

HELPING EXPAND LENDING PRACTICES IN RURAL
COMMUNITIES ACT

APRIL 13, 2015.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 1259]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1259) to provide for an application process for interested parties to apply for an area to be designated as a rural area, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

H.R. 1259, the “Helping Expand Lending Practices in Rural Communities Act,” directs the Consumer Financial Protection Bureau (CFPB) to create a petition process under which a person who lives or does business in a state may apply to have an area in the state identified as a rural area if it has not yet been so designated by the CFPB for purposes of federal consumer financial law.

BACKGROUND AND NEED FOR LEGISLATION

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203) created a statutory requirement that an originator of a residential mortgage loan must make a determination that the borrower has the ability to repay the loan. Lower-cost loans that meet certain criteria prescribed by the CFPB in regulations that became effective in January 2014 are treated as “Qualified Mortgages,” and afforded a legal safe harbor from the penalties associated with the failure to determine that a borrower has the ability to repay. Generally, mortgage loans with balloon payments

do not qualify for this safe harbor.¹ The Dodd-Frank Act authorized the CFPB to extend the safe harbor to balloon mortgage loans with certain characteristics when offered by a creditor operating in a rural or underserved area.

As part of its final Qualified Mortgage rule, the CFPB excluded balloon loans from the definition of a Qualified Mortgage unless the creditor originates fewer than 500 mortgages annually, has less than \$2 billion in assets, and operates “predominantly in rural or underserved areas.”²

To define the term “rural,” the CFPB used the “Urban Influence Codes” developed by the Department of Agriculture’s Economic Research Service, which are, in turn, derived from the definitions of “metropolitan” and “micropolitan” developed by the Office of Management and Budget (OMB).³ There are concerns that by choosing this definition of “rural,” the CFPB has excluded certain lenders from qualifying for the balloon payment safe harbor, and because creditors will be reluctant to make mortgage loans that are not Qualified Mortgages, the use of this definition of “rural” will needlessly limit the availability of credit for rural properties.

Appearing before the Subcommittee on Financial Institutions and Consumer Credit on June 18, 2013, Charles A. Vice, Commissioner of the Kentucky Department of Financial Institutions, testified on behalf of the Conference of State Bank Supervisors that “[i]t is illogical that a “rural” county can have six times the number of people on aggregate and five times the number of people per square mile than a non-rural county with a smaller population. These are the types of results that occur when an inherently local issue like determining the characteristics of land areas is done by formula in Washington, D.C. and not by local officials.”⁴

On January 29, 2015, the CFPB proposed to amend its origination limit for small creditors from 500 to 2,000 loans, for loans not held in portfolio by the creditor or its affiliates.⁵ According to the CFPB, expanding the origination limit to 2,000 loan originations, and excluding loans held in portfolio from the calculation would increase the number of creditors that receive small-creditor status by 700, from approximately 9,700 to approximately 10,400.

The CFPB’s proposal would also modify its “rural” definition to include either (1) a county that meets the current rule, or (2) a census block that is not in an urban area, as defined by the Census Bureau using the latest decennial census of the United States. This expanded census block classification provides greater granularity than the county-based metric, and thus may capture rural pockets within counties that are designated as non-rural under the CFPB’s

¹ Balloon mortgages are generally defined as those in which a large portion of the borrowed principal is repaid in a single payment at the end of the loan term.

² CFPB, “Ability to Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z),” Jan. 10, 2013, available at: <http://www.consumerfinance.gov/regulations/ability-to-repay-and-qualified-mortgage-standards-under-the-truth-in-lending-act-regulation-z/>.

³ The Urban Influence Codes can be accessed at http://www.ers.usda.gov/data-products/urban-influence-codes.aspx#_Uo5XgGcpB_s.

⁴ Testimony of Charles A. Vice, Commissioner of the Kentucky Department of Financial Institutions, on behalf of the Conference of State Bank Supervisors, “Examining How the Dodd-Frank Act Hampers Home Ownership,” U.S. House Financial Services Committee, Subcommittee on Financial Institutions and Consumer Credit, June 18, 2013, available at: <http://financialservices.house.gov/uploadedfiles/hhrg-113-ba15-wstate-cvice-20130618.pdf>.

⁵ http://files.consumerfinance.gov/f/201501_cfpb_amendments-relating-to-small-creditors-and-rural-or-underserved-areas.pdf.

current definition. According to the CFPB, approximately 1,700 more creditors would qualify under the new definition.

However, concerns remain that there is no process for challenging a “rural” designation, and the expanded “rural” definition would use Census Bureau data that is updated only once every ten years. There are several definitions of “rural” used by federal government agencies, and the narrowness of the CFPB’s chosen definition would have had a greater impact on small communities than intended. The annual designation of “rural” counties is used to administer a number of mortgage rules, and smaller communities would be excluded from rural programs based on a single determination that is only updated every decade. Allowing a broad range of locally oriented evaluation criteria to identify rural counties would help ensure continued access to mortgage credit in those communities. Additionally, a petition process will allow institutions to provide evidence to determine if an area is truly rural-based, and will provide further flexibility in allowing small communities access to credit.

Appearing before the Committee on March 18, 2015, Tyrone Fenderson, President and Chief Executive Officer of Commonwealth National Bank, testifying on behalf of the American Bankers Association, noted:

The definition of rural and underserved is critical and can dramatically affect banks and the communities they serve. The CFPB has already recognized this and has used its [Dodd-Frank] discretionary authority to exempt certain loans from the qualified mortgage rule. This has been very important to accommodate community banks that make short-term balloon loans as a means of hedging against interest rate risk. However, the exemption applies only if, during the preceding calendar year, the creditor extended more than 50 percent of its total covered transactions that provide for balloon payments in one or more counties designated by the Bureau as “rural” or “underserved.” Thus, the definitions used can be limiting and hurt mortgage customers that are inevitably in counties that may have been inappropriately excluded.

In a letter to the Committee dated March 18, 2015, the U.S. Chamber of Commerce stated its support for H.R. 1259, writing that:

The HELP Act would help preserve and expand mortgage access in rural and underserved areas by creating an innovative petition mechanism that would allow individuals to challenge a CFPB “non-rural” designation for certain areas. Despite the Dodd-Frank Act’s explicit requirement that the CFPB consider the impact its rulemakings have upon rural communities, the QM rule has created a number of adverse consequences for rural areas across the country. The HELP Act would rectify this issue and ensure that rural communities continue to be served in the mortgage market.

HEARINGS

The Committee on Financial Services held no hearings on H.R. 1259 in the 114th Congress.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on March 25, 2015, and March 26, 2015, and ordered H.R. 1259 to be reported favorably to the House without amendment by a recorded vote of 56 yeas to 2 nays (Record vote no. FC-17), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole vote in committee was a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 56 yeas to 2 nays (Record vote no. FC-17), a quorum being present.

Record vote no. FC-17

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)	X		
Mr. King (NY)	X			Mrs. Maloney (NY)	X		
Mr. Royce	X			Ms. Velázquez		X	
Mr. Lucas	X			Mr. Sherman	X		
Mr. Garrett	X			Mr. Meeks	X		
Mr. Neugebauer	X			Mr. Capuano	X		
Mr. McHenry	X			Mr. Hinojosa			
Mr. Pearce	X			Mr. Clay	X		
Mr. Posey	X			Mr. Lynch	X		
Mr. Fitzpatrick	X			Mr. David Scott (GA)	X		
Mr. Westmoreland				Mr. Al Green (TX)	X		
Mr. Luetkemeyer	X			Mr. Cleaver	X		
Mr. Huizenga (MI)	X			Ms. Moore	X		
Mr. Duffy	X			Mr. Ellison		X	
Mr. Hurt (VA)	X			Mr. Perlmutter	X		
Mr. Stivers	X			Mr. Himes	X		
Mr. Fincher	X			Mr. Carney	X		
Mr. Stutzman	X			Ms. Sewell (AL)	X		
Mr. Mulvaney	X			Mr. Foster	X		
Mr. Hultgren	X			Mr. Kildee	X		
Mr. Ross	X			Mr. Murphy (FL)	X		
Mr. Pittenger	X			Mr. Delaney	X		
Mrs. Wagner	X			Ms. Sinema	X		
Mr. Barr	X			Mrs. Beatty	X		
Mr. Rothfus	X			Mr. Heck (WA)	X		
Mr. Messer	X			Mr. Vargas	X		
Mr. Schweikert	X						
Mr. Dold	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin	X						
Mrs. Love	X						
Mr. Hill	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 1259 will facilitate the designation of an area within a state as a rural area for purposes of federal consumer financial law by directing the Consumer Financial Protection Bureau to create a petition process by which a person may apply to have an area designated as rural.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 6, 2015.

Hon. JEB HENSARLING,
*Chairman, Committee on financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1259, the Helping Expand Lending Practices in Rural Communities Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1259—Helping Expand Lending Practices in Rural Communities Act

H.R. 1259 would direct the Bureau of Consumer Financial Protection (CFPB) to develop a temporary program to designate certain counties as rural areas for purposes of enforcing regulations under its authority. The agency has defined the term “rural” in accordance with the Urban Influence Codes (UICs), developed by the Department of Agriculture; those codes form a classification system that distinguishes metropolitan and nonmetropolitan counties. H.R. 1259 would direct the CFPB to allow individuals to apply to have certain counties—those that do not meet the UIC definition—designated as rural areas. The bill would limit the term of the program to the two-year period starting on the date of enactment; it also would require applications to be made available for public comment and would direct the agency to approve or deny applications within 90 days of the end of the comment periods.

Based on information from the CFPB, CBO estimates that enacting H.R. 1259 would increase direct spending by about \$1 million over the 2015–2025 period; therefore, pay-as-you-go procedures apply. We expect the agency would hire additional staff over the two-year period of the program at a total cost of about \$700,000 and incur additional costs of about \$250,000 to develop a system to accept and process applications. CBO estimates that enacting the bill would not affect revenues. Implementing the bill would not affect discretionary costs because the CFPB is permanently authorized to spend amounts transferred from the Federal Reserve System.

H.R. 1259 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 1259 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 1259 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 742 does not require any directed rulemakings.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 1259 as the “Bureau Advisory Commission Transparency Act.”

Section 2. Designation of rural area

This section directs the CFPB to establish an application process under which a person who lives or does business in a state may apply to have an area in the state identified as a rural area if it has not yet been so designated by the CFPB for purposes of federal consumer financial law. This section would direct the CFPB, when it considers an application, to take into account various measures for classifying an area as rural, such as Census Bureau classifications, Office of Management and Budget designations, eligibility for Agriculture Department programs and population density. Finally, this section requires the CFPB to:

1. Publish an application in the Federal register within 60 days of receipt and make it available for public comment for at least 90 days;
2. Grant or deny the application in whole or in part within 90 days after the public comment period ends; and
3. Publish the grant or denial in the Federal Register, including an explanation of the factors upon which the CFPB relied in making its determination.

If an application is denied, the CFPB is not precluded from accepting future applications for the same area, as long as the subsequent application is made more than 90 days after the initial denial. This provisions of the bill sunset two years following enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1259 does not amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report contemplated by Clause 3(e)(1)(B) of rule XIII of the House of Representatives.