



SAFE HARBOR FOR CANNABIS BANKING

STATUS:

While cannabis use is illegal under federal law, 22 states — along with Washington, D.C., and Guam — have acted to legalize recreational cannabis, and nearly 40 have approved medical use. The SAFE Banking Act would create a “safe harbor” from adverse regulatory actions for banks that serve cannabis-related legitimate businesses (CRLBs) in states in which cannabis is legal. The Senate version of the bill (S. 1323) is sponsored by Sens. Jeff Merkley (D-OR) and Steve Daines (R-MT), and the House version (H.R. 2891) is sponsored by Reps. David Joyce (R-OH) and Ed Blumenauer (D-OR). The SAFE Banking Act passed the House seven separate times with bipartisan support during the last Congress. The Senate version of the bill, which also enjoys strong bipartisan support, stalled due to the efforts of some to incorporate SAFE Banking into broader legislation to liberalize cannabis laws that lacks broad bipartisan support.

ICBA POSITION:

- The conflict between state and federal law has created significant legal and compliance concerns for banks that wish to provide banking services to cannabis-related businesses in jurisdictions with some form of legalized adult-use.
- ICBA supports the SAFE Banking Act, which would create an effective “safe harbor” from federal sanctions for banks that choose to do business with cannabis-related businesses (CRBs) in states where cannabis is legal under state law.



- This safe harbor would extend to banks that serve businesses that may serve CRBs (“ancillary businesses”) such as landlords, accountants, utility providers, and others as ancillary businesses may be paid in funds ultimately derived from cannabis sales.
- The SAFE Banking Act would prohibit federal banking regulators from threatening or limiting a bank’s deposit insurance, downgrading a loan made to a CRB, forcing a depository institution to cease providing banking services to a CRB, or taking any other prejudicial action in a state where cannabis is legal, solely because the customer is a CRB.

MESSAGE FOR YOUR MEMBERS OF CONGRESS

- Enactment of the SAFE Banking Act is necessary as a matter of public safety. Without access to the banking system, CRLBs are forced to operate in cash, which of course creates risk of violent robbery, for employees as well as customers of CRLBs.
- Banks may be unaware that they are serving ancillary businesses or employees of CRLBs. This puts them in technical violation of federal law. It is an unsustainable situation that can only be remedied with a safe harbor.
- The SAFE Banking Act has strong bipartisan support and should be passed without delay.