I

111TH CONGRESS
1ST SESSION

H. R. 2936

To create a program to guarantee loans made to manufacturing companies in order to promote increased domestic lending to the United States manufacturing industry.

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 2009

Mr. LIPINSKI (for himself, Mr. TIM MURPHY of Pennsylvania, Mr. TONKO, Mr. EHLERS, Mr. DINGELL, Ms. KAPTUR, Mr. COSTELLO, and Mr. MANZULLO) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To create a program to guarantee loans made to manufacturing companies in order to promote increased domestic lending to the United States manufacturing industry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bill to Underwrite Increased Lending to Domestic (BUILD) Manufacturing Act'' or the ''BUILD Manufacturing Act''.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) MANUFACTURING COMPANY.—The term "manufacturing company" means a company engaged in the mechanical, physical, or chemical transformation or production of materials, substances, or components into new products.

(2) TALF.—The term "TALF" means the Term Asset-Backed Securities Loan Facility established by the Board of Governors of the Federal Reserve System and announced on March 3, 2009.

SEC. 3. FINDINGS.

The Congress finds the following:

(1) Manufacturing is a crucial component of the United States economy, creating wealth through the value-added production of quality goods.

(2) Manufacturing employed 13.5 million Americans in 2008.

(3) The manufacturing sector comprises 13.6 percent of the United States national GDP, totaling $1.6 trillion in value as of 2007, and generates approximately two-thirds of the Nation's exports.

(4) Domestic manufacturing is vital to our Nation's national security, is a source of long-term strategic advantage, and ensures a reliable and dedicated source of production for essential materials and goods.

(5) The current economic crisis has had particularly negative effects on the manufacturing sector, leading to sharp reductions in employment, output, and factory operating rates.

(6) Continued reductions in the domestic manufacturing sector would result in increased dependence on foreign factories, greater job loss, and declines in long-term competitiveness of the United States economy.

(7) The recovery and expansion of the United States manufacturing sector is being hampered by an absence of affordable and available credit, caused by the financial sector and subprime crisis.

(8) While the United States Treasury has made available significant financial resources for recovery of the United States financial sector, lending to commercial and private entities has not followed suit.

(9) Available and affordable credit will be crucial to the recovery of the manufacturing sector, enabling renewed capital and asset purchases, facility expansions, investment in new product lines, and increased hiring and employment.

SEC. 4. SENSE OF THE CONGRESS ON LENDING TO THE DOMESTIC MANUFACTURING SECTOR.

It is the sense of the Congress that the President, acting through the Secretary of the Treasury, should use all available powers to encourage financial institutions that are in receipt of Federal financial support to immediately increase lending to the domestic manufacturing sector.

SEC. 5. MANUFACTURING LOAN GUARANTEE PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established within the Department of the Treasury a program to be known as the ‘‘Manufacturing Loan Guarantee Program’’ (hereinafter referred to in this section as the ‘‘Program’’).

(2) HEAD OF THE PROGRAM.—The Program shall be headed by the Administrator of the TALF (hereinafter referred to in this section as the ‘‘Administrator’’).

(b) LOAN GUARANTEE PROGRAM.—

(1) PURPOSE.—The purpose of the Program under this section is to guarantee loans made to manufacturing companies.

(2) APPLICATION.—An insured depository institution (as such term is defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)))

that wishes to make loans that are guaranteed under the Program may submit an application to take part in the Program to the Administrator in such form and manner and containing such information as the Administrator may require.

(3) SELECTION CRITERIA.—The Administrator shall approve any depository institution submitting a full and complete application under paragraph (2) for participation in the Program, and shall guarantee loans on a first-come-first-served basis. Insured depository institutions shall submit all loans made as part of the Program.

(4) OVERSIGHT.—

(A) LOAN TERMS.—Not later than 7 days after a loan guaranteed under the Program is originated, the insured depository institution making such loan shall submit all information about the terms and conditions of such loan to the Administrator.

(B) SUSPENSION AND TERMINATION AUTHORITY.—Notwithstanding paragraph (3), the Administrator shall, not less than yearly, review all of the loans made by each insured depository institution that are guaranteed under the Program, and may suspend or terminate any insured depository institution's future participation in the Program if the Administrator finds that such institution has engaged in fraud or abuse with respect to the Program, or has consistently made loans guaranteed under the Program that are not repaid by the borrower in accordance with the terms of the loan.

(5) LOAN ELIGIBILITY.—A loan can only be guaranteed under the Program if at meets the following requirements:

(A) NET WORTH LIMITATION ON LOAN AMOUNT.—The amount of such loan is less than 1.5 times the gross net worth of the manufacturing company receiving the loan.

(B) USE OF LOAN.—Such loan is only used for the purchase of capital, assets, energy efficiency upgrades, productivity enhancements, or building expenses, paying payroll expenses, or paying operating costs. Such loan is not used to pay down existing debt, pay outstanding obligations, or to pay for an increase in salary amounts for executives of the manufacturing company receiving the loan.

(C) SPECIFIC TERM REQUIREMENTS.—The term of such loan is no more than—

(i) 30 years, in the case of a loan used to purchase real estate or to pay for building expenses;

(ii) the lesser of 15 years or the useful life of the machinery or equipment, in the case of a loan used to purchase machinery or equipment; and

(iii) 5 years, in the case of any other loan.

(D) INTEREST RATES.—Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on such loan shall not substantively differ from the current average market yield on outstanding marketable obligations of similar privately held loans with remaining periods to maturity comparable to such loan.

(6) MULTIPLE GUARANTEES PERMITTED; AGGREGATE DOLLAR AMOUNT LIMITATION.—A single manufacturing company is permitted to have more than one loan guaranteed under this section, but the aggregate amount of all such loans guaranteed for a single manufacturing company may be no more

than $50,000,000. The Administrator shall have the discretion to raise such limit from $50,000,000 to $75,000,000 for a particular manufacturing company if the Administrator determines doing so will advance the purpose of this section.

(7) GOVERNMENT GUARANTEE.—

(A) LEVEL OF PARTICIPATION.—Loans guaranteed under the Program shall be guaranteed in the following percentages:

(i) for loans under $10,000,000, 70 percent;

(ii) for loans between $10,000,000 and $30,000,000, 65 percent; and

(iii) for loans over $30,000,000, 60 percent.

(B) PERCENTAGE ADJUSTMENTS.—

(i) IN GENERAL.—The Administrator shall have the power to adjust loan guarantee percentages for loans guaranteed under the Program in order to maximize lending and minimize default rates of participating manufacturers. Any such adjustments must further the goals of the Program.

(ii) TIMING OF ADJUSTMENTS.—Adjustments under clause (i) may not be made before the date that is 3 months after the date of the enactment of this Act, and may not be made more often than every 3 months.

(iii) EQUAL ADJUSTMENTS REQUIRED.—Adjustments under clause (i) must adjust each percentage under subparagraphs (A)(i), (A)(ii), and (A)(iii) by the same amount.

(iv) MINIMUM LEVELS.—In making an adjustment under clause (i), the Administrator shall seek to ensure that such adjustment will result in the maintained interest of insured depository institutions in participating in the Program.

(C) PAYMENT OF ACCRUED INTEREST.—

(i) IN GENERAL.—Any insured depository institution making a claim for payment on the guaranteed portion of a loan guaranteed under the Program shall be paid the accrued interest due on the loan from the earliest date of default to the date of payment of the claim at a rate not to exceed the rate of interest on the loan on the date of default, minus one percent.

(ii) LOANS SOLD ON SECONDARY MARKET.—If a loan described in clause (i) is sold on the secondary market, the amount of interest paid to an insured depository institution described in that clause from the earliest date of default to the date of payment of the claim shall be no more than the agreed upon rate, minus one percent.

(8) REGULATIONS.—The Administrator shall promulgate any regulations needed to carry out this section.

(9) FUNDING.—

(A) IN GENERAL.—$20,000,000,000 of the funds made available to the TALF, or any successor entity, shall be used to carry out the Program, of which $10,000,000,000 shall be used to guarantee loans made to manufacturing companies employing less then 500 individuals.

(B) ADMINISTRATIVE COSTS.—Of the amount described in paragraph (A), not more than $1,000,000 per year may be used to pay for salaries and other administrative fees associated with carrying out the Program.

(c) SENSE OF THE CONGRESS ON SMALL BUSINESS PARTICIPATION.—It is the sense of the Congress that the Administrator should encourage insured depository institutions taking part in the Program to focus on lending to small- and medium-sized manufacturers.

(d) REPORTS REQUIRED.—

(1) ADMINISTRATOR REPORTS.—Not later than 180 days after the date of the enactment of this Act, and yearly thereafter, the Administrator shall submit a report to the Congress, and make such report available on a website, detailing all loans guaranteed under the Program, the effect of such guarantees on the manufacturing industry of the United States, and the overall effectiveness of the Program.

(2) GAO REPORTS.—Notwithstanding section 714(b) of title 31, United States Code, not later than 1 year after the date of the enactment of this Act, and yearly thereafter through the end of 2011, the Comptroller General of the United States shall transmit a report to the Congress detailing—

(A) the implementation of this section;

(B) any waste, fraud, abuse, or mismanagement of funds discovered in the implementation of this section;

(C) any insured depository institution that appears to have repeatedly made loans guaranteed under the Program for which the borrowers on such loans were not able to make timely payments as required by the loan terms;

(D) recommendations to improve the implementation of this section;

(E) the impact of the provisions of this section on the economy of the United States, specifically focusing on the manufacturing sector; and

(F) adjustments to the loan guarantee percentages and their impact on domestic lending to the United States manufacturing industry.

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