

**AMENDMENT TO THE SENATE AMENDMENTS TO
H.R. 22
OFFERED BY MR. SCHWEIKERT OF ARIZONA**

Amend division I to read as follows:

1 **DIVISION I—RE-CHARTERING**
2 **THE EXPORT-IMPORT BANK**

3 **SEC. 90001. SHORT TITLE.**

4 This division may be cited as the “Re-Chartering the
5 Export-Import Bank Act of 2015”.

6 **SEC. 90002. RE-CHARTERING.**

7 (a) RE-CHARTERING.—Not later than the end of the
8 60-day period beginning on the date of enactment of this
9 Act, the Secretary of the Treasury shall re-charter the Ex-
10 port-Import Bank of the United States (hereinafter re-
11 ferred to as the “Bank”) as a national banking association
12 incorporated in the District of Columbia.

13 (b) PRIVATIZATION.—

14 (1) IN GENERAL.—As soon as practicable after
15 the re-chartering date and the completion of the ini-
16 tial audits required under section 90004(d), the Sec-
17 retary shall privatize the Bank through the sale of
18 equity stock in the Bank.

1 (2) LIMITATION ON OWNERSHIP.—If the Sec-
2 retary privatizes the Bank through a public offering,
3 no person may, directly or indirectly, acquire or hold
4 securities representing more than 10 percent of the
5 total voting power of all outstanding securities of the
6 Bank before the end of such public offering.

7 (c) TRANSFER OF FUNDS.—Upon the re-chartering
8 date, the personnel, property, assets, liabilities, contracts,
9 property, records, and unexpended balance of appropria-
10 tions, authorizations, allocations, and other funds em-
11 ployed, held, used, arising from, available to, or to be
12 made available to, the Export-Import Bank of the United
13 States shall be transferred to the re-chartered Bank and
14 available for use without fiscal year limitation.

15 (d) CONSULTATION.—In carrying out this section,
16 the Secretary of the Treasury shall consult with the Comp-
17 troller of the Currency and such other Federal depart-
18 ments or agencies as the Secretary determines appro-
19 priate.

20 **SEC. 90003. BANK BOARD.**

21 (a) BOARD OF DIRECTORS.—There shall be a Board
22 of Directors of the Bank, whose members shall—

23 (1) be United States citizens;

24 (2) except for the initial Board, be elected by
25 shareholders by a majority vote; and

1 (3) serve on the board for a term of 5 years.

2 (b) **AUTHORITY OF THE BOARD.**—The Board shall
3 be responsible for the general management of the Bank
4 and shall have the same authority, privileges, and respon-
5 sibilities as the board of directors of a private corporation
6 incorporated in the District of Columbia.

7 (c) **APPOINTMENT OF FIRST TWO BOARDS.**—

8 (1) **INITIAL BOARD.**—The Secretary of the
9 Treasury shall appoint the initial Board of the Bank
10 upon the re-chartering date.

11 (2) **SECOND BOARD.**—As soon as practicable
12 after the completion of the privatization of the
13 Bank, the second Board of Governors shall be elect-
14 ed by shareholders by a majority vote.

15 **SEC. 90004. AUDITS OF THE BANK; REPORTS.**

16 (a) **INDEPENDENT AUDITS.**—The Bank shall—

17 (1) prepare the financial statements of the
18 Bank in accordance with generally accepted account-
19 ing principles; and

20 (2) have such statements audited annually by
21 an independent certified public accountant, in ac-
22 cordance with generally accepted auditing standards.

23 (b) **GAO AUDITS.**—

24 (1) **IN GENERAL.**—The Comptroller General of
25 the United States may audit the financial state-

1 ments of the Bank and may review any independent
2 audit prepared under subsection (a).

3 (2) AVAILABILITY OF INFORMATION.—All
4 Books, accounts, financial records, reports, files, pa-
5 pers and other property belonging to or in use by
6 the Bank and its independent auditor that the
7 Comptroller General considers necessary to the per-
8 formance of any audit or review under this sub-
9 section shall be made available to the Comptroller
10 General.

11 (3) REIMBURSEMENT.—The Bank shall reim-
12 burse the Comptroller General for the cost of audit-
13 ing any financial statement under paragraph (1), as
14 such cost is determined by the Comptroller General.

15 (c) ANNUAL REPORT.—Not later than the end of the
16 150-day period following the end of each fiscal year of the
17 Bank, the Bank shall issue a report to the President and
18 the Congress containing—

19 (1) a description of the financial position of the
20 Bank at the end of such fiscal year;

21 (2) a general description of the Bank's oper-
22 ations;

23 (3) a summary of the Bank's operating and fi-
24 nancial performance;

1 (4) whether or not the Bank paid dividends
2 during such fiscal year;

3 (5) copies of the independent audit reports pre-
4 pared under subsection (a);

5 (6) information that an issuer is required to re-
6 port under section 13 of the Securities Exchange
7 Act of 1934 (15 U.S.C. 78m(a)), regardless of
8 whether the Bank would otherwise be required to re-
9 port such information; and

10 (7) an identification and assessment of any im-
11 pairment of capital or the ability of the Bank to
12 comply with the requirements of this Act or any
13 other laws or regulations.

14 (d) INITIAL AUDITS.—The initial independent audit
15 under subsection (a) and Comptroller General audit under
16 subsection (b) shall commence as soon as practicable after
17 the date of the enactment of this Act.

18 (e) TERMINATION OF REQUIREMENTS.—This section
19 shall cease to have any force or effect after the date on
20 which the Bank no longer has any outstanding loan or
21 loan guarantee of the Bank that is backed by the full faith
22 and credit of the United States.

23 **SEC. 90005. TRANSITION PROVISIONS.**

24 (a) FEDERAL GUARANTEE.—

1 (1) END OF AUTHORITY.—On and after the
2 date of the enactment of this Act, neither the Ex-
3 port-Import Bank of the United States nor the re-
4 chartered Bank may make any loan or loan guar-
5 antee backed by the full faith and credit of the
6 United States.

7 (2) TREATMENT OF CERTAIN PAYMENTS.—

8 (A) PAYMENTS RECEIVED AFTER THE
9 FIRST 4 YEARS.—Any payment to the Bank re-
10 ceived after the end of the 4-year period begin-
11 ning on the re-chartering date with respect to
12 a loan or loan guarantee backed by the full
13 faith and credit of the United States shall be
14 promptly paid to the Secretary of the Treasury
15 for deposit in the general fund.

16 (B) REPAYMENT OF AMOUNTS RECEIVED
17 DURING THE FIRST 4 YEARS.—Not later than
18 the end of the 10-year period beginning on the
19 re-chartering date, the Bank shall pay to Sec-
20 retary of the Treasury, for deposit in the gen-
21 eral fund, an amount equal to all payments re-
22 ceived by the Bank during the 4-year period be-
23 ginning on the re-chartering date with respect
24 to a loan or loan guarantee backed by the full
25 faith and credit of the United States.

1 (b) BOARD PREPARATION.—Upon the date of the en-
2 actment of this Act, the Board of Directors of the Export-
3 Import Bank of the United States shall begin preparation
4 for the transition to the initial Board of Directors of the
5 re-chartered Bank.

6 (c) TREATMENT OF INDIVIDUALS EMPLOYED PRIOR
7 TO RE-CHARTERING.—With respect to individuals em-
8 ployed by the Export-Import Bank of the United States
9 before the re-chartering date—

10 (1) the compensation, benefits, and other terms
11 and conditions of employment in effect for such indi-
12 viduals immediately prior to the re-charting date
13 shall continue to apply to officers and employees of
14 the Bank unless changed by the Board of Directors;

15 (2) any existing collective bargaining agreement
16 in place on the re-chartering date shall continue in
17 effect; and

18 (3) such individuals shall transfer to a new re-
19 tirement system put in place by the Bank.

20 **SEC. 90006. CONFORMING AMENDMENTS.**

21 Effective as of the re-chartering date, the Export-Im-
22 port Bank Act of 1945 (12 U.S.C. 635 et seq.) is amend-
23 ed—

24 (1) in section 2—

25 (A) in subsection (a)—

1 (i) in paragraph (1)—

2 (I) by striking “The Bank shall
3 be entitled to the use of the United
4 States mails in the same manner and
5 upon the same conditions as the execu-
6 tive departments of the Government.
7 The Bank is authorized to publish or
8 arrange for the publications of any
9 documents, reports, contracts, or
10 other material necessary in connection
11 with or in furtherance of its objects
12 and purposes without regard to the
13 provisions of section 501 of title 44,
14 United States Code, whenever the
15 Bank determines that publication in
16 accordance with the provisions of such
17 section would not be practicable. Sub-
18 ject to regulations which the Bank
19 shall issue pursuant to section 553 of
20 title 5, United States Code, the Bank
21 may impose and collect reasonable
22 fees to cover the costs of conferences
23 and seminars sponsored by, and publi-
24 cations provided by, the Bank, and
25 may accept reimbursement for travel

1 and subsistence expenses incurred by
2 a director, officer, or employee of the
3 Bank, in accordance with subchapter
4 I of chapter 57 of title 5, United
5 States Code. Amounts received under
6 the preceding sentence shall be cred-
7 ited to the fund which initially paid
8 for such activities and shall be offset
9 against the expenses of the Bank for
10 such activities.”; and

11 (II) by striking “Net earnings of
12 the Bank after reasonable provision
13 for possible losses shall be used for
14 payment of dividends on capital stock.
15 Any such dividends shall be deposited
16 into the Treasury as miscellaneous re-
17 ceipts.”;

18 (ii) in paragraph (2), by amending
19 subparagraph (A) to read as follows:

20 “(A) provides medium-term financing
21 where necessary to be fully competitive in
22 amounts up to 85 percent of the total cost of
23 the exports involved; and”;

24 (iii) by striking paragraph (3);

25 (B) in subsection (b)—

- 1 (i) in paragraph (1)—
- 2 (I) in subparagraph (B)—
- 3 (aa) by striking “It is also
- 4 the policy of the United States
- 5 that the Bank in the exercise of
- 6 its functions should supplement
- 7 and encourage, and not compete
- 8 with, private capital; that the
- 9 Bank, in determining whether to
- 10 provide support for a transaction
- 11 under the loan, guarantee, or in-
- 12 surance program, or any com-
- 13 bination thereof, shall consider
- 14 the need to involve private capital
- 15 in support of United States ex-
- 16 ports as well as the cost of the
- 17 transaction as calculated in ac-
- 18 cordance with the requirements
- 19 of the Federal Credit Reform Act
- 20 of 1990; that the” and inserting
- 21 “The”; and
- 22 (bb) by striking “Only in
- 23 cases where the President, after
- 24 consultation with the Committee
- 25 on Financial Services of the

1 House of Representatives and the
2 Committee on Banking, Housing,
3 and Urban Affairs of the Senate,
4 determines that such action
5 would be in the national interest
6 where such action would clearly
7 and importantly advance United
8 States policy in such areas as
9 international terrorism (includ-
10 ing, when relevant, a foreign na-
11 tion's lack of cooperation in ef-
12 forts to eradicate terrorism), nu-
13 clear proliferation, the enforce-
14 ment of the Foreign Corrupt
15 Practices Act of 1977, the Arms
16 Export Control Act, the Inter-
17 national Emergency Economic
18 Powers Act, or the Export Ad-
19 ministration Act of 1979, envi-
20 ronmental protection and human
21 rights (such as are provided in
22 the Universal Declaration of
23 Human Rights adopted by the
24 United Nations General Assem-
25 bly on December 10, 1948) (in-

1 including child labor), should the
2 Export-Import Bank deny appli-
3 cations for credit for nonfinancial
4 or noncommercial considerations.
5 Each such determination shall be
6 delivered in writing to the Presi-
7 dent of the Bank, shall state that
8 the determination is made pursu-
9 ant to this section, and shall
10 specify the applications or cat-
11 egories of applications for credit
12 which should be denied by the
13 Bank in furtherance of the na-
14 tional interest.”; and

15 (II) by striking subparagraphs
16 (C), (D), (E), (G), (H), (I), and (K);

17 (ii) by striking paragraphs (2), (3),
18 (7), (8), (9), (11), (12), and (13); and

19 (iii) in paragraph (6), strike subpara-
20 graphs (A), (H), and (I);

21 (C) in subsection (c)—

22 (i) in paragraph (3), by striking sub-
23 paragraph (B);

24 (D) by striking subsections (d) and (e);

25 and

1 (E) in subsection (h)(2), by amending sub-
2 paragraph (B) to read as follows:

3 “(B) information may be obtained with re-
4 spect to the status of any such application.”;

5 (2) in section 3—

6 (A) by striking subsections (a), (d), (f),
7 (g), (h), (i), and (j);

8 (B) by amending subsection (b) to read as
9 follows:

10 “(b) PRESIDENT AND FIRST VICE PRESIDENT.—
11 There shall be a President of the Bank who shall be ap-
12 pointed by the Board of Directors and with the advice of
13 the majority shareholders, who shall serve as chief execu-
14 tive officer of the bank. There shall be a First Vice Presi-
15 dent of the Bank who shall be appointed by the Board
16 of directors with the advice and consent of the majority
17 shareholders, who shall serve as President of the Bank
18 during absence or disability of or in the event of a vacancy
19 in the office of the President of the Bank, and who shall
20 at other times perform such functions as the President
21 of the Bank may from time to time prescribe.”;

22 (C) in subsection (c)—

23 (i) by striking paragraphs (1), (2),
24 (3), and (10); and

1 (ii) in paragraph (8), by striking sub-
2 paragraphs (A) and (B); and

3 (D) in subsection (e)(2), strike “Adminis-
4 tration” and insert “Bank”;

5 (3) by striking sections 4, 5, 6, 7, 8, 8A, 9, 10,
6 11, 12, and 14;

7 (4) by amending section 13 to read as follows:

8 **“SEC. 13. COOPERATION ON EXPORT FINANCING PRO-
9 GRAMS.**

10 “The Bank shall, subject to appropriate memoranda
11 of understanding, provide complete and current informa-
12 tion on all of its programs and financing practices to State
13 and local export financing organizations that indicate a
14 desire to participate in export promotion.”; and

15 (5) in section 15(a), by striking “If such trans-
16 parency indicates that market windows are
17 disadvantaging United States exporters, the United
18 States should seek negotiations for multilateral dis-
19 ciplines and transparency within the OECD Export
20 Credit Arrangement.”.

21 **SEC. 90007. RE-CHARTERING DATE DEFINED.**

22 For purposes of this division, the term “re-chartering
23 date” means the date on which the Export-Import Bank

1 of the United States is re-chartered pursuant to section
2 90002(a).

