

## Differences in Beneficial Ownership Legislation

[How Do the TITLE Act \(S.1454\) and Corporate Transparency Act \(H.R.3089/S.1717\) Differ?](#)

[America Is the Easiest Country in the World in which to Form an Anonymous Shell Company.](#)

Creating a U.S. shell company takes less information than acquiring a library card. A 2014 academic study found that the U.S. is the easiest country in the world for terrorists and criminals to open anonymous shell companies to launder their money with impunity.<sup>1</sup>

[What Is an Anonymous Company?](#)

When a person sets up a company in the U.S., they aren't required to disclose the real people who profit from its existence or control its activities, known as "beneficial owners." Individuals can conceal their identity by using front people, or "nominees," to represent the company. For instance, the real owner's attorney can file paperwork under their own name even though they have no control or economic stake in the company. Finding nominees is incredibly easy — there are corporations whose entire business is to file paperwork and stand in for company owners.

These anonymously-owned companies can transact business, open a bank account, wire money and buy property like any other business. This is what makes them an attractive method for terrorists, criminals, and the corrupt to hide, move and use money for a multitude of illegal or unethical activities.<sup>2</sup> By using an anonymously-owned American company, anyone can easily cover up who they are and where their money came from — making it very difficult for law enforcement to stop crimes that hurt Americans.<sup>3</sup>

[There Are Bipartisan Legislative Solutions that Would Bring Secret Shell Companies into the Light](#)

The use of anonymously-owned companies is threatening Americans on several fronts, but there is a solution — ensure that each time a company is created within the U.S., the true ownership (a.k.a. beneficial ownership) information is collected.

There are multiple bipartisan approaches in Congress to accomplish this goal. Senators Sheldon Whitehouse (D-RI), Charles Grassley (R-IA), and Dianne Feinstein (D-CA) are sponsors of the **True Incorporation Transparency for Law Enforcement (TITLE) Act (S. 1454)**.

Representatives Carolyn Maloney (D-NY) and Peter King (R-NY) are sponsors of an alternate approach, the **Corporate Transparency Act of 2017 (H.R. 3089)**. Senators Ron Wyden (D-OR) and Marco Rubio (R-FL) are sponsors of **S.1717**, the Senate companion bill to H.R.3089.

[How Are the TITLE Act and the Corporate Transparency Act Similar?](#)

The TITLE Act (S.1454) and the Corporate Transparency Act (H.R.3089/S.1717) both have similar, strong definitions of beneficial ownership — that is, they collect good information. Similarly, they both make the information easily available to law enforcement and financial institutions.

Both bills make \$40 million available to states for transitional costs from the Treasury and Justice Departments' asset forfeiture funds (money recovered from the same types of criminals this bill would help to catch).

Both bills exempt publicly-traded companies (which already file this information with the Securities and Exchange Commission). Similarly, each bill also exempts companies that have a physical (i.e. “brick and mortar”) presence in the U.S., more than \$5 million in annual revenues, and at least 20 employees in the U.S. — ensuring that it narrowly targets those shell entities most likely to be abused by money launderers.

Both measures have robust support from law enforcement, financial institutions, faith groups, anti-corruption groups, liberal and conservative scholars, and the small business community.

### [How Do the TITLE Act and the Corporate Transparency Act Differ?](#)

Still, there are some significant differences between the TITLE Act (S.1454) and the Corporate Transparency Act (H.R.3089/S.1717) as to how the information is collected.

#### [TITLE Act \(S. 1454\)](#)

Under the TITLE Act, every state must collect the name, residential or business address, and a unique identifying number from a passport, state driver’s license or state identification card for each beneficial owner of a corporation or limited liability company at the time it is created. States would *not* need to collect photos, Social Security numbers, or beneficial owners’ personal financial information.

As an enforcement mechanism, S.1454 ties the disbursement of law enforcement assistance grants to a state’s compliance with the statute, though it does not penalize states or state and local law enforcement by withholding those funds if the states fail to comply.

#### [Corporate Transparency Act \(H.R. 3089/S.1717\)](#)

On the other hand, H.R.3089/S.1717 does not require states to collect beneficial ownership information. Instead, it requires the Secretary of the Treasury (through the Financial Crimes Enforcement Network, or FinCEN) to collect the name, residential or business address, and a unique identifying number from a passport, state driver’s license or state identification card for each beneficial owner of a corporation or limited liability company at the time it is created unless the state in which the company is formed chooses to collect the relevant information as set forth in the statute.

H.R.3089/S.1717 is not tied to law enforcement assistance grants.

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<sup>1</sup> Findley, Michael et al. "Global Shell Games: Experiments in Transnational Relations, Crime, and Terrorism." *Cambridge University Press* (March 24, 2014), Page 74. <http://bit.ly/2uTLptQ>

<sup>2</sup> See, “FACT Sheet: Anonymous Shell Companies — Enabling Criminal Activity in the U.S. and Around the World,” available at <https://thefactcoalition.org/fact-sheet-anonymous-shell-companies-july-2017>.

<sup>3</sup> See, “FACT Sheet: Law Enforcement Opposes Anonymous Shell Companies,” available at <https://thefactcoalition.org/fact-sheet-law-enforcement-opposes-anonymous-shell-companies>.