

107TH CONGRESS
2D SESSION

S. 2901

To provide that bonuses and other extraordinary or excessive compensation of corporate insiders and wrongdoers may be included in the bankruptcy estate.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 3, 2002

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide that bonuses and other extraordinary or excessive compensation of corporate insiders and wrongdoers may be included in the bankruptcy estate.

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 “Corporate Account-
5 ability in Bankruptcy Act”.

6 **SEC. 2. BANKRUPTCY PROVISIONS.**

7 (a) PREFERENCES.—Section 547 of title 11, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 “(h) A trustee may avoid any transfer made within
 2 1 year before the date of the filing of the petition that
 3 was made to an insider, officer, or director for any bo-
 4 nuses, loans, nonqualified deferred compensation, or other
 5 extraordinary or excessive compensation as determined by
 6 the court.”.

7 (b) FRAUDULENT TRANSFERS AND OBLIGATIONS.—
 8 Section 548(a) of title 11, United States Code, is amended
 9 by adding at the end the following:

10 “(3) The trustee may avoid any transfer of an inter-
 11 est of the debtor in property, or any obligation incurred
 12 by the debtor, including any bonuses, loans, nonqualified
 13 deferred compensation, or other extraordinary or excessive
 14 compensation as determined by the court, paid to any offi-
 15 cer, director, or employee of an issuer of securities (as de-
 16 fined in section 2(a) of the Public Company Accounting
 17 Reform and Investor Protection Act of 2002), if—

18 “(A) that transfer of interest or obligation was
 19 made or incurred on or within 4 years before the
 20 date of the filing of the petition; and

21 “(B) the officer, director, or employee
 22 committed—

23 “(i) a violation of the Federal securities
 24 laws (as defined in section 3(a)(47) of the Secu-
 25 rities Exchange Act of 1934), State securities

1 laws, or any regulation or order issued under
2 Federal or State securities laws;

3 “(ii) fraud, deceit, or manipulation in a fi-
4 duciary capacity or in connection with the pur-
5 chase or sale of any security registered under
6 section 12 or 15(d) of the Securities Exchange
7 Act of 1934 or under section 6 of the Securities
8 Act of 1933; or

9 “(iii) illegal or deceptive accounting prac-
10 tices.”.

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