

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3783

To amend the Securities Exchange Act of 1934 to provide the Securities and Exchange Commission with the authority to contract for the collection of delinquent claims resulting from judgments or orders obtained by the Commission.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2009

Mr. POSEY (for himself, Mr. BACHUS, Mr. PUTNAM, and Mrs. BACHMANN) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Securities Exchange Act of 1934 to provide the Securities and Exchange Commission with the authority to contract for the collection of delinquent claims resulting from judgments or orders obtained by the Commission.

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 “SEC Delinquent Judg-  
5 ment Collection Act”.

1 **SEC. 2. AUTHORITY TO CONTRACT FOR COLLECTION OF**  
2 **DELINQUENT JUDGMENTS AND ORDERS.**

3 Subsection (b) of section 4 of the Securities Exchange  
4 Act of 1934 (15 U.S.C. 78d(b)) is amended—

5 (1) in the heading of such subsection, by strik-  
6 ing “AND LEASING AUTHORITY” and inserting “,  
7 LEASING AUTHORITY, AND CONTRACTING AUTHOR-  
8 ITY”; and

9 (2) by adding at the end the following new  
10 paragraph:

11 “(4) CONTRACTING AUTHORITY.—

12 “(A) IN GENERAL.—Notwithstanding any  
13 other provision of law, the Commission is au-  
14 thorized to enter into contracts to assist in the  
15 collection of any claim of indebtedness resulting  
16 from any judgment or order (either by litigation  
17 or settlement) obtained by the Commission in  
18 any judicial action or administrative proceeding  
19 brought by or on behalf of the Commission.  
20 This authority includes, but is not limited to,  
21 the retention of private legal counsel to furnish  
22 legal services, including representation in litiga-  
23 tion, negotiation, compromise, and settlement.  
24 Private counsel retained under this paragraph  
25 may represent the Commission in such debt col-

1           lection matters to the same extent as the Com-  
2           mission may represent itself.

3           “(B) TERMS AND CONDITIONS OF CON-  
4           TRACT.—Each such contract shall include such  
5           terms and conditions as the Commission con-  
6           siders necessary and appropriate, and shall in-  
7           clude provisions specifying—

8                   “(i) the amount of the fee to be paid  
9                   under such contract or the method for cal-  
10                  culating that fee;

11                  “(ii) that the Commission retains the  
12                  authority to represent itself, resolve a dis-  
13                  pute, compromise a claim, end collection  
14                  efforts, and refer a matter to other counsel  
15                  or to the Attorney General; and

16                  “(iii) that the Commission may termi-  
17                  nate either the contract or the private  
18                  counsel’s representation of the Commission  
19                  in particular cases for any reason, includ-  
20                  ing for the convenience of the Commission.

21           “(C) PAYMENT OF FEES.—Notwith-  
22           standing section 3302(b) of title 31, United  
23           States Code, a contract under this paragraph  
24           may provide that fees and costs incurred by pri-

1           vate counsel under such contracts are payable  
2           from the amounts recovered.

3           “(D) COMPETITION REQUIRED.—Nothing  
4           in this paragraph shall relieve the Commission  
5           of the competition requirements set forth in  
6           title III of the Federal Property and Adminis-  
7           trative Services Act of 1949 (41 U.S.C. 251 et  
8           seq.).

9           “(E) COUNTERCLAIMS.—In any action to  
10          recover indebtedness which is brought on behalf  
11          of the Commission by private counsel retained  
12          under this paragraph, no counterclaim may be  
13          asserted against the Commission unless the  
14          counterclaim is served directly on the Commis-  
15          sion. Such service shall be made in accordance  
16          with the rules of procedure of the court in  
17          which the action is brought.”.

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