

107TH CONGRESS
2D SESSION

H. R. 3634

To permit certain funds assessed for securities laws violations to be used to compensate employees who are victims of excessive pension fund investments in the securities of their employers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2002

Ms. WATERS introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To permit certain funds assessed for securities laws violations to be used to compensate employees who are victims of excessive pension fund investments in the securities of their employers, 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 “Enron Employee Pen-
5 sion Recovery Act of 2002”.

1 **SEC. 2. SECURITIES AND EXCHANGE COMMISSION AUTHOR-**
2 **ITY TO PROVIDE RELIEF.**

3 (a) PROCEEDS OF ENRON AND ANDERSEN EN-
4 FORCEMENT ACTIONS.—If in any administrative or judi-
5 cial proceeding brought by the Securities and Exchange
6 Commission against—

7 (1) the Enron Corporation, any subsidiary or
8 affiliate of such Corporation, or any officer, director,
9 or principal shareholder of such Corporation, sub-
10 sidiary, or affiliate for any violation of the securities
11 laws; or

12 (2) Arthur Andersen L.L.C., any subsidiary or
13 affiliate of Arthur Andersen L.L.C., or any general
14 or limited partner of Arthur Andersen L.L.C., or
15 such subsidiary or affiliate, for any violation of the
16 securities laws with respect to any services per-
17 formed for or in relation to the Enron Corporation,
18 any subsidiary or affiliate of such Corporation, or
19 any officer, director, or principal shareholder of such
20 Corporation, subsidiary, or affiliate;

21 the Commission obtains an order providing for an account-
22 ing and disgorgement of funds, such disgorgement fund
23 (including any addition to such fund required or permitted
24 under this section) shall be allocated in accordance with
25 the requirements of this section.

1 (b) PRIORITY FOR FORMER ENRON EMPLOYEES.—

2 The Commission shall, by order, establish an allocation
3 system for the disgorgement fund. Such system shall pro-
4 vide that, in allocating the disgorgement fund amount the
5 victims of the securities laws violations described in sub-
6 section (a), the first priority shall be given to individuals
7 who were employed by the Enron Corporation, or a sub-
8 sidiary or affiliate of such Corporation, and who were par-
9 ticipants in an individual account plan established by such
10 Corporation, subsidiary, or affiliate. Such allocations
11 among such individuals shall be in proportion to the extent
12 to which the nonforfeitable accrued benefit of each such
13 individual under the plan was invested in the securities
14 of such Corporation, subsidiary, or affiliate.

15 (c) ADDITION OF CIVIL PENALTIES.—If, in any pro-
16 ceeding described in subsection (a), the Commission as-
17 sesses and collects any civil penalty, the Commission shall,
18 notwithstanding sections 21(d)(3)(C)(i), 21A(d)(1), or
19 any other provision of the securities laws, be payable to
20 the disgorgement fund.

21 (d) ACCEPTANCE OF FEDERAL CAMPAIGN CON-
22 TRIBUTIONS.—

23 (1) IN GENERAL.—Section 313 of the Federal
24 Election Campaign Act of 1971 (2 U.S.C. 439a) is
25 amended by inserting before “or may be used” the

1 following: “may be transferred to any disgorgement
2 fund which is required to be allocated in accordance
3 with the requirements of the Enron Employee Pen-
4 sion Recovery Act of 2002,”.

5 (2) EFFECTIVE DATE.—The amendment made
6 by paragraph (1) shall apply with respect to any
7 amounts received by a candidate at any time before,
8 on, or after the date of the enactment of this Act.

9 (e) ACCEPTANCE OF ADDITIONAL DONATIONS.—The
10 Commission is authorized to accept, hold, administer, and
11 utilize gifts, bequests and devises of property, both real
12 and personal, to the United States for the disgorgement
13 fund. Gifts, bequests, and devises of money and proceeds
14 from sales of other property received as gifts, bequests,
15 or devises shall be deposited in the disgorgement fund and
16 shall be available for allocation in accordance with sub-
17 section (b).

18 (f) DEFINITIONS.—As used in this section:

19 (1) COMMISSION.—The term “Commission”
20 means the Securities Exchange Commission.

21 (2) SECURITIES LAWS.—The term “securities
22 laws” means the Securities Act of 1933 (15 U.S.C.
23 78a et seq.), the Securities Exchange Act of 1934
24 (15 U.S.C. 78a et seq.), the Trust Indenture Act of
25 1939 (15 U.S.C. 77aaa et seq.), the Investment

1 Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the
2 Investment Advisers Act of 1940 (15 U.S.C. 80b et
3 seq.), and the Securities Investor Protection Act of
4 1970 (15 U.S.C. 78aaa et seq.).

5 (3) DISGORGEMENT FUND.—The term
6 “disgorgement fund” means a disgorgement fund es-
7 tablished in any administrative or judicial proceeding
8 described in subsection (a).

9 (4) SUBSIDIARY OR AFFILIATE.—The term
10 “subsidiary or affiliate” when used in relation to a
11 person means any entity that controls, is controlled
12 by, or is under common control with such person.

13 (5) OFFICER, DIRECTOR, OR PRINCIPAL SHARE-
14 HOLDER.—The term “officer, director, or principal
15 shareholder” when used in relation to the Enron
16 Corporation, or any subsidiary or affiliate of such
17 Corporation, means any person that is subject to the
18 requirements of section 16 of the Securities Ex-
19 change Act of 1934 (15 U.S.C. 78p) in relation to
20 the Enron Corporation, or any subsidiary or affiliate
21 of such Corporation.

22 (6) NONFORFEITABLE; ACCRUED BENEFIT; IN-
23 DIVIDUAL ACCOUNT PLAN.—The terms “nonforfeit-
24 able”, “accrued benefit”, and “individual account
25 plan” have the meanings provided such terms, re-

1 spectively, in paragraphs (19), (23), and (34) of sec-
2 tion 3 of the Employee Retirement Income Security
3 Act of 1974 (29 U.S.C. 1002(19), (23), (34)).

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