

115TH CONGRESS
2D SESSION

H. R. 7323

To amend the Federal Deposit Insurance Act with respect to shareholder claims arising from the appointment of a conservator or receiver for certain depository institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2018

Ms. JENKINS of Kansas introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Federal Deposit Insurance Act with respect to shareholder claims arising from the appointment of a conservator or receiver for certain depository institutions, 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 “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) CLAIMS AUTHORIZED.—

8 “(i) IN GENERAL.—A shareholder of a
9 covered institution may file a claim with
10 the Corporation for just compensation to
11 be paid by the Corporation to the share-
12 holder.

13 “(ii) HOLDING COMPANIES.—A share-
14 holder of a depository institution holding
15 company may file a claim authorized by
16 this subparagraph on behalf of such com-
17 pany with respect to a covered institution.

18 “(B) AMOUNT TO BE PAID.—Just com-
19 pensation shall be paid to a shareholder in an
20 amount equal to the pro-rata share of the
21 shareholder of the net worth of the covered in-
22 stitution according to generally accepted ac-
23 counting principles determined as of the date
24 on which the covered institution enters con-
25 servatorship or receivership, whichever occurs
26 first.

1 “(C) LIMITATION ON PAYMENT OF
2 CLAIMS.—The Corporation shall not pay a
3 claim under subparagraph (A) if—

4 “(i) the covered institution is deter-
5 mined by the final judgment of a court of
6 competent jurisdiction to have been insol-
7 vent as of the date on which control of the
8 covered institution passed from its share-
9 holders to the Corporation; or

10 “(ii) the administrative expenses of
11 the Corporation arising from the appoint-
12 ment of a conservator or receiver for the
13 covered institution exceed available funds
14 from the covered institution.

15 “(D) STATUTE OF LIMITATIONS.—The ap-
16 plicable statute of limitations with regard to a
17 claim brought by a shareholder under subpara-
18 graph (A) shall be 90 days beginning on the
19 date that a conservator or receiver is appointed
20 for the covered institution pursuant to this Act.

21 “(E) COVERED INSTITUTION DEFINED.—
22 In this paragraph, the term ‘covered institution’
23 means a depository institution—

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

1 “(ii) that has total assets of less than
2 \$15,000,000,000 as of the date on which
3 the institution enters conservatorship or
4 receivership.”.

5 (b) SAVINGS ASSOCIATION SHAREHOLDERS.—The
6 rights provided to a shareholder under section 11(d)(21)
7 of the Federal Deposit Insurance Act, as added by this
8 Act, shall apply in the same manner and to the same ex-
9 tent to—

10 (1) a shareholder of a savings association for
11 which the Office of Thrift Supervision appointed a
12 conservator or receiver; and

13 (2) a shareholder of a savings and loan holding
14 company on behalf of such holding company with re-
15 spect to a savings association for which the Office
16 appointed a conservator or receiver.

17 (c) SPECIAL RULES.—

18 (1) STATUTE OF LIMITATIONS FOR CLAIMS
19 ARISING FROM ACTIONS PRIOR TO THIS ACT.—The
20 statute of limitations for a claim filed under this
21 Act, or an amendment made by this Act, with re-
22 spect to the appointment of a conservator or receiver
23 for a covered institution or savings association oc-
24 curring prior to the date of enactment of this Act

1 shall be 90 days beginning on such date of enact-
2 ment.

3 (2) PRIOR CLAIMS.—A shareholder shall not be
4 precluded from filing a claim under this Act, or an
5 amendment made by this Act, if a claim with respect
6 to the same conservatorship or receivership has been
7 previously adjudicated before a court of competent
8 jurisdiction.

9 (3) UNITED STATES COURT OF FEDERAL
10 CLAIMS.—A shareholder may seek review of a denial
11 by the Federal Deposit Insurance Corporation of a
12 claim filed under this Act in the United States Court
13 of Federal Claims.

14 (d) DEFINITIONS.—In this section:

15 (1) COVERED INSTITUTION.—The term “cov-
16 ered institution” has the meaning given that term in
17 section 11(d)(21) of the Federal Deposit Insurance
18 Act (as added by this Act).

19 (2) SAVINGS ASSOCIATION.—The term “savings
20 association” has the meaning given that term in sec-
21 tion 3 of the Federal Deposit Insurance Act (12
22 U.S.C. 1813).

23 (3) SAVINGS AND LOAN HOLDING COMPANY.—
24 The term “savings and loan holding company” has

1 the meaning given that term in section 10 of the
2 Home Owners' Loan Act (12 U.S.C. 1467a).

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