

112TH CONGRESS
1ST SESSION

H. R. 1137

To amend the Truth in Lending Act to provide coverage under such Act for credit cards issued to small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2011

Mrs. LOWEY (for herself, Ms. WOOLSEY, Mr. MCGOVERN, Mr. KUCINICH, Ms. SCHAKOWSKY, Mr. HONDA, Ms. NORTON, Mr. NADLER, Mr. DEFAZIO, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to provide coverage under such Act for credit cards issued to small businesses, 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Business Credit Card Act of 2011”.

6 (b) FINDINGS.—The Congress finds as follows:

7 (1) In past recessions, economic recovery has
8 frequently been led by the creation of millions of
9 new, small businesses.

1 (2) Today, however, small business owners are
2 severely limited in their ability to finance new busi-
3 ness ventures because access to capital through tra-
4 ditional resources has dried up, and the lack of ac-
5 cess continues to grow.

6 (3) Small businesses are being pushed into
7 using credit cards as the primary source of working
8 capital.

9 (4) This use of credit cards is especially true
10 for innovative and rapidly growing businesses which
11 lack the assets necessary for a traditional loan.

12 (5) In 2009, 59 percent of the small businesses
13 surveyed used credit cards to meet their capital
14 needs.

15 (6) In 1993, only 16 percent of small busi-
16 nesses used credit cards as a source of financing.

17 (7) One-third of small businesses using credit
18 cards carry a monthly balance in excess of \$10,000.

19 **SEC. 2. EXTENDING CREDIT CARD PROTECTIONS UNDER**
20 **THE TRUTH IN LENDING ACT TO SMALL BUSI-**
21 **NESSES.**

22 (a) DEFINITION OF CONSUMER.—Section 103 of the
23 Truth in Lending Act (15 U.S.C. 1602) is amended, if
24 this Act is enacted before the designated transfer date,

1 in subsection (h) or, if this Act is enacted on or after such
2 designated transfer date, in subsection (i)—

3 (1) by striking “The adjective ‘consumer’, used
4 with reference to a credit transaction, characterizes
5 the transaction as one in which the party to whom
6 credit is offered or extended is” and inserting “CON-
7 SUMER.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2), the term ‘consumer’, when used as a ad-
10 jective to describe or modify a credit transaction or
11 credit plan, means a transaction or credit plan under
12 which credit is offered or extended to”; and

13 (2) by adding at the end the following new
14 paragraph:

15 “(2) SMALL BUSINESS INCLUDED UNDER CER-
16 TAIN CIRCUMSTANCES.—

17 “(A) IN GENERAL.—For purposes of any
18 provision of this title relating to a credit card
19 account under an open end credit plan, the
20 term ‘consumer’ includes any qualified small
21 business.

22 “(B) QUALIFIED SMALL BUSINESS.—For
23 purposes of subparagraph (A), the term ‘quali-
24 fied small business’ means, with respect to any
25 credit card account under an open end credit

1 plan, any business concern having 50 or fewer
2 employees, whether or not—

3 “(i) the credit card account is in the
4 name of an individual or a business entity;
5 and

6 “(ii) any credit transaction involving
7 such account is for business or personal
8 purposes.

9 “(C) EXCLUSION OF SMALL BUSINESS
10 AFTER ‘OPT OUT’ EFFECTIVE DATE.—The term
11 ‘qualified small business’ shall not include any
12 business concern described in subparagraph (A)
13 after the effective date of any election under
14 section 135(b) by the individual or business for
15 which the credit card account referred to in
16 such subparagraph has been established, so
17 long as such election remains in effect.”.

18 (b) AMENDMENTS TO EXEMPTIONS.—Section 104 of
19 the Truth in Lending Act (15 U.S.C. 1603) is amended—

20 (1) in paragraph (1)—

21 (A) by inserting “other than a credit
22 transaction under an open end consumer credit
23 plan in which the consumer is a qualified small
24 business” after “agricultural purposes”; and

1 (B) by inserting “other than qualified
2 small businesses” after “organizations”; and

3 (2) if this Act is enacted before the designated
4 transfer date, in paragraph (3), by striking
5 “\$25,000” and inserting “\$50,000”.

6 (c) BUSINESS CREDIT CARD AMENDMENTS.—Sec-
7 tion 135 of the Truth in Lending Act (15 U.S.C. 1645)
8 is amended—

9 (1) by striking “The exemption provided by”
10 and inserting “(a) IN GENERAL.—The exemption
11 provided by”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(b) QUALIFIED SMALL BUSINESS OPT OUT FROM
15 COVERAGE.—

16 “(1) NOTICE OF COVERAGE.—The disclosures
17 under section 127(a) before opening a credit card
18 account under an open end credit plan for a quali-
19 fied small business shall include a clear and con-
20 spicuous disclosure—

21 “(A) that the qualified small business is
22 treated as a consumer under this title and is
23 subject to the requirements of this title as a
24 consumer;

1 “(B) that the business may elect, in ac-
2 cordance with this subsection, to be exempt,
3 under section 104(1), from this title to the
4 same extent as any business other than a quali-
5 fied small business; and

6 “(C) of the procedures for making the elec-
7 tion and for subsequently revoking any such
8 election.

9 “(2) ELECTION.—The Board shall prescribe
10 procedures for making an effective election under
11 this subsection and for revoking any such election.

12 “(3) PROHIBITION ON DISCRIMINATION
13 AGAINST QUALIFIED SMALL BUSINESS.—No creditor
14 may—

15 “(A) discriminate against any business
16 concern having 50 or fewer employees in con-
17 nection with any credit card account of, or any
18 application for a credit card account by such
19 business, under an open end credit plan on any
20 basis; or

21 “(B) require any qualified small business
22 to make an election under this subsection as a
23 condition for opening a credit card account, or
24 for providing more advantageous terms for any

1 credit card account, under an open end credit
2 plan.”.

3 (d) DESIGNATED TRANSFER DATE DEFINED.—For
4 purposes of this section, the term “designated transfer
5 date” has the meaning given such term under section
6 1062 of the Dodd-Frank Wall Street Reform and Con-
7 sumer Protection Act.

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