

117TH CONGRESS  
2D SESSION

# S. 5280

To amend the Consumer Financial Protection Act of 2010 to subject the Bureau of Consumer Financial Protection to the regular appropriations process, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2022

Mr. TOOMEY (for himself and Mr. HAGERTY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Consumer Financial Protection Act of 2010 to subject the Bureau of Consumer Financial Protection to the regular appropriations process, 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 “CFPB Stability Act  
5 of 2022”.

6 **SEC. 2. MAKING THE BUREAU A COMMISSION.**

7 (a) IN GENERAL.—The Consumer Financial Protec-  
8 tion Act of 2010 (12 U.S.C. 5481 et seq.) is amended—

1 (1) in section 1011—

2 (A) in subsection (a), by striking “in the  
3 Federal Reserve System,”;

4 (B) by striking subsections (b), (c), and  
5 (d);

6 (C) by redesignating subsection (e) as sub-  
7 section (j);

8 (D) in subsection (j), as so redesignated,  
9 by striking “, including in cities in which the  
10 Federal reserve banks, or branches of such  
11 banks, are located,”; and

12 (E) by inserting after subsection (a) the  
13 following:

14 “(b) AUTHORITY TO PRESCRIBE REGULATIONS.—

15 The Bureau may prescribe such regulations and issue such  
16 orders in accordance with this title as the Bureau may  
17 determine to be necessary for carrying out this title and  
18 all other laws within the Bureau’s jurisdiction and shall  
19 exercise any authorities granted under this title and all  
20 other laws within the Bureau’s jurisdiction.

21 “(c) COMPOSITION OF THE BUREAU.—

22 “(1) IN GENERAL.—The Bureau shall be com-  
23 posed of 5 members who shall be appointed by the  
24 President, by and with the advice and consent of the  
25 Senate.

1           “(2) STAGGERING.—The members of the Bu-  
2           reau shall serve staggered terms, which initially shall  
3           be established by the President for terms of 1, 2, 3,  
4           4, and 5 years, respectively.

5           “(3) TERMS.—

6           “(A) IN GENERAL.—Each member of the  
7           Bureau, including the Chair, shall serve for a  
8           term of 5 years.

9           “(B) REMOVAL.—The President may re-  
10          move any member of the Bureau for ineffi-  
11          ciency, neglect of duty, or malfeasance in office.

12          “(C) VACANCIES.—Any member of the Bu-  
13          reau appointed to fill a vacancy occurring be-  
14          fore the expiration of the term to which that  
15          member’s predecessor was appointed (including  
16          the Chair) shall be appointed only for the re-  
17          mainder of the term.

18          “(D) CONTINUATION OF SERVICE.—Each  
19          member of the Bureau may continue to serve  
20          after the expiration of the term of office to  
21          which that member was appointed until a suc-  
22          cessor has been appointed by the President and  
23          confirmed by the Senate, except that a member  
24          may not continue to serve more than 1 year

1 after the date on which that member's term  
2 would otherwise expire.

3 “(E) OTHER EMPLOYMENT PROHIBITED.—

4 No member of the Bureau shall engage in any  
5 other business, vocation, or employment.

6 “(d) AFFILIATION.—Not more than 3 members of  
7 the Bureau shall be members of any one political party.

8 “(e) CHAIR OF THE BUREAU.—

9 “(1) INITIAL CHAIR.—The first member and  
10 Chair of the Bureau shall be the individual serving  
11 as Chair of the Bureau of Consumer Financial Pro-  
12 tection on the day before the date of the enactment  
13 of this subsection.

14 “(2) SUBSEQUENT CHAIR.—Of the 5 members  
15 appointed in accordance with subsection (c), the  
16 President shall appoint 1 member to serve as the  
17 subsequent Chair of the Bureau.

18 “(3) AUTHORITY.—The Chair shall be the prin-  
19 cipal executive officer of the Bureau, and shall exer-  
20 cise all of the executive and administrative functions  
21 of the Bureau, including with respect to—

22 “(A) the appointment and supervision of  
23 personnel employed under the Bureau (other  
24 than personnel employed regularly and full time

1 in the immediate offices of members of the Bu-  
2 reau other than the Chair);

3 “(B) the distribution of business among  
4 personnel appointed and supervised by the  
5 Chair and among administrative units of the  
6 Bureau; and

7 “(C) the use and expenditure of funds.

8 “(4) LIMITATION.—In carrying out any of the  
9 Chair’s functions under the provisions of this sub-  
10 section the Chair shall be governed by general poli-  
11 cies of the Bureau and by such regulatory decisions,  
12 findings, and determinations as the Bureau may by  
13 law be authorized to make.

14 “(5) REQUESTS OR ESTIMATES RELATED TO  
15 APPROPRIATIONS.—Requests or estimates for reg-  
16 ular, supplemental, or deficiency appropriations on  
17 behalf of the Bureau may not be submitted by the  
18 Chair without the prior approval of the Bureau.

19 “(6) TERM.—The term of each Chair serving  
20 under this subsection shall expire on the earlier of—

21 “(A) the date that is 5 years after the date  
22 on which the Chair began serving; and

23 “(B) the date on which the individual who  
24 was President while the Chair was serving  
25 leaves office.

1       “(f) INITIAL QUORUM ESTABLISHED.—The first  
2 member and Chair of the Bureau described under sub-  
3 section (e)(1) shall constitute a quorum for the trans-  
4 action of business until the President has appointed all  
5 5 members of the Bureau in accordance with subsection  
6 (c). Following such appointment of 5 members, the  
7 quorum requirements of subsection (g) shall apply.

8       “(g) NO IMPAIRMENT BY REASON OF VACANCIES.—  
9 No vacancy in the members of the Bureau after the estab-  
10 lishment of an initial quorum under subsection (f) shall  
11 impair the right of the remaining members of the Bureau  
12 to exercise all the powers of the Bureau. Three members  
13 of the Bureau shall constitute a quorum for the trans-  
14 action of business, except that if there are only 3 members  
15 serving on the Bureau because of vacancies in the Bureau,  
16 2 members of the Bureau shall constitute a quorum for  
17 the transaction of business. If there are only 2 members  
18 serving on the Bureau because of vacancies in the Bureau,  
19 2 members shall constitute a quorum for the 6-month pe-  
20 riod beginning on the date of the vacancy which caused  
21 the number of Bureau members to decline to 2.

22       “(h) SEAL.—The Bureau shall have an official seal.

23       “(i) COMPENSATION.—

24               “(1) CHAIR.—The Chair shall receive com-  
25 pensation at the rate prescribed for level I of the

1 Executive Schedule under section 5313 of title 5,  
2 United States Code.

3 “(2) OTHER MEMBERS OF THE BUREAU.—The  
4 other members of the Bureau shall each receive  
5 compensation at the rate prescribed for level II of  
6 the Executive Schedule under section 5314 of title  
7 5, United States Code.”;

8 (2) in section 1012(c), by striking paragraphs  
9 (2), (3), (4), and (5);

10 (3) in section 1013(a), by striking paragraph  
11 (2) and inserting the following:

12 “(2) COMPENSATION.—Notwithstanding any  
13 otherwise applicable provision of title 5, United  
14 States Code, concerning compensation, including the  
15 provisions of chapter 51 and chapter 53, the rates  
16 of basic pay for all employees of the Bureau may be  
17 set and adjusted by the Chair.”; and

18 (4) in section 1014(b), by striking “Not fewer  
19 than 6 members shall be appointed upon the rec-  
20 ommendation of the regional Federal Reserve Bank  
21 Presidents, on a rotating basis.”.

22 (b) PRESIDENTIAL APPOINTMENT OF INSPECTOR  
23 GENERAL OF THE FINANCIAL PRODUCT SAFETY BU-  
24 REAU.—The Inspector General Act of 1978 (5 U.S.C.  
25 App.) is amended—

1 (1) in section 8G—

2 (A) in subsection (a)(2), by striking “and  
3 the Bureau of Consumer Financial Protection”;

4 (B) in subsection (c), by striking “For the  
5 purposes of implementing this section” and all  
6 that follows through the end of the subsection;  
7 and

8 (C) in subsection (g)(3), by striking “and  
9 the Bureau of Consumer Financial Protection”;  
10 and

11 (2) in section 12—

12 (A) in paragraph (1), by inserting “the  
13 Chair of the Bureau of Consumer Financial  
14 Protection;” after “the President of the Export-  
15 Import Bank;” and

16 (B) in paragraph (2), by inserting “the  
17 Bureau of Consumer Financial Protection,”  
18 after “the Export-Import Bank,”.

19 **SEC. 3. SUBJECTING THE BUREAU OF CONSUMER FINAN-**  
20 **CIAL PROTECTION TO THE REGULAR APPRO-**  
21 **PRIATIONS PROCESS.**

22 (a) IN GENERAL.—Section 1017 of the Consumer Fi-  
23 nancial Protection Act of 2010 (12 U.S.C. 5497) is  
24 amended—

25 (1) in subsection (a)—



1 (A) in the subsection heading, by striking  
2 “TRANSFER OF FUNDS FROM BOARD OF GOV-  
3 ERNORS.—” and inserting “BUDGET AND FI-  
4 NANCIAL MANAGEMENT.—”;

5 (B) by striking paragraphs (1) through  
6 (3);

7 (C) by redesignating paragraphs (4) and  
8 (5) as paragraphs (1) and (2), respectively; and

9 (D) in paragraph (1), as so redesignated—

10 (i) in the paragraph heading, by strik-  
11 ing “BUDGET AND FINANCIAL MANAGE-  
12 MENT.—” and inserting “IN GENERAL.—”;

13 (ii) by striking subparagraph (E); and

14 (iii) by redesignating subparagraph  
15 (F) as subparagraph (E);

16 (2) by striking subsections (b) and (c);

17 (3) by redesignating subsections (d) and (e) as  
18 subsections (b) and (c), respectively;

19 (4) in subsection (b), as so redesignated—

20 (A) in paragraph (2)—

21 (i) in the first sentence, by inserting  
22 “direct” before “victims”; and

23 (ii) by striking the second sentence;

24 and

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

1           “(3) TREATMENT OF EXCESS AMOUNTS.—If,  
2           after the Bureau obtains a civil penalty in a judicial  
3           or administrative action under Federal consumer fi-  
4           nancial laws, deposits that civil penalty into the Civil  
5           Penalty Fund under paragraph (1), and, under  
6           paragraph (2), makes payments to all of the direct  
7           victims of activities for which that civil penalty was  
8           imposed, amounts remain in the Civil Penalty Fund  
9           with respect to that civil penalty, the Bureau shall  
10          transfer those excess amounts to the general fund of  
11          the Treasury.”; and

12           (5) in subsection (c), as so redesignated—

13           (A) by striking paragraphs (1) through (3)  
14           and inserting the following:

15           “(1) AUTHORIZATION OF APPROPRIATIONS.—  
16           There is authorized to be appropriated such funds as  
17           may be necessary to carry out this title for fiscal  
18           year 2024.”; and

19           (B) by redesignating paragraph (4) as  
20           paragraph (2).

21          (b) EFFECTIVE DATE.—The amendments made by  
22          this section shall take effect on October 1, 2023.

23          **SEC. 4. CONFORMING AMENDMENTS.**

24          (a) CONSUMER FINANCIAL PROTECTION ACT OF  
25          2010.—

1           (1) IN GENERAL.—Except as provided under  
2 paragraph (2), the Consumer Financial Protection  
3 Act of 2010 (12 U.S.C. 5481 et seq.) is amended—

4           (A) by striking “Director of the Bureau”  
5 each place the term appears, other than where  
6 the term is used to refer to a Director other  
7 than the Director of the Bureau of Consumer  
8 Financial Protection, and inserting “Chair of  
9 the Bureau”;

10           (B) by striking “Director” each place the  
11 term appears and inserting “Chair”, other than  
12 where the term is used to refer to a Director  
13 other than the Director of the Bureau of Con-  
14 sumer Financial Protection; and

15           (C) in section 1002, by striking paragraph  
16 (10).

17           (2) EXCEPTIONS.—The Consumer Financial  
18 Protection Act of 2010 (12 U.S.C. 5481 et seq.) is  
19 amended—

20           (A) in section 1013(c)(3)—

21           (i) in the matter preceding subpara-  
22 graph (A), by striking “Assistant Director  
23 of the Bureau for” and inserting “Head of  
24 the Office of”; and

1 (ii) in subparagraph (B), by striking  
2 “Assistant Director” and inserting “Head  
3 of the Office”; and

4 (B) in section 1013(g)(2)—

5 (i) by striking “ASSISTANT DIREC-  
6 TOR” and inserting “HEAD OF THE OF-  
7 FICE”; and

8 (ii) by striking “an assistant director”  
9 and inserting “a Head of the Office of Fi-  
10 nancial Protection for Older Americans”.

11 (b) DODD-FRANK WALL STREET REFORM AND CON-  
12 SUMER PROTECTION ACT.—The Dodd-Frank Wall Street  
13 Reform and Consumer Protection Act (12 U.S.C. 5301  
14 et seq.) is amended—

15 (1) in section 111(b)(1)(D), by striking “Direc-  
16 tor” and inserting “Chair”; and

17 (2) in section 1447, by striking “Director” each  
18 place the term appears and inserting “Chair”.

19 (c) ELECTRONIC FUND TRANSFER ACT.—Section  
20 920(a)(4)(C) of the Electronic Fund Transfer Act (15  
21 U.S.C. 1693o–2(a)(4)(C)), as added by section 1075(a)(2)  
22 of the Consumer Financial Protection Act of 2010, is  
23 amended by striking “Director of the Bureau of Consumer  
24 Financial Protection” and inserting “Chair of the Bureau  
25 of Consumer Financial Protection”.

1 (d) EXPEDITED FUNDS AVAILABILITY ACT.—The  
2 Expedited Funds Availability Act (12 U.S.C. 4001 et seq.)  
3 is amended by striking “Director of the Bureau” each  
4 place the term appears and inserting “Chair of the Bu-  
5 reau”.

6 (e) FEDERAL DEPOSIT INSURANCE ACT.—Section 2  
7 of the Federal Deposit Insurance Act (12 U.S.C. 1812)  
8 is amended by striking “Director of the Consumer Finan-  
9 cial Protection Bureau” each place the term appears and  
10 inserting “Chair of the Consumer Financial Protection  
11 Bureau”.

12 (f) FEDERAL FINANCIAL INSTITUTIONS EXAMINA-  
13 TION COUNCIL ACT OF 1978.—Section 1004(a)(4) of the  
14 Federal Financial Institutions Examination Council Act of  
15 1978 (12 U.S.C. 3303(a)(4)) is amended by striking “Di-  
16 rector of the Consumer Financial Protection Bureau” and  
17 inserting “Chair of the Consumer Financial Protection  
18 Bureau”.

19 (g) FINANCIAL LITERACY AND EDUCATION IM-  
20 PROVEDMENT ACT.—Section 513 of the Financial Literacy  
21 and Education Improvement Act (20 U.S.C. 9702) is  
22 amended by striking “Director” each place the term ap-  
23 pears and inserting “Chair”.

24 (h) HOME MORTGAGE DISCLOSURE ACT OF 1975.—  
25 Section 307 of the Home Mortgage Disclosure Act of 1975

1 (12 U.S.C. 2806) is amended by striking “Director of the  
2 Bureau of Consumer Financial Protection” each place the  
3 term appears and inserting “Chair of the Bureau of Con-  
4 sumer Financial Protection”.

5 (i) INTERSTATE LAND SALES FULL DISCLOSURE  
6 ACT.—The Interstate Land Sales Full Disclosure Act (15  
7 U.S.C. 1701 et seq.) is amended—

8 (1) in section 1402 (15 U.S.C. 1701), by strik-  
9 ing paragraph (1) and inserting the following:

10 “(1) ‘Chair’ means the Chair of the Bureau of  
11 Consumer Financial Protection;” and

12 (2) by striking “Director” each place the term  
13 appears and inserting “Chair”.

14 (j) REAL ESTATE SETTLEMENT PROCEDURES ACT  
15 OF 1974.—Section 5 of the Real Estate Settlement Proce-  
16 dures Act of 1974 (12 U.S.C. 2604) is amended—

17 (1) by striking “The Director of the Bureau of  
18 Consumer Financial Protection (hereafter in this  
19 section referred to as the ‘Director’)” and inserting  
20 “The Chair of the Bureau of Consumer Financial  
21 Protection (hereafter in this section referred to as  
22 the ‘Chair’)”; and

23 (2) by striking “Director” each place the term  
24 appears and inserting “Chair”.

1 (k) S.A.F.E. MORTGAGE LICENSING ACT OF 2008.—  
2 The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C.  
3 5101 et seq.) is amended—

4 (1) by striking “Director” each place the term  
5 appears in headings and text, other than where the  
6 term is used in the context of the Director of the Of-  
7 fice of Thrift Supervision, and inserting “Chair”;  
8 and

9 (2) in section 1503 (12 U.S.C. 5102), by strik-  
10 ing paragraph (10) and inserting the following:

11 “(10) CHAIR.—The term ‘Chair’ means the Di-  
12 rector of the Bureau of Consumer Financial Protec-  
13 tion.”.

14 (l) TITLE 44, UNITED STATES CODE.—Section  
15 3513(e) of title 44, United States Code is amended by  
16 striking “Director of the Bureau of Consumer Financial  
17 Protection” and inserting “Chair of the Bureau of Con-  
18 sumer Financial Protection”.

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