

111TH CONGRESS
2D SESSION

H. R. 5412

To amend the Small Business Investment Act of 1958 to increase maximum loan amounts under the program in title V of that Act, to provide temporary authority for debt refinancing of commercial real estate, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2010

Ms. BEAN (for herself, Mrs. DAHLKEMPER, Mr. PETERS, Mr. MURPHY of New York, Mr. QUIGLEY, Mr. BRIGHT, Ms. MARKEY of Colorado, Mr. MICHAUD, Mr. LIPINSKI, Mr. ELLSWORTH, Mr. POLIS of Colorado, Mr. COOPER, Mr. KLEIN of Florida, Mr. MOORE of Kansas, Mr. HILL, Mr. WELCH, and Mrs. HALVORSON) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Investment Act of 1958 to increase maximum loan amounts under the program in title V of that Act, to provide temporary authority for debt refinancing of commercial real estate, 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 Asset
5 Investment and Modernization (AIM) Act of 2010”.

1 **SEC. 2. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.**

2 Section 502(2)(A) of the Small Business Investment
3 Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

4 (1) in clause (i), by striking “\$1,500,000” and
5 inserting “\$5,000,000”;

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

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

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

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

14 **SEC. 3. LOW-INTEREST REFINANCING UNDER THE LOCAL**
15 **DEVELOPMENT BUSINESS LOAN PROGRAM.**

16 Section 502 of the Small Business Investment Act
17 of 1958 (15 U.S.C. 696) is amended by adding at the end
18 the following:

19 “(8) TEMPORARY AUTHORITY FOR DEBT REFI-
20 NANCING OF COMMERCIAL REAL ESTATE.—

21 “(A) IN GENERAL.—During the period be-
22 ginning on the date of enactment of this para-
23 graph and ending on September 30, 2012, not-
24 withstanding paragraph (7), the Administrator
25 may approve, for financing under this title, the
26 refinancing of indebtedness that is secured by a

1 lien on commercial real estate or equipment of
2 a small business concern under such terms and
3 conditions as the Administrator determines ap-
4 propriate, except at a minimum such terms and
5 conditions shall include the following:

6 “(i) The existing indebtedness is ma-
7 turing not more than one year after the
8 loan approval date.

9 “(ii) The proceeds of the existing in-
10 debtedness were used to acquire land, in-
11 cluding a building situated thereon, to con-
12 struct a building thereon, or to purchase
13 equipment.

14 “(iii) The small business concern has
15 been current on all payments due on the
16 existing indebtedness for a period begin-
17 ning on a date that is not less than 1 year
18 before the date of refinancing and ending
19 on the date of refinancing.

20 “(iv) At the time of refinancing, the
21 lien shall be assigned or released in a man-
22 ner that ensures that the financing under
23 this title is in the same lien position as the
24 existing indebtedness.

1 “(v) The existing indebtedness was in-
2 curred for the benefit of the small business
3 concern.

4 “(vi) The financing under this title
5 will be used only for refinancing existing
6 indebtedness or costs relating to such refi-
7 nancing.

8 “(vii) The amount being refinanced
9 may not exceed 90 percent of the ap-
10 praised value of the commercial real estate
11 or equipment on the date of refinancing or
12 100 percent of the outstanding principal
13 amount of the existing indebtedness,
14 whichever is less, plus allowable closing
15 costs as determined by the Administrator.

16 “(viii) Notwithstanding any other pro-
17 vision of this title, for a refinancing under
18 this paragraph—

19 “(I) not less than 50 percent of
20 the appraised value of the commercial
21 real estate or equipment on the date
22 of refinancing shall come from the in-
23 stitutions described in subclauses (I),
24 (II) or (III) of paragraph (3)(B)(i):
25 *Provided*, That if the indebtedness

1 being refinanced pursuant to this
2 paragraph is held by such an institu-
3 tion, or an affiliate thereof, that is
4 providing funds for the refinancing,
5 the institution shall contribute not
6 less than 70 percent of such appraised
7 value of the commercial real estate or
8 equipment; and

9 “(II) the remaining funds needed
10 for the refinancing (including closing
11 costs) shall come from the develop-
12 ment company.

13 “(ix) In addition to the other fees im-
14 posed under this title, the Administrator
15 shall assess, collect, and retain such annual
16 fees in amounts necessary to reduce to
17 zero the cost (as that term is defined in
18 section 502 of the Federal Credit Reform
19 Act of 1990) to the Administrator of mak-
20 ing guarantees under the authority of sec-
21 tion 503(a) with respect to refinancings
22 under this paragraph.

23 “(x) The temporary fee elimination
24 authorized under section 501(b) of the
25 American Recovery and Reinvestment Act

1 of 2009, Public Law 111–5, shall not
2 apply to any refinancing made under this
3 paragraph.

4 “(xi) No fee reduction or elimination
5 applicable to loans under this title shall
6 apply to loans under this paragraph.

7 “(xii) No portion of the indebtedness
8 may be subject to a guarantee by a Fed-
9 eral agency.

10 “(xiii) The development company may
11 charge the small business concern a proc-
12 essing fee of up to 50 basis points more
13 than the amount that the Administrator
14 authorizes under section 120.971(a)(1) of
15 title 13, Code of Federal Regulations, as in
16 effect on January 1, 2010.

17 “(B) TOTAL AMOUNT OF LOANS.—The Ad-
18 ministrator may provide not more than a total
19 of \$7,500,000,000 of financing under this para-
20 graph for each fiscal year.

21 “(C) NONDELEGATION.—Notwithstanding
22 section 508(e) of this title, the Administrator
23 may not permit a premier certified lender to ap-
24 prove or disapprove an application for assist-
25 ance under this paragraph.

1 “(D) TERM APPOINTMENTS.—

2 “(i) To carry out the authority under
3 this paragraph, the Administrator may au-
4 thorize term appointments within the Ad-
5 ministration under subchapter I of chapter
6 33 of title 5, United States Code, for a pe-
7 riod of not less than 1 year and not more
8 than 6 years.

9 “(ii) Notwithstanding chapter 33 of
10 title 5, United States Code, or any other
11 provision of law relating to the examina-
12 tion, certification, and appointment of indi-
13 viduals in the competitive service, the Ad-
14 ministrator may convert an employee serv-
15 ing under a term appointment to a perma-
16 nent appointment in the competitive serv-
17 ice within the Administration without fur-
18 ther competition if—

19 “(I) such individual was ap-
20 pointed under open, competitive exam-
21 ination under subchapter I of chapter
22 33 of title 5, United States Code, to
23 the term position;

24 “(II) the announcement for the
25 term appointment from which the con-

1 version is made stated that there was
2 potential for subsequent conversion to
3 a career-conditional or career appoint-
4 ment;

5 “(III) the employee has com-
6 pleted at least 2 years of current con-
7 tinuous service under a term appoint-
8 ment in the competitive service;

9 “(IV) the employee’s performance
10 under such term appointment was at
11 least fully successful or equivalent;
12 and

13 “(V) the position to which such
14 employee is being converted under this
15 section is in the same occupational se-
16 ries, is in the same geographic loca-
17 tion, and provides no greater pro-
18 motion potential than the term posi-
19 tion for which the competitive exam-
20 ination was conducted.

21 “(iii) Notwithstanding chapter 33 of
22 title 5, United States Code, or any other
23 provision of law relating to the examina-
24 tion, certification, and appointment of indi-
25 viduals in the competitive service, the Ad-

1 administrator may convert an employee serv-
2 ing under a term appointment to a perma-
3 nent appointment in the competitive serv-
4 ice within the Administration through in-
5 ternal competitive promotion procedures if
6 the conditions under subclauses (I)
7 through (IV) of subparagraph (D)(ii) are
8 met.

9 “(iv) An employee converted under
10 this subparagraph becomes a career-condi-
11 tional employee, unless the employee has
12 otherwise completed the service require-
13 ments for career tenure.

14 “(v) An employee converted to career
15 or career-conditional employment under
16 this subparagraph acquires competitive
17 status upon conversion.

18 “(E) ELIMINATION OF PENSION OFFSET
19 FOR CERTAIN REHIRED FEDERAL RETIREES.—

20 “(i) IN GENERAL.—To carry out the
21 authority under this paragraph, the Ad-
22 ministrator may waive the application of
23 section 8344 or 8468 of title 5, United
24 States Code, on a case-by-case basis for
25 employment of an annuitant.

1 “(ii) PROCEDURES.—The Adminis-
2 trator shall prescribe procedures for the
3 exercise of authority under this subpara-
4 graph, including—

5 “(I) criteria for any exercise of
6 authority; and

7 “(II) procedures for a delegation
8 of authority.

9 “(iii) EFFECT OF WAIVER.—An em-
10 ployee as to whom a waiver under this sub-
11 paragraph is in effect shall not be consid-
12 ered an employee for purposes of sub-
13 chapter III of chapter 83, or chapter 84,
14 of title 5, United States Code.

15 “(F) EMERGENCY RULEMAKING AUTHOR-
16 ITY.—

17 “(i) The Administrator shall—

18 “(I) not later than 90 days after
19 the date of enactment of the Small
20 Business Asset Investment and Mod-
21 ernization (AIM) Act of 2010, without
22 providing notice or opportunity for
23 comment, issue interim regulations
24 implementing this paragraph; and

1 “(II) not later than 180 days
2 after the date of enactment of the
3 Small Business Asset Investment and
4 Modernization (AIM) Act of 2010,
5 after providing notice and opportunity
6 for comment, issue final regulations
7 implementing this paragraph.
8 “(ii) The interim regulations issued
9 under clause (i)(I) shall cease to be effec-
10 tive on the date that the Administrator
11 issues final regulations under clause
12 (i)(II).”.

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