

111TH CONGRESS  
1ST SESSION

# H. R. 4302

To increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2009

Mr. ABERCROMBIE (for himself and Mrs. LOWEY) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, 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 “Small Business Job  
5 Creation and Access to Capital Act of 2009”.

## 6 **TITLE I—NEXT STEPS FOR MAIN** 7 **STREET CREDIT AVAILABILITY**

### 8 **SEC. 101. SECTION 7(a) BUSINESS LOANS.**

9 (a) AMENDMENT.—Section 7(a) of the Small Busi-  
10 ness Act (15 U.S.C. 636(a)) is amended—

1 (1) in paragraph (2)(A)—

2 (A) in clause (i), by striking “75 percent”

3 and inserting “90 percent”; and

4 (B) in clause (ii), by striking “85 percent”

5 and inserting “90 percent”; and

6 (2) in paragraph (3)(A), by striking

7 “\$1,500,000 (or if the gross loan amount would ex-

8 ceed \$2,000,000” and inserting “\$4,500,000 (or if

9 the gross loan amount would exceed \$5,000,000”.

10 (b) PROSPECTIVE REPEAL.—Effective January 1,

11 2011, section 7(a) of the Small Business Act (15 U.S.C.

12 636(a)) is amended—

13 (1) in paragraph (2)(A)—

14 (A) in clause (i), by striking “90 percent”

15 and inserting “75 percent”; and

16 (B) in clause (ii), by striking “90 percent”

17 and inserting “85 percent”; and

18 (2) in paragraph (3)(A), by striking

19 “\$4,500,000” and inserting “\$3,750,000”.

20 **SEC. 102. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.**

21 Section 502(2)(A) of the Small Business Investment

22 Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

23 (1) in clause (i), by striking “\$1,500,000” and

24 inserting “\$5,000,000”;

1 (2) in clause (ii), by striking “\$2,000,000” and  
 2 inserting “\$5,000,000”;

3 (3) in clause (iii), by striking “\$4,000,000” and  
 4 inserting “\$5,500,000”;

5 (4) in clause (iv), by striking “\$4,000,000” and  
 6 inserting “\$5,500,000”; and

7 (5) in clause (v), by striking “\$4,000,000” and  
 8 inserting “\$5,500,000”.

9 **SEC. 103. MAXIMUM LOAN LIMITS UNDER MICROLOAN PRO-**  
 10 **GRAM.**

11 Section 7(m) of the Small Business Act (15 U.S.C.  
 12 636(m)) is amended—

13 (1) in paragraph (1)(B)(iii), by striking  
 14 “\$35,000” and inserting “\$50,000”;

15 (2) in paragraph (3)—

16 (A) in subparagraph (C), by striking  
 17 “\$3,500,000” and inserting “\$5,000,000”; and

18 (B) in subparagraph (E), by striking  
 19 “\$35,000” each place that term appears and  
 20 inserting “\$50,000”; and

21 (3) in paragraph (11)(B), by striking  
 22 “\$35,000” and inserting “\$50,000”.

23 **SEC. 104. TEMPORARY FEE REDUCTIONS.**

24 Section 501 of the American Recovery and Reinvest-  
 25 ment Act of 2009 (Public Law 111–5; 123 Stat. 151) is

1 amended by striking “September 30, 2010” each place  
 2 that term appears and inserting “December 31, 2010”.

3 **SEC. 105. NEW MARKETS VENTURE CAPITAL COMPANY IN-**  
 4 **VESTMENT LIMITATIONS.**

5 Section 355 of the Small Business Investment Act  
 6 of 1958 (15 U.S.C. 689d) is amended by adding at the  
 7 end the following:

8 “(e) INVESTMENT LIMITATIONS.—

9 “(1) DEFINITION.—In this subsection, the term  
 10 ‘covered New Markets Venture Capital company’  
 11 means a New Markets Venture Capital company—

12 “(A) granted final approval by the Admin-  
 13 istrator under section 354(e) on or after March  
 14 1, 2002; and

15 “(B) that has obtained a financing from  
 16 the Administrator.

17 “(2) LIMITATION.—Except to the extent ap-  
 18 proved by the Administrator, a covered New Markets  
 19 Venture Capital company may not acquire or issue  
 20 commitments for securities under this title for any  
 21 single enterprise in an aggregate amount equal to  
 22 more than 10 percent of the sum of—

23 “(A) the regulatory capital of the covered  
 24 New Markets Venture Capital company; and

1                   “(B) the total amount of leverage pro-  
2                   jected in the participation agreement of the cov-  
3                   ered New Markets Venture Capital.”.

4 **SEC. 106. ALTERNATIVE SIZE STANDARDS.**

5           Section 3(a) of the Small Business Act (15 U.S.C.  
6 632(a)) is amended by adding at the end the following:

7           “(5) ALTERNATIVE SIZE STANDARD.—

8                   “(A) IN GENERAL.—The Administrator shall  
9                   establish an alternative size standard for applicants  
10                  for business loans under section 7(a) and applicants  
11                  for development company loans under title V of the  
12                  Small Business Investment Act of 1958 (15 U.S.C.  
13                  695 et seq.), that uses maximum tangible net worth  
14                  and average net income as an alternative to the use  
15                  of industry standards.

16                  “(B) INTERIM RULE.—Until the date on which  
17                  the alternative size standard established under sub-  
18                  paragraph (A) is in effect, an applicant for a busi-  
19                  ness loan under section 7(a) or an applicant for a  
20                  development company loan under title V of the  
21                  Small Business Investment Act of 1958 may be eli-  
22                  gible for such a loan if—

23                          “(i) the maximum tangible net worth of  
24                          the applicant is not more than \$15,000,000;  
25                          and

1                   “(ii) the average net income after Federal  
2                   income taxes (excluding any carry-over losses)  
3                   of the applicant for the 2 full fiscal years before  
4                   the date of the application is not more than  
5                   \$5,000,000.”.

6 **SEC. 107. SALE OF 7(a) LOANS IN SECONDARY MARKET.**

7           Section 5(g) of the Small Business Act (15 U.S.C.  
8 634(g)) is amended by adding at the end the following:

9           “(6) If the amount of the guaranteed portion of any  
10 loan under section 7(a) is more than \$500,000, the Ad-  
11 ministrator shall, upon request of a pool assembler, divide  
12 the loan guarantee into increments of \$500,000 and 1 in-  
13 crement of any remaining amount less than \$500,000, in  
14 order to permit the maximum amount of any loan in a  
15 pool to be not more than \$500,000. Only 1 increment of  
16 any loan guarantee divided under this paragraph may be  
17 included in the same pool. Increments of loan guarantees  
18 to different borrowers that are divided under this para-  
19 graph may be included in the same pool.”.

20 **SEC. 108. ONLINE LENDING PLATFORM.**

21           It is the sense of the Congress that the Administrator  
22 of the Small Business Administration should establish a  
23 website that—

24                   (1) lists each lender that makes loans guaran-  
25                   teed by the Small Business Administration and pro-

1       vides information about the loan rates of each such  
2       lender; and

3               (2) allows prospective borrowers to compare  
4       rates on loans guaranteed by the Small Business  
5       Administration.

## 6       **TITLE II—SMALL BUSINESS** 7       **ACCESS TO CAPITAL**

### 8       **SEC. 201. LOW-INTEREST REFINANCING UNDER THE LOCAL** 9       **DEVELOPMENT BUSINESS LOAN PROGRAM.**

10       (a) REFINANCING.—Section 502(7) of the Small  
11       Business Investment Act of 1958 (15 U.S.C. 696(7)) is  
12       amended by adding at the end the following:

13               “(C) REFINANCING NOT INVOLVING EX-  
14       PANSIONS.—

15               “(i) DEFINITIONS.—In this subpara-  
16       graph—

17                       “(I) the term ‘borrower’ means a  
18                       small business concern that submits  
19                       an application to a development com-  
20                       pany for financing under this sub-  
21                       paragraph;

22                       “(II) the term ‘eligible fixed  
23                       asset’ means tangible property relat-  
24                       ing to which the Administrator may

1 provide financing under this section;  
2 and

3 “(III) the term ‘qualified debt’  
4 means indebtedness—

5 “(aa) that—

6 “(AA) was incurred not  
7 less than 2 years before the  
8 date of the application for  
9 assistance under this sub-  
10 paragraph;

11 “(BB) is a commercial  
12 loan;

13 “(CC) is not subject to  
14 a guarantee by a Federal  
15 agency;

16 “(DD) the proceeds of  
17 which were used to acquire  
18 an eligible fixed asset;

19 “(EE) was incurred for  
20 the benefit of the small busi-  
21 ness concern; and

22 “(FF) is collateralized  
23 by eligible fixed assets; and

24 “(bb) for which the borrower  
25 has been current on all payments



1                   for not less than 1 year before  
2                   the date of the application.

3                   “(ii) AUTHORITY.—A project that  
4                   does not involve the expansion of a small  
5                   business concern may include the refi-  
6                   nancing of qualified debt if—

7                   “(I) the amount of the financing  
8                   is not more than 80 percent of the  
9                   value of the collateral for the financ-  
10                  ing, except that, if the appraised value  
11                  of the eligible fixed assets serving as  
12                  collateral for the financing is less than  
13                  the amount equal to 125 percent of  
14                  the amount of the financing, the bor-  
15                  rower may provide additional cash or  
16                  other collateral to eliminate any defi-  
17                  ciency;

18                  “(II) the borrower has been in  
19                  operation for all of the 2-year period  
20                  ending on the date of the loan; and

21                  “(III) for a financing for which  
22                  the Administrator determines there  
23                  will be an additional cost attributable  
24                  to the refinancing of the qualified  
25                  debt, the borrower agrees to pay a fee

1 in an amount equal to the anticipated  
2 additional cost.

3 “(iii) FINANCING FOR BUSINESS EX-  
4 PENSES.—

5 “(I) FINANCING FOR BUSINESS  
6 EXPENSES.—The Administrator may  
7 provide financing to a borrower that  
8 receives financing that includes a refi-  
9 nancing of qualified debt under clause  
10 (ii), in addition to the refinancing  
11 under clause (ii), to be used solely for  
12 the payment of business expenses.

13 “(II) APPLICATION FOR FINANC-  
14 ING.—An application for financing  
15 under subclause (I) shall include—

16 “(aa) a specific description  
17 of the expenses for which the ad-  
18 ditional financing is requested;  
19 and

20 “(bb) an itemization of the  
21 amount of each expense.

22 “(III) CONDITION ON ADDI-  
23 TIONAL FINANCING.—A borrower may  
24 not use any part of the financing

1 under this clause for non-business  
2 purposes.

3 “(iv) LOANS BASED ON JOBS.—

4 “(I) JOB CREATION AND RETEN-  
5 TION GOALS.—

6 “(aa) IN GENERAL.—The  
7 Administrator may provide fi-  
8 nancing under this subparagraph  
9 for a borrower that meets the job  
10 creation goals under subsection  
11 (d) or (e) of section 501.

12 “(bb) ALTERNATE JOB RE-  
13 TENTION GOAL.—The Adminis-  
14 trator may provide financing  
15 under this subparagraph to a  
16 borrower that does not meet the  
17 goals described in item (aa) in an  
18 amount that is not more than the  
19 product obtained by multiplying  
20 the number of employees of the  
21 borrower by \$65,000.

22 “(II) NUMBER OF EMPLOYEES.—

23 For purposes of subclause (I), the  
24 number of employees of a borrower is  
25 equal to the sum of—

1           “(aa) the number of full-  
2           time employees of the borrower  
3           on the date on which the bor-  
4           rower applies for a loan under  
5           this subparagraph; and

6           “(bb) the product obtained  
7           by multiplying—

8           “(AA) the number of  
9           part-time employees of the  
10          borrower on the date on  
11          which the borrower applies  
12          for a loan under this sub-  
13          paragraph; by

14          “(BB) the quotient ob-  
15          tained by dividing the aver-  
16          age number of hours each  
17          part time employee of the  
18          borrower works each week  
19          by 40.

20          “(v)     NONDELEGATION.—Notwith-  
21          standing section 508(e), the Administrator  
22          may not permit a premier certified lender  
23          to approve or disapprove an application for  
24          assistance under this subparagraph.

1                   “(vi) TOTAL AMOUNT OF LOANS.—  
2                   The Administrator may provide not more  
3                   than a total of \$4,000,000,000 of financ-  
4                   ing under this subparagraph for each fiscal  
5                   year.”.

6           (b) PROSPECTIVE REPEAL.—Effective 2 years after  
7 the date of the enactment of this Act, section 502(7) of  
8 the Small Business Investment Act of 1958 (15 U.S.C.  
9 696(7)) is amended by striking subparagraph (C).

10          (c) TECHNICAL CORRECTION.—Section 502(2)(A)(i)  
11 of the Small Business Investment Act of 1958 (15 U.S.C.  
12 696(2)(A)(i)) is amended by striking “subparagraph (B)  
13 or (C)” and inserting “clause (ii), (iii), (iv), or (v)”.

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