

111TH CONGRESS
2^D SESSION

H. R. 6219

To amend the Small Business Jobs Act of 2010 to enhance the provisions of the Small Business Lending Fund Program, to amend the Small Business Investment Act of 1958 to create a Small Business Early-Stage Investment Program, and to create the Small Business Borrower Assistance Program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2010

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Small Business Jobs Act of 2010 to enhance the provisions of the Small Business Lending Fund Program, to amend the Small Business Investment Act of 1958 to create a Small Business Early-Stage Investment Program, and to create the Small Business Borrower Assistance Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Jobs
5 Amendments Act of 2010”.

1 **SEC. 2. SMALL BUSINESS LENDING FUND AMENDMENTS.**

2 (a) IN GENERAL.—Subtitle A of title IV of the Small
3 Business Jobs Act of 2010 is amended—

4 (1) in section 4102—

5 (A) in paragraph (8)—

6 (i) in subparagraph (A), by adding
7 “and” at the end;

8 (ii) by striking subparagraph (B); and

9 (iii) by redesignating subparagraph
10 (C) as subparagraph (B).

11 (B) in paragraph (11)—

12 (i) in subparagraph (C), by striking
13 “and” at the end;

14 (ii) in subparagraph (D), by striking
15 the period at the end and inserting “;
16 and”; and

17 (iii) by adding at the end the fol-
18 lowing new subparagraph:

19 “(D) any small business lending company
20 that has total assets of equal to or less than
21 \$10,000,000,000.”;

22 (C) in paragraph (18)(A)—

23 (i) by inserting after “such lending”
24 the following: “is made to a small business
25 and”; and

1 (ii) by adding at the end the following
2 new clause:

3 “(v) Nonowner-occupied commercial
4 real estate loans.”; and

5 (D) by adding at the end the following new
6 paragraphs:

7 “(20) SMALL BUSINESS.—The term ‘small busi-
8 ness’ has the meaning given the term ‘small business
9 concern’ under section 3 of the Small Business Act
10 (15 U.S.C. 632).

11 “(21) SMALL BUSINESS LENDING COMPANY.—
12 The term ‘small business lending company’ has the
13 meaning given such term under section 3(r)(1) of
14 the Small Business Act (15 U.S.C. 632(r)(1)).”;

15 (2) in section 4103—

16 (A) in subsection (b)—

17 (i) in paragraph (1), by striking the
18 period at the end and inserting the fol-
19 lowing: “, and, notwithstanding other pro-
20 visions of Federal law, such debt instru-
21 ments issued by an eligible institution or-
22 ganized in mutual form or that has made
23 a valid election to be taxed under sub-
24 chapter S of chapter 1 of the Internal Rev-

1 enue Code of 1986 shall be included as a
2 component of tier 1 capital.”; and

3 (ii) in paragraph (4), by amending
4 subparagraph (B) to read as follows:

5 “(B) ELIGIBLE STANDARDS.—The Sec-
6 retary, in consultation with the Community De-
7 velopment Financial Institutions Fund, shall
8 develop eligibility criteria to determine the fi-
9 nancial ability of a CDLF to participate in the
10 Program and repay the investment. Such cri-
11 teria may include net asset ratio to total assets,
12 ratio of loan loss reserves to loans and leases 90
13 days or more delinquent (including loans sold
14 with full recourse), positive net income meas-
15 ured on a 3-year rolling average, operating li-
16 quidity ratio, ratio of loans and leases 90 days
17 or more delinquent (including loans sold with
18 full recourse) to total equity plus loan loss re-
19 serves, or any other measures deemed appro-
20 priate. In addition, CDLFs participating in the
21 Program shall submit audited financial state-
22 ments to the Secretary, have a clean audit opin-
23 ion, and have at least three years of operating
24 experience.”;

25 (B) in subsection (d)—

1 (i) in paragraph (1)(F), by striking
2 “5 percent” and inserting “10 percent”;

3 (ii) in paragraph (5), by adding at the
4 end the following new subparagraphs:

5 “(J) INCENTIVES CONTINGENT ON AN IN-
6 CREASE IN THE NUMBER OF LOANS MADE.—
7 For any quarter during the first 4½-year pe-
8 riod following the date on which an eligible in-
9 stitution receives a capital investment under the
10 Program, other than the first such quarter, in
11 which the institution’s change in the amount of
12 small business lending relative to the baseline is
13 positive, if the number of loans made by the in-
14 stitution does not increase by 2.5 percent for
15 each 2.5 percent increase of small business
16 lending, then the rate at which dividends and
17 interest shall be payable during the following
18 quarter on preferred stock or other financial in-
19 struments issued to the Treasury by the eligible
20 institution shall be—

21 “(i) 5 percent, if such quarter is with-
22 in the 2-year period following the date on
23 which the eligible institution receives the
24 capital investment under the Program; or

1 “(ii) 7 percent, if such quarter is after
2 such 2-year period.

3 “(K) ALTERNATIVE COMPUTATION.—An
4 eligible institution may choose to compute their
5 small business lending amount by computing
6 the amount of small business lending, as if the
7 definition of such term did not require that the
8 loans comprising such lending be made to small
9 business. Any eligible institution choosing to
10 compute their small business lending in this
11 manner shall certify that all lending included by
12 the institution for purposes of computing the
13 increase in lending under this paragraph was
14 made to small businesses.”; and

15 (iii) in paragraph (8)—

16 (I) by amending the heading to
17 read as follows: “OUTREACH TO MI-
18 NORITIES, WOMEN, VETERANS, AND
19 INDIAN TRIBES”;

20 (II) in subparagraph (B), by
21 striking “and” at the end;

22 (III) in subparagraph (C), by
23 striking the period at the end and in-
24 serting “; and”; and

1 (IV) by adding at the end the fol-
2 lowing new subparagraph:

3 “(D) represent or work with or are mem-
4 bers of Indian Tribes.”; and

5 (C) by adding at the end the following new
6 subsection:

7 “(e) NOTIFICATION TO CUSTOMERS.—Any eligible in-
8 stitution receiving funds under the Program shall—

9 “(1) disclose on every applicable loan trans-
10 action that the loan is being made possible by the
11 Program; and

12 “(2) if such institution has an established inter-
13 net website, such institution shall make available on
14 its internet website—

15 “(A) the written reports made by the Sec-
16 retary pursuant to paragraphs (1) and (2) of
17 section 4107(b)(3); and

18 “(B) a statement that the institution, as a
19 participant in the Program, is seeking to make
20 small business loans to qualified borrowers and
21 may not discriminate on the basis of any factor
22 prohibited under the Equal Credit Opportunity
23 Act, including the race, color, religion, national
24 origin, sex, marital status, or age.”;

25 (3) in section 4105—

1 (A) in paragraph (8), by striking “and” at
2 the end;

3 (B) in paragraph (9), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following new
6 paragraph:

7 “(10) increasing the availability of credit for
8 small businesses operating on Tribal trust lands or
9 other Indian areas.”;

10 (4) by redesignating section 4113 as section
11 4114; and

12 (5) by inserting after section 4112 the following
13 new section:

14 **“SEC. 4113. TEMPORARY AMORTIZATION AUTHORITY.**

15 “(a) PURPOSE.—The purpose of this section is to ad-
16 dress the ongoing effects of the financial crisis on small
17 businesses by providing temporary authority to amortize
18 losses or write-downs in order to increase the availability
19 of credit for small businesses.

20 “(b) IN GENERAL.—For purposes of capital calcula-
21 tion under the Financial Institutions Examination Coun-
22 cil’s Consolidated Reports of Condition, an eligible institu-
23 tion may choose to amortize any loss or write-down, on
24 a quarterly straight line basis over a period determined
25 under subsection (c), beginning with the month in which

1 such loss or write-down occurs, resulting from the applica-
2 tion of FASB Statement 114 or 144 to—

3 “(1) other real estate owned (as defined under
4 section 34.81 of title 12, Code of Federal Regula-
5 tion), or

6 “(2) an impaired loan secured by real estate,
7 provided that the institution discloses the difference in the
8 amount of the institution’s capital, when calculated taking
9 into account the temporary amortization, from the amount
10 of the institution’s capital when calculated without taking
11 into account the temporary amortization on the Financial
12 Institutions Examination Council’s Consolidated Reports
13 of Condition.

14 “(c) AMORTIZATION REQUIREMENTS.—During the
15 initial 2-year period referred to in section 4103(d)(5), an
16 eligible institution’s amortization period shall be adjusted
17 to reflect the following schedule based on the institution’s
18 change in the amount of small business lending relative
19 to the baseline:

20 “(1) If the amount of small business lending
21 has increased by less than 2.5 percent, the amortiza-
22 tion period shall be 6 years.

23 “(2) If the amount of small business lending
24 has increased by 2.5 percent or greater, but by less

1 than 5.0 percent, the amortization period shall be 7
2 years.

3 “(3) If the amount of small business lending
4 has increased by 5.0 percent or greater, but by less
5 than 7.5 percent, the amortization period shall be 8
6 years.

7 “(4) If the amount of small business lending
8 has increased by 7.5 percent or greater, but by less
9 than 10.0 percent, the amortization period shall be
10 9 years.

11 “(5) If the amount of small business lending
12 has increased by 10 percent or greater, the amorti-
13 zation period shall be 10 years.

14 “(d) MINIMUM UNDERWRITING STANDARDS.—The
15 appropriate Federal banking agency for an eligible institu-
16 tion that chooses to amortize any loss or write-down as
17 permitted under subsection (b) shall, within 60 days of
18 the date of the enactment of this title, issue regulations
19 defining minimum underwriting standards that must be
20 used for loans made by the eligible institution.

21 “(e) EFFECTIVE DATE.—The provisions of this sec-
22 tion shall apply to loan origination that occurred on or
23 after January 1, 2003, and before January 1, 2008.”.

24 (b) TECHNICAL AMENDMENT.—The table of contents
25 for the Small Business Jobs Act of 2010 is amended by

1 striking the item related to section 4113 and inserting the
2 following new items:

“4113. Temporary amortization authority.
“4114. Sense of Congress.”.

3 **SEC. 3. EFFECTIVE DATE.**

4 This Act, and the amendments made by this Act,
5 shall take effect on the later of the following:

6 (1) The date of the enactment of this Act.

7 (2) The date of the enactment of the Small
8 Business Jobs Act of 2010.

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