

113TH CONGRESS
1ST SESSION

S. 1102

To abolish the Export-Import Bank of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2013

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To abolish the Export-Import Bank of the United States,
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 “Export-Import Bank
5 Termination Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Export subsidies provide advantages to spe-
9 cific industries or businesses at the expense of their
10 domestic competition, other sectors of the economy

1 of the United States, and the people of the United
2 States.

3 (2) Banks and other financial institutions that
4 provide trade facilitation credit also profit from ex-
5 port subsidies such as loan guarantees and trade in-
6 surance.

7 (3) International trade finance is well developed
8 and supplied by the private sector at competitive
9 rates that reflect market conditions.

10 (4) The Export-Import Bank of the United
11 States is an agency of the United States Govern-
12 ment that subsidizes exports by insuring or guaran-
13 teeing trade facilitation loans and other credit from
14 private financial institutions and by providing direct
15 loans to exporters in the United States.

16 (5) Export subsidies impose risks on the tax-
17 payers of the United States.

18 (6) In a June 2012 report, the Congressional
19 Budget Office found, using accurate, fair value esti-
20 mation, that the expected return of the Export-Im-
21 port Bank of the United States was less than $\frac{1}{10}$
22 of the estimate under the current, flawed method-
23 ology used pursuant to the Federal Credit Reform
24 Act of 1990 (2 U.S.C. 661 et seq.).

1 credit by another entity after the 12-month period that
2 begins on the date of the enactment of this Act.

3 **SEC. 4. ABOLISHMENT OF EXPORT-IMPORT BANK OF THE**
4 **UNITED STATES.**

5 (a) ABOLISHMENT.—The Bank is abolished on the
6 date that is 3 years after the date of the enactment of
7 this Act (in this Act referred to as the “abolishment
8 date”).

9 (b) REPEAL OF STATUTORY AUTHORITY.—Effective
10 on the abolishment date, the Export-Import Bank Act of
11 1945 (12 U.S.C. 635 et seq.) is repealed.

12 **SEC. 5. TRANSFER AUTHORITIES.**

13 (a) TRANSFER OF FUNCTIONS.—

14 (1) IN GENERAL.—All functions that are au-
15 thorized to be performed by the Bank, the Board of
16 Directors of the Bank, any officer or employee of the
17 Bank acting in that capacity, or any agency or office
18 of the Bank on the day before the abolishment date
19 are transferred to the Secretary on the abolishment
20 date.

21 (2) INSPECTOR GENERAL DUTIES.—

22 (A) TERMINATION OF THE OFFICE OF IN-
23 SPECTOR GENERAL FOR THE EXPORT-IMPORT
24 BANK OF THE UNITED STATES.—Notwith-
25 standing any other provision of law, the Office

1 of Inspector General for the Bank shall termi-
2 nate on the abolishment date, and the assets
3 and obligations of the Office shall be trans-
4 ferred to the Office of the Inspector General for
5 the Department of the Treasury or otherwise
6 disposed of as the Secretary determines to be
7 appropriate.

8 (B) SAVINGS PROVISION.—

9 (i) IN GENERAL.—The provisions of
10 this section shall not affect the perform-
11 ance of any pending audit, investigation,
12 inspection, or report by the Office of the
13 Inspector General for the Bank as of the
14 abolishment date, with respect to functions
15 transferred by this section.

16 (ii) MODIFICATION OF PERFORM-
17 ANCE.—Nothing in this subsection shall be
18 deemed to prohibit the discontinuance or
19 modification of any performance under the
20 same terms and conditions and to the
21 same extent that performance could have
22 been discontinued or modified if this sec-
23 tion had not been enacted.

24 (3) PERFORMANCE OF TRANSFERRED FUNC-
25 TIONS.—

1 (A) IN GENERAL.—Except as otherwise
2 provided by law, a Federal official to whom a
3 function is transferred by this subsection may,
4 for purposes of performing the function, exer-
5 cise all authorities under any other provision of
6 law that were available with respect to the per-
7 formance of that function to the official respon-
8 sible for the performance of the function imme-
9 diately before the abolishment date.

10 (B) DELEGATION AND ASSIGNMENT.—

11 (i) IN GENERAL.—Except as otherwise
12 expressly prohibited by law, a Federal offi-
13 cial to whom a function is transferred by
14 this subsection (including the head of any
15 office to which functions are transferred by
16 this subsection) may delegate any of the
17 functions so transferred to such officers
18 and employees of the office of the official
19 as the official may designate, and may au-
20 thorize successive redelegations of such
21 functions as may be necessary or appro-
22 priate.

23 (ii) ULTIMATE RESPONSIBILITY.—No
24 delegation of functions under this subpara-
25 graph or under any other provision of this

1 Act shall relieve the official to whom a
2 function is transferred under this Act of
3 responsibility for the administration of the
4 function.

5 (4) AUTHORITY OF THE SECRETARY WITH RE-
6 SPECT TO TRANSFERRED FUNCTIONS.—

7 (A) DETERMINATIONS.—If necessary, the
8 Secretary shall make any determination of the
9 functions that are transferred under this sub-
10 section.

11 (B) INCIDENTAL TRANSFERS.—The Sec-
12 retary, at such time or times as the Secretary
13 shall provide, may make such determinations as
14 may be necessary with regard to the functions
15 transferred by this subsection, and make such
16 additional incidental dispositions of personnel,
17 assets, liabilities, grants, contracts, property,
18 records, and unexpended balances of appropria-
19 tions, authorizations, allocations, and other
20 funds held, used, arising from, available to, or
21 to be made available in connection with such
22 functions, as may be necessary to carry out the
23 provisions of this Act.

24 (b) TRANSFER OF PERSONNEL.—All individuals who
25 were officers or employees of the Bank immediately before

1 the abolishment date and performed functions that are
2 transferred to the Secretary under subsection (a) are
3 transferred to the Department of the Treasury on the
4 abolishment date (other than members of the Board of
5 Directors of the Bank).

6 (c) TRANSFER OF ASSETS.—Except as otherwise pro-
7 vided in this Act, so much of the personnel, property,
8 records, and unexpended balances of appropriations, allo-
9 cations, and other funds employed, used, held, available,
10 or to be made available in connection with a function
11 transferred to an official or agency by this Act shall be
12 available to the official or the head of that agency, respec-
13 tively, at such time or times as the Director of the Office
14 of Management and Budget directs for use in connection
15 with the functions transferred.

16 **SEC. 6. RESOLUTION AND TERMINATION OF BANK FUNC-**
17 **TIONS.**

18 (a) RESOLUTION OF FUNCTIONS.—The Secretary
19 shall—

20 (1) complete the disposition and resolution of
21 the functions of the Bank in accordance with this
22 Act; and

23 (2) resolve all functions that are transferred to
24 the Secretary under section 5(a).

1 (b) TERMINATION OF FUNCTIONS.—All functions
2 that are transferred to the Secretary under section 5(a)
3 shall terminate on the date all obligations of the Bank,
4 and all obligations of others to the Bank, in effect imme-
5 diately before the abolishment date, have been satisfied,
6 as determined by the Secretary.

7 (c) REPORT TO CONGRESS.—When the Secretary
8 makes the determination described in subsection (b), the
9 Secretary shall submit to the Committee on Banking,
10 Housing, and Urban Affairs of the Senate and the Com-
11 mittee on Financial Services of the House of Representa-
12 tives a report on the determination.

13 **SEC. 7. DUTIES OF THE SECRETARY.**

14 (a) IN GENERAL.—The Secretary shall be responsible
15 for the implementation of this Act as follows:

16 (1) The administration and wind-up of all func-
17 tions transferred to the Secretary under section
18 5(a).

19 (2) The administration and wind-up of any out-
20 standing obligations of the Federal Government
21 under any programs terminated by this Act.

22 (3) Other actions as may be necessary to wind-
23 up any outstanding affairs of the Bank.

24 (b) DELEGATION OF FUNCTIONS.—The Secretary
25 may delegate to the head of any other Federal department

1 or agency the performance of the functions of the Sec-
2 retary under this Act to the extent that the Secretary de-
3 termines that the delegation would further the purposes
4 of this Act.

5 (c) TRANSFER OF ASSETS AND PERSONNEL.—In
6 connection with any delegation of functions under sub-
7 section (b), the Secretary may transfer to the department
8 or agency concerned such assets, funds, personnel,
9 records, and other property relating to the delegated func-
10 tion as the Secretary determines to be appropriate.

11 (d) AUTHORITIES OF THE SECRETARY.—For pur-
12 poses of performing the functions of the Secretary under
13 this Act and subject to the availability of appropriations,
14 the Secretary may—

15 (1) enter into contracts;

16 (2) employ experts and consultants in accord-
17 ance with section 3109 of title 5, United States
18 Code, at rates not to exceed the daily rate paid a
19 person occupying a position at level IV of the Execu-
20 tive Schedule under section 5313 of such title; and

21 (3) utilize, on a reimbursable basis, the services,
22 facilities, and personnel of other Federal agencies.

23 **SEC. 8. SAVINGS PROVISIONS.**

24 (a) LEGAL DOCUMENTS.—

1 (1) IN GENERAL.—All legal documents specified
2 in paragraph (2) shall continue in effect according
3 to their terms until modified, terminated, super-
4 seded, set aside, or revoked in accordance with law
5 by the President, any other authorized official, a
6 court of competent jurisdiction, or operation of law
7 if such legal documents—

8 (A) have been issued, made, granted, or al-
9 lowed to become effective by the President, the
10 Bank, any officer or employee of any office
11 transferred by this Act, or any other Govern-
12 ment official, or by a court of competent juris-
13 diction, in the performance of any function that
14 is transferred by this Act; and

15 (B) are in effect on the abolishment date
16 (or become effective after such date pursuant to
17 their terms as in effect on such effective date).

18 (2) LEGAL DOCUMENTS SPECIFIED.—The legal
19 documents specified in this paragraph are orders,
20 determinations, rules, regulations, permits, grants,
21 loans, contracts, agreements, certificates, licenses,
22 and privileges.

23 (b) PROCEEDINGS.—

24 (1) IN GENERAL.—This Act shall not affect any
25 proceedings or any application for any benefits, serv-

1 ice, license, permit, certificate, or financial assist-
2 ance pending on the date of the enactment of this
3 Act before an office transferred by this Act.

4 (2) ISSUANCE OF ORDERS.—Orders shall be
5 issued in such proceedings, appeals shall be taken,
6 and payments shall be made pursuant to such orders
7 as if this Act had not been enacted, and orders
8 issued in any such proceeding shall continue in ef-
9 fect until modified, terminated, superseded, or re-
10 voked by a duly authorized official, by a court of
11 competent jurisdiction, or by operation of law.

12 (3) MODIFICATION OF PROCEEDINGS.—Nothing
13 in this subsection shall be considered to prohibit the
14 discontinuance or modification of any proceeding
15 under the same terms and conditions and to the
16 same extent that such proceeding could have been
17 discontinued or modified if this Act had not been en-
18 acted.

19 (c) ACTIONS.—

20 (1) IN GENERAL.—This Act shall not affect any
21 civil or criminal action commenced before the date of
22 the enactment of this Act.

23 (2) CONTINUE AS IF NOT ENACTED.—In all
24 such actions, proceedings shall be had, appeals shall
25 be taken, and judgments shall be rendered in the

1 same manner and with the same effect as if this Act
2 had not been enacted.

3 (d) NONABATEMENT OF ACTIONS.—No action or
4 other proceeding commenced by or against an office trans-
5 ferred by this Act, or by or against any individual in the
6 official capacity of such individual as an officer or em-
7 ployee of such an office, shall abate by reason of the enact-
8 ment of this Act.

9 (e) CONTINUANCE OF ACTIONS.—If any Government
10 officer in the official capacity of such officer is party to
11 an action with respect to a function of the officer, and
12 under this Act such function is transferred to any other
13 officer or office, then such action shall be continued with
14 the other officer or the head of such other office, as appli-
15 cable, substituted or added as a party.

16 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
17 VIEW.—Except as otherwise provided by this Act, any
18 statutory requirements relating to notice, hearings, action
19 upon the record, or administrative or judicial review that
20 apply to any function transferred by this Act shall apply
21 to the exercise of such function by the head of the Federal
22 agency, and other officers of the agency, to which such
23 function is transferred by this Act.

1 **SEC. 9. AVAILABILITY OF EXISTING FUNDS.**

2 Existing appropriations and funds available for the
3 performance of functions, programs, and activities termi-
4 nated pursuant to this Act shall remain available, for the
5 duration of their period of availability, for necessary ex-
6 penses in connection with the termination and resolution
7 of such functions, programs, and activities.

8 **SEC. 10. CONFORMING AMENDMENTS.**

9 (a) **ELIMINATION OF RELATED AUTHORIZING PROVI-**
10 **SIONS.—**

11 (1) Section 103 of the International Develop-
12 ment and Finance Act of 1989 (Public Law 101-
13 240; 12 U.S.C. 635 note) is repealed.

14 (2) Section 303 of the Support for East Euro-
15 pean Democracy (SEED) Act of 1989 (Public Law
16 101-179; 12 U.S.C. 635 note) is repealed.

17 (3) The Export-Import Bank Act Amendments
18 of 1978 (Public Law 95-630; 92 Stat. 3724) is
19 amended—

20 (A) in section 1908 (12 U.S.C. 635a-1)—

21 (i) in subsection (a), by striking
22 “(a)”; and

23 (ii) by striking subsection (b);

24 (B) by repealing section 1911 (12 U.S.C.
25 635a-2); and

1 (C) by repealing section 1912 (12 U.S.C.
2 635a-3).

3 (4) Section 206 of the Bank Export Services
4 Act (12 U.S.C. 635a-4) is repealed.

5 (5) Sections 1 through 5 of Public Law 90-390
6 (12 U.S.C. 635j through 635n) are repealed.

7 (6) Sections 641 through 647 of the Trade and
8 Development Enhancement Act of 1983 (12 U.S.C.
9 635o-635t) are repealed.

10 (7) Section 534 of the Foreign Operations, Ex-
11 port Financing, and Related Programs Appropria-
12 tions Act, 1990 (Public Law 101-167; 12 U.S.C.
13 635g note) is amended by striking subsection (d).

14 (8) Section 3302 of the Omnibus Trade and
15 Competitiveness Act of 1988 (Public Law 100-418;
16 12 U.S.C. 635i-3 note) is amended by striking sub-
17 section (a).

18 (9) Section 1105(a) of title 31, United States
19 Code, is amended by striking paragraph (34) and re-
20 designating the succeeding paragraphs of such sec-
21 tion as paragraphs (34) through (38), respectively.

22 (10) Section 9101(3) of title 31, United States
23 Code, is amended by striking subparagraph (C).

24 (b) ELIMINATION OF RELATED COMPENSATION PRO-
25 VISIONS.—

1 (1) POSITION AT LEVEL III.—Section 5314 of
2 title 5, United States Code, is amended by striking
3 the following item:

4 “President of the Export-Import Bank of Wash-
5 ington.”.

6 (2) POSITIONS AT LEVEL IV.—Section 5315 of
7 title 5, United States Code, is amended—

8 (A) by striking the following item:

9 “First Vice President of the Export-Import Bank of
10 Washington.”; and

11 (B) by striking the following item:

12 “Members, Board of Directors of the Export-Import
13 Bank of Washington.”.

14 (c) ELIMINATION OF OFFICE OF INSPECTOR GEN-
15 ERAL FOR THE BANK.—Section 12 of the Inspector Gen-
16 eral Act of 1978 (5 U.S.C. App.) is amended—

17 (1) in paragraph (1), by striking “the President
18 of the Export-Import Bank;”; and

19 (2) in paragraph (2), by striking “the Export-
20 Import Bank,”.

21 (d) EFFECTIVE DATE.—The repeals and amend-
22 ments made by this section shall take effect on the abolish-
23 ment date.

24 (e) REPORT TO CONGRESS ON OTHER AMENDMENTS
25 TO FEDERAL STATUTE.—The Secretary shall submit to

1 the Committee on Banking, Housing, and Urban Affairs
2 of the Senate and the Committee on Financial Services
3 of the House of Representatives a written report that con-
4 tains suggestions for such other amendments to Federal
5 statutes as may be necessary or appropriate as a result
6 of this Act.

7 **SEC. 11. REFERENCES.**

8 Any reference in any other Federal law, Executive
9 order, rule, regulation, or delegation of authority, or any
10 document of or pertaining to a department or office from
11 which a function is transferred by this Act—

12 (1) to the head of such department or office is
13 deemed to refer to the head of the department or of-
14 fice to which the function is transferred; or

15 (2) to such department or office is deemed to
16 refer to the department or office to which the func-
17 tion is transferred.

18 **SEC. 12. DEFINITIONS.**

19 In this Act:

20 (1) **FUNCTION.**—The term “function” includes
21 any duty, obligation, power, authority, responsibility,
22 right, privilege, activity, or program.

23 (2) **OFFICE.**—The term “office” includes any
24 office, administration, agency, bureau, institute,

1 council, unit, organizational entity, or component
2 thereof.

3 (3) SECRETARY.—The term “Secretary” means
4 the Secretary of the Treasury.

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