

114TH CONGRESS
1ST SESSION

S. 1491

To provide sensible relief to community financial institutions, to protect consumers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 3, 2015

Mr. BROWN (for himself, Mr. REED, Mr. SCHUMER, Mr. MENENDEZ, Mr. TESTER, Mr. WARNER, Mr. MERKLEY, Ms. WARREN, Ms. HEITKAMP, and Mr. DONNELLY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide sensible relief to community financial institutions,
to protect consumers, 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 Lender Regulatory Relief and Consumer
6 Protection Act of 2015”.

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

Sec. 1. Short title; table of contents.

TITLE I—HELPING COMMUNITY LENDERS

- Sec. 101. Community bank and credit union portfolio lending.
 Sec. 102. Exception to annual written privacy notice requirement under the Gramm-Leach-Bliley Act.
 Sec. 103. Expansion of threshold for 18-month on-site examination cycle.
 Sec. 104. Privately insured credit unions authorized to become members of a Federal home loan bank.
 Sec. 105. Registration threshold for savings and loan holding companies.
 Sec. 106. Transitional license authority.

TITLE II—PROTECTING CONSUMERS

- Sec. 201. Protecting servicemembers.
 Sec. 202. Restoration of the Protecting Tenants at Foreclosure Act of 2009.
 Sec. 203. Confidentiality of information shared between State and Federal financial services regulators.

1 **TITLE I—HELPING COMMUNITY** 2 **LENDERS**

3 **SEC. 101. COMMUNITY BANK AND CREDIT UNION PORT-** 4 **FOLIO LENDING.**

5 Section 129C(b)(2) of the Truth in Lending Act (15
 6 U.S.C. 1639c(b)(2)) is amended by adding at the end the
 7 following:

8 “(F) SAFE HARBOR.—

9 “(i) IN GENERAL.—In this section—

10 “(I) the term ‘qualified mort-
 11 gage’, as defined in subparagraph (A),
 12 includes any residential mortgage
 13 loan—

14 “(aa) that is originated by a
 15 covered institution and continu-
 16 ously retained in portfolio by the
 17 covered institution;

1 “(bb) that, except as pro-
2 vided in subparagraph (E), fully
3 amortizes over a term of not
4 longer than 30 years;

5 “(cc) that complies with—

6 “(AA) the requirements
7 of clauses (i), (ii), (iii), (iv),
8 (v), and (vii) of subpara-
9 graph (A); and

10 “(BB) any require-
11 ments consistent with the
12 purposes described in para-
13 graph (3)(B)(i);

14 “(dd) for which the covered
15 institution, at or before con-
16 summation of the residential
17 mortgage loan, takes into ac-
18 count and verifies the monthly
19 debt and income of the consumer;
20 and

21 “(ee) that is not considered
22 a high-cost mortgage; and

23 “(II) a residential mortgage loan
24 that meets the requirements of sub-
25 clause (I) shall be deemed to meet the

1 requirements of subsection (a) until
2 the residential mortgage loan no
3 longer meets the requirements of sub-
4 clause (I).

5 “(ii) DEFINITION.—In this subpara-
6 graph, the term ‘covered institution’
7 means—

8 “(I) an insured depository insti-
9 tution or insured credit union that—

10 “(aa) at the time of origina-
11 tion of the residential mortgage
12 loan, together with its affiliates,
13 has less than \$2,000,000,000 in
14 total consolidated assets; and

15 “(bb) during the calendar
16 year preceding the time of origi-
17 nation of the residential mort-
18 gage loan, originated not more
19 than 2,000 residential mortgage
20 loans that were—

21 “(AA) sold, assigned, or
22 otherwise transferred to an-
23 other person; or

24 “(BB) subject to, at
25 the time of consummation, a

1 commitment to be acquired
2 by another person; or

3 “(II) an insured depository insti-
4 tution or insured credit union that, at
5 the time of origination of the residen-
6 tial mortgage loan—

7 “(aa) together with its affili-
8 ates, has more than
9 \$2,000,000,000 and less than
10 \$10,000,000,000 in total consoli-
11 dated assets;

12 “(bb) is not considered a
13 specialty bank, such as a bank
14 that offers only a narrow product
15 line (including credit card or
16 motor vehicle loans) to a regional
17 or broader market;

18 “(cc) engages in the basic
19 activities of lending and deposit
20 taking as a significant percentage
21 of total assets;

22 “(dd) has a limited geo-
23 graphic scope; and

24 “(ee) meets any other cri-
25 teria as determined by the Bu-

reau, including restrictions on
the volume of residential mort-
gage loans—

“(AA) sold, assigned, or
otherwise transferred to an-
other person; or

“(BB) subject to, at
the time of consummation, a
commitment to be acquired
by another person.”.

**SEC. 102. EXCEPTION TO ANNUAL WRITTEN PRIVACY NO-
TICE REQUIREMENT UNDER THE GRAMM-
LEACH-BLILEY ACT.**

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

“(f) EXCEPTION TO ANNUAL WRITTEN NOTICE RE-
QUIREMENT.—

“(1) IN GENERAL.—A financial institution de-
scribed in paragraph (2) shall not be required to
provide an annual written disclosure under this sec-
tion until such time as the financial institution fails
to comply with subparagraph (A), (B), or (C) of
paragraph (2).

1 “(2) COVERED INSTITUTIONS.—A financial in-
 2 stitution described in this paragraph is a financial
 3 institution that—

4 “(A) provides nonpublic personal informa-
 5 tion only in accordance with the provisions of
 6 subsection (b)(2) or (e) of section 502 or regu-
 7 lations prescribed under section 504(b);

8 “(B) has not changed its policies and prac-
 9 tices with respect to disclosing nonpublic per-
 10 sonal information from the policies and prac-
 11 tices that were disclosed in the most recent dis-
 12 closure sent to consumers in accordance with
 13 this section; and

14 “(C) otherwise provides customers access
 15 to such most recent disclosure in electronic or
 16 other form permitted by regulations prescribed
 17 under section 504.”.

18 **SEC. 103. EXPANSION OF THRESHOLD FOR 18-MONTH ON-**
 19 **SITE EXAMINATION CYCLE.**

20 Section 10(d) of the Federal Deposit Insurance Act
 21 (12 U.S.C. 1820(d)) is amended—

22 (1) in paragraph (4)(A), by striking
 23 “\$500,000,000” and inserting “\$1,000,000,000”;
 24 and

1 (2) in paragraph (10), by striking
2 “\$500,000,000” and inserting “\$1,000,000,000”.

3 **SEC. 104. PRIVATELY INSURED CREDIT UNIONS AUTHOR-**
4 **IZED TO BECOME MEMBERS OF A FEDERAL**
5 **HOME LOAN BANK.**

6 (a) IN GENERAL.—Section 4(a) of the Federal Home
7 Loan Bank Act (12 U.S.C. 1424(a)) is amended by adding
8 at the end the following:

9 “(5) CERTAIN PRIVATELY INSURED CREDIT
10 UNIONS.—

11 “(A) IN GENERAL.—Subject to the re-
12 quirements of subparagraph (B), a credit union
13 that lacks insurance of its member accounts
14 under Federal law shall be treated as an in-
15 sured depository institution for purposes of this
16 Act.

17 “(B) CERTIFICATION BY APPROPRIATE
18 STATE SUPERVISOR.—For purposes of this
19 paragraph, a credit union that lacks insurance
20 of its member accounts under Federal law and
21 that has applied for membership in a Federal
22 home loan bank shall be treated as an insured
23 depository institution if the following has oc-
24 curred:

1 “(i) DETERMINATION BY STATE SU-
2 PERVISOR OF THE CREDIT UNION.—

3 “(I) IN GENERAL.—Subject to
4 subclause (II), the appropriate super-
5 visor of the State in which the credit
6 union is chartered has determined
7 that the credit union meets all the eli-
8 gibility requirements under section
9 201(a) of the Federal Credit Union
10 Act (12 U.S.C. 1781(a)) to apply for
11 insurance of its member accounts as
12 of the date of the application for
13 membership.

14 “(II) CERTIFICATION DEEMED
15 VALID.—In the case of any credit
16 union to which subclause (I) applies,
17 if the appropriate supervisor of the
18 State in which such credit union is
19 chartered fails to make the determina-
20 tion required pursuant to such sub-
21 clause by the end of the 12-month pe-
22 riod beginning on the date on which
23 the application is submitted to the su-
24 pervisor, the credit union shall be

1 deemed to have met the requirements
2 of subclause (I).

3 “(ii) DETERMINATION BY STATE SU-
4 PERVISOR OF THE PRIVATE DEPOSIT IN-
5 SURER.—The licensing entity of the pri-
6 vate deposit insurer that is insuring the
7 member accounts of the credit union—

8 “(I) receives, on an annual basis,
9 an independent actuarial opinion that
10 the private insurer has set aside suffi-
11 cient reserves for losses; and

12 “(II) obtains, as frequently as
13 appropriate, but not less frequently
14 than every 36 months, an independent
15 actuary’s study of the capital ade-
16 quacy of the private insurer.

17 “(iii) SUBMISSION OF FINANCIAL IN-
18 FORMATION.—The credit union or the ap-
19 propriate supervisor of the State in which
20 such credit union is chartered makes avail-
21 able, and continues to make available for
22 such time as the credit union is a member
23 of a Federal home loan bank, to the Fed-
24 eral Housing Finance Agency or to the
25 Federal home loan bank all reports,

1 records, and other information related to
2 any examinations or inquiries performed
3 by the supervisor concerning the financial
4 condition of the credit union, as soon as is
5 practicable.

6 “(C) SECURITY INTERESTS OF FEDERAL
7 HOME LOAN BANK NOT AVOIDABLE.—Notwith-
8 standing any provision of State law authorizing
9 a conservator or liquidating agent of a credit
10 union to repudiate contracts, no such provision
11 shall apply with respect to—

12 “(i) any extension of credit from any
13 Federal home loan bank to any credit
14 union that is a member of any such bank
15 pursuant to this paragraph; or

16 “(ii) any security interest in the as-
17 sets of such a credit union securing any
18 such extension of credit.

19 “(D) PROTECTION FOR CERTAIN FEDERAL
20 HOME LOAN BANK ADVANCES.—Notwith-
21 standing any State law to the contrary, if a
22 Bank makes an advance under section 10 to a
23 State-chartered credit union that is not feder-
24 ally insured—

1 “(i) the Bank’s interest in any collat-
 2 eral securing the advance has the same
 3 priority and is afforded the same standing
 4 and rights that the security interest would
 5 have had if the advance had been made to
 6 a federally insured credit union; and

7 “(ii) the Bank has the same right to
 8 access such collateral that the Bank would
 9 have had if the advance had been made to
 10 a federally insured credit union.”.

11 (b) COPIES OF AUDITS OF PRIVATE INSURERS OF
 12 CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE
 13 PROVIDED TO SUPERVISORY AGENCIES.—Section
 14 43(a)(2)(A) of the Federal Deposit Insurance Act (12
 15 U.S.C. 1831t(a)(2)(A)) is amended—

16 (1) in clause (i), by striking “; and” and insert-
 17 ing a semicolon;

18 (2) in clause (ii), by striking the period at the
 19 end and inserting “; and”; and

20 (3) by adding at the end the following:

21 “(iii) in the case of depository institu-
 22 tions described in subsection (e)(2)(A), the
 23 member accounts of which are insured by
 24 the private deposit insurer, which are
 25 members of a Federal home loan bank, to

1 the Federal Housing Finance Agency, not
 2 later than 7 days after the audit is com-
 3 pleted.”.

4 (c) GAO REPORT.—Not later than 18 months after
 5 the date of enactment of this Act, the Comptroller General
 6 of the United States shall conduct a study and submit a
 7 report to Congress—

8 (1) on the adequacy of insurance reserves held
 9 by a private deposit insurer that insures the member
 10 accounts of an entity described in section
 11 43(e)(2)(A) of the Federal Deposit Insurance Act
 12 (12 U.S.C. 1831t(e)(2)(A)); and

13 (2) for an entity described in paragraph (1),
 14 the member accounts of which are insured by a pri-
 15 vate deposit insurer, information on the level of com-
 16 pliance with Federal regulations relating to the dis-
 17 closure of a lack of Federal deposit insurance.

18 **SEC. 105. REGISTRATION THRESHOLD FOR SAVINGS AND**
 19 **LOAN HOLDING COMPANIES.**

20 The Securities Exchange Act of 1934 (15 U.S.C. 78a
 21 et seq.) is amended—

22 (1) in section 12(g)—

23 (A) in paragraph (1)(B), by inserting after
 24 “is a bank” the following: “, a savings and loan
 25 holding company (as such term is defined in

1 section 10 of the Home Owners' Loan Act (12
2 U.S.C. 1467a(a))),"; and

3 (B) in paragraph (4), by inserting after
4 "case of a bank" the following: " , a savings and
5 loan holding company (as such term is defined
6 in section 10 of the Home Owners' Loan Act
7 (12 U.S.C. 1467a(a))),"; and

8 (2) in section 15(d)(1), by striking "case of
9 bank" and inserting the following: "case of a bank,
10 a savings and loan holding company (as such term
11 is defined in section 10 of the Home Owners' Loan
12 Act (12 U.S.C. 1467a(a))),".

13 **SEC. 106. TRANSITIONAL LICENSE AUTHORITY.**

14 Section 1504 of the S.A.F.E. Mortgage Licensing Act
15 of 2008 (12 U.S.C. 5103) is amended—

16 (1) in subsection (a), by inserting after "as the
17 case may be," the following: "and except as provided
18 in subsection (c),"; and

19 (2) by adding at the end the following:

20 "(c) TRANSITIONAL AUTHORITY.—

21 "(1) DEFINITION.—In this subsection, the term
22 'covered registered loan originator' means a reg-
23 istered loan originator who—

24 "(A) submits the information required
25 under section 1505(a); and

1 “(B) during the 30-day period preceding
 2 the date of such submission, met the standard
 3 of being qualified under section 129B(b)(1)(A)
 4 of the Truth in Lending Act (15 U.S.C.
 5 1639b(b)(1)(A)).

6 “(2) **AUTHORITY.**—Notwithstanding the re-
 7 quirements of subsections (b) through (e) of section
 8 1505, a State may permit a covered registered loan
 9 originator to act as a loan originator, under the su-
 10 pervision of a non-depository firm that engages in
 11 loan origination in that State, for the 120-day pe-
 12 riod beginning on the date on which the covered reg-
 13 istered loan originator submits the information re-
 14 quired under section 1505(a).

15 “(3) **LIMITATION.**—A covered registered loan
 16 originator may not act as a loan originator under
 17 paragraph (2) after the date on which the 120-day
 18 period described in that paragraph expires.”.

19 **TITLE II—PROTECTING** 20 **CONSUMERS**

21 **SEC. 201. PROTECTING SERVICEMEMBERS.**

22 Section 1002(12) of the Consumer Financial Protec-
 23 tion Act of 2010 (12 U.S.C. 5481(12)) is amended—

24 (1) in subparagraph (Q), by striking “; and”
 25 and inserting a semicolon;

1 (2) in subparagraph (R), by striking the period
 2 at the end and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(S) sections 101, 107 (except with respect
 5 to bailments), 108 (except with respect to in-
 6 surance), 201 (except with respect to child cus-
 7 tody proceedings), 207, 301, 302, 303, 305,
 8 and 305A of the Servicemembers Civil Relief
 9 Act (50 U.S.C. App. 511, 517, 518, 521, 527,
 10 531, 532, 533, 535, and 535a).”.

11 **SEC. 202. RESTORATION OF THE PROTECTING TENANTS AT**
 12 **FORECLOSURE ACT OF 2009.**

13 (a) REPEAL OF SUNSET PROVISION.—Section 704 of
 14 the Protecting Tenants at Foreclosure Act of 2009 (12
 15 U.S.C. 5201 note; 12 U.S.C. 5220 note; 42 U.S.C. 1437f
 16 note) is repealed.

17 (b) RESTORATION.—Sections 701 through 703 of
 18 such Act, the provisions of law amended or repealed by
 19 such sections, and any regulations promulgated pursuant
 20 to such sections, as were in effect on December 31, 2014,
 21 are restored and revived as if the sunset provision in sec-
 22 tion 704 had not taken effect.

1 **SEC. 203. CONFIDENTIALITY OF INFORMATION SHARED BE-**
2 **TWEEN STATE AND FEDERAL FINANCIAL**
3 **SERVICES REGULATORS.**

4 Section 1512(a) of the S.A.F.E. Mortgage Licensing
5 Act of 2008 (12 U.S.C. 5111(a)) is amended by inserting
6 “or financial services” before “industry”.

○