

116TH CONGRESS  
1ST SESSION

# H. R. 4384

To amend the Federal Deposit Insurance Act to ensure that certain custodial deposits of a well capitalized insured depository institution are not considered to be funds obtained by or through a deposit broker, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2019

Mr. CRIST (for himself and Mr. HILL of Arkansas) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Federal Deposit Insurance Act to ensure that certain custodial deposits of a well capitalized insured depository institution are not considered to be funds obtained by or through a deposit broker, 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 “Community Bank De-  
5 posit Access Act of 2019”.

1 **SEC. 2. LIMITED EXCEPTION FOR CUSTODIAL DEPOSITS.**

2 (a) IN GENERAL.—Section 29 of the Federal Deposit  
3 Insurance Act (12 U.S.C. 1831f) is amended by adding  
4 at the end the following:

5 “(j) LIMITED EXCEPTION FOR CUSTODIAL DEPOS-  
6 ITS.—

7 “(1) IN GENERAL.—Custodial deposits of an el-  
8 igible institution shall not be considered to be funds  
9 obtained, directly or indirectly, by or through a de-  
10 posit broker to the extent that the total amount of  
11 such custodial deposits does not exceed the lesser  
12 of—

13 “(A) \$5,000,000,000; or

14 “(B) an amount equal to 10 percent of the  
15 total liabilities of the eligible institution.

16 “(2) DEFINITIONS.—In this subsection:

17 “(A) CUSTODIAL DEPOSIT.—The term  
18 ‘custodial deposit’ means a deposit that would  
19 otherwise be considered to be obtained, directly  
20 or indirectly, by or through a deposit broker, if  
21 it is deposited at 1 or more insured depository  
22 institutions, for the purpose of providing or  
23 maintaining deposit insurance for the benefit of  
24 a third party, by or through any of the fol-  
25 lowing, each acting in a formal custodial or fi-  
26 duciary capacity for the benefit of a third party:

1 “(i) An insured depository institution  
2 serving as agent, trustee, or custodian.

3 “(ii) A trust entity controlled by an  
4 insured depository institution serving as  
5 agent, trustee, or custodian.

6 “(iii) A State-chartered trust company  
7 serving as agent, trustee, or custodian.

8 “(iv) A plan administrator or invest-  
9 ment advisor, acting in a formal custodial  
10 or fiduciary capacity for the benefit of a  
11 plan defined in section 3(3) of the Em-  
12 ployee Retirement Income Security Act of  
13 1974 (29 U.S.C. 1002(3)).

14 “(B) ELIGIBLE INSTITUTION.—The term  
15 ‘eligible institution’ means an insured deposi-  
16 tory institution that accepts custodial deposits,  
17 that were not placed there in return for fees  
18 paid by the insured depository institution pur-  
19 suant to an agreement with a third party, if the  
20 insured depository institution—

21 “(i)(I) when most recently examined  
22 under section 10(d) was found to have a  
23 composite condition of outstanding or  
24 good; and

25 “(II) is well capitalized; or

1 “(ii) has obtained a waiver pursuant  
2 to subsection (c).

3 “(C) PLAN ADMINISTRATOR.—The term  
4 ‘plan administrator’ has the meaning given the  
5 term ‘administrator’ in section 3(16) of the  
6 Employee Retirement Income Security Act of  
7 1974 (29 U.S.C. 1002(16)).

8 “(D) WELL CAPITALIZED.—The term ‘well  
9 capitalized’ has the meaning given the term in  
10 section 38(b)(1)(A).”.

11 (b) INTEREST RATE RESTRICTION.—Section 29 of  
12 the Federal Deposit Insurance Act (12 U.S.C. 1831f) is  
13 amended by striking subsection (e) and inserting the fol-  
14 lowing:

15 “(e) RESTRICTION ON INTEREST RATE PAID.—

16 “(1) DEFINITIONS.—In this subsection—

17 “(A) the terms ‘custodial deposit’, ‘eligible  
18 institution’, and ‘well capitalized’ have the  
19 meanings given those terms, respectively, in  
20 subsection (j); and

21 “(B) the term ‘covered insured depository  
22 institution’ means an insured depository institu-  
23 tion that—

1 “(i) under subsection (c) or (d), ac-  
2 cepts funds obtained, directly or indirectly,  
3 by or through a deposit broker, or

4 “(ii) while acting as an eligible insti-  
5 tution under subsection (j), accepts custo-  
6 dial deposits while not well capitalized.

7 “(2) PROHIBITION.—A covered insured deposi-  
8 tory institution may not pay a rate of interest on  
9 funds that, under subsection (c) or (d), are obtained,  
10 directly or indirectly, by or through a deposit broker  
11 or on custodial deposits that are accepted while not  
12 well capitalized that, at the time the funds or custo-  
13 dial deposits are accepted, significantly exceeds the  
14 limit set forth in paragraph (3).

15 “(3) LIMIT ON INTEREST RATES.—The limit on  
16 the rate of interest referred to in paragraph (2) shall  
17 be—

18 “(A) the rate paid on deposits of similar  
19 maturity in the normal market area of the cov-  
20 ered insured depository institution for deposits  
21 accepted in the normal market area of the cov-  
22 ered insured depository institution; or

23 “(B) the national rate paid on deposits of  
24 comparable maturity, as established by the Cor-  
25 poration, for deposits accepted outside the nor-

- 1 mal market area of the covered insured deposi-
- 2 tory institution.”.

