

111TH CONGRESS
1ST SESSION

S. 1822

To amend the Emergency Economic Stabilization Act of 2008, with respect to considerations of the Secretary of the Treasury in providing assistance under that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2009

Mr. MERKLEY (for himself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Emergency Economic Stabilization Act of 2008, with respect to considerations of the Secretary of the Treasury in providing assistance under that Act, and for other purposes.

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 “Bank On Our Commu-
5 nities Act of 2009”.

6 **SEC. 2. COMMUNITY CREDIT RENEWAL PROGRAM.**

7 Section 103 of the Emergency Economic Stabilization
8 Act of 2008 (12 U.S.C. 5213) is amended—

1 (1) by striking “In exercising the authorities
2 granted” and inserting the following:

3 “(a) IN GENERAL.—In exercising the authorities
4 granted”;

5 (2) in paragraph (5), by inserting before the
6 semicolon the following: “, except that the needs of
7 certain small financial institutions may be taken into
8 account, as set forth in paragraph (6), and the via-
9 bility of certain small financial institutions may be
10 established, as set forth in subsection (b)(3)”;

11 (3) by adding at the end the following:

12 “(b) COMMUNITY CREDIT RENEWAL PROGRAM.—

13 “(1) IN GENERAL.—There is established within
14 the Treasury the Community Credit Renewal Fund,
15 which shall be used by the Secretary to provide as-
16 sistance to community banking institutions in an
17 amount not to exceed \$15,000,000,000.

18 “(2) TRANSFER OF FUNDS.—Of amounts made
19 available to carry out this title, the Secretary shall
20 transfer \$15,000,000,000 to Community Credit Re-
21 newal Fund for purposes of this subsection.

22 “(3) DETERMINATION OF VIABILITY.—Notwith-
23 standing any other provision of this title, the Sec-
24 retary shall provide assistance under this subsection
25 to any community banking institution, and a com-

1 community banking institution may establish its long-
2 term viability for purposes of subsection (a)(4), by
3 demonstrating its receipt of capital from investors
4 other than the Secretary, if—

5 “(A) the amount of capital to be received
6 from investors other than the Secretary is equal
7 to or greater than the amount of capital to be
8 received from the Secretary;

9 “(B) the aggregate amount of capital to be
10 received from the Secretary and from investors
11 other than the Secretary is determined, on the
12 basis of a forward-looking assessment by the in-
13 stitution by its management (in consultation
14 with the appropriate Federal banking agency),
15 to enable the community banking institution to
16 remain well-capitalized (as determined by the
17 appropriate Federal banking agency) even
18 under a reasonably adverse economic scenario
19 during the 2-year period following the date of
20 receipt of such capital, and to increase the out-
21 standing loans of the community banking insti-
22 tution, by December 31, 2010, such that the
23 total amount of commercial and industrial loans
24 is at least 5 percent greater than the smallest
25 amount of such loans held by the community

1 banking institution, as of any quarter-end in
2 calendar year 2009;

3 “(C) not later than—

4 “(i) 20 business days prior to the pro-
5 posed date of the investment by the Sec-
6 retary, the community banking institution
7 notifies the Secretary, or the designee se-
8 lected by the Secretary to receive such no-
9 tice, of the amount of capital that the com-
10 munity banking institution proposes to so-
11 licit from investors other than the Sec-
12 retary, on the condition that such capital
13 will be matched or supplemented by an in-
14 vestment by the Secretary, and of the
15 amount of capital that the community
16 banking institution proposes be invested by
17 the Secretary; and

18 “(ii) the close of business on the 5th
19 business day after the date of the receipt
20 of notice under clause (i) (or such longer
21 period as the Secretary may reasonably es-
22 tablish, up to an additional 10 business
23 days), the Secretary does not notify the
24 community banking institution of the re-
25 fusal of the Secretary to make the match-

1 ing or supplementary investment and the
2 grounds for such refusal, including the de-
3 termination of the Secretary, in consulta-
4 tion with the appropriate Federal banking
5 agency, that the aggregate amount of cap-
6 ital to be raised would not be enough to
7 meet the requirements of this subsection,
8 provided, however, that the Secretary may
9 not refuse to make a matching or supple-
10 mentary investment to an institution solely
11 on the grounds that the institution holds a
12 CAMEL composite rating of 3 under the
13 Uniform Financial Institutions Rating Sys-
14 tem (or an equivalent rating under a com-
15 parable rating system);

16 “(D) the capital is received from investors
17 other than the Secretary on the same day as
18 the date of receipt of capital from the Sec-
19 retary, and such date is prior to the earlier of—

20 “(i) 9 months after the date of enact-
21 ment of this subsection; or

22 “(ii) September 30, 2010; and

23 “(E) the aggregate amount of funds in-
24 vested by the Secretary under this subsection
25 does not exceed \$15,000,000,000.

1 “(4) LENDING INCENTIVES AND PENALTIES.—

2 “(A) PENALTIES.—

3 “(i) IN GENERAL.—The interest rate
4 or dividend to be paid on the Federal cap-
5 ital provided under this subsection by a
6 community banking institution shall be in-
7 creased to a penalty rate established by the
8 Secretary, which shall be not less than 5
9 percentage points higher than the initial
10 dividend or interest rate set for all commu-
11 nity banking institutions assisted under
12 this subsection if, by December 31, 2010,
13 the community banking institution has
14 failed—

15 “(I) to increase its total amount
16 of commercial, industrial, and con-
17 sumer loans by a dollar amount that
18 is equal to the amount of capital re-
19 ceived from the Secretary; or

20 “(II) to increase its total amount
21 of commercial and industrial loans by
22 a dollar amount that is at least 5 per-
23 cent greater than the smallest amount
24 of such loans held by the community
25 banking institution as of any quarter

1 end of the first three quarters in cal-
2 endar year 2009.

3 “(ii) EXEMPTION AUTHORITY.—The
4 Secretary may provide for exceptions to
5 the provisions of this paragraph in the case
6 of exigent circumstances, as determined by
7 the Secretary.

8 “(B) INCENTIVES FOR COMMERCIAL AND
9 INDUSTRIAL LOANS.—Notwithstanding any
10 other provision of this title—

11 “(i) for each dollar that a community
12 banking institution that has received as-
13 sistance under this subsection does in com-
14 mercial and industrial loans above the
15 amounts described in subparagraph
16 (A)(i)(II)—

17 “(I) the community banking in-
18 stitution may redeem or repurchase
19 one dollar of securities or stock held
20 by the Secretary at a discount level
21 established by the Secretary, except
22 that such level shall be a minimum of
23 20 percent below par; or

1 “(II) the Secretary may, by rule,
2 allow for a reduction in the interest or
3 dividend paid on the securities; and
4 “(ii) if the dollar increase in lending
5 by a community banking institution that
6 has received assistance under this sub-
7 section exceeds the total Federal assistance
8 under this subsection, the Secretary may
9 establish rules for additional discounts on
10 redemption of stock or securities held by
11 the Secretary.

12 “(5) DEFINITIONS.—As used in this sub-
13 section—

14 “(A) the term ‘community banking institu-
15 tion’ means a insured depository institution, or
16 a holding company thereof, having total assets
17 of less than \$5,000,000,000; and

18 “(B) the terms ‘insured depository institu-
19 tion’ and ‘appropriate Federal banking agency’
20 have the same meanings as in section 3 of the
21 Federal Deposit Insurance Act (12 U.S.C.
22 1813).”.

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