

STATE LICENSING EFFICIENCY ACT OF 2015

OCTOBER 28, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 2643]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2643) to direct the Attorney General to provide State officials with access to criminal history information with respect to certain financial service providers required to undergo State criminal background checks, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced by Representative Williams, H.R. 2643, the “State Licensing Efficiency Act of 2015,” amends the Secure and Fair Mortgage Licensing Act of 2008 (SAFE Act) by directing the Attorney General to provide appropriate state officials responsible for regulating financial service providers with access to criminal history information to the extent that criminal history background checks are required under state law for the licensing of such parties.

In 2006, the states, under the auspices of the Conference of State Bank Supervisors (CSBS), developed the Nationwide Mortgage Licensing System and Registry (NMLS). According to CSBS, the NMLS platform was designed to provide “improved coordination and information sharing among regulators, increased efficiencies for industry, and enhanced consumer protection.”¹ Congress codified the NMLS in 2008 through the SAFE Act.

Section 1511(a) of the SAFE Act requires background checks for all mortgage loan originators (MLOs), regardless of whether they

¹ <http://mortgage.nationwidelicencingsystem.org/about/Pages/default.aspx>

are regulated at the state or federal level, and authorizes the FBI to provide that information. Section 1511(b) of the SAFE Act expressly authorizes CSBS to act as a “channeler” of the FBI’s comprehensive database of criminal history information, meaning that CSBS can act as an agent between the FBI and parties seeking criminal background information on mortgage loan originators for state licensing purposes. The FBI authorizes this practice for civil purposes (where supported by state or federal law, such as licensing and employment), and encourages “channeling” in order to alleviate the burden on state criminal justice agencies.

As a nationwide credentialing and background check platform, NMLS, as operated under SAFE Act authority, is successful enough that state licensing agencies have attempted to utilize it for the credentialing and licensing of other regulated non-depository financial service providers. However, the SAFE Act only expressly authorizes the release of criminal history background information to state officials who regulate mortgage loan originators.

BACKGROUND AND NEED FOR LEGISLATION

The Financial Services Committee intends that H.R. 2643 authorizes the NMLS to process criminal background checks for non-depository licensees beyond mortgage loan originators (MLOs).

The Committee is aware that the FBI, citing a lack of statutory authority to disseminate criminal history record information to a nongovernmental entity, has rejected requests from states seeking to obtain background checks for license applicants not engaged in mortgage lending.

A number of states have expanded the use of NMLS to include licensing of non-bank financial services companies not engaged in mortgage lending. The purpose of H.R. 2643 is to authorize the NMLS to process state-required criminal background checks for applicants seeking state licensure as financial service providers. The SAFE Act currently requires applicants seeking licensure as MLOs to have criminal background checks processed through the NMLS. To support the states’ expanded use of NMLS as a licensing system, this Act will enable state officials, pursuant to state law, to obtain background checks efficiently through NMLS for this broader set of state-licensed financial services providers.

This Act authorizes only state-licensed loan originators and other state-licensed financial service providers to be processed through NMLS for background checks authorized under the laws of the state. This Act may not be construed as a mandate to require states to license or register any additional class of financial services providers, nor to encourage or discourage states from processing background checks for license applicants through NMLS.

HEARINGS

The Committee on Financial Services’ Subcommittee on Financial Institution and Consumer Credit held a hearing examining matters relating to H.R. 2643 on June 11, 2015.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 28, 2015 and July 29, 2015, and ordered H.R. 2643 to be re-

ported favorably to the House without amendment by a recorded vote of 57 yeas to 0 nays (recorded vote no. FC-56), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole record vote in Committee was a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 57 yeas to 0 nays (Record vote no. FC-56), a quorum being present.

Record vote no. FC-56

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)	X		
Mr. King (NY)	X			Mrs. Maloney (NY)	X		
Mr. Royce	X			Ms. Velázquez	X		
Mr. Lucas	X			Mr. Sherman	X		
Mr. Garrett	X			Mr. Meeks	X		
Mr. Neugebauer	X			Mr. Capuano	X		
Mr. McHenry	X			Mr. Hinojosa	X		
Mr. Pearce	X			Mr. Clay			
Mr. Posey	X			Mr. Lynch	X		
Mr. Fitzpatrick	X			Mr. David Scott (GA)	X		
Mr. Westmoreland	X			Mr. Al Green (TX)	X		
Mr. Luetkemeyer	X			Mr. Cleaver			
Mr. Huizenga (MI)	X			Ms. Moore	X		
Mr. Duffy	X			Mr. Ellison	X		
Mr. Hurt (VA)	X			Mr. Perlmutter	X		
Mr. Stivers	X			Mr. Himes	X		
Mr. Fincher	X			Mr. Carney			
Mr. Stutzman	X			Ms. Sewell (AL)	X		
Mr. Mulvaney	X			Mr. Foster	X		
Mr. Hultgren	X			Mr. Kildee	X		
Mr. Ross	X			Mr. Murphy (FL)	X		
Mr. Pittenger	X			Mr. Delaney	X		
Mrs. Wagner	X			Ms. Sinema	X		
Mr. Barr	X			Mrs. Beatty	X		
Mr. Rothfus	X			Mr. Heck (WA)	X		
Mr. Messer	X			Mr. Vargas	X		
Mr. Schweikert	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin	X						
Mrs. Love	X						
Mr. Hill	X						
Mr. Emmer	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 2643 will facilitate the licensing of non-depository financial services entities beyond mortgage loan originators (MLOs) by permitting the NMLS to process criminal background checks for such licensees.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 6, 2015.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2643, the State Licensing Efficiency Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz and Susan Willie.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2643—State Licensing Efficiency Act of 2015

H.R. 2643 would change the process used by state regulators to request that the Department of Justice (DOJ) conduct criminal history checks on certain providers of financial services. CBO expects those changes would reduce the number of duplicative requests for criminal history checks. DOJ collects a fee of about \$20 for this service (which is treated as an offset to discretionary spending) and the department spends those collections mostly in the same year. Thus, CBO estimates that implementing the bill would not have a significant net effect on spending for DOJ.

Based on information from the Consumer Financial Protection Bureau (CFPB), CBO expects that enacting H.R. 2643 would not significantly affect the agency's workload because no additional rulemaking action would be required. The CFPB is permanently authorized to spend amounts transferred from the Federal Reserve System; therefore, any changes in spending by the agency would be recorded in the budget as direct spending. Because the bill could affect direct spending, pay-as-you-go procedures would apply; however, we estimate that any such effects would be negligible. Enacting H.R. 2643 would not affect revenues.

H.R. 2643 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate are Mark Grabowicz and Susan Willie. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 2643 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 2643 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Con-

gress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(k) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 2643 contains no directed rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 2643 as the “State Licensing Efficiency Act of 2015.”

Section 2. Background checks

This section amends the SAFE Mortgage Licensing Act of 2008 to authorize the NMLS to process criminal background checks for non-depository licensees beyond mortgage loan originators.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

S.A.F.E. MORTGAGE LICENSING ACT OF 2008

* * * * *

DIVISION A—HOUSING FINANCE REFORM

* * * * *

TITLE V—S.A.F.E. MORTGAGE LICENSING ACT

* * * * *

SEC. 1511. BACKGROUND CHECKS OF LOAN ORIGINATORS.

(a) **ACCESS TO RECORDS.**—Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators *and other financial service providers* to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators *or other financial service providers*.

(b) **AGENT.**—For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting and

distributing information between the Department of Justice and the appropriate State agencies.

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Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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October 27, 2015

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The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling,

I am writing concerning H.R. 2643, the "State Licensing Efficiency Act of 2015" which was referred to your Committee as well as the Committee on the Judiciary.

As a result of your having consulted with us on provisions in H.R. 2643 that fall within the Rule X jurisdiction of the Committee on the Judiciary, I agree to discharge our Committee from further consideration of this bill so that it may proceed expeditiously to the House floor for consideration. The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 2643 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as this bill or similar legislation moves forward. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and asks that you support any such request.

I would appreciate your response to this letter confirming this understanding, and would request that you include a copy of this letter and your response in the *Congressional Record* during the floor consideration of this bill. Thank you in advance for your cooperation.

Sincerely,



Bob Goodlatte
Chairman

cc: The Honorable John Boehner, Speaker
The Honorable John Conyers
The Honorable Maxine Waters
Thomas J. Wickham, Jr., Parliamentarian

JEB HENSARLING, TX, CHAIRMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

MAXINE WATERS, CA, RANKING MEMBER

October 27, 2015

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Goodlatte:

Thank you for your October 27th letter regarding H.R. 2643, the "State Licensing Efficiency Act of 2015."

I am most appreciative of your decision to forego action on H.R. 2643 so that it may move expeditiously to the House floor. I acknowledge that although you are waiving action on the bill, the Committee on the Judiciary is in no way waiving its jurisdictional interest in this or similar legislation. In addition, if a conference is necessary on this legislation, I will support any request that your committee be represented therein.

Finally, I shall be pleased to include your letter and this letter in our committee's report on H.R. 2643 and in the *Congressional Record* during floor consideration of the same.

Sincerely,


JEB HENSARLING
Chairman

cc: The Honorable John A. Boehner
The Honorable Maxine Waters
The Honorable John Conyers, Jr.
Mr. Thomas J. Wickham, Jr.

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