

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

1615 H STREET, N.W.  
WASHINGTON, D.C. 20062-2000  
202/463-5310

September 13, 2011

The Honorable Joseph Lieberman  
Chairman  
Committee on Homeland Security and  
Government Affairs  
United States Senate  
Washington, DC 20510

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security and  
Government Affairs  
United States Senate  
Washington, DC 20510

Dear Chairman Lieberman and Ranking Member Collins:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, opposes S.1483, the "Incorporation Transparency and Law Enforcement Act" which may be offered as an amendment by Senator Levin during markup of the forthcoming Homeland Security Reauthorization bill. This legislation would fail to advance U.S. homeland security while, adversely impacting every form of business, particularly small businesses, with new, costly and complex regulatory burdens.

The Chamber believes that strong corporate governance and capital formation are essential to a vibrant and growing economy, and appreciates the need for appropriate homeland security policies to protect the United States from threats. However, this legislation goes too far and would deter the formation of new businesses and harm the ability of entrepreneurs to access capital in a number of ways.

S.1483 would require all fifty states to amend their business formation laws compelling all businesses, from public corporations to sole proprietorships, to file papers detailing personal information of all individuals who may fall within the bill's vague and undefined standards of having a "substantial economic interest" or "substantial control" over any business entity, unless the business can prove and file an affirmative statement of exemption. According to its broad terms, the bill would make creditors, lien holders, beneficiaries of estate planning and other individuals or entities subject to disclosure. Almost all states have right to know laws compelling information filed pursuant to S.1483 be publicly disseminated. This bill would make violations of state law paperwork requirements, such as any paperwork error or failure to file, a federal crime, resulting in a three year prison term or a fine of \$10,000. State eligibility for homeland security funding would be contingent upon implementing these requirements. Furthermore, with the public disclosure of beneficial ownership information investors would be less willing to provide start-ups with capital, while entrepreneurs would be less likely to form businesses within

the United States due to the potential dissemination of private information and legitimate business functions.

Corporate law and business formation, within the United States, has been the domain of the states for more than 150 years. This system has allowed for differing corporate and management structures that have created the foundation of the free enterprise system. S.1483 would effectively federalize corporate law and create a one size fits all approach. This federalization could hamper capital formation and discourage entrepreneurship during the worst economic crisis in 75 years.

S.1483 would create other unintended consequences including new, expensive and unfunded recordkeeping requirements on states. As the legislation is currently written, funding for the program is not guaranteed and left to the discretion of federal agencies. The Chamber is concerned that states may be forced to fund this program with funds normally used for police, fire fighters, EMT personnel, and other first responders performing the critically important homeland security functions of the states.

This legislation's stated goal is to respond to the recommendations from the Financial Action Task Force (FATF) issued in 2006. The Chamber believes that the proposed mandates go beyond the requirements of (FATF). As such, the Chamber encourages Congress to work with the private sector and states to develop an alternative. There are other proposals in the public domain that could better accomplish the goal of stopping criminal money laundering.

Accordingly, the Chamber opposes S.1483 due to its chilling effect upon legitimate business activity and the resulting harm to economic growth and job creation.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten", written in a cursive style.

R. Bruce Josten

cc: The Members of the United States Senate