

116TH CONGRESS
2D SESSION

S. 4691

To limit donations made pursuant to settlement agreements to which the United States is a party, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2020

Mr. LANKFORD (for himself, Mr. TILLIS, Mr. CORNYN, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To limit donations made pursuant to settlement agreements to which the United States is a party, 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 “Safeguarding Awards
5 for Victims and Enforcement Settlements Act of 2020”.

6 **SEC. 2. LIMITATION ON DONATIONS MADE PURSUANT TO**
7 **SETTLEMENT AGREEMENTS TO WHICH THE**
8 **UNITED STATES IS A PARTY.**

9 (a) **LIMITATION ON REQUIRED DONATIONS.—**

1 (1) IN GENERAL.—An official or agent of the
2 Government may not enter into or enforce any set-
3 tlement agreement on behalf of the United States,
4 directing or providing for a payment or loan to any
5 person or entity other than the United States, other
6 than a payment or loan that—

7 (A) provides restitution for or is otherwise
8 intended to directly remedy actual harm (in-
9 cluding to the environment) directly caused by
10 the party making the payment or loan, and, to
11 the extent any victim thereof was an identifiable
12 person, suffered by the payee or lende; or

13 (B) constitutes payment for services ren-
14 dered in connection with the case, including for
15 settlement or compliance monitoring or for di-
16 vestiture trustee services, or a payment pursu-
17 ant to section 3663 of title 18, United States
18 Code.

19 (2) EXCEPTIONS.—Nothing in this subsection
20 shall—

21 (A) prohibit the United States from par-
22 ticipating in a settlement through which claims
23 against one or more third parties are resolved
24 through payments to the same third parties;

1 (B) limit any payment under section
2 110(l)(4)(A) of title 11, United States Code;

3 (C) prohibit the United States from par-
4 ticipating in a settlement agreement that, pur-
5 suant to a non-prosecution agreement, deferred
6 prosecution agreement, or plea agreement, pro-
7 vides for remedial training, establishment of a
8 compliance program, or enhancement of a com-
9 pliance program designed to remediate the al-
10 leged criminal violations identified in the settle-
11 ment, or avoid such violations in the future;

12 (D) proscribe or otherwise limit the man-
13 ner in which forfeited assets linked to foreign
14 corruption affecting the United States financial
15 system or assets recovered following the filing
16 of an asset forfeiture action to recover assets
17 linked to foreign corruption shall be returned
18 for the benefit of the people harmed by the cor-
19 ruption;

20 (E) prohibit the United States from par-
21 ticipating in a settlement or resolution with a
22 party in which the United States coordinates
23 with any other domestic or foreign civil, crimi-
24 nal, or regulatory authority to credit payments
25 the party makes to any other such authority so

1 as to avoid duplicative penalties, fines, for-
2 feiture, and disgorgement; or

3 (F) limit payments expressly authorized by
4 law.

5 (b) PROHIBITION ON CY-PRÈS REDISTRIBUTIONS IN
6 SETTLEMENTS.—Except as otherwise provided by law,
7 when the United States has entered into a settlement in-
8 volving a fund for payments to individual claimants,
9 amounts remaining after all claims on the settlement fund
10 have been satisfied shall be repaid proportionally to each
11 party who contributed to the settlement fund.

12 (c) EFFECTIVE DATE.—Subsections (a) and (b)
13 apply only in the case of a settlement agreement concluded
14 on or after the date of enactment of this Act.

15 (d) DEFINITIONS.—In this section:

16 (1) PAYMENT.—The term “payment” means
17 any transfer of money, cash, or other consideration,
18 including constructive transfer in lieu of money.

19 (2) SETTLEMENT AGREEMENT.—The term
20 “settlement agreement” means a settlement agree-
21 ment resolving a civil action or potential civil action,
22 participation in any pretrial diversion program, a
23 plea agreement, a deferred prosecution agreement,
24 or a non-prosecution agreement.

25 (e) REPORTS ON SETTLEMENT AGREEMENTS.—

1 (1) IN GENERAL.—Beginning at the end of the
2 first fiscal year that begins after the date of the en-
3 actment of this Act, and annually thereafter, the
4 head of each Federal agency shall submit electroni-
5 cally to the Congressional Budget Office a report on
6 each settlement agreement entered into by that
7 agency (other than a settlement agreement for a qui
8 tam action or under section 586(a) of title 28,
9 United States Code) during that fiscal year that di-
10 rects or provides for a payment or loan to a person
11 or entity other than the United States that provides
12 restitution for or otherwise directly remedies actual
13 harm (including to the environment) directly caused
14 by the party making the payment or loan, or con-
15 stitutes payment for services rendered in connection
16 with the case, including the parties to each settle-
17 ment agreement, the source of the settlement funds,
18 and where and how such funds were and will be dis-
19 tributed.

20 (2) PROHIBITION ON ADDITIONAL FUNDING.—
21 No additional funds are authorized to be appro-
22 priated to carry out this subsection.

23 (3) SUNSET.—This subsection shall cease to be
24 effective on the date that is 7 years after the date
25 of the enactment of this Act.

1 (f) ANNUAL AUDIT REQUIREMENT.—

2 (1) IN GENERAL.—Beginning at the end of the
3 first fiscal year that begins after the date of the en-
4 actment of this Act, and annually thereafter, the In-
5 spector General of each Federal agency shall submit
6 a report to the Committees on the Judiciary, on the
7 Budget and on Appropriations of the House of Rep-
8 resentatives and the Senate, on any settlement
9 agreement entered into in violation of this section by
10 that agency.

11 (2) PROHIBITION ON ADDITIONAL FUNDING.—

12 No additional funds are authorized to be appro-
13 priated to carry out this subsection.

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