

111TH CONGRESS
1ST SESSION

S. 2824

To establish a small dollar loan-loss guarantee fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 2, 2009

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

A BILL

To establish a small dollar loan-loss guarantee fund, 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. CDFI SMALL DOLLAR LOAN-LOSS GUARANTEE**

4 **FUND.**

5 The Community Development Banking and Financial
6 Institutions Act of 1994 (12 U.S.C. 4701 et seq.) is
7 amended by adding at the end the following:

1 **“SEC. 122. CDFI SMALL DOLLAR LOAN-LOSS GUARANTEE**
 2 **FUND.**

3 “(a) PURPOSE.—The purpose of this section are to
 4 establish a small dollar loan-loss guarantee fund to—

5 “(1) serve as a loss reserve for qualifying loans
 6 to consumers offered by eligible financial institu-
 7 tions;

8 “(2) increase the number of qualifying loan
 9 products offered to consumers by such institutions;
 10 and

11 “(3) increase consumer access to mainstream fi-
 12 nancial institutions and provide consumers with al-
 13 ternative choices to pay day loans.

14 “(b) DEFINITIONS.—For purposes of this section, the
 15 following definitions shall apply:

16 “(1) CONSUMER REPORTING AGENCY THAT
 17 COMPILES AND MAINTAINS FILES ON CONSUMERS ON
 18 A NATIONWIDE BASIS.—The term ‘consumer report-
 19 ing agency that compiles and maintains files on con-
 20 sumers on a nationwide basis’ has the same meaning
 21 given such term in section 603(p) of the Fair Credit
 22 Reporting Act (15 U.S.C. 1681a(p)).

23 “(2) ELIGIBLE FINANCIAL INSTITUTION.—The
 24 term ‘eligible financial institution’ means—

25 “(A) any community development financial
 26 institution, provided that if such institution is

1 subject to examination under the Community
2 Reinvestment Act of 1977, that such institution
3 received a satisfactory or an outstanding rating
4 in meeting the needs of the community as part
5 of its last examination under such Act; and

6 “(B) any other entity, organization, or in-
7 stitution whose primary mission is to serve low-
8 to moderate-income individuals, as determined
9 appropriate by the Administrator.

10 “(3) FUND.—The term ‘Fund’ means the
11 CDFI Small Dollar Loan-Loss Guarantee Fund es-
12 tablished under subsection (c).

13 “(4) QUALIFYING LOAN.—The term ‘qualifying
14 loan’ means a loan that satisfies the following re-
15 quirements:

16 “(A) The loan is made to a consumer by
17 an eligible financial institution.

18 “(B) The loan is made in an amount not
19 exceeding \$2,500.

20 “(C) The loan—

21 “(i) has a repayment period of at
22 least 60 days;

23 “(ii) is repaid in installments, and
24 such installment payments result in the re-

1 duction in the principle balance owed on
2 the loan;

3 “(iii) has an annual percentage rate
4 that the Administrator determines to be
5 acceptable through the application process
6 for the purposes of this section, but in no
7 event shall such annual percentage rate ex-
8 ceed 36 percent; and

9 “(iv) has no pre-payment penalty.

10 “(D) At the time of origination of the loan,
11 the eligible financial institution that made the
12 loan offered the consumer information.

13 “(E) The eligible financial institution mak-
14 ing the loan reports payments regarding the
15 loan to at least 1 of the consumer reporting
16 agencies that compiles and maintains files on
17 consumers on a nationwide basis.

18 “(c) ESTABLISHMENT.—

19 “(1) IN GENERAL.—There is established a
20 CDFI Small Dollar Loan-Loss Guarantee Fund,
21 which shall be used by the Administrator to defray
22 the cost of losses on qualifying loans to consumers
23 made by eligible financial institutions.

24 “(2) USE OF FUND AMOUNTS.—

1 “(A) REIMBURSEMENT.—From amounts
2 available in the Fund, the Administrator may
3 provide reimbursement of a qualifying loan loss
4 that is up to 60 percent of the loss on the
5 qualifying loan to an eligible financial institu-
6 tion that has submitted an application pursuant
7 to the requirements of subparagraph (B). The
8 Administrator shall take into consideration the
9 overall default rates of the qualifying loan port-
10 folio in an eligible financial institution when de-
11 termining the reimbursement rate of loan loss.

12 “(B) APPLICATION.—In order to receive
13 any amounts from the Fund under this section,
14 each eligible financial institution shall submit
15 an application at such time, in, such form, and
16 with such information and assurances as the
17 Administrator may require.

18 “(3) DEPOSITS.—

19 “(A) IN GENERAL.—The Fund shall con-
20 sist of—

21 “(i) any amounts deposited pursuant
22 to subsection (d)(4);

23 “(ii) any amounts borrowed pursuant
24 to subsection (e);

1 “(iii) a portion, as determined by the
2 Administrator, of the proceeds of fees col-
3 lected by an eligible financial institution
4 for the origination of the qualifying loans
5 to consumers; and

6 “(iv) any amounts transferred, cred-
7 ited, donated, or bequeathed to the Fund
8 by any individual, foundation, corporation,
9 or other legal entity.

10 “(B) SOLVENCY OF FUND.—In making the
11 determination required under subparagraph
12 (A), the Administrator shall give priority con-
13 sideration to that amount that would best pro-
14 tect and ensure the solvency of the Fund.

15 “(C) INVESTMENT AUTHORITY.—Funds
16 that are not otherwise distributed by the Fund
17 to eligible financial institutions for reimburse-
18 ment of qualifying loan losses shall be invested
19 in obligations of the United States or in obliga-
20 tions guaranteed as principle and interest by
21 the United States.

22 “(d) AUTHORIZATION OF APPROPRIATIONS.—

23 “(1) IN GENERAL.—There are authorized to be
24 appropriated for each fiscal year such sums as are
25 necessary to carry out this section.

1 “(2) ADMINISTRATIVE COSTS.—From amounts
2 made available under this section, the Administrator
3 may reserve not more than 10 percent for adminis-
4 trative costs.

5 “(3) TECHNICAL ASSISTANCE GRANTS.—
6 Amounts made available under this section may be
7 used to make technical assistance grants to appli-
8 cants to develop and support a small dollar loan pro-
9 gram. Any technical assistance grants made under
10 this paragraph shall be made in accordance with
11 subsections (b), (c), and (d) of section 108, provided
12 that the Administrator may waive the requirements
13 of subsection (e) of such section 108 with respect to
14 such grants.

15 “(4) DEPOSIT INTO FUND.—Amounts made
16 available under this section may be deposited into
17 the CDFI Small Dollar Loan-Loss Guarantee Fund
18 established under this section.

19 “(e) BORROWING AUTHORITY.—The Administrator
20 is authorized to borrow from the Treasury, and the Sec-
21 retary of the Treasury is authorized and directed to loan
22 to the Administrator on such terms as may be fixed by
23 the Administrator and the Secretary, such funds as in the
24 judgment of the Administrator are from time to time re-
25 quired to maintain the solvency of the Fund, not exceeding

1 in the aggregate \$75,000,000 outstanding at any one
2 time, subject to the approval of the Secretary of the Treas-
3 ury: Provided, That the rate of interest to be charged in
4 connection with any loan made pursuant to this subsection
5 shall not be less than an amount determined by the Sec-
6 retary of the Treasury, taking into consideration current
7 market yields on outstanding marketable obligations of the
8 United States of comparable maturity. For such purpose
9 the Secretary of the Treasury is authorized to use as a
10 public-debt transaction the proceeds of the sale of any se-
11 curities hereafter issued under the Second Liberty Bond
12 Act, as amended, and the purposes for which securities
13 may be issued under the Second Liberty Bond Act, as
14 amended, are extended to include such loans. Any such
15 loan shall be used by the Administrator solely in carrying
16 out its functions with respect to the Fund. All loans and
17 repayments under this subsection shall be treated as pub-
18 lic-debt transactions of the United States. The Adminis-
19 trator may employ any amounts obtained under this sub-
20 section for purposes of the Fund and the borrowing shall
21 become a liability of the Fund to the extent funds are em-
22 ployed therefor.

23 “(f) REPORT TO CONGRESS.—Not later than 1 year
24 after the CDFI Small Dollar Loan-Loss Guarantee Fund
25 makes its first reimbursement to an eligible financial insti-

1 tution, and every year thereafter, the Administrator shall
2 submit to the Banking, Housing, and Urban Affairs Com-
3 mittee of the Senate, the Financial Services Committee
4 of the House of Representatives, and the Committee on
5 Appropriations of both the Senate and the House of Rep-
6 resentatives a report describing—

7 “(1) the activities of the Fund, including the
8 cumulative volume and amounts of loan reimburse-
9 ments that have been distributed from the Fund
10 during the prior 12 months;

11 “(2) the solvency of the Fund;

12 “(3) the default rate of qualifying loans; and

13 “(4) any measurable results, as appropriate and
14 available, related to the achievement of the purposes
15 of this section as such purposes are set forth under
16 subsection (a).”.

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