

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To reform the regulation of industrial loan companies and their parent companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GARCÍA of Illinois introduced the following bill; which was referred to the Committee on _____

A BILL

To reform the regulation of industrial loan companies and their parent companies, 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 “Close the ILC Loop-
5 hole Act”.

1 **SEC. 2. NEW INDUSTRIAL LOAN COMPANIES NOT ELIGIBLE**
2 **FOR THE EXEMPTION FROM THE DEFINITION**
3 **OF A BANK.**

4 (a) IN GENERAL.—Section 2(c)(2)(H) of the Bank
5 Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H))
6 is amended by inserting after “similar institution” the fol-
7 lowing: “which has been approved to receive deposit insur-
8 ance from the Federal Deposit Insurance Corporation on
9 or before September 23, 2021 (or has an application to
10 receive deposit insurance pending before the Federal De-
11 posit Insurance Corporation where such application was
12 made on or before September 23, 2021, or has had such
13 an application approved) and”.

14 (b) TREATMENT OF DEPOSIT INSURANCE APPLICA-
15 TIONS PENDING ON SEPTEMBER 23, 2021.—

16 (1) IN GENERAL.—With respect to an industrial
17 loan company, industrial bank, or other similar insti-
18 tution that, on the date of enactment of this Act,
19 has an application to receive deposit insurance pend-
20 ing before the Federal Deposit Insurance Corpora-
21 tion that was submitted on or before September 23,
22 2021, the Federal Deposit Insurance Corporation—

23 (A) shall provide for a 90-day public com-
24 ment period and a public hearing with respect
25 to such application; and

1 (B) may only approve such application by
2 a $\frac{2}{3}$ vote of the members of the Board of Di-
3 rectors of the Federal Deposit Insurance Cor-
4 poration.

5 (2) 2-YEAR DEADLINE FOR APPROVING APPLI-
6 CATION.—If the Federal Deposit Insurance Corpora-
7 tion does not approve an application described under
8 paragraph (1) before September 23, 2023, such ap-
9 plication shall be deemed to have been denied.

10 (c) AUTHORITY WITH RESPECT TO DEPOSIT INSUR-
11 ANCE APPLICATIONS GRANTED AFTER SEPTEMBER 23,
12 2021.—

13 (1) IN GENERAL.—With respect to a company
14 that has control over a covered industrial loan com-
15 pany which has been approved to receive deposit in-
16 surance from the Federal Deposit Insurance Cor-
17 poration after September 23, 2021 (the “parent
18 company”), the primary financial regulatory agency
19 of such parent company may—

20 (A) conduct such examinations of, and ob-
21 tain reports from, the parent company or any
22 subsidiary of the parent company (other than a
23 bank) as the agency determines necessary or
24 appropriate to assess the parent company’s or
25 subsidiaries’—

- 1 (i) financial condition;
2 (ii) systems for maintaining and con-
3 trolling financial and operating risks; and
4 (iii) transactions with depository insti-
5 tution subsidiaries of the parent company;
6 and

7 (B) impose any conditions or restrictions
8 on the parent company or any subsidiary of the
9 parent company (other than a bank), including
10 restricting or prohibiting transactions between
11 the parent company or subsidiary and any de-
12 pository institution subsidiary of the parent
13 company, if such conditions or restrictions
14 would promote the safety and soundness of the
15 parent company or any of its depository institu-
16 tion subsidiaries.

17 (2) DEFINITIONS.—In this subsection:

18 (A) COVERED INDUSTRIAL LOAN COM-
19 PANY.—The term “covered industrial loan com-
20 pany” means an industrial loan company, in-
21 dustrial bank, or other similar institution
22 that—

23 (i) on the date of the enactment of
24 this Act, is described under section

1 2(c)(2)(H) of the Bank Holding Company
2 Act of 1956; and

3 (ii) has an application to receive de-
4 posit insurance from the Federal Deposit
5 Insurance Corporation approved after Sep-
6 tember 23, 2021, and before the date of
7 enactment of this Act.

8 (B) PRIMARY FINANCIAL REGULATORY
9 AGENCY.—With respect to a company, the term
10 “primary financial regulatory agency”—

11 (i) has the meaning given that term
12 under section 2 of the Dodd-Frank Wall
13 Street Reform and Consumer Protection
14 Act; and

15 (ii) with respect to a company that
16 does not have a primary financial regu-
17 latory agency under clause (i), means the
18 Board of Governors of the Federal Reserve
19 System.

20 (C) OTHER DEFINITIONS.—The terms
21 “bank” and “depository institution” have the
22 meaning given those terms, respectively, under
23 section 2 of the Bank Holding Company Act of
24 1956.

1 **SEC. 3. SUPERVISION OF PARENT COMPANIES OF INDUS-**
2 **TRIAL LOAN COMPANIES.**

3 The Bank Holding Company Act of 1956 (12 U.S.C.
4 1841 et seq.) is amended by inserting after section 5 the
5 following:

6 **“SEC. 6. SUPERVISION OF PARENT COMPANIES OF INDUS-**
7 **TRIAL LOAN COMPANIES.**

8 “(a) IN GENERAL.—The Board shall have the same
9 authority to require a parent company of an industrial
10 loan company to make reports and submit to examinations
11 as the Board has with respect to a bank holding company.

12 “(b) PARENT COMPANY OF AN INDUSTRIAL LOAN
13 COMPANY DEFINED.—In this section, the term ‘parent
14 company of an industrial loan company’ means a company
15 that has control over an entity that—

16 “(1) is an industrial loan company, industrial
17 bank, or other similar institution; and

18 “(2) is not a bank.”.

19 **SEC. 4. CHANGE OF CONTROL.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b), the appropriate Federal banking agency shall dis-
22 approve a change in control, as provided in section 7(j)
23 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)),
24 of an industrial loan company.

25 (b) EXCEPTIONS.—Subsection (a) shall not apply to
26 a change in control of an industrial loan company—

1 (1) that—

2 (A) is in danger of default, as determined
3 by the appropriate Federal banking agency;

4 (B) is the result of the acquisition of con-
5 trol of the industrial loan company by a com-
6 pany that was an affiliate of the industrial loan
7 company on September 23, 2021, through an
8 internal corporate reorganization of a company
9 that directly or indirectly controlled the indus-
10 trial loan company on that date;

11 (C) results from an acquisition of voting
12 shares of a publicly-traded company that con-
13 trols an industrial loan company if, after the
14 acquisition, the acquiring shareholder (or group
15 of shareholders acting in concert) holds less
16 than 25 percent of any class of the voting
17 shares of the company; or

18 (D) will be controlled, directly or indi-
19 rectly, by a firm subject to consolidated super-
20 vision by the Board of Governors of the Federal
21 Reserve System as a—

22 (i) bank holding company;

23 (ii) savings and loan holding company;

24 or

1 (iii) foreign bank treated as of July 1,
2 2020, as a bank holding company under
3 the International Banking Act of 1978 (12
4 U.S.C. 3101 et seq.); and

5 (2) that has obtained all regulatory approvals
6 otherwise required for such change of control under
7 any applicable Federal or State law, including sec-
8 tion 7(j) of the Federal Deposit Insurance Act (12
9 U.S.C. 1817(j)).

10 (c) DEFINITIONS.—In this section:

11 (1) APPROPRIATE FEDERAL BANKING AGEN-
12 CY.—The term “appropriate Federal banking agen-
13 cy” has the meaning given that term under section
14 3 of the Federal Deposit Insurance Act (12 U.S.C.
15 1813).

16 (2) INDUSTRIAL LOAN COMPANY.—The term
17 “industrial loan company” means an industrial loan
18 company, industrial bank, or other similar institu-
19 tion.

20 **SEC. 5. GAO STUDY.**

21 (a) STUDY.—The Comptroller General of the United
22 States shall carry out a study on the effects of industrial
23 loan companies, industrial banks, and other similar insti-
24 tutions on the U.S. economy, including the effect on com-
25 petitiveness, market structure, and different industries.

1 (b) REPORT.—Not later than the end of the 1-year
2 period beginning on the date of enactment of this Act, the
3 Comptroller General shall issue a report to the Congress
4 containing all findings and determinations made in car-
5 rying out the study under subsection (a).