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SENATE

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THE COMMUNICATING LENDER ACTIVITY REPORTS FROM
THE SMALL BUSINESS ADMINISTRATION (CLEAR SBA)
ACT OF 2015

MAY 26, 2016.—Ordered to be printed

Mr. VITTER, from the Committee on Small Business and
Entrepreneurship, submitted the following

R E P O R T

[To accompany S. 967]

The Committee on Small Business and Entrepreneurship to which was referred the bill (S. 967) to require the Small Business Administration to make information relating to lenders making covered loans publicly available, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

I. INTRODUCTION

The CLEAR SBA Act (S. 967) was introduced by the Committee's Ranking Member, Senator Jeanne Shaheen, on April 15, 2015. Co-sponsors include: Senators Cantwell, Fischer, Hirono and Peters.

The CLEAR SBA Act requires the Small Business Administration (SBA) to establish a searchable online database, known as a "Lender Activity Index," to provide consumers with more transparent, user-friendly data about local SBA lenders.

During the markup of the bill, the Fischer amendment to the bill was approved unanimously by voice vote. The Fischer amendment is identical to the Risch-Landrieu amendment that passed the Committee during the 113th Congress as part of S. 537. The Fischer amendment provides that the SBA may not increase the burden on lenders in order to comply with the Lender Activity Index provision in the underlying bill. The amendment also asserts that it is the sense of Congress that no additional funding will be made available to carry out this program. Operation costs of this program, according to the amendment text, should be paid from exist-

ing SBA funds. The bill, as amended, was also approved unanimously by voice vote.

II. HISTORY (PURPOSE & NEED FOR LEGISLATION)

The Small Business Administration (SBA) administers several loan programs to support small businesses, including its flagship 7(a) and 504/Certified Development Company (504/CDC) loan guaranty programs. By guaranteeing a portion of each loan, the SBA encourages banks and other lenders to make loans to small businesses owners who otherwise may not qualify for traditional financing options.

In the past two fiscal years alone (FY13¹ and FY14²), SBA supported \$46.5 billion in loans to approximately more than 105,000 small businesses each year through its 7(a) and 504/CDC loan guaranty programs. As of the end of Fiscal Year 2014, there were more than 2,200 7(a) lenders³ and 228 Certified Development Companies nationwide. While the SBA currently releases some information publicly about SBA lending partners and activity, it can be extremely difficult to find and comprehend for those who are not SBA lending professionals.

The CLEAR SBA Act requires the SBA to create an online, searchable database on the agency's website called the "Lender Activity Index," which will provide consumers with more transparent, user-friendly data about their local SBA lenders. Potential borrowers will be able to see which banks in their area provide SBA loans, and with this information, approach those banks. The Committee believes that the Lender Activity Index is a common-sense proposal to increase transparency and accountability at the SBA, simplify the process of obtaining a loan, and ultimately put more capital in the hands of America's small businesses.

The CLEAR SBA Act has been considered several times since 2012.

During the 112th Congress, Senator Landrieu included a provision providing for a Lender Activity Index in Senate Amendment 2521 (S. Amdt. 2521), which she filed to S. 2237, the Small Business Jobs and Tax Relief Act of 2012, on July 11, 2012. Division B of S. Amdt. 2521, entitled the Success Ultimately Comes from Capital, Contracting, Education, Strategic Partnerships, and Smart Regulations (SUCCESS) Act, included the language identical to the CLEAR SBA Act as a portion of Title II. Although it came up short of the 60 votes needed to end debate, the amendment received a strong 57 bipartisan votes, including five Republicans, when it received a vote on the Senate floor on July 12, 2012. Shortly thereafter, Chair Landrieu filed the SUCCESS Act as a standalone bill. On July 25, 2012, Chair Landrieu introduced S. 3442, the SUCCESS Act of 2012, with eight co-sponsors, including Committee

¹U.S. Small Business Administration FY2015 Congressional Budget Justification and FY2013 Annual Performance Report, Pg. 35, the 7(a) Loan program approved 46,398 loans to small businesses for \$17.9 billion. Pg. 36, the 504 Certified Development Loan program approved 7,708 loans for a total of \$5.2 billion.

²U.S. Small Business Administration FY2016 Congressional Budget Justification and FY2014 Annual Performance Report, Pg. 37, the 7(a) Loan program approved 45,730 loans for \$19.2 billion. Pg. 40, the 504 Certified Development Loan program approved 5,725 loans for a total of \$4.2 billion.

³U.S. Small Business Administration FY2016 Congressional Budget Justification and FY2014 Annual Performance Report, Pg. 42.

members Senator Cardin and Senator Shaheen, as well as Senators Blumenthal, Boxer, Gillibrand, Lieberman, Merkley and Whitehouse. Ultimately, however, none of the bills or amendments made it to the President's desk during the 112th Congress.

During the 113th Congress, the CLEAR SBA Act (S. 537) was introduced as a standalone bill by the Committee's Chair, Senator Mary L. Landrieu, on March 12, 2013. The CLEAR SBA Act also required the Small Business Administration (SBA) to establish a searchable online database, known as a "Lender Activity Index." During the markup of the bill, a Risch-Landrieu amendment to the bill was approved unanimously by voice vote. The Risch-Landrieu amendment provided that the SBA may not increase the burden on lenders in order to comply with the bill. The amendment also asserted that it was the sense of Congress that no additional funding would be made available to carry out this program. The bill, as amended, was also approved unanimously by voice vote with the following Senators present: Landrieu, Risch, Cantwell, Cardin, Cowan, Fischer, Hagan, Heitkamp, Johnson (WI), Levin, Pryor, Rubio, Scott and Shaheen. Ultimately, however, the bill did not make it to the President's desk during the 113th Congress.

III. HEARINGS & ROUNDTABLES

In the 112th Congress:

On November 29, 2012, the Committee held a hearing entitled, "Creating Jobs and Growing the Economy: Legislative Proposals to Strengthen the Entrepreneurial Ecosystem." The purpose of the hearing was to discuss the legislative proposals included in the "Success Ultimately Comes from Capital, Contracting, Education, Strategic Partnerships, and Smart Regulation (SUCCESS) Act of 2012" (S. 3442), which was the result of recommendations gathered during a series of three Committee roundtables examining the entrepreneurial ecosystem during the 112th Congress. Among the provisions that the Committee examined during the hearing was Section 231, which provided for the Lender Activity Index and would later comprise the CLEAR SBA Act of 2013.

In the 113th Congress:

On March 14, 2013, the Committee held a roundtable entitled, "Helping Small Businesses Weather Economic Challenges & Natural Disasters: Review of Legislative Proposals on Access to Capital and Disaster Recovery." The purpose of the roundtable was to discuss four legislative proposals on small business access to capital and disaster recovery on which the Committee would focus during the beginning of the 113th Congress, including the CLEAR SBA Act. Participants included a wide range of small business owners, investors, stakeholders and SBA representatives, including the Associate Administrator for the SBA's Office of Capital Access. The roundtable followed up on previous Committee roundtables and legislative hearings held during the 112th Congress and provided an opportunity for Committee members to highlight their relevant priorities ahead of an upcoming markup on access to capital and disaster recovery legislation.

IV. DESCRIPTION OF BILL

S. 967 requires the SBA to post a user-friendly Lender Activity Index on the SBA website. Users will be able to access the following data for any given bank: name of bank or Certified Development Company (CDC), number of SBA loans each lender made, total dollar amount of SBA loans of each bank or CDC, zip code of lender activity (zip code of borrower), industries lent to (hospitality, manufacturing, service, software, etc.), stage of business cycle (new or existing business) and other business specific information (i.e. Women-Owned Businesses, Minority-Owned Businesses, or Veteran-Owned Businesses). The Committee intends for the data to be available for the year to date and for users to be able to compare data to 3 previous fiscal years. The Committee also intends for quarterly and annual data to be included.

The Fischer substitute amendment to S. 967 stipulates that in creating the Lender Activity Index, the SBA cannot require additional paperwork from lenders or otherwise increase the burden on them in any way. Furthermore, the SBA is expected to use existing funds to create the database. Thus, the Lender Activity Index comes at no cost to taxpayers.

V. COMMITTEE VOTE

In compliance with rule XXVI (7)(b) of the Standing Rules of the Senate, the following vote was recorded on April 23, 2015.

A motion to adopt the Communicating Lender Activity Reports from the Small Business Administration (CLEAR) Act, a bill to require the Small Business Administration to make information related to lenders making covered loans publicly available, as amended by the Fischer substitute amendment, was agreed to by voice vote as part of a manager's package that included seven additional bills. The following Senators were present: Vitter, Risch, Fischer, Gardner, Ernst, Ayotte, Enzi, Shaheen, Cantwell, Cardin, Heitkamp, Booker, Coons, Hirono, and Peters.

VI. COST ESTIMATE

In compliance with rule XXVI(11)(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts discussed in the following letter from the Congressional Budget Office:

MAY 14, 2015.

Hon. DAVID VITTER,
Chairman, Committee on Small Business and Entrepreneurship,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 967, the Communicating Lending Activity Reports from the Small Business Administration Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

KEITH HALL.

Enclosure.

S. 967—Communicating lending activity reports from the Small Business Administration Act

As ordered reported by the Senate Committee on Small Business and Entrepreneurship on April 23, 2015.

S. 967 would require the Small Business Administration (SBA) to develop a database that tracks information about lenders that participate in the agency’s loan guarantee programs and the loans they have made under those programs (which are termed covered loans in the bill). The database would contain information, such as the name of the lender, the number and total dollar amount of covered loans made by the lender, whether the loans are made for existing or new businesses, and the SBA program that provided the guarantee for the loans. The SBA would be required to collect this information for fiscal years 2009 through 2015 and to make it available on the agency’s website.

Based on information from the SBA, CBO expects that lender data already collected by the agency would be sufficient to meet the bill’s requirements to collect information and that the cost to present that information on the agency’s website would be insignificant. Therefore, CBO estimates that implementing S. 967 would have no significant effect on spending subject to appropriation. Enacting S. 967 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 967 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

VII. EVALUATION OF REGULATORY IMPACT

In compliance with rule XXVI(11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation. There will be no additional impact on the personal privacy of companies or individuals who utilize the services provided.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1. Title

This section provides the title of the bill. This Act may be cited as the “Communicating Lender Activity Reports from the Small Business Administration Act” or the “CLEAR SBA Act.”

Section 2. SBA Lender Activity Index

The Small Business Act is amended to create an SBA website database of information on lenders making loans covered under the Small Business Act or Small Business Investment Act of 1958. The Administrator has 6 months from enactment to create the Lender Activity Index.

It must include: (i) name of the lender, (ii) number of covered loans made by the lender, (iii) total dollar amount of the covered loans, (iv) the ZIP code of each loan recipient, (v) the industries of

the loan recipients, (vi) whether the covered loan is for an existing business or a new business, (vii) number and total dollar amount of covered loans to women-owned, minority-owned, or veteran-owned businesses and (viii) whether the covered loan was made under the 7(a) or 504 loan programs. Data will initially cover fiscal years 2009–2015.

The section, as amended, also specifies that no additional paperwork burdens may be put on lenders in order to comply with the Lender Activity Index provision and states that the SBA is expected to use existing funds to create the database.