

Section-By-Section Summary of H.R. 6312, the Credit Union, Bank and Thrift Regulatory Relief Act of 2008

Section 1. Short title; table of context.

This Act may be cited as the Credit Union, Bank, and Thrift Regulatory Relief Act of 2008.

TITLE I – CREDIT UNIONS

Section 101. Investments in securities by federal credit unions

The Federal Credit Union Act presently limits the investment authority of federal credit unions to loans, government securities, deposits in other financial institutions, and certain other limited investments. Section 101 would provide additional investment authority to allow credit unions to purchase for the credit union's own account certain investment-grade securities. The total amount of the investment securities of any one obligor or maker could not exceed 10% of the credit union's net worth and total investments could not exceed 10% of total assets.

Section 102. Increase in investment limit in credit union service organizations

The Federal Credit Union Act authorizes federal credit unions to invest in organizations providing services to credit unions and credit union members. Currently, an individual federal credit union may invest in aggregate no more than one percent of its unimpaired capital and surplus in these organizations, commonly known as credit union service organizations, or CUSOs. Section 102 would raise the amount a credit union may invest in all CUSOs to three percent.

Section 103. Member business loan exclusion for loans to non-profit religious organizations

Section 103 would exclude loans or loan participations by federal credit unions to non-profit religious organizations from the member business loan limits contained in the Federal Credit Union Act.

Section 104. Authority of NCUA to establish longer maturities for certain credit union loans

As part of the regulatory relief law adopted in the 109th Congress, the Federal Credit Union Act was amended in 2006 to allow the NCUA Board to increase the 12-year maturity limit on non-real estate secured loans to 15 years. Section 104 would further provide the Board with additional flexibility to issue regulations providing for loan terms exceeding 15 years for specific types of loans.

Section 105. Providing the National Credit Union Administration with greater flexibility in responding to market conditions

Currently, the NCUA Board may raise the usury interest rate ceiling on loans by federal credit unions whenever it determines that money market rates have increased over the preceding 6-month period and prevailing interest rates threaten the safety and soundness of individual credit unions. Section 105 would give the Board greater flexibility to make such determinations based either on sustained increases in money market interest rates or prevailing interest rate levels.

Section 106. Conversions involving certain credit unions to a community charter

In cases when a single or multiple common-bond credit union converts to a community credit union charter, there may be groups within the credit union's existing membership that are located outside the new community charter's geographic boundaries, but which desire to remain part of the credit union and can be adequately served by the credit union. Section 106 would require NCUA to establish the criteria whereby it may determine that a member group or other portion of a credit union's existing membership, located outside of the community, can be satisfactorily served and remain within the credit union's field of membership.

Section 107. Credit union participation in the SBA section 504 program

Section 107 would clarify existing law that permits credit unions to participate in loan programs secured by the insurance, guarantees, or commitments of State or Federal governments. The section provides that the loan maturities, terms, and conditions on these loans may be specified in applicable regulations.

Section 108. Amendments relating to credit union service to underserved areas

Section 108 would revise a provision of the 1998 Credit Union Membership Access Act that currently permits only credit unions with multiple common bond charters to expand services to individuals and groups living in areas of high unemployment and below median incomes that typically are underserved by other depository institutions. The change would permit all federal credit unions, regardless of charter type, to expand services to eligible communities that meet income, unemployment, and other distress criteria. Section 108 would also expand the criteria for determining whether a community or rural area qualifies as an underserved area. The definition of a qualified underserved area includes not only census tracts that each meet the definition of "investment areas" under the Treasury Department's Community Development Financial Institutions (CDFI) 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. Census tracts which would otherwise qualify under the definition in the bill, but in which more than 50% of resident families make more than \$75,000 per year would not qualify (This represents 229 of 25,000 qualifying tracts). Credit unions serving an underserved area must establish and maintain an office or facility within 24-months of receiving approval from the NCUA Board. Such credit unions must also make certain reports to the Administration about their work in underserved areas. This section also grandfathers existing underserved area approvals made by NCUA prior to enactment of the law.

Section 109. Short-term payday loan alternatives within the field of membership

Section 109 permits credit unions to offer short term loans as an alternative to payday loans to persons within their field of membership. This provision is similar to the check cashing/money transfer/remittances provision enacted in the last Congress as part of the regulatory relief law.

Section 110. Credit union governance

Section 110 would provide federal credit union boards the flexibility to expel a member, based on just cause, who is disruptive to the operations of the credit union, including harassing personnel and creating safety concerns, without the need for a two-thirds vote of the membership present at a special meeting as required by current law. The section would also permit federal credit unions to limit the length of service of their boards of directors to ensure broader representation from the membership.

Section 111. Encouraging small business development in underserved urban and rural communities

Section 111 excludes member business loans made to members in underserved communities from a credit union's member business loan cap. The language clarifies that business loans made to businesses operating on a nationwide basis would not be exempt from the cap, but business loans made to locally-owned franchises of businesses operating on a nationwide bases would be exempt if in an underserved area.

TITLE II – SAVING ASSOCIATION PROVISIONS

Sec. 201. Restatement of authority for Federal savings associations to invest in small business investment companies.

This provision increases from 1% to up to 5% the amount of its capital and assets a federal savings association may invest in a small business investment company.

Sec. 202. Removal of limitation on investments in auto loans.

This provision removes the 35% of total asset limit for auto loans and leases for thrifts. It permits a Federal savings association to invest in, sell, or deal in auto and other vehicle loans and leases for personal, family, or household purposes without a percentage of assets limitation. This provision would allow thrifts to more actively compete with credit unions for auto loan business, a major source of income for credit unions since they are limited in other types of lending, namely small member business lending.

Sec. 203. Repeal of qualified thrift lender requirement with respect to out-of state branches.

Under current law, Federal savings associations must meet the qualified thrift lender (QTL) test both as an entity operating regionally or nationally and in each state where there are branches. This provision would eliminate the requirement that a multi-state

Federal savings associations meet the QTL test on a state-by-state basis. This would be beneficial to the business operations of Federal savings associations operating in more than one state.

A Qualified Thrift Lender is a lender that follows guidelines of the 1989 *Financial Institutions Reform, Recovery and Enforcement Act* (FIRREA) for mortgage lenders specializing in home mortgage finance. In exchange for holding 65% of their loan portfolios in residential mortgages or mortgage-backed securities, such lenders may borrow funds from their district Federal Home Loan Bank. Banks, thrifts, and credit unions may affiliate with Federal Home Loan Banks as qualified thrift lenders.

Sec. 204. Small business and other commercial loans.

In 1996, Congress expanded the business lending authority for Federal savings associations by adding a 10 percent “bucket” for small business loans to the existing 10 percent limit on commercial loans. This provision would eliminate the small business lending limit and increase from 10 to 20 percent of total assets the lending limit restriction for other commercial loans.

Sec. 205. Increase in limits on commercial real estate loans.

This provision raises the aggregate limit on nonresidential (commercial) real estate loans from 400% to 500% of capital for Federal savings associations. Savings associations regulated by the Office of Thrift Supervision (OTS) are not permitted to hold loans secured by non-residential real property in amounts exceeding 400 percent of the association’s capital, unless permitted by the OTS. Few such exceptions have been granted.

Sec. 206. Savings association credit card banks.

This provision would amend the *Home Owners’ Loan Act of 1934* to permit a thrift holding company to charter a credit card savings association and still be exempt from the activity restrictions imposed on multiple thrift holding companies. Therefore, the thrift holding company would be allowed to maintain its exempt status as a unitary thrift holding company. This would change current law that requires a thrift holding company to charter a national or state-chartered credit card bank to maintain its exempt status. Under this provision, the thrift holding company would be able to charter a credit card savings association and, at the same time, have the same regulator for both entities.

TITLE III – NOTICE PROVISIONS

Sec. 301. Exception to annual privacy notice requirements under the Gramm-Leach-Bliley Act

Amends the Gramm-Leach-Bliley Act to exempt from its annual privacy policy notice requirement any financial institution which: (1) provides nonpublic personal information

only in accordance with specified requirements; (2) does not share information with affiliates under the Fair Credit Reporting Act; and (3) has not changed its policies and practices with regard to disclosing nonpublic personal information from those disclosed in the most recent disclosure sent to consumers.

TITLE IV – BUSINESS CHECKING

Sec. 401. Short Title

This act may be referred to as the “Business Checking Fairness Act of 2008.”

Section 402. Interest-bearing transaction accounts authorized for all businesses

Amends federal law to authorize interest-bearing or dividend-bearing transaction accounts for all businesses, permitting up to 24 transfers per month to another account of the owner in the same institution.

Section 403. Interest-bearing transaction accounts authorized.

Amends the Federal Reserve Act, the Home Owners' Loan Act, and the Federal Deposit Insurance Act to repeal the prohibition against the payment of interest on demand deposits.

Section 404. Rules of Construction.

Cites practices which shall not be treated as payment or receipt of interest if they relate to an escrow account maintained at a depository institution in connection with a real estate transaction.

Section 405. Consumer banking costs assessment.

Amends the Federal Reserve Act to require the Board to survey biennially and report biennially to Congress on bank fees and certain services. Amends the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, to repeal certain reporting requirements.