

SENIOR SAFE ACT OF 2017

NOVEMBER 28, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 3758]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3758) to provide immunity from suit for certain individuals who disclose potential examples of financial exploitation of senior citizens, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

On September 12, 2017, Representatives Kyrsten Sinema and Bruce Poliquin introduced H.R. 3758, the “Senior Safe Act of 2017”, which provides that: (1) a supervisor, compliance officer, or legal advisor for a covered financial institution who has received training regarding the identification and reporting of the suspected exploitation of a senior citizen (at least 65 years old) shall not be liable for disclosing such exploitation to a covered agency if the individual made the disclosure in good faith and with reasonable care; and (2) a covered financial institution shall not be liable for such a disclosure by such an individual if the individual was employed by the institution at the time of the disclosure and the institution had provided such training.

BACKGROUND AND NEED FOR LEGISLATION

The goal of H.R. 3758 is to protect seniors from financial exploitation. According to a study conducted by MetLife, seniors lose at least \$2.9 billion annually in reported cases of financial exploitation. It also has been estimated that one in five seniors, age 65 and older, have been the victim of financial fraud. However, despite

the prevalence of senior financial fraud, the National Adult Protective Services Association estimated that only 1 in 44 cases of financial abuse is ever reported.

H.R. 3758 protects banks, credit unions, investment advisers, broker-dealers and their employees from civil or administrative liability, as long as employees receive training on how to identify and report predatory activity against seniors and that reports are made “in good faith” and “with reasonable care.” Current bank privacy laws make it difficult for these entities listed above to report any potentially fraudulent activity without incurring legal liability, and as a result, few cases of financial abuse are reported. H.R. 3758 is based on Maine’s Senior Safe program, an initiative launched in 2014 that is designed to train financial professionals to detect and report senior financial abuse.

HEARINGS

The Committee on Financial Services held a hearing examining matters relating to H.R. 3758 on April 26, 2017, April 28, 2017, September 7, 2017, and March 22, 2017.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on October 11, 2017, and October 12, 2017, and ordered H.R. 3758 to be reported favorably to the House without amendment by a recorded vote of 60 yeas to 0 nays (Record vote no. FC-93), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 60 yeas to 0 nays (Record vote no. FC-93), a quorum being present.

Record vote no. FC-93

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)	X		
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY) ..	X		
Mr. King	X			Ms. Velázquez	X		
Mr. Royce (CA)	X			Mr. Sherman	X		
Mr. Lucas	X			Mr. Meeks	X		
Mr. Pearce	X			Mr. Capuano	X		
Mr. Posey	X			Mr. Clay	X		
Mr. Luetkemeyer	X			Mr. Lynch	X		
Mr. Huizenga	X			Mr. David Scott (GA)	X		
Mr. Duffy	X			Mr. Al Green (TX)	X		
Mr. Stivers	X			Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore	X		
Mr. Ross	X			Mr. Ellison	X		
Mr. Pittenger	X			Mr. Perlmutter	X		
Mrs. Wagner	X			Mr. Himes	X		
Mr. Barr	X			Mr. Foster	X		
Mr. Rothfus	X			Mr. Kildee	X		
Mr. Messer	X			Mr. Delaney	X		
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty	X		
Mr. Poliquin	X			Mr. Heck	X		
Mrs. Love	X			Mr. Vargas	X		
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)	X		
Mr. Zeldin	X			Mr. Crist	X		
Mr. Trott	X			Mr. Kihuen	X		
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 3758 will reduce financial fraud against seniors by providing that certain employees of a covered financial institution that receive training, and financial institutions that provide training regarding the identification and reporting of the suspected exploitation of a senior citizen, would not be liable for disclosing such exploitation to a covered agency, provided that the individual made the disclosure in good faith and with reasonable care.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 30, 2017.

Hon. JEB HENSARLING,
Chairman Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3758, the Senior Safe Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 3758—Senior Safe Act of 2017

H.R. 3758 would exempt financial institutions and some of their employees from liability in any civil or administrative proceeding in situations where those employees make a report about the po-

tential exploitation of a senior citizen to a governmental agency. Based on information from the federal banking regulators, CBO concludes that the bill would not change their policies towards such reporting. Accordingly, CBO estimates that enacting the bill would have no effect on the federal budget.

Enacting H.R. 3758 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 3758 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3758 would impose an intergovernmental mandate as defined in the Unfunded Mandate Reform Act (UMRA) by preempting state laws that provide a lower level of liability protection for certain financial institutions and their employees than would be provided under the bill. The bill would exempt from liability financial institutions and employees of those institutions that have received training on the financial exploitation of senior citizens and have filed reports of such exploitation to an appropriate government authority. Although the preemption would limit the application of state laws and regulations, CBO estimates that the bill would impose no duty on state, local, or tribal governments that would result in additional spending or a loss of revenues.

H.R. 3758 also would impose a private-sector mandate by removing a private right of action. The bill would eliminate the right of plaintiffs to file a civil action against some financial institutions and employees of such institutions for disclosing information about the potential exploitation of a senior citizen in compliance with the bill. Similar to the intergovernmental mandate, the scope of the private-sector mandate is narrow, applying liability protection to only those employees that have received training and filed reports as outlined in the bill. The protection is similarly narrow for financial institutions. The cost of the mandate would be the forgone net value of awards and settlements that would have been awarded for such claims in the absence of the bill. Therefore, CBO estimates that the cost of the mandate in any one year would fall below the annual threshold for private-sector mandates established in UMRA (\$156 million in 2017, adjusted annually for inflation).

The CBO staff contacts for this estimate are Sarah Puro (for federal costs) and Rachel Austin (for intergovernmental and private-sector mandates). The estimate was approved H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires no directed rulemakings within the meaning of such section.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Section cites H.R. 3758 as the “Senior Safe Act of 2017”

Section 2. Immunity

This section sets various forth definitions, including for the terms “covered financial institution”—which means: (a) a credit union; (b) a bank; (c) an investment adviser; (d) a broker-dealer; (e) an insurance company; (f) an insurance agency; and (g) a transfer agent—and “covered agency.”

This section also sets forth that individuals who receive training are not liable for any civil or administrative proceeding if they disclose the exploitation of a senior citizen to a covered agency with reasonable care. In addition, covered financial institutions that provide training to employees are not liable for any civil or administrative proceeding arising from the individual’s disclosure.

Section 3. Training

This section outlines the training that is required for employees or financial institutions that interact with senior citizens. The training shall be maintained by the covered financial institution, shall instruct individuals how to identify suspected exploitation of

a senior citizen, shall instruct individuals how to respect the privacy of customers, and shall be appropriate to the individual in the training. The training shall be provided no later than 1 year after employment.

Section 4. Relationship to State Law

This section states that this Act shall be construed to preempt or limit any provision within state law, except in the case of State Law providing a greater level of protection.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 3758 does not repeal or amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report contemplated by clause 3(e)(1)(B) of rule XIII of the House of Representatives.

