

## INDUSTRIAL BANK HOLDING COMPANY ACT OF 2007

**H.R. 698 (Approved by House May 21)**

**S. 1356 (Introduced May 10)**

Aggregate industrial loan company (ILC) assets have grown from \$4 billion to over \$150 billion over the past two decades, with more and more commercial firms poised to exploit the ILC loophole. The Industrial Bank Holding Company Act will restore the separation of banking and commerce, and prevent additional commercial firms from acquiring or establishing ILCs. Existing ILCs are grandfathered, but could not be acquired by a commercial firm. ILC holding companies – unless already supervised by the Federal Reserve, Office of Thrift Supervision, or the SEC – would be subject to consolidated supervision by the FDIC, comparable to supervision exercised by the Fed and the OTS.

- **New Applications.** No commercial firm could acquire or establish an ILC in the future.
- **Firms Established October 1, 2003 – January 29, 2007.** A commercial firm ILC could only engage in activities it was engaged in on January 28, 2007. It could not operate branches outside its home state. It could not be sold to a commercial firm.
- **Firms Established Before October 1, 2003.** A commercial firm ILC would be grandfathered without branching or activity restrictions, but could not be sold to a commercial firm.

**“Commercial” Defined.** A "commercial firm" derives at least 15 percent of its annual consolidated gross revenues from activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters.

**Regulation of ILC Holding Companies.** All ILC holding companies would be subject to federal supervision. Holding companies not already supervised by the Fed, OTS, or SEC would be subject to FDIC supervision. The FDIC would have:

- Power to examine ILC holding companies, their subsidiaries and affiliates;
- Power to require ILC holding companies to maintain records and provide periodic reports of their operations; and
- Enforcement authorities commensurate with those of the consolidated supervisors like the Fed and OTS, including the power to issue orders requiring any ILC holding company or any ILC holding company subsidiary to cease or correct actions that threaten the safety and soundness of the ILC.
- Power to require an ILC holding company to divest itself of a subsidiary that poses a threat to the safe and sound operation of the ILC.

**Actions Requiring Divestiture.** The bill could require a commercial company to divest itself of an ILC within 2 years if the commercial firm acquires control of an ILC; an ILC holding company becomes a commercial firm; or (3) the ILC ceases to comply with the bill's activity and branching limitations.