

Bush and Obama Administrations Broke the Law By Refusing to Close Insolvent Banks

By [Washington's Blog](#)

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Geithner's statements that he didn't have the power to close down the big banks is false. Moreover, Geithner and Paulson actually broke the law which requires the government to close down insolvent banks, no matter how big.

The Prompt Corrective Action Law (PCA) - [12 U.S.C. § 1831o](#) - not only authorizes the government to seize insolvent banks, it mandates it.

As William K. Black - the senior regulator during the S&L crisis, and an Associate Professor of Economics and Law at the University of Missouri - [told](#) Bill Moyers in their recent interview:

[Question] In other words, they could have closed these banks without nationalizing them?

[Black] Well, you do a receivership. No one — Ronald Reagan did receiverships. Nobody called it nationalization.

[Question] And that's a law?

[Black] That's the law.

[Question] So, Paulson could have done this? Geithner could do this?

[Black] Not could. Was mandated

Black [provided](#) the historical background to the PCA in a little-noticed essay last month:

PCA's premise was that regulatory discretion led to cover-ups of failed banks and excessive losses to the taxpayers. The PCA solution was to require higher capital requirements and to mandate that the regulators take over troubled banks before they deteriorated to the point that the failure would impose a cost on the Federal Deposit Insurance Corporation (FDIC). PCA also recognized that failing bankers had perverse incentives to "live large" and cause larger losses to the FDIC and taxpayers. PCA's answer was to mandate that the regulators stop these abuses by, for example, strictly limiting executive compensation and forbidding payments on subordinated debt.

Black then pointed out how the Bush and Obama administration's agenda has been the exact opposite of that of the PCA, and that both administrations have blatantly violated both

the letter and the spirit of the law:

The law mandates that the administration place troubled banks, well before they become insolvent, in receivership, appoint competent managers, and restrain senior executive compensation (i.e., no bonuses and no raises may be paid to them). The law does not provide that the taxpayers are to bail out troubled banks. Treasury Secretary Paulson and other senior Bush financial regulators flouted the law. (The Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS) are both bureaus within Treasury.) The Bush administration wanted to cover up the depth of the financial crisis that its policies had caused.

Mr. Geithner, as President of the Federal Reserve Bank of New York since October 2003, was one of those senior regulators who failed to take any effective regulatory action to prevent the crisis, but instead covered up its depth. He was supposed to regulate many of the largest bank holding companies in the United States. Far too many of these institutions are now deeply insolvent because the banks they own are deeply insolvent. The law mandated that Geithner and his colleagues place troubled banks in receivership long before they became insolvent. Why are the banking regulators, particularly Treasury Secretary Geithner, continuing to disobey the law?...

PCA's purpose is "to resolve... problems... at the least possible long-term cost to the [FDIC]." That means the least possible cost to taxpayers. Secretary Geithner's priority is [instead] protecting private shareholders....

Receiverships end unnecessary bailouts of private shareholders, reducing the cost to the FDIC, as the law requires. Receiverships place banks back in the hands of new shareholders. Geithner has so twisted the framing of this issue that he is warning that a cheaper, more effective means of resolving failed banks used under President Reagan is some alien form of socialism that President Obama must slay before it destroys capitalism. Geithner is channeling Rove when he conflates receiverships with "nationalization."

Secretaries Paulson and Geithner subverted the PCA law by allowing failed banks to engage in massive accounting fraud (which also means they are engaged in securities fraud). Treasury is telling the world that resolving the failed banks will require roughly \$2 trillion dollars. That has to mean that the failed banks are insolvent by roughly \$2 trillion. The failed banks, however, are reporting that they are not simply solvent, but "well capitalized." The regulators flout PCA by permitting this massive accounting and securities fraud.

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