

112TH CONGRESS  
1ST SESSION

# S. 509

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.

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## IN THE SENATE OF THE UNITED STATES

MARCH 8, 2011

Mr. UDALL of Colorado (for himself, Ms. SNOWE, Mr. SCHUMER, Mrs. BOXER, Mr. BROWN of Ohio, Ms. COLLINS, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. LEAHY, Mr. LIEBERMAN, Mr. NELSON of Florida, Mr. REED, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## 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 2011”.

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 meaning  
13 given that term in section 216(c)(1)(A) of the Fed-  
14 eral Credit Union Act (12 U.S.C. 1709d(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(e)(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 National  
17          Credit Union Administration Board shall develop a tiered  
18          approval process, under which an insured credit union  
19          gradually increases the amount of member business lend-  
20          ing in a manner that is consistent with safe and sound  
21          operations, subject to the limits established under section  
22          107A(a)(2) of the Federal Credit Union Act (as amended  
23          by this Act). The rate of increase under the process estab-  
24          lished under this paragraph may not exceed 30 percent  
25          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 the  
7 amendment made by section 2 is being used only by in-  
8 sured credit unions that are well-managed and well cap-  
9 italized, as required by the amendments made under sec-  
10 tion 2, and as defined by the rules issued by the Board  
11 under this subsection.

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

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

17 (2) the criteria under section 107A(a)(2) of the  
18 Federal Credit Union Act, as amended by this Act;  
19 and

20 (3) such other factors as the Board determines  
21 necessary or appropriate.

22 **SEC. 4. REPORTS TO CONGRESS ON MEMBER BUSINESS**  
23 **LENDING.**

24 (a) REPORT OF THE BOARD.—

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

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

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

11           (B) the overall amount and average size of  
12 member business loans by each insured credit  
13 union;

14           (C) the ratio of member business loans by  
15 insured credit unions to total assets and net  
16 worth;

17           (D) the performance of the member busi-  
18 ness loans, including delinquencies and net  
19 charge offs;

20           (E) the effect of this Act and the amend-  
21 ments made by this Act on the number of in-  
22 sured credit unions engaged in member busi-  
23 ness lending, any change in the amount of  
24 member business lending, and the extent to  
25 which any increase is attributed to the change

1 in the limitation in section 107A(a) of the Fed-  
2 eral Credit Union Act, as amended by this Act;

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

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

17 (H) the effect of any increases in member  
18 business loans on the risk to the National Cred-  
19 it Union Share Insurance Fund and the assess-  
20 ments on insured credit unions.

21 (b) GAO STUDY AND REPORT.—

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

1 (A) trends in such lending;

2 (B) types and amounts of member business  
3 loans;

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

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

8 (E) any other information that the Comp-  
9 troller General considers relevant with respect  
10 to such lending.

11 (2) REPORT.—Not later than 3 years after the  
12 date of enactment of this Act, the Comptroller Gen-  
13 eral shall submit a report to Congress on the study  
14 required by paragraph (1).

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