

112TH CONGRESS  
1ST SESSION

# H. R. 1137

To amend the Truth in Lending Act to provide coverage under such Act for credit cards issued to small businesses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2011

Mrs. LOWEY (for herself, Ms. WOOLSEY, Mr. MCGOVERN, Mr. KUCINICH, Ms. SCHAKOWSKY, Mr. HONDA, Ms. NORTON, Mr. NADLER, Mr. DEFAZIO, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Truth in Lending Act to provide coverage under such Act for credit cards issued to small businesses, 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Small Business Credit Card Act of 2011”.

6 (b) FINDINGS.—The Congress finds as follows:

7 (1) In past recessions, economic recovery has  
8 frequently been led by the creation of millions of  
9 new, small businesses.

1           (2) Today, however, small business owners are  
2 severely limited in their ability to finance new busi-  
3 ness ventures because access to capital through tra-  
4 ditional resources has dried up, and the lack of ac-  
5 cess continues to grow.

6           (3) Small businesses are being pushed into  
7 using credit cards as the primary source of working  
8 capital.

9           (4) This use of credit cards is especially true  
10 for innovative and rapidly growing businesses which  
11 lack the assets necessary for a traditional loan.

12           (5) In 2009, 59 percent of the small businesses  
13 surveyed used credit cards to meet their capital  
14 needs.

15           (6) In 1993, only 16 percent of small busi-  
16 nesses used credit cards as a source of financing.

17           (7) One-third of small businesses using credit  
18 cards carry a monthly balance in excess of \$10,000.

19 **SEC. 2. EXTENDING CREDIT CARD PROTECTIONS UNDER**  
20 **THE TRUTH IN LENDING ACT TO SMALL BUSI-**  
21 **NESSES.**

22           (a) DEFINITION OF CONSUMER.—Section 103 of the  
23 Truth in Lending Act (15 U.S.C. 1602) is amended, if  
24 this Act is enacted before the designated transfer date,

1 in subsection (h) or, if this Act is enacted on or after such  
2 designated transfer date, in subsection (i)—

3 (1) by striking “The adjective ‘consumer’, used  
4 with reference to a credit transaction, characterizes  
5 the transaction as one in which the party to whom  
6 credit is offered or extended is” and inserting “CON-  
7 SUMER.—

8 “(1) IN GENERAL.—Except as provided in para-  
9 graph (2), the term ‘consumer’, when used as a ad-  
10 jective to describe or modify a credit transaction or  
11 credit plan, means a transaction or credit plan under  
12 which credit is offered or extended to”; and

13 (2) by adding at the end the following new  
14 paragraph:

15 “(2) SMALL BUSINESS INCLUDED UNDER CER-  
16 TAIN CIRCUMSTANCES.—

17 “(A) IN GENERAL.—For purposes of any  
18 provision of this title relating to a credit card  
19 account under an open end credit plan, the  
20 term ‘consumer’ includes any qualified small  
21 business.

22 “(B) QUALIFIED SMALL BUSINESS.—For  
23 purposes of subparagraph (A), the term ‘quali-  
24 fied small business’ means, with respect to any  
25 credit card account under an open end credit

1 plan, any business concern having 50 or fewer  
2 employees, whether or not—

3 “(i) the credit card account is in the  
4 name of an individual or a business entity;  
5 and

6 “(ii) any credit transaction involving  
7 such account is for business or personal  
8 purposes.

9 “(C) EXCLUSION OF SMALL BUSINESS  
10 AFTER ‘OPT OUT’ EFFECTIVE DATE.—The term  
11 ‘qualified small business’ shall not include any  
12 business concern described in subparagraph (A)  
13 after the effective date of any election under  
14 section 135(b) by the individual or business for  
15 which the credit card account referred to in  
16 such subparagraph has been established, so  
17 long as such election remains in effect.”.

18 (b) AMENDMENTS TO EXEMPTIONS.—Section 104 of  
19 the Truth in Lending Act (15 U.S.C. 1603) is amended—

20 (1) in paragraph (1)—

21 (A) by inserting “other than a credit  
22 transaction under an open end consumer credit  
23 plan in which the consumer is a qualified small  
24 business” after “agricultural purposes”; and

1 (B) by inserting “other than qualified  
2 small businesses” after “organizations”; and

3 (2) if this Act is enacted before the designated  
4 transfer date, in paragraph (3), by striking  
5 “\$25,000” and inserting “\$50,000”.

6 (c) BUSINESS CREDIT CARD AMENDMENTS.—Sec-  
7 tion 135 of the Truth in Lending Act (15 U.S.C. 1645)  
8 is amended—

9 (1) by striking “The exemption provided by”  
10 and inserting “(a) IN GENERAL.—The exemption  
11 provided by”; and

12 (2) by adding at the end the following new sub-  
13 section:

14 “(b) QUALIFIED SMALL BUSINESS OPT OUT FROM  
15 COVERAGE.—

16 “(1) NOTICE OF COVERAGE.—The disclosures  
17 under section 127(a) before opening a credit card  
18 account under an open end credit plan for a quali-  
19 fied small business shall include a clear and con-  
20 spicuous disclosure—

21 “(A) that the qualified small business is  
22 treated as a consumer under this title and is  
23 subject to the requirements of this title as a  
24 consumer;

1           “(B) that the business may elect, in ac-  
2 cordance with this subsection, to be exempt,  
3 under section 104(1), from this title to the  
4 same extent as any business other than a quali-  
5 fied small business; and

6           “(C) of the procedures for making the elec-  
7 tion and for subsequently revoking any such  
8 election.

9           “(2) ELECTION.—The Board shall prescribe  
10 procedures for making an effective election under  
11 this subsection and for revoking any such election.

12           “(3) PROHIBITION ON DISCRIMINATION  
13 AGAINST QUALIFIED SMALL BUSINESS.—No creditor  
14 may—

15           “(A) discriminate against any business  
16 concern having 50 or fewer employees in con-  
17 nection with any credit card account of, or any  
18 application for a credit card account by such  
19 business, under an open end credit plan on any  
20 basis; or

21           “(B) require any qualified small business  
22 to make an election under this subsection as a  
23 condition for opening a credit card account, or  
24 for providing more advantageous terms for any

1 credit card account, under an open end credit  
2 plan.”.

3 (d) DESIGNATED TRANSFER DATE DEFINED.—For  
4 purposes of this section, the term “designated transfer  
5 date” has the meaning given such term under section  
6 1062 of the Dodd-Frank Wall Street Reform and Con-  
7 sumer Protection Act.

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