

115TH CONGRESS  
1ST SESSION

# S. 1454

To ensure that persons who form corporations in the United States disclose the beneficial owners of those corporations, in order to prevent the formation of corporations with hidden owners, stop the misuse of United States corporations by wrongdoers, and assist law enforcement in detecting, preventing, and punishing terrorism, money laundering, tax evasion, and other criminal and civil misconduct involving United States corporations, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 28, 2017

Mr. WHITEHOUSE (for himself, Mrs. FEINSTEIN, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

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1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “True Incorporation  
3 Transparency for Law Enforcement Act” or the “TITLE  
4 Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Nearly 2,000,000 corporations and limited  
8 liability companies are being formed under the laws  
9 of the States each year.

10 (2) Very few States obtain meaningful informa-  
11 tion about the beneficial owners of the corporations  
12 and limited liability companies formed under their  
13 laws.

14 (3) A person forming a corporation or limited  
15 liability company within the United States typically  
16 provides less information to the State of incorpora-  
17 tion than is needed to obtain a bank account or driv-  
18 er’s license and typically does not name a single ben-  
19 efiticial owner.

20 (4) Terrorists and other criminals have ex-  
21 ploited the weaknesses in State formation proce-  
22 dures to conceal their identities when forming cor-  
23 porations or limited liability companies in the United  
24 States, and have then used the newly created enti-  
25 ties to support terrorist organizations, drug traf-  
26 ficking organizations, and international organized

1 crime groups, as well as commit misconduct affect-  
2 ing interstate and international commerce such as  
3 trafficking in illicit drugs, illegal arms trafficking,  
4 sex trafficking, money laundering, tax evasion,  
5 health care fraud, Internet-based fraud, securities  
6 fraud, financial fraud, intellectual property crimes,  
7 and acts of corruption.

8 (5) Among those who have abused State incor-  
9 poration procedures is Victor Bout, a Russian arms  
10 dealer who used at least 12 companies incorporated  
11 in Texas, Florida, and Delaware to carry out his ac-  
12 tivities, and has been convicted, in part, for con-  
13 spiring to sell weapons to a terrorist organization  
14 trying to kill citizens of the United States and Fed-  
15 eral officers and employees. In addition, Iranian in-  
16 terests used a shell company formed in New York to  
17 purchase a 36-story building on Fifth Avenue in  
18 Manhattan and forwarded millions of dollars in rent  
19 each year to Iran until authorities in the United  
20 States learned of the transfers and seized the build-  
21 ing.

22 (6) Law enforcement efforts to investigate cor-  
23 porations and limited liability companies suspected  
24 of wrongdoing have been impeded by the lack of  
25 available beneficial ownership information, as docu-

1 mented in reports and testimony by officials from  
2 the Department of Justice, the Department of  
3 Homeland Security, the Financial Crimes Enforce-  
4 ment Network of the Department of the Treasury,  
5 the Internal Revenue Service, the Government Ac-  
6 countability Office, and others.

7 (7) In December 2016, a leading international  
8 anti-money laundering and anti-terrorist financing  
9 organization, the Financial Action Task Force on  
10 Money Laundering (in this section referred to as  
11 “FATF”), of which the United States is a member,  
12 issued a report that criticized the United States for  
13 failing to comply with a FATF standard on the need  
14 to collect beneficial ownership information. The re-  
15 port called the United States framework in this area  
16 “seriously deficient” and urged the United States to  
17 correct this deficiency.

18 (8) In response to the FATF report and to  
19 strengthen measures to protect homeland security,  
20 Federal officials have repeatedly urged the States to  
21 improve their formation practices by obtaining bene-  
22 ficial ownership information for the corporations and  
23 limited liability companies formed under the laws of  
24 such States. But the States continue to form mil-  
25 lions of corporations with hidden owners.

1           (9) Many States have established automated  
2 procedures that allow a person to form a new cor-  
3 poration or limited liability company within the  
4 State within 24 hours of filing an online application,  
5 without any prior review of the application by a  
6 State official.

7           (10) Dozens of Internet websites highlight the  
8 anonymity of beneficial owners allowed under the  
9 formation practices of some States, point to those  
10 practices as a reason to incorporate in those States,  
11 and list those States together with offshore jurisdic-  
12 tions as preferred locations for the formation of new  
13 corporations, essentially inviting terrorists and other  
14 wrongdoers to form entities within the United  
15 States.

16           (11) In contrast to practices in the United  
17 States, countries around the world are working to  
18 collect beneficial ownership information. The United  
19 Kingdom now collects beneficial ownership informa-  
20 tion for all companies formed under its laws and  
21 makes the information available to the public. All 28  
22 countries in the European Union are required to cre-  
23 ate, maintain, and update registries of the beneficial  
24 ownership information of the corporations formed  
25 under the laws of those countries. The information

1 must be freely available to law enforcement agencies,  
2 financial institutions, and third parties that can  
3 demonstrate a legitimate interest in the information.  
4 Afghanistan, Ghana, Kenya, Nigeria, South Africa,  
5 the Ukraine, and many other countries are in the  
6 process of establishing mechanisms to collect bene-  
7 ficial ownership information for the companies cre-  
8 ated under their laws.

9 (12) To reduce the vulnerability of the United  
10 States to wrongdoing by United States corporations  
11 and limited liability companies with hidden owners,  
12 protect interstate and international commerce from  
13 terrorists and other criminals misusing United  
14 States corporations and limited liability companies,  
15 strengthen law enforcement investigations of suspect  
16 corporations and limited liability companies, set min-  
17 imum standards for and level the playing field  
18 among State formation practices, and bring the  
19 United States into compliance with international  
20 anti-money laundering and anti-terrorist financing  
21 standards, Federal legislation is needed to require  
22 the States to obtain beneficial ownership information  
23 for the corporations and limited liability companies  
24 formed under the laws of such States.

1 **SEC. 3. TRANSPARENT INCORPORATION PRACTICES.**

2 (a) TRANSPARENT INCORPORATION PRACTICES.—

3 Part E of title I of the Omnibus Crime Control and Safe  
4 Streets Act of 1968 (42 U.S.C. 3750 et seq.) is amended  
5 by adding at the end the following:

6 **“Subpart 4—Transparent Incorporation Practices**

7 **“SEC. 531. TRANSPARENT INCORPORATION PRACTICES.**

8 “(a) INCORPORATION SYSTEMS.—

9 “(1) IN GENERAL.—To protect the United  
10 States from the misuse affecting interstate or for-  
11 eign commerce of corporations and limited liability  
12 companies with hidden owners, each State that re-  
13 ceives funding under subpart 1 shall, not later than  
14 3 years after the date of enactment of this subpart,  
15 use an incorporation system that meets the following  
16 requirements:

17 “(A) IDENTIFICATION OF BENEFICIAL  
18 OWNERS.—Except as provided in paragraph  
19 (3), each applicant to form a corporation or  
20 limited liability company under the laws of the  
21 State is required to provide to the State during  
22 the formation process information on the bene-  
23 ficial owners of the corporation or limited liabil-  
24 ity company that includes—

25 “(i) identifies each beneficial owner by  
26 name, current residential or business street

1 address, and a unique identifying number  
2 from a nonexpired passport issued by the  
3 United States or a nonexpired drivers li-  
4 cense or identification card issued by a  
5 State;

6 “(ii) if any beneficial owner exercises  
7 control over the corporation or limited li-  
8 ability company through another legal enti-  
9 ty, such as a corporation, partnership, or  
10 trust, identifies each such legal entity and  
11 each such beneficial owner who will use  
12 that entity to exercise control over the cor-  
13 poration or limited liability company; and

14 “(iii) if the applicant is not a bene-  
15 ficial owner, provides the identification in-  
16 formation described in clause (i) relating  
17 to the applicant.

18 “(B) UPDATED INFORMATION.—For each  
19 corporation or limited liability company formed  
20 under the laws of the State—

21 “(i) the corporation or limited liability  
22 company is required by the State to submit  
23 to the State an updated list of the bene-  
24 ficial owners of the corporation or limited  
25 liability company and the information de-



1           scribed in subparagraph (A) for each such  
2           beneficial owner not later than 60 days  
3           after the date of any change in the bene-  
4           ficial owners of the corporation or limited  
5           liability company;

6           “(ii) in the case of a corporation or  
7           limited liability company formed or ac-  
8           quired by a formation agent and retained  
9           by the formation agent as a beneficial  
10          owner for transfer to another person, the  
11          formation agent is required by the State to  
12          submit to the State an updated list of the  
13          beneficial owners and the information de-  
14          scribed in subparagraph (A) for each such  
15          beneficial owner not later than 10 days  
16          after the date on which the formation  
17          agent transfers the corporation or limited  
18          liability company to another person; and

19          “(iii) the corporation or limited liabil-  
20          ity company is required by the State to  
21          submit to the State an annual filing con-  
22          taining the list of the beneficial owners of  
23          the corporation or limited liability company  
24          and the information described in subpara-  
25          graph (A) for each such beneficial owner.

1           “(C) RETENTION OF INFORMATION.—Ben-  
2           eficial ownership information relating to each  
3           corporation or limited liability company formed  
4           under the laws of the State is required to be  
5           maintained by the State until the end of the 5-  
6           year period beginning on the date that the cor-  
7           poration or limited liability company terminates  
8           under the laws of the State.

9           “(D) INFORMATION REQUESTS.—Bene-  
10          ficial ownership information relating to each  
11          corporation or limited liability company formed  
12          under the laws of the State shall be provided by  
13          the State not later than 30 days after receipt  
14          of—

15                 “(i) a civil, criminal, or administrative  
16                 subpoena or a summons, or an equivalent  
17                 of such a subpoena or summons, from a  
18                 local, State, or Federal agency or a con-  
19                 gressional committee or subcommittee;

20                 “(ii) a written request made by a Fed-  
21                 eral agency on behalf of another country  
22                 under an international treaty, agreement,  
23                 or convention, or an order under section  
24                 3512 of title 18, United States Code, or  
25                 section 1782 of title 28, United States

1 Code, issued in response to a request for  
2 assistance from a foreign country;

3 “(iii) a written request made by the  
4 Financial Crimes Enforcement Network of  
5 the Department of the Treasury; or

6 “(iv) a written request made by a fi-  
7 nancial institution, with the consent of the  
8 customer, for purposes of compliance by  
9 the financial institution with customer due  
10 diligence requirements under subsections  
11 (a)(2) and (h)(2) of section 5318 of title  
12 31, United States Code, which the request-  
13 ing financial institution shall maintain and  
14 safeguard in accordance with all applicable  
15 Federal and State laws related to bank  
16 records, and destroy upon satisfaction of  
17 those due diligence requirements, con-  
18 sistent with all applicable Federal and  
19 State laws related to bank records.

20 “(E) NO BEARER SHARE CORPORA-  
21 TIONS.—A corporation or limited liability com-  
22 pany formed under the laws of the State may  
23 not issue a certificate in bearer form evidencing  
24 either a whole or fractional interest in the cor-  
25 poration or limited liability company.

1           “(2) CERTAIN BENEFICIAL OWNERS.—If an ap-  
2           plicant to form a corporation or limited liability com-  
3           pany or a beneficial owner, officer, director, or simi-  
4           lar agent of a corporation or limited liability com-  
5           pany who is required to provide identification infor-  
6           mation under this section does not have a non-  
7           expired passport issued by the United States or a  
8           nonexpired drivers license or identification card  
9           issued by a State, each application described in  
10          paragraph (1)(A) and each update described in  
11          paragraph (1)(B) shall include a certification by a  
12          formation agent residing in the State that the for-  
13          mation agent—

14                 “(A) has obtained for each such person a  
15                 current residential or business street address  
16                 and a legible and credible copy of the pages of  
17                 a nonexpired passport issued by the government  
18                 of a foreign country bearing a photograph, date  
19                 of birth, and unique identifying information for  
20                 the person;

21                 “(B) has verified the name, address, and  
22                 identity of each such person;

23                 “(C) will provide the information described  
24                 in subparagraph (A) and the proof of  
25                 verification described in subparagraph (B) upon

1 request under the same circumstances as re-  
2 quired for States under paragraph (1)(D); and

3 “(D) will retain the information and proof  
4 of verification under this paragraph in the  
5 State in which the corporation or limited liabil-  
6 ity company is being or has been formed until  
7 the end of the 5-year period beginning on the  
8 date that the corporation or limited liability  
9 company terminates under the laws of the  
10 State.

11 “(3) EXEMPT ENTITIES.—

12 “(A) IN GENERAL.—An incorporation sys-  
13 tem described in paragraph (1) shall require  
14 that an application for an entity described in  
15 clause (i) or (ii) of subsection (d)(2)(B) that is  
16 proposed to be formed under the laws of a  
17 State and that will be exempt from the bene-  
18 ficial ownership disclosure requirements under  
19 this section shall include in the application a  
20 certification by the applicant, or a prospective  
21 officer, director, or similar agent of the entity—

22 “(i) identifying the specific provision  
23 of subsection (d)(2)(B) under which the  
24 entity proposed to be formed would be ex-  
25 empt from the beneficial ownership disclo-

1           sure requirements under paragraphs (1)  
2           and (2);

3           “(ii) stating that the entity proposed  
4           to be formed meets the requirements for  
5           an entity described under such provision of  
6           subsection (d)(2)(B); and

7           “(iii) providing identification informa-  
8           tion for the applicant or prospective offi-  
9           cer, director, or similar agent making the  
10          certification in the same manner as pro-  
11          vided under paragraph (1).

12          “(B) EXISTING ENTITIES.—On and after  
13          the date that is 2 years after the date on which  
14          a State begins requiring beneficial ownership  
15          information in compliance with this section, an  
16          entity formed under the laws of the State be-  
17          fore such effective date shall be considered to  
18          be a corporation or limited liability company for  
19          purposes of this subsection unless an officer, di-  
20          rector, or similar agent of the entity submits to  
21          the State a certification—

22          “(i) identifying the specific provision  
23          of subsection (d)(2)(B) under which the  
24          entity is exempt from the requirements  
25          under paragraphs (1) and (2);

1           “(ii) stating that the entity meets the  
2 requirements for an entity described under  
3 such provision of subsection (d)(2)(B); and

4           “(iii) providing identification informa-  
5 tion for the officer, director, or similar  
6 agent making the certification in the same  
7 manner as provided under paragraph (1).

8           “(C) EXEMPT ENTITIES WITH AN OWNER-  
9 SHIP INTEREST.—As part of the beneficial own-  
10 ership information required under subsection  
11 (a)(1), neither an applicant seeking to form a  
12 corporation or limited liability company nor a  
13 corporation or limited liability company pro-  
14 viding updated information is required to iden-  
15 tify the beneficial owners of any entity that  
16 qualifies as an exempt entity under subsection  
17 (d)(2)(B).

18           “(b) PENALTIES.—

19           “(1) IN GENERAL.—It shall be unlawful for any  
20 person to affect interstate or foreign commerce by  
21 failing to comply with this subpart by—

22           “(A) knowingly providing, or attempting to  
23 provide, false or fraudulent beneficial ownership  
24 information, including a false or fraudulent

1 identifying photograph, to a State or formation  
2 agent;

3 “(B) willfully failing to provide complete or  
4 updated beneficial ownership information to a  
5 State or formation agent;

6 “(C) knowingly disclosing the existence of  
7 a subpoena or summons (or the equivalent of a  
8 subpoena or summons) or a request for bene-  
9 ficial ownership information described in sub-  
10 section (a)(1)(D), except—

11 “(i) to the extent necessary to fulfill  
12 the authorized request; or

13 “(ii) as authorized by the entity that  
14 issued the request described in subsection  
15 (a)(1)(D); or

16 “(D) in the case of a formation agent,  
17 knowingly failing to obtain or maintain credible,  
18 legible, and updated beneficial ownership infor-  
19 mation, including any required identifying pho-  
20 tograph.

21 “(2) CIVIL AND CRIMINAL PENALTIES.—In ad-  
22 dition to any civil or criminal penalty that may be  
23 imposed by a State, any person who violates para-  
24 graph (1)—



1           “(A) shall be liable to the United States  
2           for a civil penalty of not more than \$1,000,000;  
3           and

4           “(B) may be fined under title 18, United  
5           States Code, imprisoned for not more than 3  
6           years, or both.

7           “(c) RULES.—

8           “(1) IN GENERAL.—To carry out this subpart,  
9           the Attorney General of the United States, the Sec-  
10          retary of Homeland Security, and the Secretary of  
11          the Treasury may issue joint guidance or a joint rule  
12          to specify how to verify beneficial ownership or other  
13          identification information provided under this sec-  
14          tion, including under subsection (a)(2).

15          “(2) LIMITATION.—Any guidance or rule issued  
16          under paragraph (1)—

17                 “(A) may explain and clarify the definition  
18                 of the term ‘beneficial owner’; but

19                 “(B) may not amend or alter the definition  
20                 of the term ‘beneficial owner’ through changes  
21                 to the definition directly or through the manner  
22                 of implementation.

23          “(3) NO GUIDANCE.—A failure to issue guid-  
24          ance or a rule under paragraph (1) shall not delay

1 the effective date of the requirements under this  
2 subpart.

3 “(d) DEFINITIONS.—For the purposes of this section:

4 “(1) BENEFICIAL OWNER.—

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraph (B), the term ‘beneficial owner’  
7 means each natural person who, directly or in-  
8 directly—

9 “(i) exercises substantial control over  
10 a corporation or limited liability company  
11 through ownership interests, voting rights,  
12 agreement, or otherwise; or

13 “(ii) has a substantial interest in or  
14 receives substantial economic benefits from  
15 the assets of a corporation or the assets of  
16 a limited liability company.

17 “(B) EXCEPTIONS.—The term ‘beneficial  
18 owner’ shall not include—

19 “(i) a minor child;

20 “(ii) a person acting as a nominee,  
21 intermediary, custodian, or agent on behalf  
22 of another person;

23 “(iii) a person acting solely as an em-  
24 ployee of a corporation or limited liability  
25 company and whose control over or eco-

1            nomic benefits from the corporation or lim-  
2            ited liability company derives solely from  
3            the employment status of the person; or

4            “(iv) a creditor of a corporation or  
5            limited liability company, unless the cred-  
6            itor also meets the requirements of sub-  
7            paragraph (A).

8            “(C) ANTI-ABUSE RULE.—The exceptions  
9            under subparagraph (B) shall not apply if used  
10           for the purpose of evading, circumventing, or  
11           abusing the provisions of subparagraph (A) or  
12           subsection (a).

13           “(2) CORPORATION; LIMITED LIABILITY COM-  
14           PANY.—

15           “(A) IN GENERAL.—Subject to subpara-  
16           graph (B), the terms ‘corporation’ and ‘limited  
17           liability company’—

18           “(i) have the meanings given such  
19           terms under the laws of the applicable  
20           State; and

21           “(ii) include any non-United States  
22           entity eligible for registration or registered  
23           to do business as a corporation or limited  
24           liability company under the laws of the ap-  
25           plicable State.

1           “(B) EXEMPT ENTITIES.—Subject to sub-  
2           section (a)(3), the terms ‘corporation’ and ‘lim-  
3           ited liability company’ do not include an entity  
4           that—

5                   “(i) is—

6                           “(I) a business concern that is an  
7                           issuer of a class of securities reg-  
8                           istered under section 12 of the Securi-  
9                           ties Exchange Act of 1934 (15 U.S.C.  
10                          781) or that is required to file reports  
11                          under section 15(d) of that Act (15  
12                          U.S.C. 78o(d));

13                          “(II) a business concern con-  
14                          stituted or sponsored by a State, a po-  
15                          litical subdivision of a State, under an  
16                          interstate compact between two or  
17                          more States, by a department or  
18                          agency of the United States, under  
19                          the laws of the United States, or by  
20                          an international organization of which  
21                          the United States is a member;

22                          “(III) a depository institution (as  
23                          defined in section 3 of the Federal  
24                          Deposit Insurance Act (12 U.S.C.  
25                          1813));

1           “(IV) a credit union (as defined  
2           in section 101 of the Federal Credit  
3           Union Act (12 U.S.C. 1752));

4           “(V) a bank holding company (as  
5           defined in section 2 of the Bank Hold-  
6           ing Company Act of 1956 (12 U.S.C.  
7           1841));

8           “(VI) a broker or dealer (as de-  
9           fined in section 3 of the Securities  
10          Exchange Act of 1934 (15 U.S.C.  
11          78c)) that is registered under section  
12          15 of the Securities Exchange Act of  
13          1934 (15 U.S.C. 78o);

14          “(VII) an exchange or clearing  
15          agency (as defined in section 3 of the  
16          Securities Exchange Act of 1934 (15  
17          U.S.C. 78c)) that is registered under  
18          section 6 or 17A of the Securities Ex-  
19          change Act of 1934 (15 U.S.C. 78f  
20          and 78q-1);

21          “(VIII) an investment company  
22          (as defined in section 3 of the Invest-  
23          ment Company Act of 1940 (15  
24          U.S.C. 80a-3)) or an investment advi-  
25          sor (as defined in section 202(11) of

1 the Investment Advisors Act of 1940  
2 (15 U.S.C. 80b–2(11))), if the com-  
3 pany or adviser is registered with the  
4 Securities and Exchange Commission,  
5 or has filed an application for reg-  
6 istration which has not been denied,  
7 under the Investment Company Act of  
8 1940 (15 U.S.C. 80a–1 et seq.) or the  
9 Investment Advisor Act of 1940 (15  
10 U.S.C. 80b–1 et seq.);

11 “(IX) an insurance company (as  
12 defined in section 2 of the Investment  
13 Company Act of 1940 (15 U.S.C.  
14 80a–2)) which is formed under the  
15 laws of and regulated by a State;

16 “(X) a registered entity (as de-  
17 fined in section 1a of the Commodity  
18 Exchange Act (7 U.S.C. 1a)), or a fu-  
19 tures commission merchant, intro-  
20 ducing broker, commodity pool oper-  
21 ator, or commodity trading advisor  
22 (as defined in section 1a of the Com-  
23modity Exchange Act (7 U.S.C. 1a))  
24 that is registered with the Commodity  
25 Futures Trading Commission;

1 “(XI) a public accounting firm  
2 registered in accordance with section  
3 102 of the Sarbanes-Oxley Act (15  
4 U.S.C. 7212);

5 “(XII) a public utility that pro-  
6 vides telecommunications service, elec-  
7 trical power, natural gas, or water  
8 and sewer services within the United  
9 States;

10 “(XIII) a religious institution or  
11 nonprofit entity that is described in  
12 section 501(c)(3) or 527 of the Inter-  
13 nal Revenue Code of 1986;

14 “(XIV) any business concern  
15 that—

16 “(aa) employs more than 20  
17 employees on a full-time basis in  
18 the United States;

19 “(bb) files income tax re-  
20 turns in the United States dem-  
21 onstrating more than \$5,000,000  
22 in gross receipts or sales;

23 “(cc) has an operating pres-  
24 ence at a physical location within  
25 the United States; and

1                   “(dd) has more than 100  
2                   shareholders; or

3                   “(XV) any corporation or limited  
4                   liability company which is owned, in  
5                   whole or in substantial part, by an en-  
6                   tity described in subclause (I), (II),  
7                   (III), (IV), (V), (VI), (VII), (VIII),  
8                   (IX), (X), (XI), (XII), (XIII), or  
9                   (XIV); or

10                  “(ii) is within any class of business  
11                  concerns which the Attorney General of the  
12                  United States, the Secretary of Homeland  
13                  Security, and the Secretary of the Treas-  
14                  ury jointly determine in writing, upon the  
15                  request of a State, and through an order,  
16                  guidance, or rule should be exempt from  
17                  the requirements of subsection (a), because  
18                  requiring beneficial ownership information  
19                  from the business concern would not serve  
20                  the public interest and would not assist  
21                  law enforcement efforts to detect, prevent,  
22                  or punish criminal or civil misconduct.

23                  “(3) FORMATION AGENT.—The term ‘formation  
24                  agent’ means a person who, for compensation, acts  
25                  on behalf of another person to form, or assist in the



1 formation, of a corporation or limited liability com-  
2 pany under the laws of a State.”.

3 (b) FUNDING AUTHORIZATION.—

4 (1) IN GENERAL.—To carry out section 531 of  
5 title I of the Omnibus Crime Control and Safe  
6 Streets Act of 1968, as added by this Act, and to  
7 protect the United States against the misuse affect-  
8 ing interstate or foreign commerce of corporations or  
9 limited liability companies with hidden owners, dur-  
10 ing the 3-year period beginning on the date of enact-  
11 ment of this Act, funds shall be made available to  
12 each State (as that term is defined under section  
13 901(a)(2) of the Omnibus Crime Control and Safe  
14 Streets Act of 1968 (42 U.S.C. 3791(a)(2))), to pay  
15 reasonable costs to comply with the requirements of  
16 such section 531 from one or more of the following  
17 sources:

18 (A) Upon written request by a State, and  
19 without further appropriation, the Attorney  
20 General of the United States shall make avail-  
21 able or transfer to the State funds from excess  
22 unobligated balances (as defined in section  
23 524(c)(8)(D) of title 28, United States Code) in  
24 the Department of Justice Assets Forfeiture

1 Fund established under section 524(c) of title  
2 28, United States Code.

3 (B) Upon written request by a State, after  
4 consultation with the Attorney General of the  
5 United States, and without further appropria-  
6 tion, the Secretary of the Treasury shall make  
7 available or transfer to the State funds from  
8 unobligated balances described in section  
9 9705(g)(4)(B) of title 31, United States Code,  
10 in the Department of the Treasury Forfeiture  
11 Fund.

12 (2) ELIGIBLE COSTS.—The Attorney General  
13 and Secretary of the Treasury, in their sole discre-  
14 tion, shall determine what costs are reasonable for  
15 purposes of paragraph (1), taking into account the  
16 maximum amount of funds available for distribution  
17 to States under paragraph (3).

18 (3) MAXIMUM AMOUNTS.—

19 (A) DEPARTMENT OF JUSTICE.—The At-  
20 torney General of the United States may not  
21 make available to States a total of more than  
22 \$10,000,000 under paragraph (1)(A).

23 (B) DEPARTMENT OF THE TREASURY.—  
24 The Secretary of the Treasury may not make

1           available to States a total of more than  
2           \$30,000,000 under paragraph (1)(B).

3           (4) FUNDING AVAILABILITY.—The amounts  
4           available to be provided to, and any amounts pro-  
5           vided to, a State under paragraph (1) shall be ex-  
6           empt from, and shall not be reduced under, any  
7           order under section 251A of the Balanced Budget  
8           and Emergency Deficit Control Act of 1985 (2  
9           U.S.C. 901a).

10          (c) STATE COMPLIANCE REPORT.—Nothing in this  
11 Act or an amendment made by this Act authorizes the  
12 Attorney General of the United States to withhold from  
13 a State any funding otherwise available to the State under  
14 subpart 1 of part E of title I of the Omnibus Crime Con-  
15 trol and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.)  
16 because of a failure by that State to comply with subpart  
17 4 of part E of title I of the Omnibus Crime Control and  
18 Safe Streets Act of 1968, as added by this Act. Not later  
19 than 42 months after the date of enactment of this Act,  
20 the Comptroller General of the United States shall submit  
21 to the Committee on the Judiciary of the Senate and the  
22 Committee on the Judiciary of the House of Representa-  
23 tives a report identifying which States are in compliance  
24 with subpart 4 of part E of title I of the Omnibus Crime  
25 Control and Safe Streets Act of 1968 and, for any State

1 not in compliance, what measures must be taken by that  
2 State to achieve compliance with such subpart 4.

3 (d) EFFECT ON STATE LAW.—

4 (1) IN GENERAL.—This Act and the amend-  
5 ments made by this Act do not supersede, alter, or  
6 affect any statute, regulation, order, or interpreta-  
7 tion in effect in any State, except where a State has  
8 elected to receive funding from the Department of  
9 Justice under subpart 1 of part E of title I of the  
10 Omnibus Crime Control and Safe Streets Act of  
11 1968 (42 U.S.C. 3750 et seq.), and then only to the  
12 extent that such State statute, regulation, order, or  
13 interpretation is inconsistent with this Act or an  
14 amendment made by this Act.

15 (2) NOT INCONSISTENT.—A State statute, reg-  
16 ulation, order, or interpretation is not inconsistent  
17 with this Act or an amendment made by this Act if  
18 such statute, regulation, order, or interpretation—

19 (A) requires additional information, more  
20 frequently updated information, or additional  
21 measures to verify information related to a cor-  
22 poration, limited liability company, or beneficial  
23 owner, than is specified under this Act or an  
24 amendment made by this Act; or

1 (B) imposes additional limits on public ac-  
2 cess to the beneficial ownership information ob-  
3 tained by the State than is specified under this  
4 Act or an amendment made by this Act.

5 (3) STATE RECORDS.—Nothing in this Act or  
6 the amendments made by this Act limits the author-  
7 ity of a State, by statute or otherwise, to disclose or  
8 to not disclose to the public all or any portion of the  
9 beneficial ownership information provided to the  
10 State under subpart 4 of part E of title I of the Om-  
11 nibus Crime Control and Safe Streets Act of 1968,  
12 as added by this Act.

13 (4) NO DUTY OF VERIFICATION.—This Act and  
14 the amendments made by this Act do not impose  
15 any obligation on a State to verify the name, ad-  
16 dress, or identity of a beneficial owner whose infor-  
17 mation is submitted to such State under subpart 4  
18 of part E of title I of the Omnibus Crime Control  
19 and Safe Streets Act of 1968, as added by this Act.

20 (e) FEDERAL CONTRACTORS.—Not later than the  
21 first day of the first full fiscal year beginning at least 1  
22 year after the date of enactment of this Act, the Adminis-  
23 trator for Federal Procurement Policy shall revise the  
24 Federal Acquisition Regulation maintained under section  
25 1303(a)(1) of title 41, United States Code, to require any

1 bidder who is subject to the requirement to disclose bene-  
 2 ficial ownership information under subpart 4 of part E  
 3 of title I of the Omnibus Crime Control and Safe Streets  
 4 Act of 1968, as added by this Act, to provide the informa-  
 5 tion required to be disclosed under such subpart 4 to the  
 6 Federal Government, or why it is exempt under section  
 7 531(d)(2)(B) of title I of the Omnibus Crime Control and  
 8 Safe Streets Act of 1968, as added by this Act, as part  
 9 of any bid or proposal for a contract.

10 **SEC. 4. ANTI-MONEY LAUNDERING AND ANTI-TERRORIST**  
 11 **FINANCING OBLIGATIONS OF FORMATION**  
 12 **AGENTS.**

13 (a) ANTI-MONEY LAUNDERING AND ANTI-TER-  
 14 RORIST FINANCING OBLIGATIONS OF FORMATION  
 15 AGENTS.—Section 5312(a)(2) of title 31, United States  
 16 Code, is amended—

17 (1) in subparagraph (Y), by striking “or” at  
 18 the end;

19 (2) by redesignating subparagraph (Z) as sub-  
 20 paragraph (AA); and

21 (3) by inserting after subparagraph (Y) the fol-  
 22 lowing:

23 “(Z) any person engaged in the business of  
 24 forming corporations or limited liability compa-  
 25 nies; or”.

1 (b) DEADLINE FOR IMPLEMENTING RULE FOR FOR-  
2 MATION AGENTS.—

3 (1) PROPOSED RULE.—Not later than 120 days  
4 after the date of enactment of this Act, the Sec-  
5 retary of the Treasury, in consultation with the Sec-  
6 retary of Homeland Security and the Attorney Gen-  
7 eral of the United States, shall publish a proposed  
8 rule in the Federal Register requiring persons de-  
9 scribed in section 5312(a)(2)(Z) of title 31, United  
10 States Code, as amended by this section, to establish  
11 anti-money laundering programs under subsection  
12 (h) of section 5318 of that title.

13 (2) FINAL RULE.—Not later than 270 days  
14 after the date of enactment of this Act, the Sec-  
15 retary of the Treasury shall publish the rule de-  
16 scribed in this subsection in final form in the Fed-  
17 eral Register.

18 (3) EXCLUSIONS.—Any rule promulgated under  
19 this subsection shall exclude from the category of  
20 persons engaged in the business of forming a cor-  
21 poration or limited liability company—

22 (A) any government agency; and

23 (B) any attorney or law firm that uses a  
24 paid formation agent operating within the

1 United States to form the corporation or lim-  
2 ited liability company.

3 **SEC. 5. STUDIES AND REPORTS.**

4 (a) OTHER LEGAL ENTITIES.—Not later than 2  
5 years after the date of enactment of this Act, the Comp-  
6 troller General of the United States shall conduct a study  
7 and submit to the Committee on the Judiciary of the Sen-  
8 ate and the Committee on the Judiciary of the House of  
9 Representatives a report—

10 (1) identifying each State that has procedures  
11 that enable persons to form or register under the  
12 laws of the State partnerships, trusts, charitable or-  
13 ganizations, or other legal entities, and the nature of  
14 those procedures;

15 (2) identifying each State that requires persons  
16 seeking to form or register partnerships, trusts,  
17 charitable organizations, or other legal entities under  
18 the laws of the State to provide information about  
19 the beneficial owners (as that term is defined in sec-  
20 tion 531 of title I of the Omnibus Crime Control  
21 and Safe Streets Act of 1968, as added by this Act)  
22 or beneficiaries of such entities, and the nature of  
23 the required information;

24 (3) evaluating whether the lack of available  
25 beneficial ownership information for partnerships,



1 trusts, charitable organizations, or other legal enti-  
2 ties—

3 (A) raises concerns about the involvement  
4 of such entities in terrorism, money laundering,  
5 tax evasion, securities fraud, trafficking in illicit  
6 drugs, or other criminal or civil misconduct;  
7 and

8 (B) has impeded investigations into enti-  
9 ties suspected of such misconduct; and

10 (4) evaluating whether the failure of the United  
11 States to require beneficial ownership information  
12 for partnerships, trusts, charitable organizations, or  
13 other legal entities formed or registered in the  
14 United States has elicited international criticism and  
15 what steps, if any, the United States has taken or  
16 is planning to take in response.

17 (b) EFFECTIVENESS OF INCORPORATION PRAC-  
18 TICES.—Not later than 5 years after the date of enact-  
19 ment of this Act, the Comptroller General of the United  
20 States shall conduct a study and submit to the Committee  
21 on the Judiciary of the Senate and the Committee on the  
22 Judiciary of the House of Representatives a report assess-  
23 ing the effectiveness of incorporation practices imple-  
24 mented under this Act and the amendments made by this  
25 Act in—

1           (1) providing law enforcement agencies with  
2 prompt access to reliable, useful, and complete bene-  
3 ficial ownership information; and

4           (2) strengthening the capability of law enforce-  
5 ment agencies to combat incorporation abuses and  
6 other civil and criminal misconduct.

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