

**AMENDMENT TO THE AMENDMENT TO H.R. 5297,
AS REPORTED
OFFERED BY MRS. LOWEY OF NEW YORK**

Add at the end of the bill the following:

1 **TITLE IV—SMALL BUSINESS JOB**
2 **CREATION AND ACCESS TO**
3 **CAPITAL**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Small Business Job
6 Creation and Access to Capital Act of 2010”.

7 **Subtitle A—Next Steps for Main**
8 **Street Credit Availability**

9 **SEC. 411. SECTION 7(a) BUSINESS LOANS.**

10 (a) **AMENDMENT.**—Section 7(a) of the Small Busi-
11 ness Act (15 U.S.C. 636(a)) is amended—

12 (1) in paragraph (2)(A)—

13 (A) in clause (i), by striking “75 percent”
14 and inserting “90 percent”; and

15 (B) in clause (ii), by striking “85 percent”
16 and inserting “90 percent”; and

17 (2) in paragraph (3)(A), by striking
18 “\$1,500,000 (or if the gross loan amount would ex-

1 ceed \$2,000,000” and inserting “\$4,500,000 (or if
2 the gross loan amount would exceed \$5,000,000”.

3 (b) PROSPECTIVE REPEAL.—Effective January 1,
4 2011, section 7(a) of the Small Business Act (15 U.S.C.
5 636(a)) is amended—

6 (1) in paragraph (2)(A)—

7 (A) in clause (i), by striking “90 percent”
8 and inserting “75 percent”; and

9 (B) in clause (ii), by striking “90 percent”
10 and inserting “85 percent”; and

11 (2) in paragraph (3)(A), by striking
12 “\$4,500,000” and inserting “\$3,750,000”.

13 **SEC. 412. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.**

14 Section 502(2)(A) of the Small Business Investment
15 Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

16 (1) in clause (i), by striking “\$1,500,000” and
17 inserting “\$5,000,000”;

18 (2) in clause (ii), by striking “\$2,000,000” and
19 inserting “\$5,000,000”;

20 (3) in clause (iii), by striking “\$4,000,000” and
21 inserting “\$5,500,000”;

22 (4) in clause (iv), by striking “\$4,000,000” and
23 inserting “\$5,500,000”; and

24 (5) in clause (v), by striking “\$4,000,000” and
25 inserting “\$5,500,000”.

1 **SEC. 413. MAXIMUM LOAN LIMITS UNDER MICROLOAN PRO-**
2 **GRAM.**

3 Section 7(m) of the Small Business Act (15 U.S.C.
4 636(m)) is amended—

5 (1) in paragraph (1)(B)(iii), by striking
6 “\$35,000” and inserting “\$50,000”;

7 (2) in paragraph (3)—

8 (A) in subparagraph (C), by striking
9 “\$3,500,000” and inserting “\$5,000,000”; and

10 (B) in subparagraph (E), by striking
11 “\$35,000” each place that term appears and
12 inserting “\$50,000”; and

13 (3) in paragraph (11)(B), by striking
14 “\$35,000” and inserting “\$50,000”.

15 **SEC. 414. TEMPORARY FEE REDUCTIONS.**

16 Section 501 of the American Recovery and Reinvest-
17 ment Act of 2009 (Public Law 111-5; 123 Stat. 151) is
18 amended by striking “September 30, 2010” each place
19 that term appears and inserting “December 31, 2010”.

20 **SEC. 415. NEW MARKETS VENTURE CAPITAL COMPANY IN-**
21 **VESTMENT LIMITATIONS.**

22 Section 355 of the Small Business Investment Act
23 of 1958 (15 U.S.C. 689d) is amended by adding at the
24 end the following:

25 “(e) INVESTMENT LIMITATIONS.—

1 “(1) DEFINITION.—In this subsection, the term
2 ‘covered New Markets Venture Capital company’
3 means a New Markets Venture Capital company—

4 “(A) granted final approval by the Admin-
5 istrator under section 354(e) on or after March
6 1, 2002; and

7 “(B) that has obtained a financing from
8 the Administrator.

9 “(2) LIMITATION.—Except to the extent ap-
10 proved by the Administrator, a covered New Markets
11 Venture Capital company may not acquire or issue
12 commitments for securities under this title for any
13 single enterprise in an aggregate amount equal to
14 more than 10 percent of the sum of—

15 “(A) the regulatory capital of the covered
16 New Markets Venture Capital company; and

17 “(B) the total amount of leverage pro-
18 jected in the participation agreement of the cov-
19 ered New Markets Venture Capital.”.

20 **SEC. 416. ALTERNATIVE SIZE STANDARDS.**

21 Section 3(a) of the Small Business Act (15 U.S.C.
22 632(a)) is amended by adding at the end the following:

23 “(5) ALTERNATIVE SIZE STANDARD.—

24 “(A) IN GENERAL.—The Administrator shall
25 establish an alternative size standard for applicants

1 for business loans under section 7(a) and applicants
2 for development company loans under title V of the
3 Small Business Investment Act of 1958 (15 U.S.C.
4 695 et seq.), that uses maximum tangible net worth
5 and average net income as an alternative to the use
6 of industry standards.

7 “(B) INTERIM RULE.—Until the date on which
8 the alternative size standard established under sub-
9 paragraph (A) is in effect, an applicant for a busi-
10 ness loan under section 7(a) or an applicant for a
11 development company loan under title V of the
12 Small Business Investment Act of 1958 may be eli-
13 gible for such a loan if—

14 “(i) the maximum tangible net worth of
15 the applicant is not more than \$15,000,000;
16 and

17 “(ii) the average net income after Federal
18 income taxes (excluding any carry-over losses)
19 of the applicant for the 2 full fiscal years before
20 the date of the application is not more than
21 \$5,000,000.”.

22 **SEC. 417. SALE OF 7(a) LOANS IN SECONDARY MARKET.**

23 Section 5(g) of the Small Business Act (15 U.S.C.
24 634(g)) is amended by adding at the end the following:

1 “(6) If the amount of the guaranteed portion of any
2 loan under section 7(a) is more than \$500,000, the Ad-
3 ministrator shall, upon request of a pool assembler, divide
4 the loan guarantee into increments of \$500,000 and 1 in-
5 crement of any remaining amount less than \$500,000, in
6 order to permit the maximum amount of any loan in a
7 pool to be not more than \$500,000. Only 1 increment of
8 any loan guarantee divided under this paragraph may be
9 included in the same pool. Increments of loan guarantees
10 to different borrowers that are divided under this para-
11 graph may be included in the same pool.”.

12 **SEC. 418. ONLINE LENDING PLATFORM.**

13 It is the sense of the Congress that the Administrator
14 of the Small Business Administration should establish a
15 website that—

16 (1) lists each lender that makes loans guaran-
17 teed by the Small Business Administration and pro-
18 vides information about the loan rates of each such
19 lender; and

20 (2) allows prospective borrowers to compare
21 rates on loans guaranteed by the Small Business
22 Administration.

1 **Subtitle B—Small Business Access**
2 **to Capital**

3 **SEC. 421. LOW-INTEREST REFINANCING UNDER THE LOCAL**
4 **DEVELOPMENT BUSINESS LOAN PROGRAM.**

5 (a) REFINANCING.—Section 502(7) of the Small
6 Business Investment Act of 1958 (15 U.S.C. 696(7)) is
7 amended by adding at the end the following:

8 “(C) REFINANCING NOT INVOLVING EX-
9 PANSIONS.—

10 “(i) DEFINITIONS.—In this subpara-
11 graph—

12 “(I) the term ‘borrower’ means a
13 small business concern that submits
14 an application to a development com-
15 pany for financing under this sub-
16 paragraph;

17 “(II) the term ‘eligible fixed
18 asset’ means tangible property relat-
19 ing to which the Administrator may
20 provide financing under this section;
21 and

22 “(III) the term ‘qualified debt’
23 means indebtedness—

24 “(aa) that—

1 “(AA) was incurred not
2 less than 2 years before the
3 date of the application for
4 assistance under this sub-
5 paragraph;

6 “(BB) is a commercial
7 loan;

8 “(CC) is not subject to
9 a guarantee by a Federal
10 agency;

11 “(DD) the proceeds of
12 which were used to acquire
13 an eligible fixed asset;

14 “(EE) was incurred for
15 the benefit of the small busi-
16 ness concern; and

17 “(FF) is collateralized
18 by eligible fixed assets; and

19 “(bb) for which the borrower
20 has been current on all payments
21 for not less than 1 year before
22 the date of the application.

23 “(ii) AUTHORITY.—A project that
24 does not involve the expansion of a small

1 business concern may include the refi-
2 nancing of qualified debt if—

3 “(I) the amount of the financing
4 is not more than 80 percent of the
5 value of the collateral for the financ-
6 ing, except that, if the appraised value
7 of the eligible fixed assets serving as
8 collateral for the financing is less than
9 the amount equal to 125 percent of
10 the amount of the financing, the bor-
11 rower may provide additional cash or
12 other collateral to eliminate any defi-
13 ciency;

14 “(II) the borrower has been in
15 operation for all of the 2-year period
16 ending on the date of the loan; and

17 “(III) for a financing for which
18 the Administrator determines there
19 will be an additional cost attributable
20 to the refinancing of the qualified
21 debt, the borrower agrees to pay a fee
22 in an amount equal to the anticipated
23 additional cost.

24 “(iii) FINANCING FOR BUSINESS EX-
25 PENSES.—

1 “(I) FINANCING FOR BUSINESS
2 EXPENSES.—The Administrator may
3 provide financing to a borrower that
4 receives financing that includes a refi-
5 nancing of qualified debt under clause
6 (ii), in addition to the refinancing
7 under clause (ii), to be used solely for
8 the payment of business expenses.

9 “(II) APPLICATION FOR FINANC-
10 ING.—An application for financing
11 under subclause (I) shall include—

12 “(aa) a specific description
13 of the expenses for which the ad-
14 ditional financing is requested;
15 and

16 “(bb) an itemization of the
17 amount of each expense.

18 “(III) CONDITION ON ADDI-
19 TIONAL FINANCING.—A borrower may
20 not use any part of the financing
21 under this clause for non-business
22 purposes.

23 “(iv) LOANS BASED ON JOBS.—

24 “(I) JOB CREATION AND RETEN-
25 TION GOALS.—

1 “(aa) IN GENERAL.—The
2 Administrator may provide fi-
3 nancing under this subparagraph
4 for a borrower that meets the job
5 creation goals under subsection
6 (d) or (e) of section 501.

7 “(bb) ALTERNATE JOB RE-
8 TENTION GOAL.—The Adminis-
9 trator may provide financing
10 under this subparagraph to a
11 borrower that does not meet the
12 goals described in item (aa) in an
13 amount that is not more than the
14 product obtained by multiplying
15 the number of employees of the
16 borrower by \$65,000.

17 “(II) NUMBER OF EMPLOYEES.—
18 For purposes of subclause (I), the
19 number of employees of a borrower is
20 equal to the sum of—

21 “(aa) the number of full-
22 time employees of the borrower
23 on the date on which the bor-
24 rower applies for a loan under
25 this subparagraph; and

1 “(bb) the product obtained
2 by multiplying—

3 “(AA) the number of
4 part-time employees of the
5 borrower on the date on
6 which the borrower applies
7 for a loan under this sub-
8 paragraph; by

9 “(BB) the quotient ob-
10 tained by dividing the aver-
11 age number of hours each
12 part time employee of the
13 borrower works each week
14 by 40.

15 “(v) NONDELEGATION.—Notwith-
16 standing section 508(e), the Administrator
17 may not permit a premier certified lender
18 to approve or disapprove an application for
19 assistance under this subparagraph.

20 “(vi) TOTAL AMOUNT OF LOANS.—
21 The Administrator may provide not more
22 than a total of \$4,000,000,000 of financ-
23 ing under this subparagraph for each fiscal
24 year.”.

1 (b) PROSPECTIVE REPEAL.—Effective 2 years after
2 the date of the enactment of this Act, section 502(7) of
3 the Small Business Investment Act of 1958 (15 U.S.C.
4 696(7)) is amended by striking subparagraph (C).

5 (c) TECHNICAL CORRECTION.—Section 502(2)(A)(i)
6 of the Small Business Investment Act of 1958 (15 U.S.C.
7 696(2)(A)(i)) is amended by striking “subparagraph (B)
8 or (C)” and inserting “clause (ii), (iii), (iv), or (v)”.

