

111TH CONGRESS
1ST SESSION

H. R. 1575

To authorize the Attorney General to limit or recover excessive compensation paid or payable by entities that have received Federal financial assistance on or after September 1, 2008.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2009

Mr. CONYERS (for himself, Mr. COHEN, Mr. NADLER of New York, Mr. DELAHUNT, Mr. JOHNSON of Georgia, Mr. PIERLUISI, Ms. FUDGE, and Mr. TONKO) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the Attorney General to limit or recover excessive compensation paid or payable by entities that have received Federal financial assistance on or after September 1, 2008.

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 “End Government Re-
5 imbursement of Excessive Executive Disbursements (End
6 GREED) Act”.

1 **SEC. 2. STATEMENT OF AUTHORITY.**

2 Congress hereby elects to use its authority under arti-
3 cle I, section 8, clause 4, and article I, section 8, clause
4 18, of the Constitution—

5 (1) to establish a uniform law on bankruptcy
6 that applies to entities that have received extraor-
7 dinary financial assistance from the United States
8 on or after September 1, 2008, and

9 (2) to authorize the Attorney General of the
10 United States (hereinafter in this Act referred to as
11 the Attorney General), after consultation with the
12 Secretary of the Treasury (hereinafter in this Act
13 referred to as the Secretary)—

14 (A) to seek recovery of previous excessive
15 payments of compensation made by such enti-
16 ties after receiving such assistance, and

17 (B) to limit excessive payments of com-
18 pensation to be made by such entities.

19 **SEC. 3. RECOVERY OF EXCESSIVE COMPENSATION.**

20 (a) REVIEW OF CONTRACTS AND PAYMENTS.—The
21 Attorney General, after consultation with the Secretary,
22 on behalf of the Government may review any employment
23 contract made by a recipient entity, and any payment
24 made on or after September 1, 2008, by a recipient entity
25 to an employee.

1 (b) CIVIL ACTION FOR FRAUDULENT TRANSFER.—

2 The Attorney General may commence a civil action in an
3 appropriate district court of the United States to avoid
4 any payment made by a recipient entity to an employee
5 (including a payment under an employment contract) that
6 was made on or after September 1, 2008, if such entity
7 received less than a reasonably equivalent value in ex-
8 change for such payment and such entity—

9 (1) was insolvent on the date that such pay-
10 ment was made, not taking into account any—

11 (A) line of credit,

12 (B) loan, or

13 (C) payment in exchange for stock of such
14 entity,

15 received by such entity from the United States on or
16 after September 1, 2008, or

17 (2) was engaged in business or a transaction, or
18 was about to engage in business or a transaction, for
19 which property remaining in the recipient entity was
20 an unreasonably small capital.

21 For purposes of this subsection, the Attorney General may
22 avoid any transfer of an interest of a recipient entity in
23 property, or any obligation incurred by such entity, that
24 is avoidable under applicable law by a creditor holding an
25 unsecured claim against such entity.

1 (c) CIVIL ACTION TO AVOID CONTRACTUAL OBLIGA-
2 TIONS TO PAY EXCESSIVE COMPENSATION.—The Attor-
3 ney General may commence a civil action in an appro-
4 priate district court of the United States to limit the
5 amount of the compensation paid or payable on or after
6 the date of the enactment of this Act by a recipient entity
7 under an employment contract if such compensation is
8 greater than an amount equal to 10 times the amount of
9 the mean amount of compensation paid or payable to non-
10 management employees of such entity for any purpose
11 during the calendar year in which compensation was paid
12 or payable by such entity.

13 **SEC. 4. SUBPOENA AUTHORITY.**

14 The Attorney General is authorized to issue a sub-
15 poena requiring the attendance and testimony of witnesses
16 and the production of documentary evidence relating to
17 any matter relevant to the implementation of this Act, in-
18 cluding the circumstances surrounding any employment
19 contract or payment of compensation, which subpoena, in
20 the case of contumacy or refusal to obey, shall be enforce-
21 able by order of an appropriate district court of the United
22 States.

23 **SEC. 5. RULE OF CONSTRUCTION.**

24 Other than limiting compensation paid or payable
25 under employment contracts or providing for the recovery

1 of previously paid compensation, nothing in this Act shall
2 be construed to have any impact on a recipient entity, its
3 financial status, or the financial status of its creditors.

4 **SEC. 6. DEFINITIONS.**

5 For purposes of this Act—

6 (1) the term “employment contract” means an
7 employment contract that provides for the payment
8 of compensation (including performance or incentive
9 compensation, a bonus of any kind, or any other fi-
10 nancial return designed to replace or enhance incen-
11 tive, stock, or other compensation), and

12 (2) the term “recipient entity” means a person
13 (including any subsidiary of such person) that re-
14 ceives, during any period beginning on or after Sep-
15 tember 1, 2008, from the United States—

16 (A) a line of credit or a loan,

17 (B) a payment in exchange for stock of
18 such person (or such subsidiary), or

19 (C) any combination of credit, loans, or
20 payments,

21 that exceeds \$10,000,000,000 in the aggregate.

○