

United States House of Representatives
Washington, DC 20515

October 23, 2017

Dear Members of the United States House of Representatives,

We urge you to oppose H.R. 732, the so-called Stop Settlement Slush Funds Act of 2017. The bill prohibits settlement agreements where the United States is a party from including certain “donations” to non-federal actors, primarily non-profits, educational, and community-based organizations.

Under existing laws, settlements from federal enforcement actions can include payments to third parties to advance programs that assist with recovery, benefits, and relief for communities harmed by lawbreakers, to the extent such payments further the objectives of the enforcement action. H.R. 732 would cut off any payments to third parties other than individualized restitution and other forms of direct payment for “actual harm.” That restriction would handcuff federal enforcement officials by limiting the ability of federal enforcement officials to negotiate real relief for harms caused to the public by illegal conduct that is the subject of federal enforcement actions.

This bill would be a gift to lawbreakers at the expense of families and communities suffering from injuries that cannot be addressed by direct restitution because the bill would prevent federal law enforcement agencies from negotiating forms of relief that would address injuries to the public that may be either non-quantifiable or indeterminate. These forms of relief are crucial when harm is difficult to monetize, such as damage to the environment, the collateral consequences to communities resulting from predatory lending by financial institutions, or unknown health outcomes to individuals resulting from chemical exposures in the workplace.

Under current law, the legitimacy and utility of federal enforcement settlements that include payments to third parties is clear, as long as such payments bear a nexus to the prosecutorial objectives of the agency. This bill would supplant the wisdom of federal law enforcement official to craft appropriate remedies.

H.R. 732 is unnecessary because the practice of providing relief to the public through payments to non-profits and other community organizations was discontinued by the current Department of Justice. Thus, the bill is just another example of Congressional overreach into executive branch decision-making. Not only does it disregard the needs of future Administrations, but the bill is sloppily crafted, failing to provide even a basic definition of the “donations” or payments in question.

Further, the bill assumes that the government is always going to be the party seeking to enforce the law, but this is a fallacy. Laws are often enforced against the government, and the government sometimes pays restitution to litigants. There is a role for third parties to ensure that settlements involving the government are followed and enforced.

Third parties that receive third-party payments include nonprofits, community organizations, or trusts or foundations that provide vital services in their communities. Members of Congress should applaud the good work of these organizations that serve the public good rather than vilify them.

We urge you to oppose H.R. 732. For more information, please contact Public Citizen's Remington A. Gregg at rgregg@citizen.org or 202-454-5117.

Sincerely,

Alliance for Justice
Americans for Financial Reform
Asbestos Disease Awareness Organization
Center for Auto Safety
Center for Biological Diversity
Center for Science in the Public Interest
Consumer Action
Earthjustice
Farmworker Justice
Friends of the Earth
Georgia Watch
Impact Fund
Kidsandcars.org
League of Conservation Voters
National Association of Consumer Advocates
National Consumers League
National Employment Lawyers Association
Public Citizen
Protect All Children's Environment
Rose Foundation for Communities and the Environment
Sierra Club
U.S. PIRG
Waterkeeper Alliance