



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 15, 2007

H.R. 698

Industrial Bank Holding Company Act of 2007

As ordered reported by the House Committee on Financial Services on May 2, 2007

SUMMARY

H.R. 698 would amend existing law regarding federal deposit insurance for industrial banks and their holding companies. Those institutions are chartered by states and subject to regulation by the Federal Deposit Insurance Corporation (FDIC) and other federal financial regulators, as appropriate. This legislation would set limits on the types of industrial banks eligible for federal deposit insurance and would clarify federal agencies' authority to supervise those entities and their holding companies.

Enacting this bill would affect direct spending and revenues, but CBO estimates that such effects would be negligible. H.R. 698 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the cost of complying with the requirements would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation).

The bill contains private-sector mandates as defined in UMRA. Those mandates are on industrial bank holding companies, and commercial firms and foreign banks that want to own an industrial bank. Because future regulatory and business decisions are unknown, CBO cannot estimate the cost of some of the private-sector mandates in the bill, and is uncertain whether the aggregate direct cost of all of the mandates would exceed the annual threshold established by UMRA (\$131 million in 2007, adjusted annually for inflation).

ESTIMATED COSTS TO THE FEDERAL GOVERNMENT

H.R. 698 would clarify the terms and conditions for providing federal deposit insurance to industrial banks. According to officials at the affected financial regulatory agencies, implementing those changes would have no significant effect on their workload or costs relative to current law. While negligible, those changes would affect direct spending and

revenues because most financial regulatory activities are funded directly by regulatory fees, insurance premiums, or revenues (in the case of the Federal Reserve Board). Spending by the Securities and Exchange Commission, which would have some new authorities under this bill, is subject to annual appropriation.

Provisions limiting eligibility for deposit insurance also could affect the volume of insured deposits held by industrial banks. Based on historical data on industrial bank deposits, CBO estimates that those restrictions would have a negligible impact on the aggregate level of deposits and no significant effect on the amounts collected for insurance premiums.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 698 contains intergovernmental mandates as defined in UMRA because it would preempt certain state laws. CBO estimates that the cost of complying with the requirements would not exceed the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation) over the next five years.

Provisions in section 2 would preempt certain state laws by prohibiting certain commercial firms from controlling industrial banks, a practice currently permitted under state law in three states. Utah, Nevada, and Hawaii currently issue charters for industrial banks controlled by commercial firms, although Hawaii has not done so since 1992. This preemption would impose costs on those states in the form of lost revenue from fees and corporate income taxes by prohibiting those states from chartering new industrial banks that are controlled by certain commercial entities. Although CBO cannot predict the amount of revenue that would have been collected by the states in the absence of legislation, based on information from state bank regulators, CBO estimates that losses to states as a result of this prohibition would not exceed the threshold established in UMRA over the next five years.

Section 2 also would require certain commercial entities to divest ownership of their industrial banks if the bank controlled by the commercial entity changes control, engages in new activities, or becomes active in new states, or if the commercial entity acquires other depository institutions. Three additional states—California, Colorado, and Minnesota—no longer allow commercial entities to establish or acquire industrial banks, but have allowed this practice in the past. A fourth state—Indiana—has chartered industrial banks in the past but no longer issues new charters. It is possible that this provision would result in divestiture and consequently additional losses in revenue in those states, but CBO cannot predict the likelihood of such actions or the magnitude of any such losses.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The bill contains private-sector mandates as defined in UMRA. Those mandates are on industrial bank holding companies, and commercial firms and foreign banks that want to own an industrial bank. Because future regulatory and business decisions are unknown, CBO cannot estimate the cost of some of the private-sector mandates in the bill, and is uncertain whether the aggregate direct cost of all of the mandates would exceed the annual threshold established by UMRA (\$131 million in 2007, adjusted annually for inflation).

The bill would impose private-sector mandates because it would:

- Subject industrial bank holding companies to a new regulatory framework;
- Prohibit commercial firms from acquiring or establishing an industrial bank and limit activities of certain existing commercial firms with industrial banks; and
- Prohibit foreign banks from acquiring an industrial bank without joint approval of the Federal Reserve and the Federal Deposit Insurance Corporation (FDIC).

Industrial Bank Holding Companies

Section 2 would provide a new regulatory framework for industrial bank holding companies and establish the FDIC as the consolidated supervisor of industrial bank holding companies. Industrial bank holding companies, as defined in the bill, are companies that control industrial banks and are not currently subject to consolidated supervision by another federal regulator. While some of the regulations established under the bill may be new, in general, most of the requirements would be incremental relative to current regulation. According to government sources, implementation of the regulations in the bill would be similar to current practice. Hence, the cost of complying with the new regulatory framework would be minimal.

Limitations on Control and Activities of Industrial Banks

The bill would prohibit commercial companies (those deriving 15 percent or more of their gross revenue, on a consolidated basis, from nonfinancial activities) from owning an industrial bank. The cost of complying with this mandate would be the cost of conducting by other means the financial activities that commercial companies would have conducted in the industrial bank, or the forgone net income from not being able to undertake such activities. The FDIC established a six-month moratorium on approval of applications with respect to industrial banks that would become subsidiaries of companies engaged in nonfinancial activities in July 2006 and has extended the moratorium through January 31, 2008. According to government sources, fewer than a dozen commercial firms have pending applications. Because of uncertainty about the business plans of pending applicants for ownership of industrial banks and the number of such applications that would be approved in the absence of this legislation, CBO cannot estimate the cost of this mandate.

Those commercial companies that already owned an industrial bank by October 1, 2003, would be exempt from this prohibition as long as no change in control takes place. Commercial companies that had an industrial bank after October 1, 2003, and before January 28, 2007, could continue their existing operations but would be prohibited from acquiring control of any other depository institution, from undertaking any new activities, and from establishing or acquiring any new branches, certain production offices and service units, or ATMs other than in their home state or any state where they already have branches. The cost of complying with this limitation would be the expected net income that affected entities would forgo due to the limitations on their industrial bank activities. According to government data, only a handful of entities would be affected by this limitation. Because of uncertainty about the future business plans of those entities, CBO cannot estimate the cost of complying with this limitation. Assuming those entities are already engaged in activities they had planned to conduct over the next five years, the cost of complying with this mandate would be small relative to the UMRA threshold.

Requirements on Foreign Banks

The bill would also require that a foreign bank must obtain a ruling from the Federal Reserve (in consultation with the FDIC) that the foreign bank is subject to consolidated comprehensive supervision in its home country before it can acquire an industrial bank. According to government sources, no foreign banks are currently seeking to acquire an industrial bank. Thus, CBO expects that the cost of this mandate would be minimal, if any.

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