



NASS

National Association
of Secretaries of State

S. 569: Incorporation Transparency and Law Enforcement Assistance Act

This bill was introduced by Senator Levin (MI) on March 11, 2009 and has been referred to the Senate Committee on Homeland Security and Government Affairs.

Summary of S. 569:

Beginning with the fiscal year 2012, each State that receives funding from the US Department of Homeland Security must use an incorporation system that meets the following requirements:

- Each applicant to form a LLC or corporation must provide a list of each beneficial owner. The list must also identify any legal entity (corporation, trust, partnership) that a beneficial owner will use to exercise control over the LLC or corporation.
- Defines “beneficial owner” as an individual who has a level of control over, or entitlement to, the funds or assets of a corporation or limited liability company that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the corporation or limited liability company.
- Each corporation or LLC must update the list of beneficial owners in an annual filing, or if no annual filing is required in the state, each time there is a change in beneficial ownership
- Beneficial ownership information must be maintained by the state for 5 years
- The state must provide beneficial ownership information on each LLC or corporation in response to a civil or criminal subpoena or written request from a Federal agency on behalf of a foreign country.
- If any beneficial owner is not a U.S. citizen or resident of the U.S., each application must include written certification by a formation agent in the U.S. that the agent has verified the beneficial owner’s name, address, and identity, and has obtained a copy of the beneficial owner’s passport photo.
- Any person who provides false beneficial ownership information to a state is subject to civil and criminal penalties

No later than June 1, 2013, the Comptroller General of the U.S. must prepare a report identifying which states are in compliance with the requirements of the bill, and for those that are not compliant, what measures must be taken by the state to achieve compliance

One year after the date of enactment of the Act, the Comptroller must prepare a report identifying:

- procedures in each state for registering as a partnership, trust, or other legal entity;
- whether or not these procedures require the submission of beneficial owner information;
- whether the lack of procedures requiring this information raises concerns about terrorism, money laundering, tax evasion, etc., and;
- whether the failure of the US to require beneficial ownership information for partnerships and trusts has elicited international criticism

Summary as of March 12, 2009 prepared by NASS staff

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