

SUMMARY OF INCORPORATION TRANSPARENCY
AND LAW ENFORCEMENT ASSISTANCE ACT
May 1, 2008

To protect the United States from U.S. corporations being misused to commit terrorism, money laundering, tax evasion, or other misconduct, the Incorporation Transparency and Law Enforcement Assistance Act would:

Beneficial Ownership Information. Require the States to obtain a list of the beneficial owners of each corporation or limited liability company (LLC) formed under their laws, ensure this information is updated annually, and provide the information to civil or criminal law enforcement upon receipt of a subpoena or summons.

Non-U.S. Beneficial Owners. Require corporations and LLCs with non-U.S. beneficial owners to provide a certification from an in-state formation agent that the agent has verified the identity of those owners.

Penalties for False Information. Establish civil and criminal penalties under federal law for persons who knowingly provide false beneficial ownership information or intentionally fail to provide required beneficial ownership information to a State.

Exemptions. Provide exemptions for certain corporations, including publicly traded corporations and the corporations and LLCs they form, since the Securities and Exchange Commission already oversees them; and corporations which a State has determined, with concurrence from the Homeland Security and Justice Departments, should be exempt because requiring beneficial ownership information from them would not serve the public interest or assist law enforcement.

Funding. Authorize States to use an existing DHS grant program, and authorize DHS to use already appropriated funds, to meet the requirements of this Act.

State Compliance Report. Clarify that nothing in the Act authorizes DHS to withhold funds from a State for failing to comply with the beneficial ownership requirements. Require a GAO report by 2012 identifying which States are not in compliance so that a future Congress can determine at that time what steps to take.

Transition Period. Give the States until October 2011 to require beneficial ownership information for the corporations and LLCs formed under their laws.

Anti-Money Laundering Rule. Require the Treasury Secretary to issue a rule requiring formation agents to establish anti-money laundering programs to ensure they are not forming U.S. corporations or other entities for criminals or other suspect persons.

GAO Study. Require GAO to complete a study of State beneficial ownership information requirements for in-state partnerships and trusts.