

[DISCUSSION DRAFT]

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To prohibit the use of certain concentration limit exceptions applicable to mergers involving a failed bank if there are other qualifying bids, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LYNCH introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

**A BILL**

To prohibit the use of certain concentration limit exceptions applicable to mergers involving a failed bank if there are other qualifying bids, 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 “Failing Bank Acquisi-  
5 tion Fairness Act”.

1 **SEC. 2. CONCENTRATION LIMIT EXCEPTIONS ONLY AVAIL-**  
2 **ABLE WHEN NO OTHER QUALIFYING BIDS.**

3 (a) NATIONWIDE CONCENTRATION LIMIT WITH RE-  
4 SPECT TO DEPOSITS.—Section 44(e) of the Federal De-  
5 posit Insurance Act (12 U.S.C. 1831u(e)) is amended by  
6 adding at the end the following: “Notwithstanding the pre-  
7 vious sentence, if the responsible agency receives more  
8 than one application under subsection (a)(1) for approval  
9 of a merger transaction involving the acquisition of the  
10 same bank in default or in danger of default or with re-  
11 spect to which the Corporation provides assistance under  
12 section 13(c), the responsible agency may only approve  
13 such an application without regard to subsection (b)(2)(A)  
14 if none of the other applications can be approved in com-  
15 pliance with subsection (b)(2)(A).”.

16 (b) CONCENTRATION LIMIT WITH RESPECT TO CON-  
17 SOLIDATED LIABILITIES.—Section 14(c) of the Bank  
18 Holding Company Act of 1956 (12 U.S.C. 1852(c)) is  
19 amended—

20 (1) by redesignating paragraphs (1), (2), and  
21 (3) as subparagraphs (A), (B), and (C) (and adjust-  
22 ing the margins accordingly);

23 (2) by striking “With the” and inserting the  
24 following:

25 “(1) IN GENERAL.—With the”; and

26 (3) by adding at the end the following:

1           “(2) LIMITATION.—If the Board receives more  
2           than one application for an acquisition of a bank in  
3           default or in danger of default or with respect to  
4           which the Federal Deposit Insurance Corporation  
5           provides assistance under section 13(c) of the Fed-  
6           eral Deposit Insurance Act, the Board may only give  
7           consent under paragraph (1) to waive the concentra-  
8           tion limit if none of the other applications can be ap-  
9           proved without such consent.”.