

111TH CONGRESS
1ST SESSION

S. 1280

To authorize the Secretary of the Treasury to delegate management authority over troubled assets purchased under the Troubled Asset Relief Program, to require the establishment of a trust to manage assets of certain designated TARP recipients, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2009

Mr. CORKER (for himself, Mr. WARNER, and Mr. BENNETT) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To authorize the Secretary of the Treasury to delegate management authority over troubled assets purchased under the Troubled Asset Relief Program, to require the establishment of a trust to manage assets of certain designated TARP recipients, 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 “TARP Recipient Own-
5 ership Trust Act of 2009”.

1 **SEC. 2. AUTHORITY OF THE SECRETARY OF THE TREASURY**
2 **TO DELEGATE TARP ASSET MANAGEMENT.**

3 Section 106(b) of the Emergency Economic Stabiliza-
4 tion Act of 2008 (12 U.S.C. 5216(b)) is amended by in-
5 serting before the period at the end the following: “, and
6 the Secretary may delegate such management authority
7 to a private entity, as the Secretary determines appro-
8 priate, with respect to any entity assisted under this Act”.

9 **SEC. 3. CREATION OF MANAGEMENT AUTHORITY FOR DES-**
10 **IGNATED TARP RECIPIENTS.**

11 (a) **FEDERAL ASSISTANCE LIMITED.**—Notwith-
12 standing any provision of the Emergency Economic Sta-
13 bilization Act of 2008, or any other provision of law, no
14 funds may be expended under the Troubled Asset Relief
15 Program, or any other provision of that Act, on or after
16 the date of enactment of this Act, until the Secretary of
17 the Treasury transfers all voting, nonvoting, and common
18 equity in any designated TARP recipient to a limited li-
19 ability company established by the Secretary for such pur-
20 pose, to be held and managed in trust on behalf of the
21 United States taxpayers.

22 (b) **APPOINTMENT OF TRUSTEES.**—

23 (1) **IN GENERAL.**—The President shall appoint
24 3 independent trustees to manage the equity held in
25 the trust, separate and apart from the United States
26 Government.

1 (2) CRITERIA.—Trustees appointed under this
2 subsection—

3 (A) may not be elected or appointed Gov-
4 ernment officials;

5 (B) shall serve at the pleasure of the
6 President, and may be removed for just cause
7 in violation of their fiduciary responsibilities
8 only; and

9 (C) shall serve without compensation for
10 their services under this section.

11 (c) DUTIES OF TRUST.—Pursuant to protecting the
12 interests and investment of the United States taxpayer,
13 the trust established under this section shall, with the pur-
14 pose of maximizing the profitability of the designated
15 TARP recipient—

16 (1) exercise the voting rights of the shares of
17 the taxpayer on all core governance issues;

18 (2) select the representation on the boards of
19 directors of any designated TARP recipient; and

20 (3) have a fiduciary duty to the American tax-
21 payer for the maximization of the return on the in-
22 vestment of the taxpayer made under the Emergency
23 Economic Stabilization Act of 2008, in the same
24 manner and to the same extent that any director of
25 an issuer of securities has with respect to its share-

1 holders under the securities laws and all applications
2 of State law.

3 (d) LIQUIDATION.—The trustees shall liquidate the
4 trust established under this section, including the assets
5 held by such trust, not later than December 24, 2011, un-
6 less the trustees submit a report to Congress that liquida-
7 tion would not maximize the profitability of the company
8 and the return on investment to the taxpayer.

9 **SEC. 4. DEFINITIONS.**

10 As used in this Act—

11 (1) the term “designated TARP recipient”
12 means any entity that has received, or will receive,
13 financial assistance under the Troubled Asset Relief
14 Program or any other provision of the Emergency
15 Economic Stabilization Act of 2008 (Public Law
16 110–343), such that the Federal Government holds
17 or controls, or will hold or control at a future date,
18 not less than a 20 percent ownership stake in the
19 company as a result of such assistance;

20 (2) the term “Secretary” means the Secretary
21 of the Treasury or the designee of the Secretary;
22 and

23 (3) the terms “director”, “issuer”, “securities”,
24 and “securities laws” have the same meanings as in

1 section 3 of the Securities Exchange Act of 1934
2 (15 U.S.C. 78e).

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