

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

May 12, 2022

## Memorandum

**To:** Members, Committee on Financial Services  
**From:** FSC Majority Staff  
**Subject:** May 17, 2022 Full Committee Markup

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The full Committee will convene to mark up the following measures, in an order to be determined by the Chairwoman at 12:00 p.m. on Tuesday, May 17, 2022 and subsequent days if necessary, in a hybrid format in room 2128 of the Rayburn House Office Building as well as on the WebEx platform.

**1. Amendment in the Nature of a Substitute to H.R. 4395, the “Payment Choice Act of 2022”**  
**(Rep. Sylvia Garcia)**

**Summary:** This bill would require applicable retail businesses to accept cash for transactions of less than \$2,000 and prohibit them from charging cash-paying customers a higher price relative to customers not paying with cash. Retail businesses would retain flexibility to accept payments through any other means.

**Background:** Consumers are increasingly using non-cash payment options, and more and more businesses are declaring themselves cash free. However, a cash-free marketplace can have negative consequences on unbanked, underbanked, and other individuals without access to the products, services, or technologies required to pay through other means. According to the Federal Reserve’s Report on the Economic Well-Being of U.S. Households in 2020 (May 2021),<sup>1</sup> 18% of adults in the U.S. are unbanked or underbanked, meaning approximately 37 million adults may lack access to digital forms of payment, including credit or debit cards. This problem is worse for minority households; approximately 13% of Black households and 9% of Hispanic households had no bank accounts at all in 2020. Nearly one-fourth of those with less than a high school degree and 21% of those with incomes less than \$25,000 were underbanked. Rural households are also more likely to be unbanked than urban households.<sup>2</sup>

The ANS to H.R. 4395 would require retail businesses to accept cash as a form of payment for sales in amounts less than \$2,000 and prohibit retail businesses from charging cash-paying customers a higher price compared to non-cash-paying customers. These protections not only ensure that underbanked and unbanked individuals have equal access to goods and services but would also allow all persons in the United States to have a payment option that protects their privacy and offers them freedom from potential financial cybercrimes.<sup>3</sup>

This bill is supported by the following organizations: Affirm Merit, Alaska PIRG, Americans for Financial Reform, Center for Economic Integrity, Chicago Consumer Coalition, Chinese American Museum of Chicago, CLAP Community Lead Advocacy Program, Columbia Consumer Education Council, Connecticut Legal Services, Inc., Consumer Action, Consumer Federation of America, Consumer Federation of California, Consumers for Auto Reliability and Safety, Delaware Community Reinvestment

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<sup>1</sup> Board of Governors of the Federal Reserve System, [Report on the Economic Well-Being of U.S. Households in 2020](#) (May 2021).

<sup>2</sup> Board of Governors of the Federal Reserve System, [How do Rural and Urban Retail Banking Customers Differ?](#) (June 12, 2020).

<sup>3</sup> House Committee on Financial Services, [Hearing on Is Cash Still King? Reviewing the Rise of Mobile Payments](#), 116<sup>th</sup> Cong. (Jan. 30, 2020) (H. Rept. 116-80).

Action Council, Inc., Electronic Frontier Foundation, Electronic Privacy Information Center (EPIC), Empire Justice Center, Haven Neighborhood Services, Hawaii Consumers, Housing and Family Services of Greater New York, Independent Armored Car Operators Association, Kentucky Equal Justice Center, Legal Aid Justice Center, Mountain State Justice, Multi-Cultural Development Center, National Armored Car Association, National Association of Consumer Advocates, National Consumer Law Center (on behalf of its low income clients), National Fair Housing Alliance, National Network to End Domestic Violence, Oakland Privacy, Public Justice, Public Justice Center, R.A.A. - Ready, Aim, Advocate, Strike Debt Bay Area, The Collaborative NC, The Fairmont-Morgantown Housing Authority, The One Less Foundation, The Parent Coalition for Student Privacy, Thrive Collective, LLC, University of Wisconsin Consumer Law Clinic.

**Section-by-Section:** *See Appendix A.*

## **2. Amendment in the Nature of a Substitute to H.R. 5912, the “Close the ILC Loophole Act” (Rep. Chuy Garcia)**

**Summary:** This bipartisan bill would eliminate a regulatory exemption allowing commercial firms to operate FDIC-insured banks as industrial loan companies (ILCs) without being subject to the same consolidated supervision or other requirements that traditional banks are subject to, pursuant to the Bank Holding Company Act. This bill also grandfathers existing ILCs to allow them to continue operating and to be sold to other entities, subject to certain limitations, and allows pending applications for an ILC to be considered for approval before September 2023.

**Background:** ILCs are state-chartered banks similar to traditional commercial banks; they can originate loans, process payments, and take deposits insured by the FDIC.<sup>4</sup> While they are not allowed to offer checking accounts, ILCs often offer “negotiable order of withdraw” (NOW) accounts, which are functionally equivalent to a checking account from a consumer’s perspective. First created in 1910 to lend to an underserved niche market of industrial workers, the popularity and uses of ILCs have varied significantly over the past century, as has how they have been regulated.<sup>5</sup> Today, there are 24 depository ILCs chartered by a handful of states including California, Hawaii, Minnesota, Nevada, and Utah.<sup>6</sup> ILCs are regulated by both the state in which they are chartered and by the FDIC for compliance with requirements pertaining to safety and soundness, anti-money laundering and Bank Secrecy Act obligations, community reinvestment, and consumer protection. An ILC’s parent company must serve as a source of strength for the bank, and the parent company is subject to oversight by the FDIC.<sup>7</sup>

Despite offering equivalent (or functionally equivalent) services and products as traditional banks, ILCs are not subject to consolidated supervision by the Federal Reserve (the Fed) under the Bank Holding Company Act (BHCA). Notably, entities subject to the BHCA are intentionally restricted from operating in commercial enterprises (nonfinancial activities like manufacturing or selling goods and services); this restriction reflects the principle of separation of commerce and banking.

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<sup>4</sup> See CRS, [Industrial Loan Companies \(ILCs\): Background and Policy Issues](#) (Sept. 9, 2020); CRS, [An Analysis of Bank Charters and Selected Policy Issues](#) (Jan. 21, 2022).

<sup>5</sup> James Barth and Yanfei Sun, [A New Look at the Performance of Industrial Loan Companies and Their Contribution to the US Banking System](#), University of Utah, Utah Center for Financial Services, at p. 7-19 (Jan. 2018).

<sup>6</sup> Data from FDIC staff as of May 12, 2022. Also see FDIC, [Parent Companies of Industrial Banks and Industrial Loan Companies](#) (Feb. 23, 2021). Following the FDIC rulemaking, EnerBank was acquired by Regions Bank, reducing the number of ILCs to 24. See Regions Bank, [Regions Bank Closes on its Acquisition of Home Improvement Lender EnerBank USA](#) (Oct. 1, 2021).

<sup>7</sup> FDIC, [FDIC Approves Rule to Ensure Safety and Soundness of Industrial Banks](#) (Dec. 15, 2020).

The Committee has held several hearings examining this legislation.<sup>8</sup> Proponents of ILCs argue that ILCs are financially sound and that allowing companies to engage in both commerce and banking would create market efficiencies based on economies of scale and scope.<sup>9</sup> While no ILCs have failed in recent years, 13 ILCs failed between 1982 and 1984, and two ILCs that engaged in subprime lending also failed in 1999 and 2003.<sup>10</sup> Additionally, the Fed noted in a 2016 report to Congress that several companies that failed or required assistance during the 2008 financial crisis owned ILCs,<sup>11</sup> and one expert testified to the Committee that “parents and affiliates of several prominent ILCs did not serve as sources of strength during the financial crisis of 2007 and 2008. Instead, these conglomerates required billions of dollars of extraordinary government assistance, including by the FDIC.”<sup>12</sup>

ILC opponents argue that allowing banks to participate in commercial activities could expose the financial system to unnecessary risk, and may incentivize a bank to make decisions benefiting the non-financial subsidiary at the possible detriment to the safety and soundness of the bank.<sup>13</sup> Additionally, ILC opponents argue such a blend of financial and nonfinancial business could lead to monopolistic behavior in which companies without a financial institution subsidiary may find it more difficult to compete with ones that do. Treasury Secretary Janet Yellen affirmed this view in testimony to the Committee on March 12, 2022, when she said, “when a commercial company owns a bank...credit decisions can be influenced by issues other than banking and safety and soundness considerations because of incentives that come from the other part of the business, the commercial part of the business. In addition, this tends to diminish competition and to promote monopoly and market power and that’s probably more important than it ever was before.”<sup>14</sup> Such concerns were heavily debated when Walmart and Home Depot unsuccessfully pursued ILC charters in 2005 and 2006.<sup>15</sup> After receiving more than 13,000 public comment letters, the FDIC announced a moratorium on ILC deposit insurance in 2006 which was subsequently extended until 2008.<sup>16</sup> Congress adopted another moratorium in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which expired in 2013.<sup>17</sup> Even after the expiration of the statutory moratorium, the FDIC did not approve any ILC applications until March 2020 when it granted deposit insurance to Square Financial and Nelnet Bank.<sup>18</sup> Several other companies have filed applications for ILC deposit

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<sup>8</sup> Task Force on Financial Technology hearing, [License to Bank: Examining the Legal Framework Governing Who Can Lend and Process Payments in the Fintech Age](#) (Sep. 29, 2020); Subcommittee on Consumer Protection and Financial Institutions hearing, [Banking Innovation or Regulatory Evasion? Exploring Trends in Financial Institution Charters](#) (Apr. 15, 2021); and Subcommittee on Consumer Protection and Financial Institutions hearing, [The Future of Banking: How Consolidation, Nonbank Competition, and Technology are Reshaping the Banking System](#) (Sep. 29, 2021).

<sup>9</sup> James Barth and Yanfei Sun, [A New Look at the Performance of Industrial Loan Companies and Their Contribution to the US Banking System](#), University of Utah, Utah Center for Financial Services (Jan. 2018).

<sup>10</sup> Arthur E. Wilmarth Jr., [The FDIC Should Not Allow Commercial Firms to Acquire Industrial Banks](#), George Washington University Law School (May 2020).

<sup>11</sup> Fed, OCC, FDIC, [Report to the Congress and the Financial Stability Oversight Council Pursuant to Section 620 of the Dodd-Frank Act](#) (Sep. 2016). Also see Arthur E. Wilmarth Jr., [The FDIC Should Not Allow Commercial Firms to Acquire Industrial Banks](#), George Washington University Law School (May 2020); and CRS, [Government Assistance for GMAC/Ally Financial: Unwinding the Government Stake](#) (Jan. 26, 2015).

<sup>12</sup> Subcommittee on Consumer Protection and Financial Institutions, [Banking Innovation or Regulatory Evasion? Exploring Trends in Financial Institution Charters](#), (Apr. 15, 2021).

<sup>13</sup> Kenneth Spong and Eric Robbins, [Industrial Loan Companies: Growing Industry Sparks a Public Policy Debate](#), Federal Reserve Bank of Kansas City, Economic Review, at p. 59-61 (2007).

<sup>14</sup> Full Committee hearing, [The Annual Report of the Financial Stability Oversight Council](#) (May 12, 2022).

<sup>15</sup> See Joe Adler, [When Walmart wanted a bank](#), American Banker (Aug. 23, 2017); Kevin K. Nolan, [Wal-Mart's Industrial Loan Company: The Risk to Community Banks](#), UNC School of Law, North Carolina Banking Institute (2006); Shaheen Pasha, [Coming Soon: A Walmart Bank?](#), CNN Money (Oct. 27, 2005).

<sup>16</sup> CRS, [Industrial Loan Companies \(ILCs\): Background and Policy Issues](#) (Sept. 9, 2020).

<sup>17</sup> *Id.*

<sup>18</sup> FDIC, [FDIC Approves the Deposit Insurance Application for Nelnet Bank](#), Salt Lake City, Utah Area (Mar. 18, 2020); FDIC, [FDIC Approves the Deposit Insurance Application for Square Financial Services, Inc.](#), Salt Lake City, Utah (Mar. 18, 2020).

insurance.<sup>19</sup> Additionally, the FDIC issued a final rule on the process and safety and soundness requirements for ILC deposit insurance applications in December 2020.<sup>20</sup>

The ANS to H.R. 5912 would establish a permanent moratorium on any new ILC charters while grandfathering existing ILCs. Section 4 of the bill would permit a grandfathered ILC (i.e., one that had obtained deposit insurance on or before September 23, 2021) to be acquired by another firm, but subject to strict limitations that are designed to help ensure that the nature of the ILC does not fundamentally change after the acquisition. Several of these limitations are based on those applied to “grandfathered” nonbank banks when the nonbank bank loophole was closed in the Competitive Equality in Banking Act of 1987. Any change of control under this exception would have to be approved by the Financial Stability Oversight Council (FSOC), which would have to determine that the transaction would not present financial stability risks, undermine consumer or investor protection, reduce competition, or erode the restrictions on the mixing of banking and commerce. Additional language has been added to clarify that the transferred ILC may continue to innovate and use new methods and technologies in providing similar products and services it consistently offered before the transfer.

This bill is supported by the following organizations: Americans for Financial Reform (AFR), Bank Policy Institute (BPI), Center for Responsible Lending (CRL), Consumer Federation of America (CFA), Credit Union National Association (CUNA), Independent Community Bankers of America (ICBA), Mid-Size Bank Coalition of America (MBCA), National Association of Federally-Insured Credit Unions (NAFCU), National Consumer Law Center (NCLC), National Community Reinvestment Coalition (NCRC), and U.S. PIRG.<sup>21</sup>

**Section-by-Section:** *See Appendix B.*

### **3. Amendment in the Nature of a Substitute to H.R. 7003, the “Expanding Financial Access for Underserved Communities Act” (Rep. Waters)**

**Summary:** The amendment in the nature of a substitute (ANS) to H.R. 7003 would allow all federal credit unions to apply to the National Credit Union Administration (NCUA) to expand their field of membership to include underserved communities, including communities that lack a depository institution branch within 10 miles. It would also exempt loans made by credit unions to businesses in underserved areas from the credit union member business lending cap.

**Background:** “Banking deserts” are communities without adequate access to a nearby bank branch, which may make it more difficult for consumers to obtain access to financial services, including affordable banking services.<sup>22</sup> A recent Fed study identified 44 counties deeply affected by bank branch closures, which it defined as counties that had 10 or fewer branches and lost at least 50% of those branches between 2012 and 2017.<sup>23</sup> The four largest megabanks have significantly reduced their U.S. branch networks from over 18,900 branches 10 years ago to over 15,300 branches as of June 30, 2020.<sup>24</sup> The Congressional Research Service analyzed branch location data for the four largest megabanks and located only one branch (specifically a Wells Fargo branch located in Madison County, Florida) in any of the counties identified by the Fed as deeply affected by branch closures.

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<sup>19</sup> CRS, [Industrial Loan Companies \(ILCs\): Background and Policy Issues](#) (Sept. 9, 2020).

<sup>20</sup> FDIC, [FDIC Approves Rule to Ensure Safety and Soundness of Industrial Banks](#) (Dec. 15, 2020). The Dodd-Frank Act required the FDIC to mandate parent companies of ILCs to “serve as a source of financial strength” to the depository institution, 12 U.S.C. §1831o-1(b).

<sup>21</sup> Americans for Financial Reform, [News Release: Banks, Credit Unions and Consumer Groups Call for Passage of Bipartisan Solution to Close ILC Loophole](#) (Apr. 5, 2022).

<sup>22</sup> CRS, [Financial Inclusion: Access to Bank Accounts](#) (Aug. 27, 2020).

<sup>23</sup> Fed, [Perspectives from Main Street: Bank Branch Access in Rural Communities](#) (2019). A list of counties is available [here](#).

<sup>24</sup> See Appendix B, Table 4, from the [Memo](#) for the Full Committee hearing, [Holding Megabanks Accountable: An Update on Banking Practices, Programs and Policies](#) (May 27, 2021).

Meanwhile, research has shown that the number of bank branches in rural and underserved areas has decreased by almost 11 percent since 2012, while the number of credit union branches in those areas has grown by more than 2 percent.<sup>25</sup> Currently, multiple common bond credit unions are eligible to expand their field of membership to underserved areas. The ANS to H.R. 7003 would expand that authority to all federal credit unions. The Committee has held several hearings on this legislation.<sup>26</sup> In a May 2021 hearing, Chairwoman Waters asked NCUA Chairman Harper, “[S]hould we allow a credit union to expand its field of membership to set up a branch in areas where there are no physical branches?” Chairman Harper responded, “That is something that would certainly be helpful. The NCUA board and its members have long called upon Congress to allow not just multiple common bond credit unions to add underserved areas, but also single common bond, and community charters. That would be a good way potentially to help provide service to those areas.”<sup>27</sup>

Moreover, the bill would exempt business loans made to borrowers located in underserved areas from the credit union member business lending cap. Current statute limits a credit union’s member business loans (MBLs) aggregate amount to the lesser of 1.75 times the credit union's net worth or 12.25% of the credit union's total assets with three exceptions. The exceptions were authorized for credit unions with low-income designations, which are chartered for the purpose of making business loans, and with a history of primarily making such loans.<sup>28</sup> This bill would create an additional exception to help promote business lending in underserved areas.

This bill is supported by the following organizations: African-American Credit Union Coalition (AACUC), California and Nevada Credit Union Leagues, California Reinvestment Coalition (CRC), Credit Union National Association (CUNA), Defense Credit Union Council (DCUC), Inclusiv, National Association of Federally-Insured Credit Unions (NAFCU), National Association of Latino Credit Unions and Professionals (NLCUP), Public Citizen, and the National Cooperative Business Association, including California Center for Cooperative Development, Community Consulting Group, CooperationWorks, Cooperative Development Institute, Cooperative Home Care Associates, Cutting Edge Federal Credit Union, eQuality HomeCare Co-op, Fiddleheads Natural Foods Co-operative, Greenstar Food Co-op, Hampton Strategies and Holdings, Hanover Co-op Food Stores & Auto Service Centers, High Falls Food Co-op, Montana Cooperative Development Center, Malaq Maye Cooperative Institute, My Community Credit Union, National Association of Housing Cooperatives, National Co+op Grocers, National Cooperative Bank, Neighboring Food Co-op Association, Northwest Cooperative Development Center, Parent Cooperative Preschools International, People’s Food Co-op, Southside Food Co-op, US Overseas Cooperative Development Council, and Yolo Federal Credit Union.

**Section-by-Section:** *See Appendix C.*

#### **4. Amendment in the Nature of a Substitute to H.R. 7022, the “Strengthening Cybersecurity for the Financial Sector Act of 2022” (Rep. Foster)**

**Summary:** The ANS to H.R. 7022 would reauthorize and make permanent the National Credit Union Administration’s (NCUA) authority over the third-party vendors of credit unions. It would also provide

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<sup>25</sup> NAFCU, [Letter on Banking Deserts and H.R. 7003](#) (Apr. 25, 2022).

<sup>26</sup> Full Committee hearing, [Oversight of Prudential Regulators: Ensuring the Safety, Soundness, Diversity, and Accountability of Depository Institutions](#) (May 19, 2021); Full Committee hearing, [Holding Megabanks Accountable: An Update on Banking Practices, Programs and Policies](#) (May 27, 2021); and Subcommittee on Consumer Protection and Financial Institutions, [Banking the Unbanked: Exploring Private and Public Efforts to Expand Access to the Financial System](#) (July 21, 2021).

<sup>27</sup> Full Committee hearing, [Oversight of Prudential Regulators: Ensuring the Safety, Soundness, Diversity, and Accountability of Depository Institutions](#) (May 19, 2021);

<sup>28</sup> CRS, [Introduction to Financial Services: Credit Unions](#) (Jan. 13, 2022).

the Federal Housing Finance Agency (FHFA) with similar authority over the third-party vendors of Fannie Mae, Freddie Mac and the Federal Home Loan Banks.

**Background:** Banks, credit unions, mortgage companies, and the broader financial services sector have become increasingly reliant on third-party service providers and vendors for their business operations, such as deposit taking, payment facilitation, technology services and loan origination. Third-party entities may pose certain risks to the financial services sector, as well as to national security, because of the extent to which they are involved in the business operations of financial institutions. These vendors are also contracted by financial institutions to help bolster their defenses against cyberattacks. Through the first half of 2021, banks and credit unions experienced a 1,318% increase in ransomware attacks yet the likelihood of cybercrime being detected, reported, and penalized can be as low as 0.05%.<sup>29</sup> In its 2021 annual report, the Financial Stability Oversight Council (FSOC) noted increases in the risks for financial institutions as service providers have consolidated, which is “of particular concern where many institutions rely on the same third-party provider for key services...”<sup>30</sup> For instance, four core services providers, Fiserv, Jack Henry & Associates, FIS, and Finastra, serve 78% of all US banks.<sup>31</sup> Given the interconnected nature of the financial sector, the financial distress or failure of any core service providers could have consequences for the broader financial services system.

While the Bank Service Company Act<sup>32</sup> grants authority to federal bank regulators (FDIC, OCC, Federal Reserve) to examine banks’ third-party service providers and regulate these vendors’ activities for banks, the NCUA and FHFA currently do not have similar authority of the third party vendors or service providers to federally-insured credit unions and to Fannie Mae, Freddie Mac and the Federal Home Loan Banks, respectively. Since 2015, the FSOC has recommended in every annual report that Congress should pass legislation that ensures that FHFA and NCUA have adequate examination and enforcement powers to oversee third-party service providers.<sup>33</sup> In March 2022, NCUA released a paper outlining the risks and challenges presented by the NCUA’s lack of authority over third-party vendors, calling it a “growing regulatory blind spot,” that could affect credit union business functions and “may result in significant losses to the National Credit Union Share Insurance Fund (NCUSIF).”<sup>34</sup> In response, the NCUA elaborated on its desire to have an authority under the Examination Parity and Year 2000 Readiness for Financial Institutions Act (Examination Parity Act) reinstated to obtain authorities similar to federal banking regulators under the Bank Service Company Act.<sup>35</sup>

The ANS to H.R. 7022 would harmonize regulatory oversight of third-party vendors in the financial services sector by granting the NCUA and FHFA authority to supervise and examine the third-party vendors or service providers of their regulated entities, which is similar to the authority currently given to the FDIC, Federal Reserve and OCC of banks’ third-party service providers under the Bank Service Company Act. Specifically, it would amend the Federal Credit Union Act to modify requirements relating to the regulation and examination of credit union organizations and service providers, and clarify that prior to examining a credit union organization, the NCUA should first collect information from federal agencies that supervise credit union organization activities as well as entities that maintain an ownership interest in those credit union organizations. It would also provide the Director of the Federal Housing Finance Agency with the authority to regulate the provision of services provided to Fannie Mae, Freddie Mac, and

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<sup>29</sup> U.S. Representative Ed Perlmutter, [Perlmutter’s Financial Services Subcommittee Examines Cybersecurity Threats for Consumers, Financial Institutions](#) (Nov. 2021).

<sup>30</sup> Treasury, [2021 Financial Stability Oversight Council Annual Report](#) (Accessed May 3, 2022).

<sup>31</sup> CFPB, [Director Chopra’s Opening Remarks to the Community Bank and Credit Union Advisory Councils | Consumer Financial Protection Bureau](#) (Apr. 7, 2022).

<sup>32</sup> Bank Service Company Act of 1962, [Pub. L. No. 87-856](#).

<sup>33</sup> Treasury, [2021 Financial Stability Oversight Council Annual Report](#) (Accessed May 3, 2022).

<sup>34</sup> NCUA, [Third Party Vendor Authority](#) (Mar. 2022).

<sup>35</sup> *Id.*

Federal Home Loan Banks. It also clarifies that the authority extended to federal regulators would not preempt or prevent state regulators from exercising their authority under applicable state laws to conduct oversight of financial institutions' third-party vendors. This bill was considered at House Financial Services Committee hearings on November 3, 2021, and on May 12, 2022.<sup>36</sup>

This bill is supported by the following organizations: Americans for Financial Reform, Public Citizen.

**Section-by-Section:** *See Appendix D.*

## **5. Amendment in the Nature of a Substitute to H.R. 7196, the “Flexibility in Addressing Rural Homelessness Act” (Rep. Axne)**

**Summary:** The ANS to H.R. 7196 would allow homeless service providers in rural communities to use funds from HUD's Continuum of Care program for additional activities to increase their capacity and address the unique challenges they face when serving people experiencing homelessness.

**Background:** Rural communities experience structural barriers that can limit the ability of individuals to provide or access homelessness services. These barriers include a shortage of providers who often cover large service areas, limited institutional capacity and staff, fewer homeless services, limited housing and shelter options, dispersed populations that are harder to engage through outreach, and poor public transportation options.<sup>37</sup> The ANS to H.R. 7196 would allow homeless services providers in rural communities to use funding received under HUD's Continuum of Care (CoC) program for additional activities to better meet the needs of their community. These additional activities include: 1) payment of short-term emergency lodging, including motels or shelters;<sup>38</sup> 3) repairs to units in which homeless individuals and families will be housed or units not currently fit for human habitation; and, 4) capacity-building activities, including staff training, professional development, skill development and staff retention activities.

This bill is supported by the following organizations: Community Solutions, Housing Assistance Council, National Alliance to End Homelessness, National Homelessness Law Center, National Low Income Housing Coalition

**Section-by-Section:** *See Appendix E.*

## **6. Amendment in the Nature of a Substitute to H.R. 7716, the “Coordinating Substance Use and Homelessness Care Act of 2022” (Rep. Dean)**

**Summary:** This bill will authorize a grant program that would be administered by the Department of Housing and Urban Development to help state and local governments better coordinate health care and homeless services for people with substance abuse disorders who are also experiencing homelessness.

**Background:** More than 580,000 people experiencing homelessness on a single night according to the Department of Housing and Urban Development's 2020 Annual Homeless Assessment Report (AHAR) to Congress. Substance use disorders (SUDs) can be both the cause and consequence of someone

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<sup>36</sup> HFSC, Subcommittee on Consumer Protection and Financial Institutions hearing, [Cyber Threats, Consumer Data, and the Financial System](#) (Nov. 2021); Full Committee hearing, [The Annual Report of the Financial Stability Oversight Council](#) (May 12, 2022).

<sup>37</sup> In Focus, [Rural Homelessness: Identifying and Understanding the “Hidden Homeless”](#) (June 2013).

<sup>38</sup> Payment of short-term emergency lodging is not an eligible expense under HUD's CoC program. Instead, this activity is typically covered under HUD's Emergency Solutions Grant program, which is a formula grant program where funds are distributed to states, and localities that qualify as entitlement communities based on population. Since rural communities do not qualify as entitlement areas, they do not receive a direct allocation of ESG funds and instead must apply to the state to receive program funds to the extent funds are available.

experiencing homelessness, as well as a factor that can complicate an individual's progress in getting back on their feet.

Helping homeless individuals with SUDs typically requires additional supportive services, including health services, alongside stable housing. Homeless service providers and local Continuums of Care face the challenge of working across institutional systems that often operate in silos that make it harder for service providers to connect people experiencing homelessness to housing and health services. America's health care system, in particular, is often difficult for homeless service providers to navigate when trying to connect homeless individuals to health services. Many individuals experiencing homelessness lack important documentation or a fixed address to enroll in or health services and coverage, or to receive follow-up communications on their health care. Because of these challenges and others, the majority of people experiencing homelessness are uninsured and often rely on expensive emergency room care.

Capacity-building is needed to create system-level linkages between agencies offering health services and homelessness services to allow for the integration of these services and achieve optimal outcomes for people experiencing both SUDs and homelessness. The ANS to H.R. 7716 would authorize \$20 million for a new competitive 5-year grant program, administered by HUD, to help eligible grantees increase their capacity in connecting people experiencing homelessness and behavioral health issues to health services. Eligible grantees include governmental entities, public housing authorities, local continuums of care or nonprofit organizations, or Indian tribes, tribally designated housing entities or tribal organizations. Grants could be used to hire systems coordinators, as well as costs to hire more staff, improve technology, and other costs identified by the HUD Secretary that help build the capacity to connect people to services.

This bill is supported by the following organizations: National Alliance to End Homelessness (NAEH) National Low Income Housing Coalition (NLIHC).

**Section-by-Section:** *See Appendix F.*

## **7. Amendment in the Nature of a Substitute to H.R. 7732, the “Strengthening the Office of Investor Advocate” (Rep. Lynch)**

**Summary:** This bill will strengthen the independence of, and increase reliability of the funding for, the Securities and Exchange Commission's (SEC) Office of Investor Advocate. It would also strengthen the ability of the office to conduct investor testing and other research and publicize its findings.

**Background:** The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) created the SEC's Office of Investor Advocate (Investor Advocate or Advocate) to “strengthen the [SEC] and ensure that the interests of retail investors are better represented.”<sup>39</sup> The Investor Advocate's mission includes, but is not limited to, identifying areas where investors would benefit from changes in SEC or Self Regulatory Organization (SRO) policies or regulations, and to identify problems that investors have with registered and regulated financial service providers and investment products.

Since the passage of the Dodd-Frank Act, the SEC's Investor Advocate has championed policy recommendations in the interest of investors. In its December 2020 report to Congress, the Investor Advocate, among other things, offered several legislative recommendations designed to strengthen and improve the authority and independence of the Office of Investor Advocate.<sup>40</sup> Those recommendations, which are implemented in H.R. 7732, included:

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<sup>39</sup> See S.Rept. 111-176, [THE RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010 | Congress.gov | Library of Congress](#)

<sup>40</sup> See SEC Investor Advocate Report to Congress (December 2020), available at [SEC.gov | Office of the Investor Advocate Report on Activities for FY 2020](#).



- **Investor Testing and Research Initiatives:** The Advocate recommended that Congress strengthen the Advocate’s ability to conduct effective investor testing. Section 4(g) of the Exchange Act charges the Office of the Investor Advocate with analyzing the potential impact on retail investors of SEC rulemaking proposals and making recommendations to the SEC regarding those proposals. In the 2020 Report to Congress, the Advocate, noted that “Historically, the Commission’s analysis of a particular rule’s impact on investors has largely been an exercise in regulatory intuition.”<sup>41</sup> The Advocate then recommended that Congress clarify the authorities of the Advocate to conduct robust investor testing to, for example, “determine the optimal ways to deliver and present information to investors,” because in the view of the Investor Advocate, “this type of research program is long overdue for a 21st Century financial regulatory agency, and we believe the SEC lags far behind many of its regulatory peers.”<sup>42</sup> The bill would authorize the Advocate to conduct decision-useful testing and analysis.
- **Provide Additional Resource Needs:** The Advocate recommended increasing the resources of the office to better meet its statutory mission and to support the Commission’s broader efforts to engage in data-driven policymaking. Ten years since its creation, the Investor Advocate has been allocated only a few full-time permanent positions for research staff. The Advocate also recommended “ring-fencing” the budget to protect the independence of the office, which is a practice currently used for other independent offices at SEC, such as the Office of the Inspector General.
- **Publicizing Findings:** The Advocate recommended Congress to clarify that the Office of Investor Advocate should be able to publicize reports or analysis without Commission’s express permission. This has become an issue when an SEC Chair has limited the Advocate’s ability to publicize reports by arguing that any data collected by the Office of the Investor Advocate is an SEC property, therefore requiring the Investor Advocate to seek Commission approval prior to publishing any analysis or findings. Not only is this process labor-intensive and time-consuming, but it also provides the Commission the ability to withhold approval and block the publication of research.

This bill is supported by North American Securities Administrators Association, Consumer Federation of America, Americans for Financial Reform, and several institutional investors.

**Section-by-Section:** *See Appendix G.*

## **8. Amendment in the Nature of a Substitute to H.R. 7733, the “CDFI Bond Guarantee Program Improvement Act of 2022” (Rep. Cleaver)**

**Summary:** The ANS to H.R. 7733 would reduce the CDFI Bond Guarantee Program (BGP) minimum issuance threshold from \$100 million to \$25 million and make the program permanent. It would also activate a re-lending account, which allows any amounts remaining after bonds are repaid for use to fund additional loans.

**Background:** The BGP, authorized by the Small Business Jobs Act of 2010,<sup>43</sup> is a federal credit program of the U.S. Department of the Treasury’s (Treasury) Community Development Financial Institutions Fund (CDFI Fund).<sup>44</sup> The program provides CDFIs with long-term capital at fixed, below-market interest rates

<sup>41</sup> See SEC Investor Advocate Report to Congress (December 2020), p.13, available at [SEC.gov | Office of the Investor Advocate Report on Activities for FY 2020](https://www.sec.gov/office-of-the-investor-advocate-report-on-activities-for-fy-2020).

<sup>42</sup> *Id.*

<sup>43</sup> P.L. 111-240

<sup>44</sup> U.S. Treasury Office of the Inspector General (Treasury OIG), [Audit of the Community Development Financial Institutions Fund's Financial Statements for Fiscal years 2020 and 2021](https://www.treasury.gov/audit-of-the-community-development-financial-institutions-fund-s-fiscal-years-2020-and-2021) (Dec. 15, 2021).

through federally-guaranteed bonds that are issued by approved bond issuers.<sup>45</sup> Qualified issuers, which may be certified CDFIs or entities the CDFIs designate to issue bonds on their behalf approved by the CDFI Fund, apply to the CDFI Fund for authorization to issue bonds worth a minimum of \$100 million, and the CDFI Fund provides a 100% guarantee on those bonds. The bond issuers then sell those bonds to the Federal Financing Bank and use the proceeds to make loans to CDFIs to finance or refinance new or existing community development projects in low-income urban, rural, and Native communities throughout the country.<sup>46</sup> Under the law, Treasury provides a 100% guarantee on up to 10 bonds annually.<sup>47</sup> Since its inception, the CDFI Fund has completed nine rounds of the program and guaranteed nearly \$1.7 billion in bonds, and 35 CDFIs have deployed about \$1.3 billion in loans to develop small businesses, commercial real estate, housing units, charter schools, day care or health care centers, and rural infrastructure.<sup>48</sup>

In January 2022, the Community Reinvestment Fund, USA, testified before the Senate Banking Committee, noting that the current threshold “makes it difficult for small and medium sized CDFIs to participate in the BGP as they are generally seeking smaller bond loans, in the \$10 million to \$25 million range. Based on data from the CDFI Fund of 35 CDFI Bond Loans, “[s]ixty-five percent of the loans are for \$50 million or less, 44% of the loans are \$25 million or less, and 24% of the loans to date are for \$15 million or less”.<sup>49</sup> While authorization for BGP lapsed in 2014, the program has been extended on a year-by-year basis in annual appropriations bills. CDFI advocates also note that “[t]he BGP is a sound, well managed program and to date there have been no delinquencies or defaults on any payment under this program.”<sup>50</sup> When Congress created the BGP, it authorized the use of an account designed to hold any proceeds remaining after bond repayments have been made, so they may be available for funding additional loans. According to the CDFI Fund, the account has never been used in the history of the BGP, in part because of an unintended term in the formula for calculating the relending fund amount.

By lowering the minimum bond loan threshold to \$25 million, the H.R. 7733 would allow more eligible CDFIs, especially those seeking smaller loan bond amounts, to access the capital needed to spur community and economic development projects in communities across the nation. It would also make the program permanent, and correct the formula used for the program's relending account to allow it to function for the first time, making any amounts remaining after bonds have been repaid, available for issuing additional loans.

This bill was considered at the House Financial Services Committee hearing on February 16, 2022,<sup>51</sup> and a previous version of the bill was included in Section 5 of the “Promoting and Advancing Communities of Color Through Inclusive Lending Act,” introduced by Chairwoman Waters and Representative Meeks

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<sup>45</sup> CDFI Fund, [CDFI Bond Guarantee Program](#) (Accessed Mar. 9, 2022).

<sup>46</sup> Treasury OIG, [Audit of the Community Development Financial Institutions Fund's Financial Statements for Fiscal years 2020 and 2021](#) (Dec. 15, 2021).

<sup>47</sup> P.L. 111-240

<sup>48</sup> Treasury OIG, [Audit of the Community Development Financial Institutions Fund's Financial Statements for Fiscal years 2020 and 2021](#) (Dec. 15, 2021).

<sup>49</sup> Senate Committee on Banking, Housing and Urban Affairs, Testimony of [Frank Altman, Founder and CEO of Community Reinvestment Fund, USA](#) at the hearing entitled, [Exploring How Community Development Financial Institutions Support Underserved Communities](#) (Jan. 5, 2022).

<sup>50</sup> Information provided by CDFI Fund staff on March 10, 2022; *See also*, Senate Committee on Banking, Housing and Urban Affairs, Testimony of [Frank Altman, Founder and CEO of Community Reinvestment Fund, USA](#) at the hearing entitled, [Exploring How Community Development Financial Institutions Support Underserved Communities](#) (Jan. 5, 2022).

<sup>51</sup> HFSC, Full Committee Hearing entitled, [An Unprecedented Investment for Historic Results: How Federal Support for MDIs and CDFIs Have Launched a New Era for Disadvantaged Communities](#) (Feb. 2022).

in August 2020.<sup>52</sup> This bill is the House companion to a bipartisan bill in the Senate, S. 3411, which is sponsored by Senators Smith (D-MN) and Rounds (R-SD) and was introduced on January 5, 2022.<sup>53</sup>

This bill is supported by the following organizations: Community Reinvestment Fund, USA; Independent Community Bankers of America; Lendistry; Local Initiatives Support Corporation National Association of Federally-Insured Credit Unions; National Association of Latino Community Asset Builders; National Community Reinvestment Coalition; and Opportunity Finance Network.

**Section-by-Section:** *See Appendix H.*

## **9. Amendment in the Nature of a Substitute to H.R. 7734, the “Timely Delivery of Bank Secrecy Act Reports Act.” (Rep. Waters)**

**Summary:** This bill establishes a time frame for the production of Bank Secrecy Act reports to Congress by requiring the Secretary of the Treasury to, upon the request of the congressional committees or subcommittees of appropriate jurisdiction, deliver BSA reports to Congress not later than the end of a 30-day period beginning on the date such information is requested. Similarly, it requires a financial institution to, upon a subpoena by the congressional committees or subcommittees of appropriate jurisdiction, deliver BSA reports not later than the return date specified for such reports in the subpoena.

**Background:** For decades, FinCEN, which is a Bureau of the Treasury Department, has cooperated with Congressional requests for Suspicious Activity Reports, and other materials (such as Currency Transaction Reports, Geographic Targeting Order reports, and Foreign Bank Account Reports, collectively known as “BSA reports,”) by providing such materials upon request in a timely manner. To the extent that Congress has requested this information, Congress has respected the fact that these materials are sensitive, and has handled the materials securely. BSA reports can be critical to Congressional investigations and Congress has never needed to exercise its subpoena authority in order to obtain this information from FinCEN.

Unfortunately, Treasury and FinCEN have recently severely restricted Congressional access to Suspicious Activity Reports by requiring Congressional staff to review all material in a reading room at Treasury, prohibiting the copying of materials for purposes of highlighting, ongoing reference, or margin notation, and restricting information collection to note taking. As an alternative, Treasury and FinCEN have offered to bring the material to the requesting Committee and then take the material back to Treasury when the review is completed. The restrictions that they have imposed upon Congressional access to SARs and related materials are unworkable given the complexity and amount of information contained in such materials, and severely impairs Congress’ responsibility to carry on its oversight work in a timely and effective fashion.

Treasury’s and FinCEN’s new restrictions are also out of conformance with the statutory language and legislative history of the provisions that established the SAR requirement and process. Financial institutions and government personnel were only prohibited from notifying the subject of a SAR that such a report had been filed. No legislative language, statutory provision, case law, or even any subsequent regulation issued by FinCEN prohibit government personnel or the financial institutions themselves from providing such materials to Congress.

This bill would ensure that Congress can obtain access to BSA reports without unnecessary and cumbersome restrictions, and can do so in a timely manner to continue its investigatory work.

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<sup>52</sup> HFSC, [Waters and Meeks Introduce the “Promoting and Advancing Communities of Color Through Inclusive Lending Act”](#) (Aug. 2020).

<sup>53</sup> Senator Tina Smith, [U.S. Senators Tina Smith and Mike Rounds Introduce Bipartisan Bill to Spur Economic Development in Underserved Communities](#) (Jan. 4, 2022).

**Section-by-Section:** *See Appendix I.*

**Appendix A:** Section by Section for ANS to H.R. 4395, the “Payment Choice Act of 2022” (Rep. Sylvia Garcia)

Section 1. Short title.

- This section establishes the short title of the bill as H.R. 4395, the “Payment Choice Act of 2022.”

Section 2. Sense of Congress.

- This section emphasizes that every consumer has the right to use cash at retail businesses that accept in-person payments.

Section 3: Retail Businesses Prohibited from Refusing Cash Payments.

- This section amends Subchapter I of chapter 51 of title 31, United States Code to require retail businesses to accept cash as a form of payment for sales up to \$2,000 and prohibit retail businesses from charging cash-paying customers a higher price compared to non-cash-paying customers.
- This section provides a safe harbor for retail businesses if a person is unable to accept cash due to system failure or insufficient cash on hand, or if customers are provided with the means to convert cash into a card, so long as there is no fee for the use of the device or card, there is not a minimum deposit greater than 1 dollar, the device does not collect personal identifying information, amounts loaded onto the card do not expire, and there may be a limit to the number of transactions. This section outlines that an inactivity fee in association with a card may be charged if: the card has no activity in the 12-month period, not more than one inactivity fee is imposed in a 1-month period, and it is clearly stated that an inactivity fee may be imposed, the frequency of the fee, and the amount of such inactivity fee.
- This section states that for the 5-year period after the bill is enacted, there is an exception for \$50 bills or any larger bill. After that 5-year period, The Secretary of the Treasury shall issue a rule requiring persons to accept \$1, \$5, \$10, \$20, and \$50 bills.
- This section provides for enforcement of the bill by allowing: a private right of action and civil penalties up to \$2,500 for the first offense and \$5,000 for subsequent offenses, Attorneys General to intervene on behalf of plaintiffs, the court to award attorneys’ fees, states to set stricter requirements than what is in this bill, and the Secretary of the Treasury authority to issue rules necessary to implement the bill.

**Appendix B:** Amendment in the Nature of a Substitute to H.R.5912, the “Close the ILC Loophole Act” (Rep. Chuy Garcia)

Section 1. Short title.

- This section establishes the short title of the bill as the “Close the ILC Loophole Act.”

Section 2. New Industrial Loan Companies Not Eligible for the Exemption from the Definition of a Bank.

- This section amends the Bank Holding Company Act of 1956 (BHCA) to eliminate the exception from the law’s application to industrial loan companies (ILCs) and their parent companies, while grandfathering current ILCs as well as any potential ILC that had a pending application for deposit insurance on or before September 23, 2021, and is subsequently approved on or before September 23, 2023, pursuant to the approval process stipulated in this section.
- For potential ILCs that had a pending application for deposit insurance with the FDIC on or before September 23, 2021, the FDIC may still approve those before September 23, 2023, after providing a 90-day public comment hearing and a public hearing for members of the public to share their views on the pending application. Such an application may only be approved with the support of at least 2/3 of the members of the FDIC board. The parent companies of the new entities would be subject to examination, supervision, and conditions that promote safety and soundness by the parent company’s primary financial regulator, or the FDIC if it does not have one.

Section 3. Supervision of Parent Companies of Industrial Loan Companies.

- This section codifies existing authority that the FDIC has to examine and require reports from the parent company of ILCs.
- This section also stipulates that for current ILCs, the FDIC must tailor its examinations and reporting requirements to the size, complexity, and nature of the business of a parent company.

Section 4. Change of Control.

- This section lays out requirements with respect to how ILCs may be merged or sold to another company. For example, the section permits ILCs to be sold to a bank at any time, subject to normal regulatory approvals.
- The section also allows grandfathered ILCs to be acquired by commercial firms, provided the ILC would be subject to limitations that ensure that the ILC does not fundamentally change after the acquisition, and the change is approved by 2/3 of FSOC (including FSOC Chairperson) if it determines that the transaction would not present financial stability risks, undermine consumer or investor protection, reduce competition, or erode the separation of banking and commerce.
  - The ILC would be limited to providing products and services that the bank consistently and lawfully offered prior to such a change of control, however, the ILC may continue to innovate and use new methods and technologies in delivering these products and services.
  - Other limitations prohibiting cross-marketing and access to Fed services for the benefit of the parent company would also apply, similar to those placed on “grandfathered” nonbank banks when the nonbank bank loophole was closed in the Competitive Equality in Banking Act of 1987.
  - Building on existing approvals the FDIC must provide for any material change in an ILC’s business plan, this section stipulates FDIC must certify a 15% increase in the ILC’s size will not undermine safety and soundness and remain consistent with the approval of the change of control.

Section 5. Reservation of Authority.

- This section clarifies that the FDIC retains existing authorities to enter into agreements with the ILC and its parent company affiliates.

Section 6. GAO Study.

- This section requires the Government Accountability Office to complete a study within one year of enactment that examines the effects of ILCs, including on competitiveness and market structure within the U.S. economy.

**Appendix C:** Section by Section for ANS to H.R. 7003, the “Expanding Financial Access for Underserved Communities Act” (Rep. Waters)

**Section 1. Short title.**

- This section establishes the short title of the bill as the “Expanding Financial Access for Underserved Communities Act.”

**Section 2. Credit Union Service to Underserved Areas.**

- This section amends the Federal Credit Union Act to allow an existing Federal credit union to alter or expand their field of membership to serve an underserved area, as defined by Section 4 of the bill. The credit union would be required to submit a business and marketing plan that explains the credit union’s ability and intent to serve the population of the underserved area, and if approved, submit a report to NCUA within 2 years after being approved with an estimate of the number of members of the credit union who are members by reason of the expansion; a description of the types of financial services utilized by members of the credit union who are members by reason of the expansion; and a progress report on the credit union’s implementation of the business and marketing plan required in its application.

**Section 3. Member Business Lending in Underserved Areas**

- This section would exempt business loans made to a member or associated borrower that lives in, or operates in, an underserved area from the credit union’s member business lending cap.

**Section 4. Underserved Area Defined.**

- This section defined a “underserved area” to mean a geographic area consisting of one or more population census tracts or one or more counties or similar geographic subdivisions, such as boroughs or parishes, that encompass or are located within a CDFI investment areas, New Market Tax Credit areas, and areas with no branch of a depository institution within 10 miles.

**Section 5. Report by the National Credit Union Administration.**

- NCUA would be required to conduct a study on the implementation of the reforms made by this Act and issue a report to Congress, between 2 and 3 years after enactment on its findings. NCUA would be required to conduct a second study on the implementation of the reforms made by this Act and issue a report to Congress 5 years after the first report.



**Appendix D**: Section by Section for ANS to H.R. 7022, the “Strengthening Cybersecurity for the Financial Sector Act of 2022” (Rep. Foster)

Section 1. Short title.

- This section establishes the short title of the bill as the “Strengthening Cybersecurity for the Financial Sector Act of 2022.”

Section 2. Regulation and Examination of Credit Union Organizations and Service Providers.

- This section reinstates the NCUA’s authority to regulate and examine credit union organizations and service providers under Section 206A of the Federal Credit Union Act and makes that authority permanent.
- This section also states that prior to examining a credit union organization, the NCUA would first seek to collect information from federal regulatory agencies that supervise credit union organization activities and from federal banking agencies that supervise entities which maintain an ownership interest in those credit union organizations.

Section 3: Regulation of Service Providers by the Federal Housing Finance Agency

- This section amends the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 to grant the FHFA the authority to regulate and examine certain service providers to Fannie Mae, Freddie Mac and the Federal Home Loan Banks. It also clarifies that state regulators would continue to have authority under applicable state laws to conduct oversight of third-party vendors of financial institutions.

**Appendix E**: Section by Section for ANS to H.R. 7196, the “Flexibility in Addressing Rural Homelessness Act of 2022” (Rep. Axne)

**Section 1. Short Title**

- This section establishes the short title of the bill as the “Flexibility in Addressing Rural Homelessness Act of 2022.”

**Section 2. Eligible Activities Under Continuum of Care Program**

- This section authorizes additional eligible activities under subsection (a) of Section 423 of the McKinney-Vento Homeless Assistance Act for projects in rural areas, including: 1) payment of short-term emergency lodging, including motels or shelters; 3) repairs to units in which homeless individuals and families will be housed or units not currently fit for human habitation; and 4) staff training, professional development, skill development and staff retention activities.

**Appendix F:** Section by Section for ANS to H.R. 7716, the “Coordinating Substance Use Disorder and Homelessness Care Act of 2022” (Rep. Dean)

Section 1. Short title.

- This section establishes the short title of the bill as the “Helping People Experiencing Substance Use Disorder and Homelessness Act of 2022.”

Section 2. Findings.

- This section includes findings that provide context about America’s homelessness crisis and the need for legislation to improve the delivery of homeless and health care services to people experiencing homelessness and significant behavioral health issues, including substance use disorders.

Section 3. Establishment of Capacity Building Grant Program

- Subsection (a) requires Secretary of the Department of Housing Development (HUD), in consultation with a working group established under subsection (b), to establish a competitive grant program to build or increase the capacity of eligible entities in coordinating health care and homeless services for people who are experiencing homelessness and significant behavioral health issues, including substance use disorders.
- Subsection (b) establishes an interagency working group to provide advice to the HUD Secretary in carrying out the program under subsection (a). The working group shall develop and circulate training, tools, and other technical assistance materials.
- Subsection (c) establishes the requirements for the capacity building grant program, including which entities are eligible to receive a grant, a maximum grant amount of \$500,000, a five-year grant period, oversight requirements, and permissible and prohibitive uses of grant funds.
- Subsection (d) authorizes \$20 million for each fiscal year from 2022 through 2027, of which no less than 5% of such funds shall be awarded to Indian tribes and tribal organizations.

**Appendix G:** Section by Section for ANS to H.R. 7732, the “Strengthening the Office of the Investor Advocate” (Rep. Lynch)

**Section 1. Short Title**

- This section establishes the short title of the bill as the “Strengthening the Office of the Investor Advocate.”

**Section 2.**

- Section 2(1)(A) of the bill broadens the description of the experience required of an individual in order to be qualified for appointment as Investor Advocate. The amendment provides that individuals considered for appointment may not be limited to those with professional or other qualifications relating to securities and investor protection issues.
- Section 2(1)(B) adds a provision protecting the Investor Advocate from removal for advocating policies adverse to those of the Chairman or any Commissioner, so long as those policies are in the interest of investors. The provision would require the Chairman seeking the removal of an Investor Advocate to submit to Congress advance notice including the reasons for seeking removal.
- Section 2(2) removes a requirement that the Investor Advocate consult the Chairman on staffing of the Office of the Investor Advocate.
- Section 2(3) adds a provision clarifying the authority of the Investor Advocate to engage in investor research and investor testing programs that the Investor Advocate determines are in the interest of investors.
- Section 2(4) contains conforming amendments.
- Section 2(5) safeguards the independence of the Office’s research by authorizing the Investor Advocate to make publicly available, the results of any investor research (other than personally identifiable information), without any prior review or comment from the Commission. In addition, section 2(5) exempts such investor research or investor testing program from Paperwork Reduction Act requirements concerning collections of information.
- Section 2(6) gives the Investor Advocate additional authority to request documents from the Commission.
- Section 2(7) authorizes the Commission to enter into contracts and other arrangements for audits, studies, analyses, and other services, and to make such payments as may be necessary to carry out the functions of the Office of the Investor Advocate.
- Section 2(8) would require the Office of the Investor Advocate to include, within its annual Report on Activities due December 31 of each year, a report on the objectives of the Office for the following fiscal year, and eliminate the requirement for a separate report on objectives to be filed by June 30 of each year, and authorize the Investor Advocate to file supplemental discretionary reports.
- Section 2(9) would require the Commission to consult with the Investor Advocate with respect to the consideration of the adoption, revision, and rescissions of rules and regulations.
- Section 2(10) adds a provision requiring the Investor Advocate to provide a budget estimate and request to the Commission each fiscal year specifying the aggregate amount of funds needed for the operations of the Office of the Investor Advocate for the fiscal year. The provision requires the Commission, in transmitting its proposed budget to the President for approval, to provide an aggregate request for the Investor Advocate, as well as any comments of the Investor Advocate with respect to the proposal.

**Appendix H:** Section by Section for ANS to H.R. 7733, the “CDFI Bond Guarantee Program Improvement Act of 2022” (Rep. Cleaver)

**Section 1. Short title.**

- This section establishes the short title of the bill as the “CDFI Bond Guarantee Program Improvement Act of 2022.”

**Section 2. Sense of Congress.**

- This section provides that it is the sense of Congress that the CDFI Bond Guarantee Program provides CDFIs with a sustainable source of long-term capital and furthers the mission of the CDFI Fund to increase economic opportunity and promote community development investments for underserved populations and distressed communities.

**Section 3. Guarantees for Bonds and Notes Issued for Community or Economic Development Purposes.**

- This section would amend Section 114A of the Community Development Banking and Financial Institutions Act of 1994, to remove certain restrictions on the amount of bonds or notes that may be made available for new eligible community or economic development purposes, sets the minimum guarantee amount to \$25 million, and makes the program permanent.

**Appendix H:** Section by Section for ANS to H.R. 7734, the “Timely Delivery of Bank Secrecy Act Reports Act.” (Rep. Waters)

Section 1. Short title.

- This section establishes the short title of the bill as the “Timely Delivery of Bank Secrecy Act Reports Act.”

Section 2.

- Section 2(1) of the bill establishes a time frame for the production of Bank Secrecy Act reports to Congress by requiring the Secretary of the Treasury, upon the request of the congressional committees or subcommittees of appropriate jurisdiction, to deliver BSA reports to Congress not later than the end of a 30-day period beginning on the date such information is requested by Congress.
- Section 2(2) requires a financial institution, upon a subpoena by the congressional committees or subcommittees of appropriate jurisdiction, to deliver BSA reports to Congress not later than the return date specified for such reports in the subpoena.