[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 ________________

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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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Close the ILC Loop-hole Act”.

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

(a) IN GENERAL.—Section 2(c)(2)(H) of the Bank
is amended by inserting after “similar institution” the fol-
lowing: “which has been approved to receive deposit insur-
ance from the Federal Deposit Insurance Corporation on
or before September 23, 2021 (or has an application to
receive deposit insurance pending before the Federal De-
posit Insurance Corporation where such application was
made on or before September 23, 2021, or has had such
an application approved)”.

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

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

(A) shall provide for a 90-day public com-
ment period and a public hearing with respect
to such application; and
(B) may only approve such application by a 2/3 vote of the members of the Board of Directors of the Federal Deposit Insurance Corporation.

(2) 2-YEAR DEADLINE FOR APPROVING APPLICATION.—If the Federal Deposit Insurance Corporation does not approve an application described under paragraph (1) before September 23, 2023, such application shall be deemed to have been denied.

(c) AUTHORITY WITH RESPECT TO DEPOSIT INSURANCE APPLICATIONS GRANTED AFTER SEPTEMBER 23, 2021.—

(1) IN GENERAL.—With respect to a company that has control over a covered industrial loan company which has been approved to receive deposit insurance from the Federal Deposit Insurance Corporation after September 23, 2021 (the “parent company”), the primary financial regulatory agency of such parent company may—

(A) conduct such examinations of, and obtain reports from, the parent company or any subsidiary of the parent company (other than a bank) as the agency determines necessary or appropriate to assess the parent company’s or subsidiaries’—
(i) financial condition;
(ii) systems for maintaining and controlling financial and operating risks; and
(iii) transactions with depository institution subsidiaries of the parent company;
and

(B) impose any conditions or restrictions on the parent company or any subsidiary of the parent company (other than a bank), including restricting or prohibiting transactions between the parent company or subsidiary and any depository institution subsidiary of the parent company, if such conditions or restrictions would promote the safety and soundness of the parent company or any of its depository institution subsidiaries.

(2) DEFINITIONS.—In this subsection:

(A) COVERED INDUSTRIAL LOAN COMPANY.—The term “covered industrial loan company” means an industrial loan company, industrial bank, or other similar institution that—

(i) on the date of the enactment of this Act, is described under section
2(c)(2)(H) of the Bank Holding Company Act of 1956; and

(ii) has an application to receive deposit insurance from the Federal Deposit Insurance Corporation approved after September 23, 2021, and before the date of enactment of this Act.

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

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

(ii) with respect to a company that does not have a primary financial regulatory agency under clause (i), means the Board of Governors of the Federal Reserve System.

(C) OTHER DEFINITIONS.—The terms “bank” and “depository institution” have the meaning given those terms, respectively, under section 2 of the Bank Holding Company Act of 1956.
SEC. 3. SUPERVISION OF PARENT COMPANIES OF INDUSTRIAL LOAN COMPANIES.

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

“SEC. 6. SUPERVISION OF PARENT COMPANIES OF INDUSTRIAL LOAN COMPANIES.

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

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

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

“(2) is not a bank.”.

SEC. 4. CHANGE OF CONTROL.

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

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

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

(B) is the result of the acquisition of control of the industrial loan company by a company that was an affiliate of the industrial loan company on September 23, 2021, through an internal corporate reorganization of a company that directly or indirectly controlled the industrial loan company on that date;

(C) results from an acquisition of voting shares of a publicly-traded company that controls an industrial loan company if, after the acquisition, the acquiring shareholder (or group of shareholders acting in concert) holds less than 25 percent of any class of the voting shares of the company; or

(D) will be controlled, directly or indirectly, by a firm subject to consolidated supervision by the Board of Governors of the Federal Reserve System as a—

(i) bank holding company;

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

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

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term “appropriate Federal banking agency” has the meaning given that term under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(2) INDUSTRIAL LOAN COMPANY.—The term “industrial loan company” means an industrial loan company, industrial bank, or other similar institution.

SEC. 5. GAO STUDY.

(a) STUDY.—The Comptroller General of the United States shall carry out a study on the effects of industrial loan companies, industrial banks, and other similar institutions on the U.S. economy, including the effect on competitiveness, market structure, and different industries.
(b) REPORT.—Not later than the end of the 1-year period beginning on the date of enactment of this Act, the Comptroller General shall issue a report to the Congress containing all findings and determinations made in carrying out the study under subsection (a).