

113TH CONGRESS
1ST SESSION

H. R. 1750

To enhance the ability of community financial institutions to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2013

Mr. LUETKEMEYER (for himself, Mr. WESTMORELAND, and Mr. GARY G. MILLER of California) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To enhance the ability of community financial institutions to foster economic growth and serve their communities, boost small businesses, increase individual savings, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Community Lending Enhancement and Regulatory Re-
6 lief Act of 2013” or the “CLEAR Relief Act of 2013”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Changes required to small bank holding company policy statement on assessment of financial and managerial factors.
 Sec. 3. Eserow requirements.
 Sec. 4. Exception to annual privacy notice requirement under the Gramm-Leach-Bliley Act.
 Sec. 5. Accounting principles cost-benefit requirements.
 Sec. 6. Community bank exemption from annual management assessment of internal controls requirement of the Sarbanes-Oxley Act of 2002.
 Sec. 7. Certain loans included as qualified mortgages.
 Sec. 8. Increase in small servicer exemption.
 Sec. 9. Appraiser qualification threshold.
 Sec. 10. Coordination among financial institutions.

1 **SEC. 2. CHANGES REQUIRED TO SMALL BANK HOLDING**
 2 **COMPANY POLICY STATEMENT ON ASSESS-**
 3 **MENT OF FINANCIAL AND MANAGERIAL FAC-**
 4 **TORS.**

5 (a) SMALL BANK HOLDING COMPANY POLICY
 6 STATEMENT ON ASSESSMENT OF FINANCIAL AND MANA-
 7 GERAL FACTORS.—

8 (1) IN GENERAL.—Before the end of the 6-
 9 month period beginning on the date of the enact-
 10 ment of this Act, the Board of Governors of the
 11 Federal Reserve System shall publish in the Federal
 12 Register proposed revisions to the Small Bank Hold-
 13 ing Company Policy Statement on Assessment of Fi-
 14 nancial and Managerial Factors (12 C.F.R. part
 15 225—appendix C) that provide that the policy shall
 16 apply to a bank holding company which has pro
 17 forma consolidated assets of less than
 18 \$5,000,000,000 and that—

1 (A) is not engaged in any nonbanking ac-
2 tivities involving significant leverage; and

3 (B) does not have a significant amount of
4 outstanding debt that is held by the general
5 public.

6 (2) ADJUSTMENT OF AMOUNT.—The Board of
7 Governors of the Federal Reserve System shall an-
8 nually adjust the dollar amount referred to in para-
9 graph (1) in the Small Bank Holding Company Pol-
10 icy Statement on Assessment of Financial and Man-
11 agerial Factors by an amount equal to the percent-
12 age increase, for the most recent year, in total assets
13 held by all insured depository institutions, as deter-
14 mined by the Board.

15 (b) INCREASE IN DEBT-TO-EQUITY RATIO OF SMALL
16 BANK HOLDING COMPANY.—Before the end of the 6-
17 month period beginning on the date of the enactment of
18 this Act, the Board of Governors of the Federal Reserve
19 System shall publish in the Federal Register proposed re-
20 visions to the Small Bank Holding Company Policy State-
21 ment on Assessment of Financial and Managerial Factors
22 (12 C.F.R. part 225—appendix C) such that the debt-to-
23 equity ratio allowable for a small bank holding company
24 in order to remain eligible to pay a corporate dividend and
25 to remain eligible for expedited processing procedures

1 under Regulation Y of the Board of Governors of the Fed-
2 eral Reserve System would increase from 1:1 to 3:1.

3 **SEC. 3. ESCROW REQUIREMENTS.**

4 (a) IN GENERAL.—Section 129D(c) of the Truth in
5 Lending Act, as added by section 1461(a) of the Dodd-
6 Frank Wall Street Reform and Consumer Protection Act,
7 is amended—

8 (1) by redesignating paragraphs (1), (2), (3),
9 and (4) as subparagraphs (A), (B), (C), and (D)
10 and moving such subparagraphs 2 ems to the right;

11 (2) striking “The Board” and inserting the fol-
12 lowing:

13 “(1) IN GENERAL.—The Board”; and

14 (3) by adding at the end the following new
15 paragraph:

16 “(2) TREATMENT OF LOANS HELD BY SMALLER
17 CREDITORS.—The Board shall, by regulation, exempt
18 from the requirements of subsection (a) any loan secured
19 by a first lien on a consumer’s principle dwelling, if such
20 loan is held by a creditor with assets of \$10,000,000,000
21 or less.”.

1 **SEC. 4. EXCEPTION TO ANNUAL PRIVACY NOTICE REQUIRE-**
2 **MENT UNDER THE GRAMM-LEACH-BLILEY**
3 **ACT.**

4 Section 503 of the Gramm-Leach-Bliley Act (15
5 U.S.C. 6803) is amended by adding at the end the fol-
6 lowing:

7 “(f) EXCEPTION TO ANNUAL NOTICE REQUIRE-
8 MENT.—A financial institution that—

9 “(1) provides nonpublic personal information
10 only in accordance with the provisions of subsection
11 (b)(2) or (e) of section 502 or regulations prescribed
12 under section 504(b), and

13 “(2) has not changed its policies and practices
14 with regard to disclosing nonpublic personal infor-
15 mation from the policies and practices that were dis-
16 closed in the most recent disclosure sent to con-
17 sumers in accordance with this subsection,

18 shall not be required to provide an annual disclosure under
19 this subsection until such time as the financial institution
20 fails to comply with any criteria described in paragraph
21 (1) or (2).”.

22 **SEC. 5. ACCOUNTING PRINCIPLES COST-BENEFIT REQUIRE-**
23 **MENTS.**

24 Section 19(b) of the Securities Act of 1933 (15
25 U.S.C. 77s(b)) is amended by adding at the end the fol-
26 lowing:

1 “(3) GENERALLY ACCEPTED ACCOUNTING
2 PRINCIPLES COST-BENEFIT REQUIREMENTS.—The
3 Commission or its designee shall conduct analyses of
4 the costs and benefits (including economic benefits)
5 of any new or amended accounting principle de-
6 scribed under paragraph (1), and may not recognize
7 such new or amended accounting principle, unless
8 the Commission or its designee determines that the
9 benefits to investors of such new or amended ac-
10 counting principle significantly outweigh its costs.”.

11 **SEC. 6. COMMUNITY BANK EXEMPTION FROM ANNUAL**
12 **MANAGEMENT ASSESSMENT OF INTERNAL**
13 **CONTROLS REQUIREMENT OF THE SAR-**
14 **BANES-OXLEY ACT OF 2002.**

15 Section 404 of the Sarbanes-Oxley Act of 2002 (15
16 U.S.C. 7262) is amended by adding the following new sub-
17 section:

18 “(d) COMMUNITY BANK EXEMPTION.—

19 “(1) IN GENERAL.—This section shall not apply
20 in any year to any insured depository institution
21 which, as of the close of the preceding year, had
22 total assets, as determined on a consolidated basis,
23 of \$10,000,000,000 or less.

24 “(2) ADJUSTMENT OF AMOUNT.—The Commis-
25 sion shall annually adjust the dollar amount in para-

1 graph (1) by an amount equal to the percentage in-
2 crease, for the most recent year, in total assets held
3 by all depository institutions, as reported by the
4 Federal Deposit Insurance Corporation.”.

5 **SEC. 7. CERTAIN LOANS INCLUDED AS QUALIFIED MORT-**
6 **GAGES.**

7 Section 129C(b)(2) of the Truth in Lending Act (15
8 U.S.C. 1639c(b)(2)) is amended—

9 (1) in subparagraph (A)—

10 (A) in clause (viii), by striking “and” at
11 the end;

12 (B) in clause (ix), by striking the period at
13 the end and inserting “; and”; and

14 (C) by adding at the end the following:

15 “(x) that is originated and retained in
16 portfolio for a period of at least 3 years by
17 a creditor having less than
18 \$10,000,000,000 in total assets.”; and

19 (2) in subparagraph (E)—

20 (A) by striking “The Board may, by regu-
21 lation” and inserting “The Bureau shall, by
22 regulation”; and

23 (B) by amending clause (iv) to read as fol-
24 lows:

1 “(iv) that is extended by a creditor
2 that—

3 “(I) originates and retains the
4 balloon loans in portfolio for a period
5 of at least 3 years; and

6 “(II) together with all affiliates,
7 has total assets of \$10,000,000,000 or
8 less.”.

9 **SEC. 8. INCREASE IN SMALL SERVICER EXEMPTION.**

10 Section 6 of the Real Estate Settlement Procedures
11 Act of 1974 (12 U.S.C. 2605) is amended by adding at
12 the end the following:

13 “(n) **SMALL SERVICER EXEMPTION.**—The Bureau
14 shall, by regulation, provide exemptions to, or adjustments
15 for, the provisions of this section for servicers that service
16 20,000 or fewer mortgage loans, in order to reduce regu-
17 latory burdens while appropriately balancing consumer
18 protections.”.

19 **SEC. 9. APPRAISER QUALIFICATION THRESHOLD.**

20 Section 1112(b) of the Financial Institutions Reform,
21 Recovery, and Enforcement Act of 1989 (12 U.S.C.
22 3341(b)) is amended—

23 (1) by striking “may establish a threshold level
24 at or” and inserting “shall establish a threshold level
25 of \$250,000,”; and

1 (2) by striking “transactions, if” and inserting
2 “transactions. Each Federal financial institutions
3 regulatory agency and the Resolution Trust Cor-
4 poration may establish a higher threshold than
5 \$250,000, if”.

6 **SEC. 10. COORDINATION AMONG FINANCIAL INSTITUTIONS.**

7 Chapter 53 of title 31, United States Code, is amend-
8 ed—

9 (1) by inserting after section 5332 the following
10 new section:

11 **“§ 5333. Coordination among financial institutions**

12 “(a) IN GENERAL.—In the case of an entry received
13 via an automated clearing house, no receiving depository
14 financial institution shall be required to verify that the
15 entry is not a prohibited transaction, if the originating de-
16 pository financial institution has warranted, pursuant to
17 the automated clearing house rules governing such entry
18 or otherwise, that the originating depository financial in-
19 stitution has complied with the sanctions programs admin-
20 istered by the Office of Foreign Assets Control in connec-
21 tion with such entry.

22 “(b) DEFINITIONS.—For purposes of this section:

23 “(1) AUTOMATED CLEARING HOUSE.—The
24 term ‘automated clearing house’ means a funds
25 transfer system governed by rules which provide for

1 the interbank clearing of electronic entries for par-
2 ticipating depository financial institutions.

3 “(2) DEPOSITORY FINANCIAL INSTITUTION.—

4 The term ‘depository financial institution’ means—

5 “(A) any insured depository institution, as

6 such term is defined under section 3 of the

7 Federal Deposit Insurance Act (12 U.S.C.

8 1813);

9 “(B) any depository institution which is el-

10 igible to apply to become an insured depository

11 institution under section 5 of the Federal De-

12 posit Insurance Act (12 U.S.C. 1815);

13 “(C) any insured credit union, as defined

14 in section 101 of the Federal Credit Union Act

15 (12 U.S.C. 1752); and

16 “(D) any credit union which is eligible to

17 apply to become an insured credit union pursu-

18 ant to section 201 of the Federal Credit Union

19 Act (12 U.S.C. 1781).

20 “(3) ENTRY.—The term ‘entry’ means an order

21 to request for the transfer of funds through an auto-

22 mated clearing house.

23 “(4) ORIGINATING DEPOSITORY FINANCIAL IN-

24 STITUTION.—The term ‘originating depository finan-

25 cial institution’ means a depository financial institu-

1 tion that transmits entries via an automated clearing
2 house for transmittal to a receiving depository finan-
3 cial institution.

4 “(5) PROHIBITED TRANSACTION.—The term
5 ‘prohibited transaction’ means a funds transfer
6 originated on behalf of a person to or from whom
7 funds transfers are restricted by a sanctions pro-
8 gram administered by the Office of Foreign Assets
9 Control, including persons appearing on the list of
10 specially designated nationals and blocked persons
11 maintained by the Office of Foreign Assets Control.

12 “(6) RECEIVING DEPOSITORY FINANCIAL INSTI-
13 TUTION.—The term ‘receiving depository financial
14 institution’ means a depository financial institution
15 that receives entries via an automated clearing house
16 from an originating depository financial institution
17 for debit or credit to the accounts of its customers.”;
18 and

19 (2) in the table of contents for such chapter by
20 inserting after the item relating to section 5332 the
21 following new item:

“5333. Coordination among financial institutions.”.

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