

115TH CONGRESS
2D SESSION

S. 2361

To amend the Federal Home Loan Bank Act to allow a captive insurance company that was a member of a Federal Home Loan Bank before January 19, 2016, to continue or restore the membership of the captive insurance company in the Federal Home Loan Bank, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2018

Ms. DUCKWORTH (for herself, Mr. JOHNSON, and Mr. SCOTT) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Federal Home Loan Bank Act to allow a captive insurance company that was a member of a Federal Home Loan Bank before January 19, 2016, to continue or restore the membership of the captive insurance company in the Federal Home Loan Bank, 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.**

4 This Act may be cited as the “Housing Opportunity
5 Mortgage Expansion Act”.

1 **SEC. 2. MEMBERSHIP ELIGIBILITY OF CERTAIN CAPTIVE**
 2 **INSURANCE COMPANIES.**

3 (a) IN GENERAL.—The Federal Home Loan Bank
 4 Act (12 U.S.C. 1422 et seq.) is amended—

5 (1) in section 4 (12 U.S.C. 1424), by adding at
 6 the end the following:

7 “(d) MEMBERSHIP ELIGIBILITY OF CERTAIN CAP-
 8 TIVE INSURANCE COMPANIES.—

9 “(1) DEFINITIONS.—In this subsection—

10 “(A) the terms ‘affiliate’, ‘long-term’, and
 11 ‘residential mortgage loan’ have the meanings
 12 given those terms in section 1263.1 of title 12,
 13 Code of Federal Regulations, as in effect on the
 14 date of enactment of this subsection; and

15 “(B) the term ‘covered captive insurance
 16 company’ means a captive insurance company—

17 “(i) the primary insurance business of
 18 which is, or was on January 19, 2016, the
 19 insurance of an affiliate;

20 “(ii) that was admitted to membership
 21 of a Federal Home Loan Bank before Jan-
 22 uary 19, 2016; and

23 “(iii) that, due solely to the change in
 24 the treatment of captive insurance compa-
 25 nies in the final rule of the Agency entitled
 26 ‘Members of Federal Home Loan Banks’

1 (81 Fed. Reg. 3246 (January 20,
2 2016))—

3 “(I) was required to terminate
4 membership in the Federal Home
5 Loan Bank; or

6 “(II) will have membership in the
7 Federal Home Loan Bank terminated.

8 “(2) CONTINUATION OR RESTORATION OF MEM-
9 BERSHIP.—A covered captive insurance company
10 may continue membership or have membership re-
11 stored in the same Federal Home Loan Bank de-
12 scribed in paragraph (1)(B)(ii) if—

13 “(A) the Federal Home Loan Bank deter-
14 mines, including based on information sub-
15 mitted by the covered captive insurance com-
16 pany, that—

17 “(i) the affiliate insured by the cov-
18 ered captive insurance company makes,
19 owns, or acquires long-term residential
20 mortgage loans; and

21 “(ii) the covered captive insurance
22 company will comply with the membership
23 eligibility requirements described in sub-
24 sections (a), (b), and (c) of section 1263.6

1 of title 12, Code of Federal Regulations,
 2 upon restoring membership; and

3 “(B) the covered captive insurance com-
 4 pany continues to be owned, or upon restoration
 5 of membership is owned and continues to be
 6 owned, including direct ownership by a control-
 7 ling entity or indirect ownership through one or
 8 more holding companies, by the same entity
 9 that owned the covered captive insurance com-
 10 pany on the date of enactment of this sub-
 11 section.

12 “(3) BENEFITS.—

13 “(A) IN GENERAL.—A covered captive in-
 14 surance company for which membership in a
 15 Federal Home Loan Bank is continued or re-
 16 stored under paragraph (2) shall have the same
 17 benefits of membership in the Federal Home
 18 Loan Bank as the covered captive insurance
 19 company had before January 19, 2016.

20 “(B) APPLICATION OF REGULATION.—Sec-
 21 tion 1263.6(e) of title 12, Code of Federal Reg-
 22 ulations, or any successor thereto, shall not
 23 apply to a covered captive insurance company
 24 for which membership in a Federal Home Loan

1 Bank is continued or restored under paragraph
2 (2).

3 “(C) CAPTIVES TREATED AS INSURANCE
4 COMPANIES.—Except as otherwise specifically
5 provided for in this Act, for purposes of this
6 Act and any regulations promulgated under this
7 Act, a covered captive insurance company shall
8 be treated as an insurance company.

9 “(4) LIMITATION ON ADVANCES.—With respect
10 to a covered captive insurance company for which
11 membership in a Federal Home Loan Bank is con-
12 tinued or restored under paragraph (2) and that is
13 not an affiliate of a depository financial institution,
14 the Federal Home Loan Bank may not make any
15 advances to the covered captive insurance company
16 in an amount that, in the aggregate, is greater than
17 50 percent of the total assets of the covered captive
18 insurance company unless the Federal Home Loan
19 Bank has received from the affiliate of the covered
20 captive insurance company or the controlling entity
21 described in paragraph (2)(B) a guarantee of pay-
22 ment for any outstanding advances, which shall be
23 in addition to any collateral otherwise required to se-
24 cure the advances.”; and

25 (2) in section 6(g) (12 U.S.C. 1426(g))—

1 (A) in paragraph (1), by striking “para-
 2 graph (2)” and inserting “paragraphs (2) and
 3 (3)”; and

4 (B) by adding at the end the following:

5 “(3) EXCEPTION FOR CERTAIN CAPTIVE INSUR-
 6 ANCE COMPANIES.—A covered captive insurance
 7 company (as defined in section 4(d)(1)) for which
 8 membership in a Federal Home Loan Bank is re-
 9 stored under section 4(d)(2)—

10 “(A) shall not be subject to the 5-year pe-
 11 riod described in paragraph (1); and

12 “(B) may acquire shares of the Federal
 13 Home Loan Bank beginning after the member-
 14 ship is restored.”.

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