

**Calendar No. 340**112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2231**

To amend the Federal Credit Union Act, to advance the ability of credit unions to promote small business growth and economic development opportunities, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

MARCH 22, 2012

Mr. UDALL of Colorado (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. LIEBERMAN, Mr. BEGICH, Mrs. BOXER, Mr. BROWN of Ohio, Ms. COLLINS, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. INOUYE, Mr. LEAHY, Mr. LEVIN, Mr. NELSON of Florida, Mr. PAUL, Mr. REED, Mr. REID, Mr. SANDERS, Ms. STABENOW, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read the first time

MARCH 26, 2012

Read the second time and placed on the calendar

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**A BILL**

To amend the Federal Credit Union Act, to advance the ability of credit unions to promote small business growth and economic development opportunities, 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,*

1 **SECTION 1. SHORT TITLE; DEFINITIONS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Small Business Lending Enhancement Act of 2012”.

4 (b) DEFINITIONS.—In this Act—

5 (1) the term “Board” means the National  
6 Credit Union Administration Board;

7 (2) the term “insured credit union” has the  
8 same meaning as in section 101 of the Federal  
9 Credit Union Act (12 U.S.C. 1752);

10 (3) the term “member business loan” has the  
11 same meaning as in section 107A(c)(1) of the Fed-  
12 eral Credit Union Act (12 U.S.C. 1757a(c)(1));

13 (4) the term “net worth” has the same meaning  
14 as in section 107A(c)(2) of the Federal Credit Union  
15 Act (12 U.S.C. 1757a(c)(2)); and

16 (5) the term “well capitalized” has the same  
17 meaning as in section 216(c)(1)(A) of the Federal  
18 Credit Union Act (12 U.S.C. 1709d(c)(1)(A)).

19 **SEC. 2. LIMITS ON MEMBER BUSINESS LOANS.**

20 Effective 6 months after the date of enactment of this  
21 Act, section 107A(a) of the Federal Credit Union Act (12  
22 U.S.C. 1757a(a)) is amended to read as follows:

23 “(a) LIMITATION.—

24 “(1) IN GENERAL.—Except as provided in para-  
25 graph (2), an insured credit union may not make  
26 any member business loan that would result in the

1 total amount of such loans outstanding at that cred-  
2 it union at any one time to be equal to more than  
3 the lesser of—

4 “(A) 1.75 times the actual net worth of  
5 the credit union; or

6 “(B) 12.25 percent of the total assets of  
7 the credit union.

8 “(2) ADDITIONAL AUTHORITY.—The Board  
9 may approve an application by an insured credit  
10 union upon a finding that the credit union meets the  
11 criteria under this paragraph to make 1 or more  
12 member business loans that would result in a total  
13 amount of such loans outstanding at any one time  
14 of not more than 27.5 percent of the total assets of  
15 the credit union, if the credit union—

16 “(A) had member business loans out-  
17 standing at the end of each of the 4 consecutive  
18 quarters immediately preceding the date of the  
19 application, in a total amount of not less than  
20 80 percent of the applicable limitation under  
21 paragraph (1);

22 “(B) is well capitalized, as defined in sec-  
23 tion 216(c)(1)(A);

1           “(C) can demonstrate at least 5 years of  
2           experience of sound underwriting and servicing  
3           of member business loans;

4           “(D) has the requisite policies and experi-  
5           ence in managing member business loans; and

6           “(E) has satisfied other standards that the  
7           Board determines are necessary to maintain the  
8           safety and soundness of the insured credit  
9           union.

10          “(3) EFFECT OF NOT BEING WELL CAPITAL-  
11          IZED.—An insured credit union that has made mem-  
12          ber business loans under an authorization under  
13          paragraph (2) and that is not, as of its most recent  
14          quarterly call report, well capitalized, may not make  
15          any member business loans, until such time as the  
16          credit union becomes well capitalized (as defined in  
17          section 216(c)(1)(A)), as reflected in a subsequent  
18          quarterly call report, and obtains the approval of the  
19          Board.”.

20          **SEC. 3. IMPLEMENTATION.**

21          (a) TIERED APPROVAL PROCESS.—The National  
22          Credit Union Administration Board shall develop a tiered  
23          approval process, under which an insured credit union  
24          gradually increases the amount of member business lend-  
25          ing in a manner that is consistent with safe and sound

1 operations, subject to the limits established under section  
2 107A(a)(2) of the Federal Credit Union Act (as amended  
3 by this Act). The rate of increase under the process estab-  
4 lished under this paragraph may not exceed 30 percent  
5 per year.

6 (b) RULEMAKING REQUIRED.—The Board shall issue  
7 proposed rules, not later than 6 months after the date of  
8 enactment of this Act, to establish the tiered approval  
9 process required under subsection (a). The tiered approval  
10 process shall establish standards designed to ensure that  
11 the new business lending capacity authorized under the  
12 amendment made by section 2 is being used only by in-  
13 sured credit unions that are well-managed and well cap-  
14 italized, as required by the amendments made under sec-  
15 tion 2, and as defined by the rules issued by the Board  
16 under this subsection.

17 (c) CONSIDERATIONS.—In issuing rules required  
18 under this section, the Board shall consider—

19 (1) the experience level of the institutions, in-  
20 cluding a demonstrated history of sound member  
21 business lending;

22 (2) the criteria under section 107A(a)(2) of the  
23 Federal Credit Union Act, as amended by this Act;  
24 and

1           (3) such other factors as the Board determines  
2           necessary or appropriate.

3 **SEC. 4. REPORTS TO CONGRESS ON MEMBER BUSINESS**

4                           **LENDING.**

5           (a) REPORT OF THE BOARD.—

6           (1) IN GENERAL.—Not later than 3 years after  
7           the date of enactment of this Act, the Board shall  
8           submit a report to Congress on member business  
9           lending by insured credit unions.

10          (2) REPORT.—The report required under para-  
11          graph (1) shall include—

12                       (A) the types and asset size of insured  
13                       credit unions making member business loans  
14                       and the member business loan limitations appli-  
15                       cable to the insured credit unions;

16                       (B) the overall amount and average size of  
17                       member business loans by each insured credit  
18                       union;

19                       (C) the ratio of member business loans by  
20                       insured credit unions to total assets and net  
21                       worth;

22                       (D) the performance of the member busi-  
23                       ness loans, including delinquencies and net  
24                       charge offs;

1           (E) the effect of this Act and the amend-  
2           ments made by this Act on the number of in-  
3           sured credit unions engaged in member busi-  
4           ness lending, any change in the amount of  
5           member business lending, and the extent to  
6           which any increase is attributed to the change  
7           in the limitation in section 107A(a) of the Fed-  
8           eral Credit Union Act, as amended by this Act;

9           (F) the number, types, and asset size of  
10          insured credit unions that were denied or ap-  
11          proved by the Board for increased member  
12          business loans under section 107A(a)(2) of the  
13          Federal Credit Union Act, as amended by this  
14          Act, including denials and approvals under the  
15          tiered approval process;

16          (G) the types and sizes of businesses that  
17          receive member business loans, the duration of  
18          the credit union membership of the businesses  
19          at the time of the loan, the types of collateral  
20          used to secure member business loans, and the  
21          income level of members receiving member busi-  
22          ness loans; and

23          (H) the effect of any increases in member  
24          business loans on the risk to the National Cred-

1           it Union Share Insurance Fund and the assess-  
2           ments on insured credit unions.

3           (b) GAO STUDY AND REPORT.—

4           (1) STUDY.—The Comptroller General of the  
5           United States shall conduct a study on the status of  
6           member business lending by insured credit unions,  
7           including—

8                   (A) trends in such lending;

9                   (B) types and amounts of member business  
10           loans;

11                   (C) the effectiveness of this section in en-  
12           hancing small business lending;

13                   (D) recommendations for legislative action,  
14           if any, with respect to such lending; and

15                   (E) any other information that the Comp-  
16           troller General considers relevant with respect  
17           to such lending.

18           (2) REPORT.—Not later than 3 years after the  
19           date of enactment of this Act, the Comptroller Gen-  
20           eral shall submit a report to Congress on the study  
21           required by paragraph (1).





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