



2019  **CAPITAL SUMMIT** 

BANKING CANNABIS-RELATED BUSINESSES

CONFLICT BETWEEN FEDERAL AND STATE LAW

Cannabis is currently legal for recreational use in 10 states and the District of Columbia and for medical use in 33 states.

At the federal level, cannabis remains illegal under the Controlled Substances Act. As more states legalize cannabis and this segment of the business community continues to mature, the conflict between state and federal law creates increasingly significant legal and compliance concerns for state and federally chartered banks that wish to service cannabis-related businesses (CRBs) or continue to serve existing customers that may also do business with CRBs. Due to legal and regulatory uncertainty, CRBs lack access to the traditional banking system forcing them to operate mostly in cash. Cash-only businesses, especially those with a high volume of revenue, pose a significant risk to public safety.

SAFE BANKING ACT (H.R. 1595/S. 1200) WOULD CREATE LEGAL CERTAINTY

ICBA does not advocate for legalization of cannabis at the federal level or otherwise, but we do support the creation of an effective safe harbor from federal sanctions for banks that choose to serve CRBs in states and jurisdictions where these businesses are legal. The SAFE Banking Act (H.R. 1595/S. 1200), sponsored by Reps. Ed Perlmutter (D-CO), Denny Heck (D-WA), Steve Stivers (R-OH), and Warren Davidson (R-OH) in the House and Sens. Jeff Merkley (D-OR) and Cory Gardner (R-CO) in the Senate, would create such a safe harbor by providing that in jurisdictions where cannabis is legal federal banking regulators may not threaten or limit a bank's deposit insurance, downgrade a loan, prohibit or discourage the provision of banking services, or take any other prejudicial action solely because a bank customer is a CRB.





Importantly, this safe harbor would extend to banks that serve the many ancillary businesses that serve CRBs such as landlords, accountants, utilities providers, and others that may be paid in funds ultimately derived from cannabis sales. These ancillary businesses may be difficult to identify in states that have legalized cannabis, and potentially create a legal and regulatory trap for even those banks that choose not to serve CRBs directly.

STATUS OF SAFE BANKING ACT

The House Financial Services Committee held a hearing on H.R. 1595 on February 13, 2019. Greg Deckard, Chairman and CEO of State Bank Northwest in Spokane, Washington, testified in support of the bill on behalf of ICBA.

H.R. 1595 was passed by the House Financial Services Committee on March 28, 2019 by a bipartisan vote of 45 to 15. It is pending consideration on the House floor. A companion bill (S. 1200) has been introduced in the Senate.

MESSAGE FOR YOUR MEMBERS OF CONGRESS

- Support the SAFE Banking Act (H.R. 1595) to create a safe harbor and legal certainty for banks in states that have legalized cannabis.

