

Union Calendar No. 494

115TH CONGRESS
2^D SESSION

H. R. 5236

[Report No. 115–645]

To expand opportunities available to employee-owned business concerns through Small Business Administration loan programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2018

Ms. VELÁZQUEZ introduced the following bill; which was referred to the
Committee on Small Business

APRIL 24, 2018

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 8, 2018]

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Main Street Employee*
5 *Ownership Act of 2018”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act—*

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

11 (2) *the term “cooperative” means an entity that*
12 *is determined to be a cooperative by the Adminis-*
13 *trator, in accordance with applicable Federal and*
14 *State laws and regulations;*

15 (3) *the term “employee-owned business concern”*
16 *means—*

17 (A) *a cooperative in which employees are el-*
18 *igible for membership; and*

19 (B) *a qualified employee trust;*

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

24 (5) *the term “small business development center”*
25 *means a small business development center described*

1 *in section 21 of the Small Business Act (15 U.S.C.*
 2 *648).*

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

4 *(a) IN GENERAL.—Section 7(a) of the Small Business*
 5 *Act (15 U.S.C. 636(a)) is amended—*

6 *(1) in paragraph (15)—*

7 *(A) in subparagraph (A)—*

8 *(i) by striking “this subsection to*
 9 *qualified employee trusts” and inserting*
 10 *“this subsection—*

11 *“(i) to qualified employee trusts”;*

12 *(ii) in clause (i), as so designated—*

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

16 *(II) by striking the period at the*
 17 *end and inserting “; and”; and*

18 *(iii) by adding at the end the fol-*
 19 *lowing:*

20 *“(ii) to a small business concern under a*
 21 *plan approved by the Administrator, if the pro-*
 22 *ceeds from the loan are only used to make a loan*
 23 *to a qualified employee trust, and for any trans-*
 24 *action costs associated with making that loan,*
 25 *that results in the qualified employee trust own-*

ing at least 51 percent of the small business concern.”;

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by inserting “or by the small business concern” after “the trustee of such trust”;

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

(iii) in clause (iii), by striking the period at the end and inserting “, and”; and

(iv) by adding at the end the following:

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

“(I) a seller of the small business concern may remain involved as an officer, director, or key employee of the small business concern when a qualified employee trust or cooperative has acquired 100 percent of ownership of the small business concern; and

“(II) any seller of the small business concern who remains as an owner of the small business concern, regardless of the percentage of ownership interest, shall be re-

1 *quired to provide a personal guarantee by*
 2 *the Administration.”; and*

3 *(C) by adding at the end the following:*

4 “(F) *A small business concern that makes a loan*
 5 *to a qualified employee trust under subparagraph*
 6 *(A)(ii) is not required to contain the same terms and*
 7 *conditions as the loan made to the small business con-*
 8 *cern that is guaranteed by the Administration under*
 9 *such subparagraph.*

10 “(G) *With respect to a loan made to a qualified*
 11 *employee trust under this paragraph, or to a coopera-*
 12 *tive in accordance with paragraph (35), the Adminis-*
 13 *trator may, as deemed appropriate, elect to not re-*
 14 *quire any mandatory equity to be provided by the*
 15 *qualified employee trust or cooperative to make the*
 16 *loan.”; and*

17 *(2) by adding at the end the following:*

18 “(35) *LOANS TO COOPERATIVES.—*

19 “(A) *DEFINITION.—In this paragraph, the*
 20 *term ‘cooperative’ means an entity that is deter-*
 21 *mined to be a cooperative by the Administrator,*
 22 *in accordance with applicable Federal and State*
 23 *laws and regulation.*

1 “(B) *AUTHORITY.*—*The Administration*
 2 *shall guarantee loans made to a cooperative for*
 3 *the purpose described in paragraph (15).”.*

4 (b) *DELEGATION OF AUTHORITY TO PREFERRED*
 5 *LENDERS.*—*Section 5(b)(7) of the Small Business Act (15*
 6 *U.S.C. 634(b)(7)) is amended by inserting “, including*
 7 *loans guaranteed under paragraph (15) or (35) of section*
 8 *7(a)” after “deferred participation loans”.*

9 **SEC. 4. SMALL BUSINESS INVESTMENT COMPANY PROGRAM**
 10 **OUTREACH.**

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

17 **SEC. 5. SMALL BUSINESS MICROLOAN PROGRAM OUT-**
 18 **REACH.**

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

1 **SEC. 6. SMALL BUSINESS DEVELOPMENT CENTER OUT-**
 2 **REACH AND ASSISTANCE.**

3 (a) *ESTABLISHMENT.*—*The Administrator shall estab-*
 4 *lish a Small Business Employee Ownership and Coopera-*
 5 *tives Promotion Program to offer technical assistance and*
 6 *training on the transition to employee ownership through*
 7 *cooperatives and qualified employee trusts.*

8 (b) *SMALL BUSINESS DEVELOPMENT CENTERS.*—

9 (1) *IN GENERAL.*—*In carrying out the program*
 10 *established under subsection (a), the Administrator*
 11 *shall enter into agreements with small business devel-*
 12 *opment centers under which the centers shall—*

13 (A) *provide access to information and re-*
 14 *sources on employee ownership through coopera-*
 15 *tives or qualified employee trusts as a business*
 16 *succession strategy;*

17 (B) *conduct training and educational ac-*
 18 *tivities; and*

19 (C) *carry out the activities described in sub-*
 20 *paragraph (U) of section 21(c)(3) of the Small*
 21 *Business Act (15 U.S.C. 648(c)(3)).*

22 (2) *ADDITIONAL SERVICES.*—*Section 21(c)(3) of*
 23 *the Small Business Act (15 U.S.C. 648(c)(3)) is*
 24 *amended—*

25 (A) *in subparagraph (S), by striking “and”*
 26 *at the end;*

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

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

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

10 “(i) providing training to individuals to
11 promote the successful management, governance,
12 or operation of a business purchased by those in-
13 dividuals in the formation of an employee-owned
14 business concern;

15 “(ii) assisting employee-owned business con-
16 cerns that meet applicable size standards estab-
17 lished under section 3(a) with education and
18 technical assistance with respect to financing
19 and contracting programs administered by the
20 Administration;

21 “(iii) coordinating with lenders on con-
22 ducting outreach on financing through programs
23 administered by the Administration that may be
24 used to support the transition of ownership to
25 employees;

1 “(iv) supporting small business concerns in
 2 exploring or assessing the possibility of
 3 transitioning to an employee-owned business
 4 concern; and

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

13 **SEC. 7. INTERAGENCY WORKING GROUP.**

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

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

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

1 (3) *publish a report on the activities of the inter-*
 2 *agency working group that is indexed and main-*
 3 *tained for public review.*

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

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

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

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

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

1 “(II) to cooperatives in which em-
 2 ployees are eligible for membership;

3 “(ii) the total number of financings
 4 made to employee-owned business concerns
 5 by companies licensed under section 301(c)
 6 of the Small Business Investment Act of
 7 1958 (15 U.S.C. 696(c)), including the
 8 number of financings made—

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

13 “(II) to cooperatives in which em-
 14 ployees are eligible for membership;
 15 and

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

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

21 (a) *SENSE OF CONGRESS.*—It is the sense of Congress
 22 that cooperatives have a unique business structure and are
 23 unable to access the lending programs of the Administration
 24 effectively due to loan guarantee requirements that are in-
 25 compatible with the business structure of cooperatives.

1 **(b) STUDY AND REPORT.**—

2 **(1) STUDY.**—*The Administrator, in coordination*
 3 *with lenders, stakeholders, and Federal agencies, shall*
 4 *study and recommend practical alternatives for co-*
 5 *operatives that will satisfy the loan guarantee re-*
 6 *quirements of the Administration.*

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

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

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

16 *“(ii) which provides that each participant*
 17 *is entitled to direct the plan trustee as to the*
 18 *manner of how to vote the qualified employer se-*
 19 *curities (as defined in section 4975(e)(8) of the*
 20 *Internal Revenue Code of 1986), which are allo-*
 21 *cated to the account of such participant with re-*
 22 *spect to a corporate matter which (by law or*
 23 *charter) must be decided by a vote conducted in*
 24 *accordance with section 409(e) of the Internal*
 25 *Revenue Code of 1986; and”.*

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