

114TH CONGRESS
1ST SESSION

S. 1367

To amend the Federal Home Loan Bank Act with respect to membership eligibility of certain institutions.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2015

Mr. DONNELLY (for himself and Mr. PORTMAN) 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 with respect to membership eligibility of certain institutions.

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. 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.—

1 “(A) IN GENERAL.—Subject to the re-
2 quirements of subparagraph (B), a credit union
3 that lacks insurance of its member accounts
4 under Federal law shall be treated as an in-
5 sured depository institution for purposes of this
6 Act.

7 “(B) CERTIFICATION BY APPROPRIATE
8 STATE SUPERVISOR.—For purposes of this
9 paragraph, a credit union that lacks insurance
10 of its member accounts under Federal law and
11 that has applied for membership in a Federal
12 home loan bank shall be treated as an insured
13 depository institution if the following has oc-
14 curred:

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

17 “(I) IN GENERAL.—Subject to
18 subclause (II), the appropriate super-
19 visor of the State in which the credit
20 union is chartered has determined
21 that the credit union meets all the eli-
22 gibility requirements under section
23 201(a) of the Federal Credit Union
24 Act (12 U.S.C. 1781(a)) to apply for
25 insurance of its member accounts as

1 of the date of the application for
2 membership.

3 “(II) CERTIFICATION DEEMED
4 VALID.—In the case of any credit
5 union to which subclause (I) applies,
6 if the appropriate supervisor of the
7 State in which such credit union is
8 chartered fails to make the determina-
9 tion required pursuant to such sub-
10 clause by the end of the 12-month pe-
11 riod beginning on the date on which
12 the application is submitted to the su-
13 pervisor, the credit union shall be
14 deemed to have met the requirements
15 of subclause (I).

16 “(ii) DETERMINATION BY STATE SU-
17 PERVISOR OF THE PRIVATE DEPOSIT IN-
18 SURER.—The licensing entity of the pri-
19 vate deposit insurer that is insuring the
20 member accounts of the credit union—

21 “(I) receives, on an annual basis,
22 an independent actuarial opinion that
23 the private insurer has set aside suffi-
24 cient reserves for losses; and

1 “(II) obtains, as frequently as
2 appropriate, but not less frequently
3 than every 36 months, an independent
4 actuary’s study of the capital ade-
5 quacy of the private insurer.

6 “(iii) SUBMISSION OF FINANCIAL IN-
7 FORMATION.—The credit union or the ap-
8 propriate supervisor of the State in which
9 such credit union is chartered makes avail-
10 able, and continues to make available for
11 such time as the credit union is a member
12 of a Federal home loan bank, to the Fed-
13 eral Housing Finance Agency or to the
14 Federal home loan bank all reports,
15 records, and other information related to
16 any examinations or inquiries performed
17 by the supervisor concerning the financial
18 condition of the credit union, as soon as is
19 practicable.

20 “(C) SECURITY INTERESTS OF FEDERAL
21 HOME LOAN BANK NOT AVOIDABLE.—Notwith-
22 standing any provision of State law authorizing
23 a conservator or liquidating agent of a credit
24 union to repudiate contracts, no such provision
25 shall apply with respect to—

1 “(i) any extension of credit from any
2 Federal home loan bank to any credit
3 union that is a member of any such bank
4 pursuant to this paragraph; or

5 “(ii) any security interest in the as-
6 sets of such a credit union securing any
7 such extension of credit.

8 “(D) PROTECTION FOR CERTAIN FEDERAL
9 HOME LOAN BANK ADVANCES.—Notwith-
10 standing any State law to the contrary, if a
11 Bank makes an advance under section 10 to a
12 State-chartered credit union that is not feder-
13 ally insured—

14 “(i) the Bank’s interest in any collat-
15 eral securing the advance has the same
16 priority and is afforded the same standing
17 and rights that the security interest would
18 have had if the advance had been made to
19 a federally insured credit union; and

20 “(ii) the Bank has the same right to
21 access such collateral that the Bank would
22 have had if the advance had been made to
23 a federally insured credit union.”.

24 (b) COPIES OF AUDITS OF PRIVATE INSURERS OF
25 CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE

1 PROVIDED TO SUPERVISORY AGENCIES.—Section
2 43(a)(2)(A) of the Federal Deposit Insurance Act (12
3 U.S.C. 1831t(a)(2)(A)) is amended—

4 (1) in clause (i), by striking “and” at the end;

5 (2) in clause (ii), by striking the period at the
6 end and inserting a semicolon; and

7 (3) by inserting at the end the following:

8 “(iii) in the case of depository institu-
9 tions described in subsection (e)(2)(A), the
10 member accounts of which are insured by
11 the private deposit insurer, which are
12 members of a Federal home loan bank, to
13 the Federal Housing Finance Agency, not
14 later than 7 days after the audit is com-
15 pleted.”.

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

20 (1) on the adequacy of insurance reserves held
21 by a private deposit insurer that insures the member
22 accounts of an entity described in section
23 43(e)(2)(A) of the Federal Deposit Insurance Act
24 (12 U.S.C. 1831t(e)(2)(A)); and

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

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