(A), require,
7 by subpoena or otherwise, the attendance and
8 testimony of such witnesses and the production
9 of such books, records, correspondence, memo-
10 randa, papers, and documents, as the Commis-
11 sion or such designated subcommittee or des-
12 ignated member may determine advisable.

13 (2) SUBPOENAS.—

14 (A) ISSUANCE.—

15 (i) IN GENERAL.—A subpoena may be
16 issued under this subsection only—

17 (I) by the agreement of the
18 chairman and the vice chairman; or

19 (II) by the affirmative vote of 6
20 members of the Commission.

21 (ii) SIGNATURE.—Subject to clause
22 (i), subpoenas issued under this subsection
23 may be issued under the signature of the
24 chairman or any member designated by a
25 majority of the Commission, and may be

1 served by any person designated by the
2 chairman or by a member designated by a
3 majority of the Commission.

4 (B) ENFORCEMENT.—

5 (i) IN GENERAL.—In the case of con-
6 tumacy or failure to obey a subpoena
7 issued under subsection (a), the United
8 States district court for the judicial district
9 in which the subpoenaed person resides, is
10 served, or may be found, or where the sub-
11 poena is returnable, may issue an order re-
12 quiring such person to appear at any des-
13 ignated place to testify or to produce docu-
14 mentary or other evidence. Any failure to
15 obey the order of the court may be pun-
16 ished by the court as a contempt of that
17 court.

18 (ii) ADDITIONAL ENFORCEMENT.—In
19 the case of any failure of any witness to
20 comply with any subpoena or to testify
21 when summoned under authority of this
22 section, the Commission may, by majority
23 vote, certify a statement of fact consti-
24 tuting such failure to the appropriate
25 United States attorney, who may bring the

1 matter before the grand jury for its action,
2 under the same statutory authority and
3 procedures as if the United States attorney
4 had received a certification under sections
5 102 through 104 of the Revised Statutes
6 of the United States (2 U.S.C. 192
7 through 194).

8 (b) CONTRACTING.—The Commission may, to such
9 extent and in such amounts as are provided in appropria-
10 tion Acts, enter into contracts to enable the Commission
11 to discharge its duties under this Act.

12 (c) INFORMATION FROM FEDERAL AGENCIES.—

13 (1) IN GENERAL.—The Commission is author-
14 ized to secure directly from any executive depart-
15 ment, bureau, agency, board, commission, office,
16 independent establishment, or instrumentality of the
17 Government, information, suggestions, estimates,
18 and statistics for the purposes of this Act. Each de-
19 partment, bureau, agency, board, commission, office,
20 independent establishment, or instrumentality shall,
21 to the extent authorized by law, furnish such infor-
22 mation, suggestions, estimates, and statistics di-
23 rectly to the Commission, upon request made by the
24 chairman, the chairman of any subcommittee cre-

1 ated by a majority of the Commission, or any mem-
2 ber designated by a majority of the Commission.

3 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
4 SEMINATION.—Information shall only be received,
5 handled, stored, and disseminated by members of
6 the Commission and its staff consistent with all ap-
7 plicable statutes, regulations, and Executive orders.

8 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

9 (1) GENERAL SERVICES ADMINISTRATION.—
10 The Administrator of General Services shall provide
11 to the Commission on a reimbursable basis adminis-
12 trative support and other services for the perform-
13 ance of the Commission's functions.

14 (2) OTHER DEPARTMENTS AND AGENCIES.—In
15 addition to the assistance prescribed in paragraph
16 (1), departments and agencies of the United States
17 may provide to the Commission such services, funds,
18 facilities, staff, and other support services as they
19 may determine advisable and as may be authorized
20 by law.

21 (e) GIFTS.—The Commission may accept, use, and
22 dispose of gifts or donations of services or property.

23 (f) POSTAL SERVICES.—The Commission may use
24 the United States mails in the same manner and under

1 the same conditions as departments and agencies of the
2 United States.

3 **SEC. 7. NONAPPLICABILITY OF FEDERAL ADVISORY COM-**
4 **MITTEE ACT.**

5 (a) IN GENERAL.—The Federal Advisory Committee
6 Act (5 U.S.C. App.) shall not apply to the Commission.

7 (b) PUBLIC MEETINGS AND RELEASE OF PUBLIC
8 VERSIONS OF REPORTS.—The Commission shall—

9 (1) hold public hearings and meetings to the ex-
10 tent appropriate; and

11 (2) release public versions of the reports re-
12 quired under subsections (a), (b), and (c) of section
13 11.

14 (c) PUBLIC HEARINGS.—Any public hearings of the
15 Commission shall be conducted in a manner consistent
16 with the protection of information provided to or developed
17 for or by the Commission as required by any applicable
18 statute, regulation, or Executive order.

19 **SEC. 8. STAFF OF COMMISSION.**

20 (a) IN GENERAL.—

21 (1) APPOINTMENT AND COMPENSATION.—The
22 chairman, in consultation with vice chairman, in ac-
23 cordance with rules agreed upon by the Commission,
24 may appoint and fix the compensation of a staff di-
25 rector and such other personnel as may be necessary

1 to enable the Commission to carry out its functions,
2 without regard to the provisions of title 5, United
3 States Code, governing appointments in the competi-
4 tive service, and without regard to the provisions of
5 chapter 51 and subchapter III of chapter 53 of such
6 title relating to classification and General Schedule
7 pay rates, except that no rate of pay fixed under this
8 subsection may exceed the equivalent of that payable
9 for a position at level V of the Executive Schedule
10 under section 5316 of title 5, United States Code.

11 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

12 (A) IN GENERAL.—The executive director
13 and any personnel of the Commission who are
14 employees shall be employees under section
15 2105 of title 5, United States Code, for pur-
16 poses of chapters 63, 81, 83, 84, 85, 87, 89,
17 and 90 of that title.

18 (B) MEMBERS OF COMMISSION.—Subpara-
19 graph (A) shall not be construed to apply to
20 members of the Commission.

21 (b) DETAILEES.—Any Federal Government employee
22 may be detailed to the Commission without reimbursement
23 from the Commission, and such detailee shall retain the
24 rights, status, and privileges of his or her regular employ-
25 ment without interruption.

1 (c) CONSULTANT SERVICES.—The Commission is au-
2 thorized to procure the services of experts and consultants
3 in accordance with section 3109 of title 5, United States
4 Code, but at rates not to exceed the daily rate paid a per-
5 son occupying a position at level IV of the Executive
6 Schedule under section 5315 of title 5, United States
7 Code.

8 **SEC. 9. COMPENSATION AND TRAVEL EXPENSES.**

9 (a) COMPENSATION.—Each member of the Commis-
10 sion may be compensated at not to exceed the daily equiva-
11 lent of the annual rate of basic pay in effect for a position
12 at level IV of the Executive Schedule under section 5315
13 of title 5, United States Code, for each day during which
14 that member is engaged in the actual performance of the
15 duties of the Commission.

16 (b) TRAVEL EXPENSES.—While away from their
17 homes or regular places of business in the performance
18 of services for the Commission, members of the Commis-
19 sion shall be allowed travel expenses, including per diem
20 in lieu of subsistence, in the same manner as persons em-
21 ployed intermittently in the Government service are al-
22 lowed expenses under section 5703(b) of title 5, United
23 States Code.

1 **SEC. 10. SECURITY CLEARANCES FOR COMMISSION MEM-**
2 **BERS AND STAFF.**

3 The appropriate Federal agencies or departments
4 shall cooperate with the Commission in expeditiously pro-
5 viding to the Commission members and staff appropriate
6 security clearances to the extent possible pursuant to ex-
7 isting procedures and requirements, except that no person
8 shall be provided with access to classified information
9 under this Act without the appropriate security clearances.

10 **SEC. 11. REPORTS OF COMMISSION; CONTINUED REVIEW;**
11 **TERMINATION.**

12 (a) INTERIM INVESTIGATIVE REPORTS.—The Com-
13 mission may submit to the President and Congress interim
14 investigative reports containing such findings, conclusions,
15 and recommendations for corrective measures as have
16 been agreed to by a majority of Commission members.

17 (b) FINAL INVESTIGATIVE REPORT.—Not later than
18 12 months after the date of the enactment of this Act,
19 the Commission shall submit to the President and Con-
20 gress a final report containing such findings, conclusions,
21 and recommendations for corrective measures as have
22 been agreed to by a majority of Commission members.

23 (c) CONTINUED REVIEW AND REPORTING.—During
24 the 4-year period following the date of the submission of
25 the final investigative report to the Congress pursuant to
26 subsection (b), the Commission shall continue to review

1 the subjects investigated by the Commission under this
2 Act, and the response of the Congress and the Executive
3 branch to the final investigative report of the Commission
4 as well as conditions in the marketplace, and submit such
5 reports on the findings and recommendations of the Com-
6 mission as the Commission determines to be appropriate.

7 (d) TERMINATION.—The Commission, and all the au-
8 thorities of this Act, shall terminate 4 years after the date
9 on which the final investigative report is submitted under
10 subsection (b).

11 **SEC. 12. FUNDING.**

12 (a) IN GENERAL.—There is hereby authorized to be
13 appropriated to the Commission such sums as may be nec-
14 essary for purposes of the carrying out the activities of
15 the Commission under this Act for fiscal years beginning
16 before the termination of the Commission.

17 (b) DURATION OF AVAILABILITY.—Amounts appro-
18 priated under subsection (a) are authorized to be made
19 available until the termination of the Commission.

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