

112TH CONGRESS
2D SESSION

H. R. 4029

To permit certain current loans that would otherwise be treated as non-accrual loans as accrual loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2012

Mr. POSEY (for himself, Ms. WATERS, Mr. WESTMORELAND, Mr. JONES, and Mr. PEARCE) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To permit certain current loans that would otherwise be treated as non-accrual loans as accrual loans, 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.**

4 This Act may be cited as the “Common Sense Eco-
5 nomic Recovery Act of 2012”.

6 **SEC. 2. TREATMENT OF CERTAIN LOANS.**

7 (a) IN GENERAL.—For purposes of determining cap-
8 ital requirements or measuring capital of an insured de-
9 pository institution under section 38 of the Federal De-

1 posit Insurance Act (12 U.S.C. 1831o) or any other provi-
2 sion of law or regulatory guidance, an insured depository
3 institution that would otherwise be required to treat a loan
4 as a non-accrual loan may treat such loan as an accrual
5 loan, if—

6 (1) the loan is current;

7 (2) during the previous 6-month period, no
8 monthly payment on the loan has been more than 30
9 days delinquent; and

10 (3) the payments on the loan are being made
11 pursuant to the contractual terms of the loan agree-
12 ment and any refinances and modifications that are
13 agreed to by all of the parties.

14 (b) DEMONSTRATION OF ABILITY TO PERFORM ON
15 A LOAN.—Notwithstanding subsection (a), a modified or
16 restructured loan may not be treated as a non-accrual loan
17 if the borrower demonstrates the ability to perform on
18 such a loan—

19 (1) over a period of 6 months; or

20 (2) with respect to a loan on a quarterly, semi-
21 annual, or longer repayment schedule, over a period
22 of 3 consecutive payments.

23 (c) NO ADDITIONAL ADVERSE TREATMENT.—With
24 respect to a loan held by an insured depository institution
25 and treated as an accrual loan by reason of subsection

1 (a), an appropriate Federal banking agency may not im-
2 pose any additional accounting requirements on such insti-
3 tution with respect to such loan compared to the require-
4 ments that would otherwise have been placed on such in-
5 stitution with respect to such loan if such loan were not
6 being treated as an accrual loan by reason of subsection
7 (a), if the result of such additional requirement would ad-
8 versely impact the measurement of capital of the institu-
9 tion.

10 (d) PROHIBITION ON THE RE-CLASSIFICATION OF
11 LOANS BASED SOLELY ON COLLATERAL VALUE.—An ap-
12 propriate Federal banking agency may not require an in-
13 sured depository institution to treat a loan as a non-ac-
14 crual loan solely on the basis that the collateral of such
15 loan has reduced in value.

16 (e) PROVISIONS NOT APPLICABLE TO PUBLICLY
17 TRADED INSTITUTIONS.—This section shall not apply
18 with respect to any issuer of a security registered pursuant
19 to section 12 of the Securities Exchange Act of 1934 (15
20 U.S.C. 78l).

21 **SEC. 3. STUDY.**

22 (a) IN GENERAL.—The Financial Stability Oversight
23 Council shall conduct a study of how best to prevent con-
24 tradictory guidance from being issued by appropriate Fed-
25 eral banking agencies to insured depository institutions

1 with respect to loan classifications and capital require-
2 ments.

3 (b) REPORT.—Not later than the end of the 60-day
4 period beginning on the date of the enactment of this Act,
5 the Financial Stability Oversight Council shall issue a re-
6 port to the Congress containing—

7 (1) all determinations and conclusions made by
8 the Council in carrying out the study required under
9 subsection (a); and

10 (2) legislative recommendations that the Coun-
11 cil believe will prevent contradictory guidance from
12 being issued by appropriate Federal banking agen-
13 cies to insured depository institutions with respect to
14 loan classifications and capital requirements.

15 **SEC. 4. DEFINITIONS.**

16 For purposes of this Act:

17 (1) APPROPRIATE FEDERAL BANKING AGEN-
18 CY.—The term “appropriate Federal banking agen-
19 cy”—

20 (A) has the meaning given such term
21 under section 3 of the Federal Deposit Insur-
22 ance Act (12 U.S.C. 1813); and

23 (B) means the National Credit Union Ad-
24 ministration Board, in the case of a credit
25 union.

1 (2) INSURED DEPOSITORY INSTITUTION.—The
2 term “insured depository institution” means—

3 (A) an insured depository institution, as
4 defined under section 3 of the Federal Deposit
5 Insurance Act (12 U.S.C. 1813); and

6 (B) a credit union.

7 **SEC. 5. SUNSET.**

8 Effective after the end of the 2-year period beginning
9 on the date of the enactment of this Act, this Act shall
10 cease to have any force or effect.

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