

116TH CONGRESS
1ST SESSION

S. 1297

To amend the Federal Deposit Insurance Act to provide shareholders of certain depository institutions a cause of action for assets seized by an appropriate Federal banking agency.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2019

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

A BILL

To amend the Federal Deposit Insurance Act to provide shareholders of certain depository institutions a cause of action for assets seized by an appropriate Federal banking agency.

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 “Independent and Com-
5 munity Bank Shareholders Protection Act”.

1 **SEC. 2. SHAREHOLDER CLAIMS.**

2 (a) IN GENERAL.—Section 11(d) of the Federal De-
 3 posit Insurance Act (12 U.S.C. 1821(d)) is amended by
 4 adding at the end the following:

5 “(21) SHAREHOLDER CLAIMS FOR JUST COM-
 6 PENSATION.—

7 “(A) DEFINITION.—In this paragraph, the
 8 term ‘covered institution’ means a depository
 9 institution—

10 “(i) for which the Corporation has ap-
 11 pointed a conservator or receiver; and

12 “(ii) that has total assets of less than
 13 \$15,000,000 as of the date on which the
 14 institution enters conservatorship or receiv-
 15 ership.

16 “(B) CLAIMS AUTHORIZED.—

17 “(i) IN GENERAL.—A shareholder of a
 18 covered institution may file a claim with
 19 the Corporation for just compensation to
 20 be paid by the Corporation to the share-
 21 holder.

22 “(ii) HOLDING COMPANIES.—A share-
 23 holder of a depository institution holding
 24 company may file a claim authorized by
 25 this subparagraph on behalf of such com-
 26 pany with respect to a covered institution.

1 “(C) AMOUNT TO BE PAID.—Just com-
2 pensation shall be paid to a shareholder for a
3 claim under this paragraph in an amount equal
4 to the pro-rata share of the shareholder of the
5 net worth of the covered institution according
6 to generally accepted accounting principles de-
7 termined as of the date on which the covered
8 institution enters conservatorship or receiver-
9 ship, whichever occurs first.

10 “(D) LIMITATION ON PAYMENT OF
11 CLAIMS.—The Corporation shall not pay a
12 claim under subparagraph (B) if—

13 “(i) the covered institution is deter-
14 mined by the final judgment of a court of
15 competent jurisdiction to have been insol-
16 vent as of the date on which the Corpora-
17 tion was appointed conservator or receiver;
18 or

19 “(ii) the administrative expenses of
20 the Corporation arising from the appoint-
21 ment of a conservator or receiver for the
22 covered institution exceed available funds
23 from the covered institution, any deposit li-
24 ability of the institution, any other general
25 or senior liability of the institution and any

obligation subordinated to depositors or general credits exceed the available funds from the covered institution.

“(E) STATUTE OF LIMITATIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the applicable statute of limitations with regard to a claim brought by a shareholder under subparagraph (B) shall be 90 days beginning on the date that a conservator or receiver is appointed for the covered institution pursuant to this Act.

“(ii) CLAIMS ARISING FROM PRIOR ACTIONS.—The applicable statute of limitations with regard to a claim brought by a shareholder under subparagraph (B) for a covered institution for which a conservator or receiver was appointed before the date of enactment of this paragraph shall be 90 days beginning on the date of enactment of this paragraph.

“(F) SAVINGS ASSOCIATION SHAREHOLDERS.—The rights provided to a shareholder under subparagraph (B), shall apply in the same manner and to the same extent to—

1 “(i) a shareholder of a savings asso-
 2 ciation for which the Office of Thrift Su-
 3 pervision or the Office of the Comptroller
 4 of the Currency appointed a conservator or
 5 receiver; and

6 “(ii) a shareholder of a savings and
 7 loan holding company on behalf of such
 8 holding company with respect to a savings
 9 association for which the Office of Thrift
 10 Supervision or the Office of the Comp-
 11 troller of the Currency appointed a conser-
 12 vator or receiver.

13 “(G) SPECIAL RULES.—

14 “(i) PRIOR CLAIMS.—A shareholder
 15 shall not be precluded from filing a claim
 16 under this paragraph if a claim with re-
 17 spect to the same conservatorship or re-
 18 ceivership has been previously adjudicated
 19 before a court of competent jurisdiction.

20 “(ii) UNITED STATES COURT OF FED-
 21 ERAL CLAIMS.—A shareholder may seek
 22 review of a denial by the Corporation of a
 23 claim filed under this paragraph in the
 24 United States Court of Federal Claims.”.

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