

115TH CONGRESS
2D SESSION

H. R. 5236

IN THE SENATE OF THE UNITED STATES

MAY 9, 2018

Received; read twice and referred to the Committee on Small Business and
Entrepreneurship

AN ACT

To expand opportunities available to employee-owned business concerns through Small Business Administration loan programs, 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.**

2 This Act may be cited as the “Main Street Employee
3 Ownership Act of 2018”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act—

6 (1) the terms “Administration” and “Adminis-
7 trator” means the Small Business Administration
8 and the Administrator thereof, respectively;

9 (2) the term “cooperative” means an entity
10 that is determined to be a cooperative by the Admin-
11 istrator, in accordance with applicable Federal and
12 State laws and regulations;

13 (3) the term “employee-owned business con-
14 cern” means—

15 (A) a cooperative in which employees are
16 eligible for membership; and

17 (B) a qualified employee trust;

18 (4) the terms “qualified employee trust” and
19 “small business concern” have the meanings given
20 those terms in section 3 of the Small Business Act
21 (15 U.S.C. 632); and

22 (5) the term “small business development cen-
23 ter” means a small business development center de-
24 scribed in section 21 of the Small Business Act (15
25 U.S.C. 648).

1 **SEC. 3. EXPANSION OF 7(A) LOANS.**

2 (a) IN GENERAL.—Section 7(a) of the Small Busi-
3 ness Act (15 U.S.C. 636(a)) is amended—

4 (1) in paragraph (15)—

5 (A) in subparagraph (A)—

6 (i) by striking “this subsection to
7 qualified employee trusts” and inserting
8 “this subsection—

9 “(i) to qualified employee trusts”;

10 (ii) in clause (i), as so designated—

11 (I) by inserting “, and for any
12 transaction costs associated with pur-
13 chasing,” after “purchasing”;

14 (II) by striking the period at the
15 end and inserting “; and”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(ii) to a small business concern under a
19 plan approved by the Administrator, if the pro-
20 ceeds from the loan are only used to make a
21 loan to a qualified employee trust, and for any
22 transaction costs associated with making that
23 loan, that results in the qualified employee trust
24 owning at least 51 percent of the small business
25 concern.”;

26 (B) in subparagraph (B)—

1 (i) in the matter preceding clause (i),
2 by inserting “or by the small business con-
3 cern” after “the trustee of such trust”;

4 (ii) in clause (ii), by striking “and” at
5 the end;

6 (iii) in clause (iii), by striking the pe-
7 riod at the end and inserting “, and”; and

8 (iv) by adding at the end the fol-
9 lowing:

10 “(iv) with respect to a loan made to a
11 trust, or to a cooperative in accordance with
12 paragraph (35)—

13 “(I) a seller of the small business con-
14 cern may remain involved as an officer, di-
15 rector, or key employee of the small busi-
16 ness concern when a qualified employee
17 trust or cooperative has acquired 100 per-
18 cent of ownership of the small business
19 concern; and

20 “(II) any seller of the small business
21 concern who remains as an owner of the
22 small business concern, regardless of the
23 percentage of ownership interest, shall be
24 required to provide a personal guarantee
25 by the Administration.”; and

1 (C) by adding at the end the following:

2 “(F) A small business concern that makes a
3 loan to a qualified employee trust under subpara-
4 graph (A)(ii) is not required to contain the same
5 terms and conditions as the loan made to the small
6 business concern that is guaranteed by the Adminis-
7 tration under such subparagraph.

8 “(G) With respect to a loan made to a qualified
9 employee trust under this paragraph, or to a cooper-
10 ative in accordance with paragraph (35), the Admin-
11 istrator may, as deemed appropriate, elect to not re-
12 quire any mandatory equity to be provided by the
13 qualified employee trust or cooperative to make the
14 loan.”; and

15 (2) by adding at the end the following:

16 “(35) LOANS TO COOPERATIVES.—

17 “(A) DEFINITION.—In this paragraph, the
18 term ‘cooperative’ means an entity that is de-
19 termined to be a cooperative by the Adminis-
20 trator, in accordance with applicable Federal
21 and State laws and regulation.

22 “(B) AUTHORITY.—The Administration
23 shall guarantee loans made to a cooperative for
24 the purpose described in paragraph (15).”.

1 (b) DELEGATION OF AUTHORITY TO PREFERRED
2 LENDERS.—Section 5(b)(7) of the Small Business Act (15
3 U.S.C. 634(b)(7)) is amended by inserting “, including
4 loans guaranteed under paragraph (15) or (35) of section
5 7(a)” after “deferred participation loans”.

6 **SEC. 4. SMALL BUSINESS INVESTMENT COMPANY PRO-**
7 **GRAM OUTREACH.**

8 The Administrator shall provide outreach and edu-
9 cational materials to companies licensed under section
10 301(c) of the Small Business Investment Act of 1958 (15
11 U.S.C. 681(c)) to increase the use of funds to make invest-
12 ments in company transitions to employee-owned business
13 concerns.

14 **SEC. 5. SMALL BUSINESS MICROLOAN PROGRAM OUT-**
15 **REACH.**

16 The Administrator shall provide outreach and edu-
17 cational materials to intermediaries under section 7(m) of
18 the Small Business Act (15 U.S.C. 636(m)) to increase
19 the use of funds to make loans to employee-owned busi-
20 ness concerns, including transitions to employee-owned
21 business concerns.

22 **SEC. 6. SMALL BUSINESS DEVELOPMENT CENTER OUT-**
23 **REACH AND ASSISTANCE.**

24 (a) ESTABLISHMENT.—The Administrator shall es-
25 tablish a Small Business Employee Ownership and Co-

1 operatives Promotion Program to offer technical assist-
2 ance and training on the transition to employee ownership
3 through cooperatives and qualified employee trusts.

4 (b) SMALL BUSINESS DEVELOPMENT CENTERS.—

5 (1) IN GENERAL.—In carrying out the program
6 established under subsection (a), the Administrator
7 shall enter into agreements with small business de-
8 velopment centers under which the centers shall—

9 (A) provide access to information and re-
10 sources on employee ownership through co-
11 operatives or qualified employee trusts as a
12 business succession strategy;

13 (B) conduct training and educational ac-
14 tivities; and

15 (C) carry out the activities described in
16 subparagraph (U) of section 21(c)(3) of the
17 Small Business Act (15 U.S.C. 648(c)(3)).

18 (2) ADDITIONAL SERVICES.—Section 21(c)(3)
19 of the Small Business Act (15 U.S.C. 648(c)(3)) is
20 amended—

21 (A) in subparagraph (S), by striking
22 “and” at the end;

23 (B) in subparagraph (T), by striking the
24 period at the end and inserting “; and”; and

25 (C) by adding at the end the following:

1 “(U) encouraging and assisting the provision of
2 succession planning to small business concerns with
3 a focus on transitioning to cooperatives, as defined
4 in section 7(a)(35), and qualified employee trusts
5 (collectively referred to in this subparagraph as ‘em-
6 ployee-owned business concerns’), including by—

7 “(i) providing training to individuals to
8 promote the successful management, govern-
9 ance, or operation of a business purchased by
10 those individuals in the formation of an em-
11 ployee-owned business concern;

12 “(ii) assisting employee-owned business
13 concerns that meet applicable size standards es-
14 tablished under section 3(a) with education and
15 technical assistance with respect to financing
16 and contracting programs administered by the
17 Administration;

18 “(iii) coordinating with lenders on con-
19 ducting outreach on financing through pro-
20 grams administered by the Administration that
21 may be used to support the transition of owner-
22 ship to employees;

23 “(iv) supporting small business concerns in
24 exploring or assessing the possibility of

1 transitioning to an employee-owned business
2 concern; and

3 “(v) coordinating with the cooperative de-
4 velopment centers of the Department of Agri-
5 culture, the land grant extension network, the
6 Manufacturing Extension Partnership, commu-
7 nity development financial institutions, em-
8 ployee ownership associations and service pro-
9 viders, and local, regional and national coopera-
10 tive associations.”.

11 **SEC. 7. INTERAGENCY WORKING GROUP.**

12 (a) IN GENERAL.—Not later than 90 days after the
13 date of enactment of this Act, the Administrator (or a des-
14 ignee of the Administrator) shall coordinate and chair an
15 interagency working group, which shall—

16 (1) develop recommendations on how Federal
17 programs can promote, support, and increase the
18 number of employee-owned business concerns;

19 (2) ensure coordination with Federal agencies
20 and national and local employee ownership, coopera-
21 tive, and small business organizations; and

22 (3) publish a report on the activities of the
23 interagency working group that is indexed and main-
24 tained for public review.

1 (b) MEETINGS.—The interagency working group
2 shall meet at such times as determined necessary by the,
3 but not less than biannually. Such meetings may occur
4 in person or via electronic resources.

5 **SEC. 8. AMENDMENT TO REPORT TO CONGRESS ON STATUS**
6 **OF EMPLOYEE-OWNED FIRMS.**

7 Section 7(a)(15)(E) of the Small Business Act (15
8 U.S.C. 636(a)(15)(E)) is amended by striking “Adminis-
9 tration.” and inserting “Administration, which shall in-
10 clude—

11 “(i) the total number of loans made to
12 employee-owned business concerns that
13 were guaranteed by the Administrator
14 under section 7(a) of the Small Business
15 Act (15 U.S.C. 636(a)) or section 502 of
16 the Small Business Investment Act of
17 1958 (15 U.S.C. 696), including the num-
18 ber of loans made—

19 “(I) to small business concerns
20 owned and controlled by socially and
21 economically disadvantaged individ-
22 uals; and

23 “(II) to cooperatives in which
24 employees are eligible for membership;

1 “(ii) the total number of financings
2 made to employee-owned business concerns
3 by companies licensed under section 301(c)
4 of the Small Business Investment Act of
5 1958 (15 U.S.C. 696(c)), including the
6 number of financings made—

7 “(I) to small business concerns
8 owned and controlled by socially and
9 economically disadvantaged individ-
10 uals; and

11 “(II) to cooperatives in which
12 employees are eligible for membership;
13 and

14 “(iii) any outreach and educational
15 activities conducted by the Administration
16 with respect to employee-owned business
17 concerns.”.

18 **SEC. 9. REPORT ON COOPERATIVE LENDING.**

19 (a) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that cooperatives have a unique business structure
21 and are unable to access the lending programs of the Ad-
22 ministration effectively due to loan guarantee require-
23 ments that are incompatible with the business structure
24 of cooperatives.

25 (b) STUDY AND REPORT.—

1 (1) STUDY.—The Administrator, in coordina-
2 tion with lenders, stakeholders, and Federal agen-
3 cies, shall study and recommend practical alter-
4 natives for cooperatives that will satisfy the loan
5 guarantee requirements of the Administration.

6 (2) REPORT.—Not later than 120 days after
7 the date of enactment of this Act, the Administrator
8 shall submit to Congress the recommendations devel-
9 oped under paragraph (1) and a plan to implement
10 such recommendations.

11 **SEC. 10. AMENDMENT TO DEFINITION OF QUALIFIED EM-**
12 **PLOYEE TRUST.**

13 Section 3(c)(2)(A)(ii) of the Small Business Act (15
14 U.S.C. 632(c)(2)(A)(ii)) is amended to read as follows:

15 “(ii) which provides that each participant
16 is entitled to direct the plan trustee as to the
17 manner of how to vote the qualified employer
18 securities (as defined in section 4975(e)(8) of
19 the Internal Revenue Code of 1986), which are
20 allocated to the account of such participant
21 with respect to a corporate matter which (by
22 law or charter) must be decided by a vote con-

Attest: KAREN L. HAAS,
Clerk.