



CUNA Issue Summary

The Promoting Lending to America's Small Businesses Act (H.R. 3380)

ISSUE: The United States is in the midst of a financial crisis that is affecting every sector of the economy, including America's small businesses. Credit unions can play a key role in helping solve the credit crunch facing America's small businesses. When other lenders have been forced to pull back lines of credit, credit unions have continued to lend and they have the capacity to do more.

Unfortunately, credit unions are unnecessarily restricted from similarly alleviating the credit crunch that grips America's small businesses by an arbitrary statutory cap on business lending of 12.25% of a credit union's total assets. Credit unions have been subject to this statutory cap for the last ten years. However, there is no economic or safety and soundness rationale for this cap.

Prior to 1998, there was no business lending cap. Credit unions have a long history of offering their members loans to help start small businesses. In fact, credit unions have been offering business loans to their members since their inception in the United States one hundred years ago.

The average credit union business loan is approximately \$200,000; this means that credit union business loans are used not only to start new businesses but also help business-owning credit union members make payroll, stay in business, expand their businesses and stimulate the economy.

That is why a growing list of small business and public policy groups agree that now is the time to address the statutory credit union business lending cap, including:

- Americans for Tax Reform
- Competitive Enterprise Institute
- Ford Motor Minority Dealer Association
- League of United Latin American Citizens
- Manufactured Housing Institute
- National Association for the Self Employed
- National Association of Mortgage Brokers
- National Cooperative Business Association
- National Cooperative Grocers Association
- National Farmers Union
- National Small Business Association
- NCB Capital Impact
- National Association of Professional Insurance Agents

STATUS/OUTLOOK: On July 29, 2009, Representatives Paul Kanjorski (D-PA) and Ed Royce (R-CA) introduced H.R. 3380, the Promoting Lending to America's Small Businesses Act. H.R. 3380 would increase the credit union member business lending cap to 25% of a credit union's total assets, raise the "de minimis" threshold for a loan to be considered a "member business loan" to \$250,000, and exempt loans made to non-profit religious organizations as well as loans made in qualified underserved areas from the cap.

The Promoting Lending to America's Small Businesses Act Section-by-Section Analysis

Section 1. Short Title

This section designates the name of the bill as the "Promoting Lending to America's Small Businesses Act of 2009".

Section 2. Limits on Member Business Loans

Section 2 raises the limit on member business lending that a credit union can extend to 25 percent of its total assets. Current law on member business lending restricts credit unions to the lesser of 1.75 times actual net worth or 1.75 percent times net worth for a well-capitalized credit union, or approximately 12.25 percent of total assets. Prior to 1998, however, credit unions had no statutory cap for their business lending activities.

Section 3. Definition of Member Business Loan

Section 3 authorizes the National Credit Union Administration to exclude from the calculation of the cap on member business loans any obligation of less than \$250,000. The current *de minimis* amount of \$50,000 for a credit union member business loan has remained unadjusted for inflation since 1998. By comparison, thrifts presently have a \$1 million *de minimis* exemption amount from their business lending cap.

Section 4. Restriction on Member Business Loans

Section 4 provides the National Credit Union Administration with the regulatory flexibility to determine whether a credit union may continue to make new member business loans if its net worth falls below 6 percent. Under the provision, the agency will also have the authority to oversee all member business loans made by an undercapitalized institution.

Section 5. Member Business Loan Exclusion for Loans to Nonprofit Religious Organizations

Section 5 excludes loans or loan participations by federal credit unions to nonprofit religious organizations from the member business lending cap. The change will facilitate the ability of credit unions to support community development efforts.

Section 6. Encouraging Small Business Development in Underserved Urban and Rural Communities

Section 6 excludes from the calculation of a credit union's member business lending cap those business loans made in underserved urban and rural communities. Consistent with language previously passed by the House, the section clarifies that loans made to businesses operating on a nationwide basis would not qualify for exemption from the cap, but member business loans made to locally-owned franchises of businesses operating on a nationwide basis would meet the criteria for an exemption, if in an underserved area.

Section 6 also defines a qualified underserved area to include not only census tracts that each meet the definition of "investment areas" under the Community Development Financial Institutions program, but also census tracts that each meet the criteria for qualifying as "low income areas" under the New Markets Tax Credit targeting formula adopted by Congress in 2000. Qualifying individual census tracts with 50 percent or more of the resident families earning annual incomes in excess of \$75,000, however, would not qualify as underserved.

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RELATED DOCUMENTS:

[Testimony of Bill Hampel, Senior Vice President for Research and Policy Analysis and Chief Economist, Credit Union National Association, before the House Small Business Committee Hearing on "The Effects of Regulatory Restructuring Proposals on Small Businesses and Community Lenders."](#)

September 23, 2009

[Letter from Dan Mica to Representatives Paul Kanjorski and Ed Royce in support of H.R. 3380, the Promoting Lending to America's Small Business Act.](#)

July 29, 2009

[Testimony of Roger Heacock, President and CEO Black Hills Federal Credit Union, on behalf of CUNA Before the House Committee on Small Business, concerning Expanding Small Business Access to Capital](#)

June 10, 2009

[Small Business Open Letter to President Obama and Members of the House and Senate](#)

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