

111TH CONGRESS
2^D SESSION

H. R. 5942

To create a charter for Federal Financial Services and Credit Companies.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2010

Mr. BACA (for himself, Mr. CLAY, Ms. JACKSON LEE of Texas, Mr. JOHNSON of Georgia, Mr. GRAYSON, and Ms. RICHARDSON) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To create a charter for Federal Financial Services and Credit Companies.

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 “FFSCC Act of 2010”.

5 **SEC. 2. FINDINGS; PURPOSE.**

6 (a) FINDINGS.—The Congress finds the following:

7 (1) According to the Federal Deposit Insurance
8 Corporation, more than 60 million low- and mod-
9 erate-income consumers in America remain
10 unbanked, underbanked, or underserved.

1 (2) The proportion of United States households
2 that are unbanked varies considerably across racial
3 and ethnic groups with certain racial and ethnic
4 groups being more likely to be unbanked than the
5 population as a whole. Minorities more likely to be
6 unbanked include Blacks (21.7 percent of Black
7 households), Hispanics (19.3 percent), and American
8 Indian/Alaskans (15.6 percent). Racial groups less
9 likely to be unbanked are Asians (3.5 percent) and
10 Whites (3.3 percent).

11 (3) Certain racial and ethnic minorities are
12 more likely to be underbanked than the population
13 as a whole. Minorities more likely to be underbanked
14 include Blacks (an estimated 31.6 percent), Amer-
15 ican Indian/Alaskans (28.9 percent), and Hispanics
16 (24.0 percent). Asians and Whites are less likely to
17 be underbanked (7.2 percent and 14.9 percent, re-
18 spectively).

19 (4) Households with income under \$30,000 ac-
20 count for at least 71 percent of unbanked house-
21 holds. As income increases, the share of households
22 that are unbanked declines considerably. Nationally,
23 nearly 20 percent of lower-income United States
24 households—almost 7 million households earning
25 below \$30,000 per year—do not currently have a

1 bank account. In contrast, only 4.2 percent of house-
2 holds with annual income between \$30,000 and
3 \$50,000 and less than 1 percent of households with
4 yearly income of \$75,000 or higher are unbanked.

5 (5) Lack of access to affordable banking prod-
6 ucts and services deters the economic advancement
7 of low- and moderate-income consumers and stunts
8 the economic growth of communities in which they
9 live.

10 (b) PURPOSE.—The purpose of this Act is to estab-
11 lish a vibrant, safe, and commercially viable market for
12 underbanked and unbanked individuals to gain access to
13 financial services and products.

14 **SEC. 3. FEDERAL FINANCIAL SERVICES AND CREDIT COM-**
15 **PANY.**

16 (a) IN GENERAL.—The Comptroller of the Currency
17 is authorized, under such regulations as the Comptroller
18 of the Currency may prescribe, to provide for the organiza-
19 tion, incorporation, examination, operation, regulation,
20 and chartering of companies to be known as Federal Fi-
21 nancial Services and Credit Companies (hereinafter in this
22 Act referred to as “FFSCCs”).

23 (b) ELIGIBILITY.—

24 (1) IN GENERAL.—The Comptroller of the Cur-
25 rency may not issue an FFSCC charter to a com-

1 pany unless the company satisfies the following re-
2 quirements, as determined by the Comptroller of the
3 Currency:

4 (A) The company has at least 10 years of
5 experience in providing underbanked persons
6 with at least three of the following services:

7 (i) Installment loans extended to con-
8 sumers or, in an amount less than
9 \$10,000, to small businesses.

10 (ii) Open-end credit extended to con-
11 sumers or, in an amount less than
12 \$10,000, to small businesses.

13 (iii) Non-recourse credit extended to
14 consumers and secured by personal prop-
15 erty.

16 (iv) The issuing of reloadable stored
17 value cards to consumers or small busi-
18 nesses.

19 (v) Ancillary financial services ex-
20 tended to consumers or small businesses,
21 including issuing money orders, sending
22 and receiving wire transfers, check cashing
23 services, bill payment services, and tax
24 preparation services.

1 (vi) Such other short-term consumer
2 credit services as the Comptroller of the
3 Currency determines appropriate.

4 (B) The company is not a depository insti-
5 tution or a credit union.

6 (C) The company submits a business plan
7 or operating plan that adequately addresses the
8 appropriate statutory and policy considerations.
9 Such plan shall—

10 (i) reflect sound financial principles
11 and demonstrate realistic assessments of
12 risk in light of economic and competitive
13 conditions in the market for serving under-
14 banked and unbanked populations;

15 (ii) include information sufficient to
16 permit the Comptroller of the Currency to
17 evaluate the overall management ability of
18 the company, especially the ability to pro-
19 vide financial services to the underbanked
20 and unbanked population; and

21 (iii) demonstrate that the company is
22 aware of, and understands, Federal and
23 State banking laws and sound banking op-
24 erations and practices in the context of

1 serving the needs of the underbanked and
2 unbanked populations.

3 (D) The company has senior management
4 officials who are familiar with applicable Fed-
5 eral and State banking laws and regulations,
6 and the credit and training needs of under-
7 banked and unbanked customers

8 (E) The company has competent manage-
9 ment, with ability and experience relevant to
10 the types of services to be provided, especially
11 the ability and experience to design and provide
12 financial services to the underbanked and
13 unbanked consumer population.

14 (2) COMPANY DEFINED.—For purposes of this
15 subsection, the term “company” shall include—

16 (A) the entity applying for an FFSCC
17 charter;

18 (B) any wholly-owned subsidiary of such
19 entity applying for an FFSCC charter; and

20 (C) any other entity that is part of an af-
21 filiated control group with such entity applying
22 for an FFSCC charter.

23 (c) REQUIREMENTS PLACED ON FFSCCs.—

24 (1) CREDIT DISCLOSURES.—

1 (A) SHORT-TERM CREDIT.—With respect
2 to an extension of short-term credit by an
3 FFSCC, the FFSCC shall provide the person to
4 whom credit is being extended a clear and
5 prominent statement in the loan agreement that
6 states the true cost of the loan in terms of an
7 actual finance charge per dollar of credit ex-
8 tended to such person instead of the annual
9 percentage rate disclosure required under the
10 Truth in Lending Act.

11 (B) LONG-TERM CREDIT.—With respect to
12 an extension of long-term credit by an FFSCC,
13 the FFSCC shall provide the person to whom
14 credit is being extended a disclosure of the fi-
15 nance charge to be paid by the person, ex-
16 pressed as an “annual percentage rate”, using
17 that term.

18 (2) ACCOUNT ACCESS.—Each FFSCC shall
19 provide continuous account access to the customers
20 of the FFSCC, either through a toll-free telephone
21 number, the Internet, or both.

22 (3) FINANCIAL LITERACY PROGRAMS.—Each
23 FFSCC shall implement a financial literacy pro-
24 gram, which shall include—

1 (A) making financial literacy materials
2 available to its customers; and

3 (B) assisting customers in building and
4 improving their credit scores.

5 (4) ADDITIONAL REQUIREMENTS.—Each
6 FFSCC shall comply with the following:

7 (A) Have a primary mission of providing a
8 comprehensive array of financial services to the
9 underbanked, unbanked, and consumers with
10 low credit scores.

11 (B) Serve as a vehicle for providing access
12 to credit products predominately to consumers
13 who are consider unbanked or underbanked.

14 (C) File articles of association, articles of
15 incorporation, or other appropriate organiza-
16 tional documents with the Comptroller of the
17 Currency.

18 (D) Submit to the Comptroller of the Cur-
19 rency for approval a business plan which,
20 among other things, provides in reasonable de-
21 tail evidence of the knowledge, understanding,
22 and experience of the institution and senior
23 management of the unique challenges that
24 unbanked and underbanked individuals face
25 with respect to access to financial credit.

1 (d) FFSCC POWERS.—Subject to such regulations as
2 the Comptroller of the Currency may issue, in addition
3 to general corporate powers, an FFSCC shall have the
4 power to provide the services described under each clause
5 of subsection (b)(1)(A).

6 (e) PENALTY.—Whoever knowingly violates any pro-
7 vision of this section, or any regulation issued pursuant
8 to this section, shall be fined not more than \$20,000 for
9 each day such violation continues or imprisoned for not
10 more than 3 years, or both.

11 (f) FFSCC FEE.—All FFSCCs shall pay an annual
12 fee to the Comptroller of the Currency in an amount that
13 the Comptroller of the Currency determines is sufficient,
14 in the aggregate, to offset the cost to the Comptroller of
15 the Currency of carrying out the provisions of this section.

16 (g) PREEMPTION OF STATE LAW.—A law of a State
17 or political subdivision thereof is preempted if the applica-
18 tion of such law would have a discriminatory effect on a
19 company because such company is chartered as an
20 FFSCC.

21 **SEC. 4. RATES AND TERMS STUDY; DEVELOPMENT OF FI-**
22 **NANCIAL PRODUCTS.**

23 The Comptroller of the Currency shall—

24 (1) conduct a study on rates and terms used in
25 the extension of credit; and

1 (2) develop a suite of financial products that
2 FFSCCs may offer to underbanked persons, that
3 will—

4 (A) be fair to such persons; and

5 (B) economically viable for FFSCCs to
6 offer.

7 **SEC. 5. DEFINITIONS.**

8 For purposes of this Act:

9 (1) CONSUMER.—The term “consumer” shall
10 have the meaning given such term under section
11 103(h) of the Truth in Lending Act (15 U.S.C.
12 1602(h)).

13 (2) DEPOSITORY INSTITUTION DEFINITIONS.—
14 The terms “depository institution” and “insured de-
15 pository institution” shall have the meaning given
16 such terms under section 3(c) of the Federal Deposit
17 Insurance Act.

18 (3) INSURED CREDIT UNION.—The term “in-
19 sured credit union” shall have the meaning given
20 such term under section 101(7) of the Federal Cred-
21 it Union Act.

22 (4) LONG-TERM CREDIT.—The term “long-term
23 credit” means an extension of credit with an initial
24 term of one year or more.

1 (5) SHORT-TERM CREDIT.—The term “short-
2 term credit” means an extension of credit with an
3 initial term of less than one year.

4 (6) SMALL BUSINESS.—The term “small busi-
5 ness” means a company with no more than 500 em-
6 ployees.

7 (7) UNDERBANKED.—The term “underbanked”
8 means a natural person or a small business that—

9 (A) has a deposit account with an insured
10 depository institution or an insured credit
11 union; and

12 (B) has limited or no ability to access non-
13 depository services from insured depository in-
14 stitutions or insured credit unions.

15 (8) UNDERBANKED PERSON.—The term
16 “underbanked person” means a natural person or a
17 small business that is underbanked, unbanked, or
18 has a low credit score.

19 (9) OTHER TERMS.—The Comptroller of the
20 Currency may issue regulations to define such other
21 terms as the Comptroller of the Currency determines
22 necessary to carry out this Act.

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