

House File 922

H-8158

1 Amend House File 922 as follows:

2 1. Page 4, after line 22 by inserting:

3 <Sec. ____ . NEW SECTION. **529A.4 Federal law — preemption**
4 **and safe harbor.**

5 1. A financial institution shall not be deemed to have
6 violated this chapter for refusing to provide, restricting, or
7 terminating financial services to a person if the financial
8 institution demonstrates, by a preponderance of the evidence,
9 that such refusal, restriction, or termination was for any of
10 the following reasons:

11 a. To comply with a specific requirement of federal law
12 including but not limited to any of the following:

13 (1) The federal Bank Secrecy Act, 31 U.S.C. §5311 et seq.,
14 or any regulation, guidance, or order issued thereunder by
15 the financial crimes enforcement network of the United States
16 department of the treasury, including those related to the
17 reporting of suspicious activity, anti-money laundering program
18 obligations, or customer due diligence.

19 (2) A regulation, directive, or order issued by the office
20 of foreign assets control of the United States department of
21 the treasury, including a requirement to block, freeze, or
22 refuse a transaction involving sanctioned persons, entities,
23 or jurisdictions.

24 (3) A formal or informal directive, supervisory action,
25 safety-and-soundness order, consent order, or memorandum of
26 understanding issued by a federal banking regulator with
27 jurisdiction over the financial institution, including the
28 office of the comptroller of the currency of the United
29 States, the federal deposit insurance corporation, the board of
30 governors of the federal reserve system, or the national credit
31 union administration.

32 (4) Any applicable know-your-customer or customer due
33 diligence regulation promulgated under the federal Uniting and
34 Strengthening America by Providing Appropriate Tools Required
35 to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No.

1 107-56, or the federal Bank Secrecy Act, Pub. L. No. 91-508.

2 *b.* To avoid a specific and articulable risk of violating
3 federal law, provided that the financial institution documents
4 the basis for such risk determination at or before the time the
5 action is taken and retains the documentation for a period of
6 not less than five years.

7 2. This chapter shall not be construed to require a
8 financial institution to disclose information that is
9 prohibited from disclosure under 31 U.S.C. §5318(g)(2) or any
10 other provision of federal law. When federal law prohibits a
11 financial institution from disclosing the specific basis for a
12 refusal, restriction, or termination of financial services, a
13 written statement by the financial institution indicating that
14 the financial institution is unable to provide information due
15 to federal law shall satisfy the written statement requirement
16 under section 529A.2, subsection 2.

17 3. This chapter shall not be construed to limit, supersede,
18 or conflict with any requirement of federal law applicable to
19 financial institutions. In any case of irreconcilable conflict
20 between this chapter and federal law, federal law shall control
21 to the extent of the conflict.

22 4. The safe harbor under subsection 1 shall be construed
23 narrowly. A financial institution may not invoke subsection
24 1 as a defense based solely on a general compliance program,
25 enterprise-wide risk policy, or generalized assessment of
26 reputational risk. Subsection 1 applies only when a financial
27 institution identifies a specific, applicable federal
28 requirement, regulation, or order that directly necessitated
29 the action taken.>

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