

109TH CONGRESS
2^D SESSION

H. R. 5113

To amend title 11, United States Code, with respect to reform of executive compensation in corporate bankruptcies.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2006

Mr. CONYERS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 11, United States Code, with respect to reform of executive compensation in corporate bankruptcies.

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 “Fairness and Account-
5 ability in Reorganizations Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) it is becoming more common for corpora-
9 tions that file for bankruptcy protection under chap-
10 ter 11 of title 11, United States Code, to ask for

1 great sacrifices from workers, retirees, creditors, and
2 former shareholders, while executives provide them-
3 selves with generous bonuses and other forms of lu-
4 crative compensation;

5 (2) in the case of one company, an executive
6 pay package for key employees would have given ex-
7 ecutives and managers \$510,000,000 in compensa-
8 tion, while rank-and-file workers were asked to take
9 large wage cuts or forced to lose their jobs;

10 (3) decency requires that the highly paid not
11 seek to enrich themselves on the backs of working
12 families;

13 (4) some bankruptcies involve companies with
14 both foreign and domestic operations, and judges
15 need to be able to evaluate the entirety of the oper-
16 ations when deciding whether sacrifices by American
17 workers and retirees are necessary; and

18 (5) there is a need for fairness and account-
19 ability and a new partnership for the future of the
20 American workforce.

21 **SEC. 3. EXECUTIVE COMPENSATION.**

22 Section 1129(a)(5) of title 11, United States Code,
23 is amended—

24 (1) in subparagraph (A)(ii), by striking “and”
25 at the end; and

1 (2) in subparagraph (B), by striking the period
2 at the end and inserting the following:

3 “; and

4 “(C) the compensation disclosed pursuant to
5 subparagraph (B) has been approved by, or is sub-
6 ject to the approval of, the court, as reasonable.”.

7 **SEC. 4. LIMITATIONS ON COMPENSATION ENHANCEMENTS.**

8 Section 503(e) of title 11, United States Code, is
9 amended—

10 (1) in paragraph (1), by inserting “, or for the
11 payment of a performance, incentive, or other bonus,
12 or any other compensation enhancement” after “re-
13 main with the debtor’s business”; and

14 (2) by striking paragraph (3) and inserting the
15 following:

16 “(3) other transfers or obligations, whether or
17 not outside of the ordinary course of business, to or
18 for the benefit of officers, managers, or consultants
19 retained by the debtor, before or after the filing of
20 the petition, in the absence of a finding by the court
21 based upon evidence in the record, and without def-
22 erence to the debtor’s request for such payments,
23 that such transfers or obligations are essential to the
24 survival of the business or (in the case of a liquida-
25 tion of some or all of the debtors’ assets) essential

1 to the orderly liquidation and maximization of value
2 of the assets of the debtor, in either case, because
3 of the essential nature of the services provided, and
4 then only to the extent that the court finds those
5 transfers or obligations are reasonable under the cir-
6 cumstances of the case.”.

7 **SEC. 5. TREATMENT OF FOREIGN AFFILIATES.**

8 (a) COLLECTIVE BARGAINING AGREEMENTS.—Sec-
9 tion 1113(d) of title 11, United States Code, is amended
10 by adding at the end the following:

11 “(4) FOREIGN AFFILIATES.—In determining whether
12 the proposal required by subsection (b)(1) provides for
13 those necessary modifications in employee benefits and
14 protections that are necessary to permit the reorganization
15 of the debtor and assures that all creditors, the debtor,
16 and all affected parties are treated fairly and equitably,
17 the court shall take into account the ongoing impact on
18 the debtor of the debtor’s relationship with all subsidiaries
19 and affiliates, regardless of whether any such subsidiary
20 or affiliate is domestic or nondomestic, or whether any
21 such subsidiary or affiliate is a debtor entity.”.

22 (b) RETIREE HEALTH BENEFITS.—Section 1114 of
23 title 11, United States Code, is amended by adding at the
24 end the following:

1 “(n) RETIREE HEALTH BENEFITS; FOREIGN AFFILI-
2 ATES.—In determining whether the proposal required by
3 subsection (f)(1)(A) provides for those necessary modifica-
4 tions in retiree benefits that are necessary to permit the
5 reorganization of the debtor and assures that all creditors,
6 the debtor, and all affected parties are treated fairly and
7 equitably, the court shall take into account the ongoing
8 impact on the debtor of the debtor’s relationship with all
9 subsidiaries and affiliates, regardless of whether any such
10 subsidiary or affiliate is domestic or nondomestic, or
11 whether any such subsidiary or affiliate is a debtor enti-
12 ty.”.

13 **SEC. 6. EFFECTIVE DATE.**

14 Notwithstanding any other provision of law, the
15 amendments made by this Act shall apply to any case
16 under chapter 11 of title 11, United States Code, filed
17 or pending on or after October 1, 2005.

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