111TH CONGRESS 1ST SESSION H.R. 3232

To amend the Emergency Economic Stabilization Act of 2008 to require certain warrants held by the Secretary of the Treasury to be sold at public auction upon the repayment of the associated assistance provided under the Troubled Asset Relief Program.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2009

Ms. KILROY (for herself, Mr. SHERMAN, Ms. SUTTON, Ms. FUDGE, Mr. BOCCIERI, Ms. SPEIER, and Mr. GRAYSON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

- To amend the Emergency Economic Stabilization Act of 2008 to require certain warrants held by the Secretary of the Treasury to be sold at public auction upon the repayment of the associated assistance provided under the Troubled Asset Relief Program.
 - 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 "Provide a Return on
5 Financial Investment for the Taxpayer Act of 2009" or
6 as the "PROFIT Act of 2009".

1 SEC. 2. PURPOSE.

2 The purpose of this Act is to maximize the American
3 taxpayers' return on its investment in troubled financial
4 institutions through the Troubled Asset Relief Program
5 (TARP).

6 SEC. 3. FINDINGS.

7 The Congress finds the following:

8 (1) During the wake of the economic crisis in 9 the fall of 2008, American taxpayers assumed an 10 enormous financial risk when they bailed out trou-11 bled financial institutions.

12 (2) To compensate for the risk assumed by 13 American taxpayers, banks that received TARP 14 funds were required to give the Department of 15 Treasury warrants for the future purchase of com-16 mon shares, allowing American taxpayers an oppor-17 tunity to profit from the possible upside of their ini-18 tial equity investment.

(3) The price at which the warrants are sold is
critical as the warrants represent the only opportunity for American taxpayers to benefit from the
risk they assumed in bailing out troubled financial
institutions.

24 (4) However, in a July 10, 2009, oversight re25 port, the TARP Congressional Oversight Panel
26 (COP) found that the process used by the Depart•HR 3232 IH

ment of Treasury to allow the initial 11 banks to repurchase their warrants did so at just 66 percent of
the actual value of the warrants. If these warrants
had been sold for their current market value, American taxpayers would have recovered \$10 million
more.

7 (5) Furthermore, COP found that if the De8 partment of Treasury uses this same approach to re9 purchase all remaining outstanding warrants, the
10 shortfall to taxpayers could be as much as \$2.7 bil11 lion.

(6) Finally, COP found that the Department of
Treasury would be more likely to maximize taxpayer
returns if it sold the warrants through an open, public auction, as an auction would allow competitive
market pressures in the bidding process to push bids
higher, thus maximizing the American taxpayers
overall return on its initial investment.

19 SEC. 4. SALE OF WARRANTS THROUGH A PUBLIC AUCTION.

20 Section 111 of the Emergency Economic Stabilization
21 Act of 2008 (12 U.S.C. 5221) is amended—

(1) by redesignating subsection (h) as sub-section (i); and

24 (2) by inserting after subsection (g) the fol-25 lowing new subsection:

"(h) SALE OF WARRANTS THROUGH A PUBLIC AUC TION.—

3 "(1) IN GENERAL.—Each time a financial insti4 tution makes a repayment of assistance provided
5 under this title, the Secretary shall sell warrants as6 sociated with such assistance through a public auc7 tion.

8 "(2) EXCEPTION.—The requirement under 9 paragraph (1) shall not apply to warrants associated 10 with a repayment made by a financial institution 11 that has received less than \$250,000,000 of assist-12 ance under this title.".

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