

113TH CONGRESS
1ST SESSION

S. 968

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.

IN THE SENATE OF THE UNITED STATES

MAY 16, 2013

Mr. UDALL of Colorado (for himself, Mr. PAUL, Ms. COLLINS, Mr. BEGICH, Mrs. BOXER, Mr. BROWN, Mrs. GILLIBRAND, Mr. LEAHY, Mr. NELSON, Mr. REED, Mr. SANDERS, Mr. SCHUMER, Mr. WHITEHOUSE, Mr. HEINRICH, and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Business Lending Enhancement Act of 2013”.

6 (b) DEFINITIONS.—In this Act—

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

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

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

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

12 (5) the term “well capitalized” has the same
13 meaning as in section 216(c)(1)(A) of the Federal
14 Credit Union Act (12 U.S.C. 1790d(c)(1)(A)).

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

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

19 “(a) LIMITATION.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2), an insured credit union may not make
22 any member business loan that would result in the
23 total amount of such loans outstanding at that cred-
24 it union at any one time to be equal to more than
25 the lesser of—

1 “(A) 1.75 times the actual net worth of
2 the credit union; or

3 “(B) 12.25 percent of the total assets of
4 the credit union.

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

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

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

21 “(C) can demonstrate at least 5 years of
22 experience of sound underwriting and servicing
23 of member business loans;

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

1 “(E) has satisfied other standards that the
2 Board determines are necessary to maintain the
3 safety and soundness of the insured credit
4 union.

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

15 **SEC. 3. IMPLEMENTATION.**

16 (a) TIERED APPROVAL PROCESS.—The Board shall
17 develop a tiered approval process, under which an insured
18 credit union gradually increases the amount of member
19 business lending in a manner that is consistent with safe
20 and sound operations, subject to the limits established
21 under section 107A(a)(2) of the Federal Credit Union Act
22 (12 U.S.C. 1757a(a)(2)), as amended by this Act. The
23 rate of increase under the process established under this
24 paragraph may not exceed 30 percent per year.

1 (b) RULEMAKING REQUIRED.—The Board shall issue
2 proposed rules, not later than 6 months after the date of
3 enactment of this Act, to establish the tiered approval
4 process required under subsection (a). The tiered approval
5 process shall establish standards designed to ensure that
6 the new business lending capacity authorized under sec-
7 tion 107A(a) of the Federal Credit Union Act (12 U.S.C.
8 1757a(a)), as amended by this Act, is being used only by
9 insured credit unions that are well-managed and well cap-
10 italized, as required under section 107A(a) of the Federal
11 Credit Union Act (12 U.S.C. 1757a(a)), as amended by
12 this Act, and as defined by the rules issued by the Board
13 under this subsection.

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

16 (1) the experience level of the institutions, in-
17 cluding a demonstrated history of sound member
18 business lending;

19 (2) the criteria under section 107A(a)(2) of the
20 Federal Credit Union Act (12 U.S.C. 1757a(a)(2)),
21 as amended by this Act; and

22 (3) such other factors as the Board determines
23 necessary or appropriate.

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

2 **LENDING.**

3 (a) REPORT OF THE BOARD.—

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

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

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

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

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

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

23 (E) the effect of this Act and the amend-
24 ments made by this Act on the number of in-
25 sured credit unions engaged in member busi-
26 ness lending, any change in the amount of

1 member business lending, and the extent to
2 which any increase is attributed to the change
3 in the limitation in section 107A(a) of the Fed-
4 eral Credit Union Act (12 U.S.C. 1757a(a)), as
5 amended by this Act;

6 (F) the number, types, and asset size of
7 insured credit unions that were denied or ap-
8 proved by the Board for increased member
9 business loans under section 107A(a)(2) of the
10 Federal Credit Union Act (12 U.S.C.
11 1757a(a)(2)), as amended by this Act, including
12 denials and approvals under the tiered approval
13 process;

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

21 (H) the effect of any increases in member
22 business loans on the risk to the National Cred-
23 it Union Share Insurance Fund and the assess-
24 ments on insured credit unions.

25 (b) GAO STUDY AND REPORT.—

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

5 (A) trends in such lending;

6 (B) types and amounts of member business
7 loans;

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

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

12 (E) any other information that the Comp-
13 troller General considers relevant with respect
14 to such lending.

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

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