

112TH CONGRESS  
1ST SESSION

# S. 681

To provide greater accountability in the Small Business Lending Fund.

---

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2011

Ms. SNOWE introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

---

## A BILL

To provide greater accountability in the Small Business Lending Fund.

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 “Greater Accountability  
5 in the Lending Fund Act of 2011”.

6 **SEC. 2. REPAYMENT DEADLINE UNDER THE SMALL BUSI-**  
7 **NESS LENDING FUND PROGRAM.**

8 (a) IN GENERAL.—Section 4103(d)(5)(H) of the  
9 Small Business Jobs Act of 2010 (12 U.S.C. 4741 note)  
10 is amended—

11 (1) in clause (i)—

1 (A) in subclause (I), by striking “; or” and  
2 inserting a period;

3 (B) by striking subclause (II); and

4 (C) by striking “will—” and all that fol-  
5 lows through “be repaid” and inserting “will be  
6 repaid”;

7 (2) by striking clause (ii); and

8 (3) by striking “that—” and all that follows  
9 through “includes,” and inserting “that includes,”.

10 (b) EFFECTIVE DATE; APPLICABILITY; SAVINGS  
11 CLAUSE.—

12 (1) EFFECTIVE DATE; APPLICABILITY.—The  
13 amendments made by this section shall—

14 (A) take effect on the date of enactment of  
15 this Act; and

16 (B) apply to any investment made by the  
17 Secretary of the Treasury under the Small  
18 Business Lending Fund Program established  
19 under section 4103(a)(2) of the Small Business  
20 Jobs Act of 2010 (12 U.S.C. 4741 note) (in  
21 this subsection referred to as the “Program”)  
22 on or after the date of enactment of this Act.

23 (2) SAVINGS CLAUSE.—Notwithstanding the  
24 amendments made by this section, an investment  
25 made by the Secretary of the Treasury under the

1       Program before the date of enactment of this Act  
2       shall remain in full force and effect under the terms  
3       and conditions under the investment.

4   **SEC. 3. SMALL BUSINESS LENDING FUND SUNSET.**

5       Section 4109 of the Small Business Jobs Act of 2010  
6 (12 U.S.C. 4741 note) is amended—

7           (1) in subsection (b), by inserting “and shall be  
8       limited by the termination date in subsection (c)”  
9       before the period at the end; and

10          (2) by adding at the end the following:

11       “(c) TERMINATION OF PROGRAM.—

12           “(1) INVESTMENTS.—On and after the date  
13       that is 15 years after the date of enactment of this  
14       Act, the Federal Government may not own any pre-  
15       ferred stock or other financial instrument purchased  
16       under this subtitle or otherwise maintain any capital  
17       investment in an eligible institution made under this  
18       subtitle.

19           “(2) AUTHORITIES.—Except as provided in  
20       subsection (a), all the authorities provided under  
21       this subtitle shall terminate 15 years after the date  
22       of enactment of this Act.”.

1 **SEC. 4. SMALL BUSINESS LENDING FUND TRIGGER.**

2 Section 4109 of the Small Business Jobs Act of 2010  
3 (12 U.S.C. 4741 note), as amended by section 3, is  
4 amended by adding at the end the following:

5 “(d) FDIC RECEIVERSHIP.—The Secretary may not  
6 make any purchases, including commitments to purchase,  
7 under this subtitle if the Federal Deposit Insurance Cor-  
8 poration is appointed receiver of 5 percent or more of the  
9 number of eligible institutions that receive a capital invest-  
10 ment under the Program.”.

11 **SEC. 5. SMALL BUSINESS LENDING FUND LIMITATION.**

12 (a) IN GENERAL.—Section 4103(d) of the Small  
13 Business Jobs Act of 2010 (12 U.S.C. 4741 note) is  
14 amended—

15 (1) by striking “, less the amount of any CDCI  
16 investment and any CPP investment” each place it  
17 appears;

18 (2) by striking paragraph (7);

19 (3) by redesignating paragraphs (8), (9), and  
20 (10) as paragraphs (7), (8), and (9), respectively;  
21 and

22 (4) by adding at the end the following:

23 “(10) PROHIBITION ON TARP PARTICIPANTS  
24 PARTICIPATING IN THE PROGRAM.—An institution in  
25 which the Secretary made a investment under the  
26 CPP, the CDCI, or any other program established

1 by the Secretary under the Troubled Asset Relief  
2 Program established under the Emergency Economic  
3 Stabilization Act of 2008 (12 U.S.C. 5201 et seq.)  
4 shall not be eligible to participate in the Program.”.

5 (b) EFFECTIVE DATE; APPLICABILITY; SAVINGS  
6 CLAUSE.—

7 (1) EFFECTIVE DATE; APPLICABILITY.—The  
8 amendments made by this section shall—

9 (A) take effect on the date of enactment of  
10 this Act; and

11 (B) apply to any investment made by the  
12 Secretary of the Treasury under the Small  
13 Business Lending Fund Program established  
14 under section 4103(a)(2) of the Small Business  
15 Jobs Act of 2010 (12 U.S.C. 4741 note) (in  
16 this subsection referred to as the “Program”)  
17 on or after the date of enactment of this Act.

18 (2) SAVINGS CLAUSE.—Notwithstanding the  
19 amendments made by this section, an investment  
20 made by the Secretary of the Treasury under the  
21 Program before the date of enactment of this Act  
22 shall remain in full force and effect under the terms  
23 and conditions under the investment.

1 **SEC. 6. PRIVATE INVESTMENTS UNDER THE SMALL BUSI-**  
2 **NESS LENDING FUND PROGRAM.**

3 Section 4103(d)(3) of the Small Business Jobs Act  
4 of 2010 (12 U.S.C. 4741 note) is amended—

5 (1) in the paragraph heading, by striking  
6 “MATCHED”; and

7 (2) in subparagraph (B)(i), by striking “both  
8 under the Program and”.

9 **SEC. 7. APPROVAL OF REGULATORS.**

10 (a) IN GENERAL.—Section 4103(d)(2) of the Small  
11 Business Jobs Act of 2010 (12 U.S.C. 4741 note) is  
12 amended—

13 (1) in the paragraph heading, by striking  
14 “CONSULTATION WITH” and inserting “APPROVAL  
15 OF”;

16 (2) in the matter preceding subparagraph (A),  
17 by striking “the Secretary shall” and inserting “the  
18 Secretary may not make a purchase under this sub-  
19 title unless”;

20 (3) in subparagraph (A)—

21 (A) by striking “consult with”; and

22 (B) by striking “to determine whether the  
23 eligible institution may receive” and inserting  
24 “determines that, based on the financial condi-  
25 tion of the eligible institution, the eligible insti-  
26 tution should receive”;

1 (4) in subparagraph (B)—

2 (A) by striking “consider any views re-  
3 ceived from”; and

4 (B) by striking “regarding the financial  
5 condition of the eligible institution” and insert-  
6 ing “determines that, based on the financial  
7 condition of the eligible institution, the eligible  
8 institution should receive such capital invest-  
9 ment”; and

10 (5) in subparagraph (C)—

11 (A) by striking “consult with”; and

12 (B) by inserting “determines that, based  
13 on the financial condition of the eligible institu-  
14 tion, the eligible institution should receive such  
15 capital investment” before the period at the  
16 end.

17 (b) CONFORMING AMENDMENTS.—Section  
18 4103(d)(3)(A) of the Small Business Jobs Act of 2010  
19 (12 U.S.C. 4741 note) is amended—

20 (1) by striking “to be consulted under para-  
21 graph (2) would not otherwise recommend” and in-  
22 serting “required to make a determination under  
23 paragraph (2) does not approve”;

24 (2) by striking “to be so consulted”; and

1           (3) by striking “to be consulted would rec-  
2           ommend” and insert “would approve”.

3 **SEC. 8. BENCHMARK FOR SMALL BUSINESS LENDING.**

4           Section 4103(d)(5)(A)(ii) of the Small Business Jobs  
5 Act of 2010 (12 U.S.C. 4741 note) is amended by striking  
6 “for the 4 full quarters immediately preceding the date  
7 of enactment of this Act” and inserting “during calendar  
8 year 2007”.

○