116TH CONGRESS
2D SESSION

H. R. ______

To amend the Small Business Act and the CARES Act to establish a program for second draw loans and make other modifications to the paycheck protection program, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CHABOT introduced the following bill; which was referred to the Committee on

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A BILL

To amend the Small Business Act and the CARES Act to establish a program for second draw loans and make other modifications to the paycheck protection program, 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. ADDITIONAL ELIGIBLE EXPENSES.
4 (a) ALLOWABLE USE OF PPP LOAN.—Section
6 636(a)(36)(F)(i)) is amended—
2

(1) in subclause (VI), by striking "and" at the end;

(2) in subclause (VII), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(VIII) covered operations expenditures, as defined in section 1106(a) of the CARES Act (15 U.S.C. 9005(a));

"(IX) covered property damage costs, as defined in such section 1106(a);

"(X) covered supplier costs, as defined in such section 1106(a); and

"(XI) covered worker protection expenditures, as defined in such section 1106(a)."

(b) LOAN FORGIVENESS.—Section 1106 of the CARES Act (15 U.S.C. 9005) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (6), (7), and (8) as paragraphs (10), (11), and (12), respectivley;

(B) by redesignating paragraph (5) as paragraph (8);
(C) by redesignating paragraph (4) as paragraph (6);
(D) by redesignating paragraph (3) as paragraph (4);
(E) by inserting after paragraph (2) the following:

"(3) the term 'covered operations expenditure' means a payment for any business software or cloud computing service that facilitates business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses;”;

(F) by inserting after paragraph (4), as so redesignated, the following:

"(5) the term 'covered property damage cost' means a cost related to property damage and vandalism or looting due to public disturbance that occurred during 2020 that was not covered by insurance or other compensation;”;

(G) by inserting after paragraph (6), as so redesignated, the following:

"(7) the term 'covered supplier cost' means an expenditure made by an entity to a supplier of goods
pursuant to a contract in effect before February 15, 2020, for the supply of goods that are essential to the operations of the entity at the time at which the expenditure is made;”;

(H) by inserting after paragraph (8), as so redesignated, the following:

“(9) the term ‘covered worker protection expenditure’—

“(A) means an operating or a capital expenditure that is required to facilitate the adaptation of the business activities of an entity to comply with requirements established or guidance issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration during the period beginning on March 1, 2020, and ending December 31, 2020, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID–19;

“(B) may include—

“(i) the purchase, maintenance, or renovation of assets that create or expand—
“(I) a drive-through window facility;

“(II) an indoor, outdoor, or combined air or air pressure ventilation or filtration system;

“(III) a physical barrier such as a sneeze guard;

“(IV) an indoor, outdoor, or combined commercial real property;

“(V) an onsite or offsite health screening capability; or

“(VI) other assets relating to the compliance with the requirements or guidance described in subparagraph (A), as determined by the Administrator in consultation with the Secretary of Health and Human Services and the Secretary of Labor; and

“(ii) the purchase of—

“(I) covered materials described in section 328.103(a) of title 44, Code of Federal Regulations, or any successor regulation;

“(II) particulate filtering facepiece respirators approved by the Na-
tional Institute for Occupational Safety and Health, including those approved only for emergency use authorization; or

“(III) other kinds of personal protective equipment, as determined by the Administrator in consultation with the Secretary of Health and Human Services and the Secretary of Labor; and

“(C) does not include residential real property or intangible property;”; and

(I) in paragraph (11), as so redesignated—

(i) in subparagraph (C), by striking “and” at the end;

(ii) in subparagraph (D), by striking “and” at the end; and

(iii) by adding at the end the following:

“(E) covered operations expenditures;

“(F) covered property damage costs;

“(G) covered supplier costs; and

“(H) covered worker protection expenditures; and”;}
(2) in subsection (b), by adding at the end the following:

"(5) Any covered operations expenditure.

"(6) Any covered property damage cost.

"(7) Any covered supplier cost.

"(8) Any covered worker protection expenditure."

(3) in subsection (d)(8), by inserting "any payment on any covered operations expenditure, any payment on any covered property damage cost, any payment on any covered supplier cost, any payment on any covered worker protection expenditure," after "rent obligation,"; and

(4) in subsection (e)—

(A) in paragraph (2), by inserting "payments on covered operations expenditures, payments on covered property damage costs, payments on covered supplier costs, payments on covered worker protection expenditures," after "lease obligations,"; and

(B) in paragraph (3)(B), by inserting "make payments on covered operations expenditures, make payments on covered property damage costs, make payments on covered supplier
costs, make payments on covered worker protec-
tion expenditures,” after “rent obligation,”.

SEC. 2. LENDER SAFE HARBOR.

Subsection (h) of section 1106 of the CARES Act
(15 U.S.C. 9005) is amended to read as follows:

“(h) HOLD HARMLESS.—

“(1) IN GENERAL.—A lender may rely on any
certification or documentation submitted by an ap-
licant for a covered loan or an eligible recipient of
a covered loan that—

“(A) is submitted pursuant to any statu-
tory requirement relating to covered loans or
any rule or guidance issued to carry out any ac-
tion relating to covered loans; and

“(B) attests that the applicant or eligible
recipient, as applicable, has accurately verified
any certification or documentation provided to
the lender.

“(2) NO ENFORCEMENT ACTION.—With respect
to a lender that relies on a certification or docu-
mentation described in paragraph (1)—

“(A) an enforcement action may not be
taken against the lender acting in good faith re-
lating to origination or forgiveness of a covered
loan based on such reliance; and
“(B) the lender acting in good faith shall not be subject to any penalties relating to origination or forgiveness of a covered loan based on such reliance.”.

SEC. 3. SELECTION OF COVERED PERIOD FOR FORGIVENESS.

Section 1106 of the CARES Act (15 U.S.C. 9005) is amended—

(1) by amending subsection (a)(4) (as redesignated by section 1) to read as follows:

“(4) the term ‘covered period’ means the period—

“(A) beginning on the date of the origination of a covered loan; and

“(B) ending on a date selected by the eligible recipient of the covered loan that occurs during the period—

“(i) beginning on the date that is 8 weeks after such date of origination; and

“(ii) ending on December 31, 2020;”;

and

(2) by striking subsection (1).

SEC. 4. SIMPLIFIED APPLICATION.

Section 1106 of the CARES Act (15 U.S.C. 9005), as amended by section 3 of this Act, is amended—
(1) in subsection (e), in the matter preceding paragraph (1), by striking “An eligible” and inserting “Except as provided in subsection (l), an eligible”;

(2) in subsection (f), by inserting “or the information required under subsection (l), as applicable” after “subsection (e)”; and

(3) by adding at the end the following:

“(l) SIMPLIFIED APPLICATION.—

“(1) COVERED LOANS UNDER $150,000.—

“(A) IN GENERAL.—Notwithstanding subsection (e), with respect to a covered loan made to an eligible recipient that is not more than $150,000, the covered loan amount shall be forgiven under this section if the eligible recipient—

“(i) signs and submits to the lender an attestation that the eligible recipient made a good faith effort to comply with the requirements under section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)); and

“(ii) for the 3-year period following submission of the attestation under clause (i), retains records relevant to the attesta-
tion that prove compliance with those re-
requirements.

"(B) DEMOGRAPHIC INFORMATION.—An
eligible recipient of a covered loan described in
subparagraph (A) may complete and submit
any form related to borrower demographic in-
formation.

"(C) AUDIT.—The Administrator may—

"(i) review and audit covered loans
described in subparagraph (A); and

"(ii) in the case of fraud, ineligibility,
or other material noncompliance with ap-
pllicable loan or loan forgiveness require-
ments, modify—

"(I) the amount of a covered loan
described in subparagraph (A); or

"(II) the loan forgiveness amount
with respect to a covered loan de-
scribed in subparagraph (A).

"(2) COVERED LOANS BETWEEN $150,000 AND
$2,000,000.—

"(A) IN GENERAL.—Notwithstanding sub-
section (e), with respect to a covered loan made
to an eligible recipient that is more than
$150,000 and not more than $2,000,000—
“(i) the eligible recipient seeking loan forgiveness under this section—

“(I) is not required to submit the supporting documentation described in paragraph (1) or (2) of subsection (e) or the certification described in subsection (e)(3)(A);

“(II) shall retain all relevant schedules, worksheets, and supporting documentation for the 3-year period following submission of the application for loan forgiveness; and

“(III) may complete and submit any form related to borrower demographic information;

“(ii) review by the lender of an application submitted by the eligible recipient for loan forgiveness under this section shall be limited to whether the lender received a complete application, with all fields completed, initialed, or signed, as applicable; and

“(iii) the lender shall—

“(I) accept the application submitted by the eligible recipient for
loan forgiveness under this section; and

"(II) submit the application to the Administrator.

"(B) AUDIT.—The Administrator may—

"(i) review and audit covered loans described in subparagraph (A); and

"(ii) in the case of fraud, ineligibility, or other material noncompliance with applicable loan or loan forgiveness requirements, modify—

"(I) the amount of a covered loan described in subparagraph (A); or

"(II) the loan forgiveness amount with respect to a covered loan described in subparagraph (A).

"(3) AUDIT PLAN.—

"(A) IN GENERAL.—Not later than 30 days after the date of enactment of this subsectoin, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representa-

atives an audit plan that details—
“(i) the policies and procedures of the Administrator for conducting reviews and audits of covered loans; and

“(ii) the metrics that the Administrator shall use to determine which covered loans will be audited for each category of covered loans described in paragraphs (1) and (2).

“(B) REPORTS.—Not later than 30 days after the date on which the Administrator submits the audit plan required under subparagraph (A), and each month thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the review and audit activities of the Administrator under this subsection, which shall include—

“(i) the number of active reviews and audits;

“(ii) the number of reviews and audits that have been ongoing for more than 60 days; and
“(iii) any substantial changes made to
the audit plan submitted under subpara-
graph (A).”.

SEC. 5. GROUP INSURANCE PAYMENTS AS PAYROLL COSTS.
Section 7(a)(36)(A)(viii)(I)(aa)(EE) of the Small
is amended by inserting “and other group insurance” be-
fore “benefits”.

SEC. 6. PAYCHECK PROTECTION PROGRAM SECOND DRAW
LOANS.
Section 7(a) of the Small Business Act (15 U.S.C.
636(a)) is amended by adding at the end the following:
“(37) PAYCHECK PROTECTION PROGRAM SEC-
OND DRAW LOANS.—
“(A) DEFINITIONS.—In this paragraph—
“(i) the terms ‘community financial
institutions’, ‘credit union’, ‘eligible self-
employed individual’, ‘insured depository
institution’, ‘nonprofit organization’, ‘pay-
roll costs’, ‘seasonal employer’, and ‘vet-
erans organization’ have the meanings
given those terms in paragraph (36), ex-
cept that ‘eligible entity’ shall be sub-
stituted for ‘eligible recipient’ each place it
appears in the definitions of those terms;
"(ii) the term 'covered loan' means a loan made under this paragraph;

"(iii) the terms 'covered mortgage obligation', 'covered operating expenditure', 'covered property damage cost', 'covered rent obligation', 'covered supplier cost', 'covered utility payment', and 'covered worker protection expenditure' have the meanings given those terms in section 1106(a) of the CARES Act (15 U.S.C. 9005(a));

"(iv) the term 'covered period' means the period beginning on the date of the origination of a covered loan and ending on December 31, 2020;

"(v) the terms 'exchange', 'issuer', and 'security' have the meanings given those terms in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));

"(vi) the term 'eligible entity'—

"(I) means any business concern, nonprofit organization, veterans organization, Tribal business concern, eligible self-employed individual, sole
proprietor, independent contractor, or small agricultural cooperative that—

“(aa)(AA) with respect to a business concern, would qualify as a small business concern by the annual receipts size standard (if applicable) established by section 121.201 of title 13, Code of Federal Regulations, or any successor regulation; or

“(BB) if the entity does not qualify as a small business concern, meets the alternative size standard established under section 3(a)(5);

“(bb) employs not more than 300 employees; and

“(cc)(AA) except as provided in subitems (BB), (CC), and (DD), had gross receipts during the first or second quarter in 2020 that are not less than 35 percent less than the gross receipts of the entity during the same quarter in 2019;
“(BB) if the entity was not in business during the first or second quarter of 2019, but was in business during the third and fourth quarter of 2019, had gross receipts during the first or second quarter of 2020 that are less than 35 percent of the amount of the gross receipts of the entity during the third or fourth quarter of 2019;

“(CC) if the entity was not in business during the first, second, or third quarter of 2019, but was in business during the fourth quarter of 2019, had gross receipts during the first or second quarter of 2020 that are less than 35 percent of the amount of the gross receipts of the entity during the fourth quarter of 2019; or

“(DD) if the entity was not in business during 2019, but was in operation on February 15,
2020, had gross receipts during the second quarter of 2020 that are less than 35 percent of the amount of the gross receipts of the entity during the first quarter of 2020; and

“(II) does not include—

“(aa) an issuer, the securities of which are listed on an exchange registered a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);

“(bb) any entity that—

“(AA) is a type of business concern described in subsection (b), (c), (d), (e), (f), (h), (l) (m), (p), (q), (r), or (s) of section 120.110 of title 13, Code of Federal Regulations, or any successor regulation;

“(BB) is a type of business concern described in section 120.110(g) of title
13, Code of Federal Regulations, or any successor regulation, except as otherwise provided in the interim final rule of the Administration entitled 'Business Loan Program Temporary Changes; Paycheck Protection Program—Additional Eligibility Criteria and Requirements for Certain Pledges of Loans' (85 Fed. Reg. 21747 (April 20, 2020));

"(CC) is a type of business concern described in section 120.110(i) of title 13, Code of Federal Regulations, or any successor regulation, except if the business concern is an organization described in paragraph (36)(D)(vii);

"(DD) is a type of business concern described in section 120.110(j) of title
Code of Federal Regulations, or any successor regulation, except as otherwise provided in the interim final rules of the Administration entitled 'Business Loan Program Temporary Changes; Paycheck Protection Program—Eligibility of Certain Electric Cooperatives' (85 Fed. Reg. 29847 (May 19, 2020)) and 'Business Loan Program Temporary Changes; Paycheck Protection Program—Eligibility of Certain Telephone Cooperatives' (85 Fed. Reg. 35550 (June 11, 2020)) or any other guidance or rule issued or that may be issued by the Administrator;

"(EE) is a type of business concern described in section 120.110(n) of title 13, Code of Federal Regula-
tions, or any successor regulation, except as otherwise provided in the interim final rule of the Administration entitled ‘Business Loan Program Temporary Changes; Paycheck Protection Program—Additional Eligibility Revisions to First Interim Final Rule’ (85 Fed. Reg. 38301 (June 26, 2020)) or any other guidance or rule issued or that may be issued by the Administrator;

“(FF) is a type of business concern described in section 120.110(o) of title 13, Code of Federal Regulations, or any successor regulation, except as otherwise provided in any guidance or rule issued or that may be issued by the Administrator; or
“(GG) is an entity that is organized for research or for engaging in advocacy in areas such as public policy or political strategy or otherwise describes itself as a think tank in any public documents;

“(HH) is an entity that would be described in the subsections listed in subitems (AA) through (GG) if the entity were a business concern; or

“(II) is assigned, or was approved for a loan under paragraph (36) with, a North American Industry Classification System code beginning with 52;

“(ee) any business concern or entity primarily engaged in political or lobbying activities, which shall include any entity that is organized for research or
for engaging in advocacy in areas
such as public policy or political
strategy or otherwise describes
itself as a think tank in any pub-
lic documents; or

“(dd) any business concern
or entity—

“(AA) for which an en-
tity created in or organized
under the laws of the Peo-
ple’s Republic of China or
the Special Administrative
Region of Hong Kong, or
that has significant oper-
ations in the People’s Re-
public of China or the Spe-
cial Administrative Region
of Hong Kong, owns or
holds, directly or indirectly,
not less than 20 percent of
the economic interest of the
business concern or entity,
including as equity shares or
a capital or profit interest in
a limited liability company
or partnership; or

"(BB) that retains, as
a member of the board of di-
rectors of the business con-
cern, a person who is a resi-
dent of the People’s Repub-
lic of China; and

"(vii) the term ‘Tribal business con-
cern’ means a Tribal business concern de-
scribed in section 31(b)(2)(C).

"(B) LOANS.—Except as otherwise pro-
vided in this paragraph, the Administrator may
guarantee covered loans to eligible entities
under the same terms, conditions, and processes
as a loan made under paragraph (36).

"(C) MAXIMUM LOAN AMOUNT.—

"(i) IN GENERAL.—Except as other-
wise provided in this subparagraph, the
maximum amount of a covered loan made
to an eligible entity is the lesser of—

"(I) the product obtained by mul-
tiplying—

"(aa) the average total
monthly payment for payroll
26 costs incurred or paid by the eligible entity during the 1-year period before the date on which the loan is made; by

"(bb) 2.5; or

"(II) $2,000,000.

"(ii) SEASONAL EMPLOYERS.—The maximum amount of a covered loan made to an eligible entity that is a seasonal employer is the lesser of—

"(I) the product obtained by multiplying—

"(aa) at the election of the eligible entity, the average total monthly payments for payroll costs incurred or paid by the eligible entity—

"(AA) for a 12-week period beginning February 15, 2019, or March 1, 2019, and ending June 30, 2019;

or

"(BB) for a consecutive 12-week period between May
1, 2019, and September 15, 2019; by "(bb) 2.5; or "(II) $1,000,000.

"(iii) NEW ENTITIES.—The maximum amount of a covered loan made to an eligible entity that did not exist during the 1-year period preceding February 15, 2020, is the lesser of—

"(I) the product obtained by multiplying—

"(aa) the quotient obtained by dividing—

"(AA) the sum of the total monthly payments by the eligible entity for payroll costs paid or incurred by the eligible entity as of the date on which the eligible entity applies for the covered loan; by

"(BB) the number of months in which those payroll costs were paid or incurred; by
“(bb) 2.5; or

“(II) $2,000,000.

“(iv) BUSINESS CONCERNS WITH MORE THAN 1 PHYSICAL LOCATION.—

“(I) IN GENERAL.—Any eligible entity that employs not more than 300 employees per physical location of the eligible entity and that is assigned a North American Industry Classification System Code beginning with 72 at the time of disbursal shall be eligible to receive a covered loan.

“(II) LIMIT FOR MULTIPLE LOCATIONS.—With respect to an eligible entity with more than 1 physical location, the total amount of all covered loans shall be not more than $2,000,000.

“(v) LOAN NUMBER LIMITATION.—An eligible entity may only receive 1 covered loan.

“(vi) 90 DAY RULE FOR MAXIMUM LOAN AMOUNT.—The maximum aggregate loan amount of loans guaranteed under this subsection that are approved for an el-
eligible entity (including any affiliates) within 90 days of approval of another loan under this subsection for the eligible entity (including any affiliates) shall not exceed $10,000,000.

"(D) EXCEPTION FROM CERTAIN CERTIFICATION REQUIREMENTS.—An eligible entity applying for a covered loan shall not be required to make the certification described in subclause (III) or (IV) of paragraph (36)(G)(i).

"(E) FEE WAIVER.—With respect to a covered loan—

"(i) in lieu of the fee otherwise applicable under paragraph (23)(A), the Administrator shall collect no fee; and

"(ii) in lieu of the fee otherwise applicable under paragraph (18)(A), the Administrator shall collect no fee.

"(F) ELIGIBLE CHURCHES AND RELIGIOUS ORGANIZATIONS.—

"(i) SENSE OF CONGRESS.—It is the sense of Congress that the interim final rule of the Administration entitled "Business Loan Program Temporary Changes; Paycheck Protection Program" (85 Fed.
Reg. 20817 (April 15, 2020)) properly clarified the eligibility of churches and religious organizations for loans made under paragraph (36).

"(ii) APPLICABILITY OF PROHIBITION.—The prohibition on eligibility established by section 120.110(k) of title 13, Code of Federal Regulations, or any successor regulation, shall not apply to a covered loan.

"(G) GROSS RECEIPTS FOR NONPROFIT AND VETERANS ORGANIZATIONS.—For purposes of calculating gross receipts under subparagraph (A)(vi)(I)(cc) for an entity that is a nonprofit organization or a veterans organization, gross receipts—

"(i) shall include proceeds from fundraising events, federated campaigns, gifts, donor-advised funds, and funds from similar sources; and

"(ii) shall not include—

"(I) Federal grants (excluding any loan forgiveness on loans received under paragraph (36) or this paragraph;
“(II) revenues from a supporting organization;

“(III) grants from private foundations that are disbursed over the course of more than 1 calendar year; or

“(IV) any contribution of property other than money, stocks, bonds, and other securities, provided that the non-cash contribution is not sold by the organization in a transaction unrelated to the tax-exempt purpose of the organization.

“(H) LOAN FORGIVENESS.—

“(i) IN GENERAL.—Except as provided otherwise provided in this subparagraph, an eligible entity shall be eligible for forgiveness of indebtedness on a covered loan in the same manner as an eligible recipient with respect to a loan made under paragraph (36), as described in section 1106 of the CARES Act (15 U.S.C. 9005).

“(ii) FORGIVENESS AMOUNT.—An eligible entity shall be eligible for forgiveness of indebtedness on a covered loan in an
amount equal to the sum of the following costs incurred or expenditures made during the covered period:

"(I) Payroll costs.

"(II) Any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation).

"(III) Any covered operations expenditure.

"(IV) Any covered property damage cost.

"(V) Any payment on any covered rent obligation.

"(VI) Any covered utility payment.

"(VII) Any covered supplier cost.

"(VIII) Any covered worker protection expenditure.

"(iii) LIMITATION ON FORGIVENESS FOR ALL ELIGIBLE ENTITIES.—The forgiveness amount under this subparagraph shall be equal to the lesser of—
“(I) the amount described in clause (ii); and

“(II) the amount equal to the quotient obtained by dividing—

“(aa) the amount of the covered loan used for payroll costs during the covered period; and

“(bb) 0.60.

“(I) LENDER ELIGIBILITY.—Except as otherwise provided in this paragraph, a lender approved to make loans under paragraph (36) may make covered loans under the same terms and conditions as in paragraph (36).

“(J) REIMBURSEMENT FOR LOAN PROCESSING AND SERVICING.—The Administrator shall reimburse a lender authorized to make a covered loan in an amount that is—

“(i) 3 percent of the principal amount of the financing of the covered loan up to $350,000; and

“(ii) 1 percent of the principal amount of the financing of the covered loan above $350,000, if applicable.

“(K) SET ASIDE FOR SMALL ENTITIES.—Not less than $25,000,000,000 of the total
amount of covered loans guaranteed by the Administrator shall be made to eligible entities with not more than 10 employees as of February 15, 2020.

"(L) SET ASIDE FOR COMMUNITY FINANCIAL INSTITUTIONS, SMALL INSURED DEPOSITORY INSTITUTIONS, CREDIT UNIONS, AND FARM CREDIT SYSTEM INSTITUTIONS.—Not less than $10,000,000,000 of the total amount of covered loans guaranteed by the Administrator shall be made by—

"(i) community financial institutions;

"(ii) insured depository institutions with consolidated assets of less than $10,000,000,000;

"(iii) credit unions with consolidated assets of less than $10,000,000,000; and

"(iv) institutions of the Farm Credit System chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) with consolidated assets of less than $10,000,000,000 (not including the Federal Agricultural Mortgage Corporation).

"(M) PUBLICATION OF GUIDANCE.—Not later than 10 days after the date of enactment
of this paragraph, the Administrator shall issue
guidance addressing barriers to accessing cap-
ital for minority, underserved, veteran, and
women-owned business concerns for the purpose
of ensuring equitable access to covered loans.

"(N) STANDARD OPERATING PROCEDURE.—The Administrator shall, to the max-
imum extent practicable, allow a lender ap-
proved to make covered loans to use existing
program guidance and standard operating pro-
cedures for loans made under this subsection.

"(O) COMPLIANCE WITH OVERSIGHT RE-
QUIREMENTS.—

"(i) IN GENERAL.—Except as pro-
vided in clause (ii), on and after the date
of enactment of this paragraph, the Ad-
ministrator shall comply with any data or
information requests or inquiries made by
the Comptroller General of the United
States or the Inspector General of any
agency not later than 30 days (or such
later date as the Comptroller General or
Inspector General, as applicable, may
specify) after receiving the request or in-
quiry.
“(ii) EXCEPTION.—If the Administrator is unable to comply with a request or inquiry described in clause (i) within the 30-day period or, if applicable, later period described in that clause, the Administrator shall, during that 30-day (or later) period, submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a notification that includes a detailed justification for the inability of the Administrator to comply with the request or inquiry.

“(P) PROHIBITION ON USE OF PROCEEDS FOR LOBBYING ACTIVITIES.—None of the proceeds of a covered loan may be used for lobbying activities, as defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).”

SEC. 7. CONTINUED ACCESS TO THE PAYCHECK PROTECTION PROGRAM.

(a) IN GENERAL.—Section 7(a)(36)(E)(ii) of the Small Business Act (15 U.S.C. 636(a)(36)(E)(ii)) is amended by striking “$10,000,000” and inserting “$2,000,000”.
(b) APPLICABILITY OF MAXIMUM LOAN AMOUNT CALCULATION.—

(1) DEFINITIONS.—In this subsection, the terms “covered loan” and “eligible recipient” have the meanings given those terms in section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).

(2) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to a covered loan applied for by an eligible recipient on or after the date of enactment of this Act.

SEC. 8. INCREASED ABILITY FOR PAYCHECK PROTECTION PROGRAM BORROWERS TO REQUEST AN INCREASE IN LOAN AMOUNT DUE TO UPDATED REGULATIONS.

(a) DEFINITIONS.—In this section, the terms “covered loan” and “eligible recipient” have the meanings given those terms in section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).

(b) INCREASED AMOUNT.—Notwithstanding the interim final rule issued by the Administration entitled “Business Loan Program Temporary Changes; Paycheck Protection Program—Loan Increases” (85 Fed. Reg. 29842 (May 19, 2020)), an eligible recipient of a covered loan that is eligible for an increased covered loan amount as a result of any interim final rule that allows for covered
loan increases may submit a request for an increase in
the covered loan amount even if—

(1) the initial covered loan amount has been
fully disbursed; or

(2) the lender of the initial covered loan has
submitted to the Administration a Form 1502 report
related to the covered loan.

SEC. 9. CALCULATION OF MAXIMUM LOAN AMOUNT FOR
FARMERS AND RANCHERS UNDER THE PAY-
CHECK PROTECTION PROGRAM.

(a) IN GENERAL.—Section 7(a)(36) of the Small
Business Act (15 U.S.C. 636(a)(36)), as amended by sec-
tion 7 of this Act, is amended—

(1) in subparagraph (E), in the matter pre-
ceding clause (i), by striking “During” and inserting
“Except as provided in subparagraph (T), during”;
and

(2) by adding at the end the following:

“(T) CALCULATION OF MAXIMUM LOAN
AMOUNT FOR FARMERS AND RANCHERS.—

“(i) DEFINITION.—In this subpara-
graph, the term ‘covered recipient’ means
an eligible recipient that—

“(I) operates as a sole propri-
etership or as an independent con-
tractor, or is an eligible self-employed individual;

"(II) reports farm income or expenses on a Schedule F (or any equivalent successor schedule); and

"(III) was in business during the period beginning on February 15, 2019, and ending on June 30, 2019.

"(ii) No employees.—With respect to covered recipient without employees, the maximum covered loan amount shall be the lesser of—

"(I) the sum of—

"(aa) the product obtained by multiplying—

"(AA) the gross income of the covered recipient in 2019, as reported on a Schedule F (or any equivalent successor schedule), that is not more than $100,000, divided by 12; and

"(BB) 2.5; and
“(bb) the outstanding amount of a loan under subsection (b)(2) that was made during the period beginning on January 31, 2020, and ending on April 3, 2020, that the borrower intends to refinance under the covered loan, not including any amount of any advance under the loan that is not required to be repaid; or

“(II) $2,000,000.

“(iii) WITH EMPLOYEES.—With respect to a covered recipient with employees, the maximum covered loan amount shall be calculated using the formula described in subparagraph (E), except that the gross income of the covered recipient described in clause (ii)(I)(aa)(AA) of this subparagraph, as divided by 12, shall be added to the sum calculated under subparagraph (E)(i)(I).

“(iv) RECALCULATION.—A lender that made a covered loan to a covered recipient before the date of enactment of this sub-
paragraph may, at the request of the covered recipient—

"(I) recalculate the maximum loan amount applicable to that covered loan based on the formula described in clause (ii) or (iii), as applicable, if doing so would result in a larger covered loan amount; and

"(II) provide the covered recipient with additional covered loan amounts based on that recalculation.”.

SEC. 10. FARM CREDIT SYSTEM INSTITUTIONS.

(a) DEFINITION OF FARM CREDIT SYSTEM INSTITUTION.—In this section, the term “Farm Credit System institution”—

(1) means an institution of the Farm Credit System chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); and

(2) does not include the Federal Agricultural Mortgage Corporation.

(b) FACILITATION OF PARTICIPATION IN PPP AND SECOND DRAW LOANS.—

(1) APPLICABLE RULES.—Solely with respect to loans under paragraphs (36) and (37) of section
7(a) of the Small Business Act (15 U.S.C. 636(a)), Farm Credit Administration regulations and guidance issued as of July 14, 2020, and compliance with such regulations and guidance, shall be deemed functionally equivalent to requirements referenced in section 3(a)(iii)(II) of the interim final rule of the Administration entitled “Business Loan Program Temporary Changes; Paycheck Protection Program” (85 Fed. Reg. 20811 (April 15, 2020)) or any similar requirement referenced in that interim final rule in implementing such paragraph (37).

(2) APPLICABILITY OF CERTAIN LOAN REQUIREMENTS.—For purposes of making loans under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or forgiving those loans in accordance with section 1106 of the CARES Act (15 U.S.C. 9005) and subparagraph (H) of such paragraph (37), sections 4.13, 4.14, and 4.14A of the Farm Credit Act of 1971 (12 U.S.C. 2199, 2202, 2202a) (including regulations issued under those sections) shall not apply.

(3) RISK WEIGHT.—

(A) IN GENERAL.—With respect to the application of Farm Credit Administration capital
requirements, a loan described in subparagraph (B)—

(i) shall receive a risk weight of zero percent; and

(ii) shall not be included in the calculation of any applicable leverage ratio or other applicable capital ratio or calculation.

(B) LOANS DESCRIBED.—A loan referred to in subparagraph (A) is—

(i) a loan made by a Farm Credit Bank described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)) to a Federal Land Bank Association, a Production Credit Association, or an agricultural credit association described in that section to make loans under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or forgive those loans in accordance with section 1106 of the CARES Act (15 U.S.C. 9005) and subparagraph (H) of such paragraph (37); or

(ii) a loan made by a Federal Land Bank Association, a Production Credit Association, an agricultural credit associa-
tion, or the bank for cooperatives described
in section 1.2(a) of the Farm Credit Act of
1971 (12 U.S.C. 2002(a)) under para-
graph (36) or (37) of section 7(a) of the
Small Business Act (15 U.S.C. 636(a)).

(4) RESERVATION OF LOAN GUARANTEES.—
Section 7(a)(36)(S) of the Small Business Act (15
U.S.C. 636(a)(36)(S)) is amended—

(A) in clause (i)—

(i) in subclause (I), by striking “and”
at the end;

(ii) in subclause (II), by striking the
period at the end and inserting “; and”;
and

(iii) by adding at the end the fol-
lowing:

“(III) institutions of the Farm
Credit System chartered under the
Farm Credit Act of 1971 (12 U.S.C.
2001 et seq.) with consolidated assets
of not less than $10,000,000,000 and
less than $50,000,000,000.”; and

(B) in clause (ii)—

(i) in subclause (II), by striking
“and” at the end;
(ii) in subclause (III), by striking the
period at the end and inserting "; and";
and
(iii) by adding at the end the fol-
lowing:

"(IV) institutions of the Farm
Credit System chartered under the
Farm Credit Act of 1971 (12 U.S.C.
2001 et seq.) with consolidated assets
of less than $10,000,000,000.".

SEC. 11. DEFINITION OF SEASONAL EMPLOYER.

(a) PPP LOANS.—Section 7(a)(36)(A) of the Small

(1) in clause (xi), by striking "and" at the end;
(2) in clause (xii), by striking the period at the
end and inserting "; and"; and
(3) by adding at the end the following:

"(xiii) the term 'seasonal employer'
means an eligible recipient that—

"(I) does not operate for more
than 7 months in any calendar year;
or

"(II) during the preceding cal-
endar year, had gross receipts for any
6 months of that year that were not
more than 33.33 percent of the gross
receipts of the employer for the other
6 months of that year.’’.

(b) LOAN FORGIVENESS.—Paragraph (12) of section
1106(a) of the CARES Act (15 U.S.C. 9005(a)), as so
redesignated by section 1(b) of this Act, is amended to
read as follows:

“(12) the terms ‘payroll costs’ and ‘seasonal
employer’ have the meanings given those terms in
section 7(a)(36) of the Small Business Act (15
U.S.C. 636(a)(36)).’’.

SEC. 12. ELIGIBILITY OF 501(C)(6) ORGANIZATIONS FOR
LOANS UNDER THE PAYCHECK PROTECTION
PROGRAM.

Section 7(a)(36)(D) of the Small Business Act (15
U.S.C. 636(a)(36)(D)) is amended—

(1) in clause (v), by inserting “or whether an
entity described in clause (vii) employs not more
than 300 employees,” after “clause (i)(I),”; and

(2) by adding at the end the following:

“(vii) ELIGIBILITY FOR CERTAIN
501(C)(6) ORGANIZATIONS.—

“(I) IN GENERAL.—Except as
provided in subclause (II), any organi-
ization that is described in section
501(c)(6) of the Internal Revenue Code and that is exempt from taxation under section 501(a) of such Code (excluding professional football leagues and organizations with the purpose of promoting or participating in a political campaign or other activity) shall be eligible to receive a covered loan if—

"(aa) the organization does not receive more than 10 percent of its receipts from lobbying activities;

"(bb) the lobbying activities of the organization do not comprise more than 10 percent of the total activities of the organization; and

"(cc) the organization employs not more than 300 employees.

"(II) DESTINATION MARKETING ORGANIZATIONS.—Notwithstanding subclause (I), during the covered period, any destination marketing orga-
nization shall be eligible to receive a covered loan if—

"(aa) the destination marketing organization does not receive more than 10 percent of its receipts from lobbying activities;

"(bb) the lobbying activities of the destination marketing organization do not comprise more than 10 percent of the total activities of the organization;

"(cc) the destination marketing organization employs not more than 300 employees; and

"(dd) the destination marketing organization—

"(AA) is described in section 501(c) of the Internal Revenue Code and is exempt from taxation under section 501(a) of such Code; or

"(BB) is a quasi-governmental entity or is a political subdivision of a State
or local government, including any instrumentality of those entities.”.

SEC. 13. PROHIBITION ON USE OF LOAN PROCEEDS FOR LOBBYING ACTIVITIES.

Section 7(a)(36)(F) of the Small Business Act (15 U.S.C. 636(a)(36)(F)) is amended by adding at the end the following:

“(vi) Prohibition.—None of the proceeds of a covered loan may be used for lobbying activities, as defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).”.

SEC. 14. EFFECTIVE DATE; APPLICABILITY.

The amendments made to paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and title I of the CARES Act (Public Law 116–136) under this Act, except for section 17 of this Act, shall be effective as if included in the CARES Act and shall apply to any loan made pursuant to section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)).

SEC. 15. BANKRUPTCY PROVISIONS.

(a) In General.—Section 364 of title 11, United States Code, is amended by adding at the end the following:
“(g)(1) The court, after notice and a hearing, may authorize a debtor in possession or a trustee that is authorized to operate the business of the debtor under section 1183, 1184, 1203, 1204, or 1304 of this title to obtain a loan under section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)), and such loan shall be treated as a debt to the extent the loan is not forgiven under section 1106 of the CARES Act (15 U.S.C. 9005) with priority equal to a claim of the kind specified in subsection (c)(1) of this section.

“(2) The trustee may incur debt described in paragraph (1) notwithstanding any provision in a contract, prior order authorizing the trustee to incur debt under this section, prior order authorizing the trustee to use cash collateral under section 363, or applicable law that prohibits the debtor from incurring additional debt.

“(3) The court shall hold a hearing within 7 days after the filing and service of the motion to obtain a loan described in paragraph (1).”.

(b) ALLOWANCE OF ADMINISTRATIVE EXPENSES.—

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (8)(B), by striking “and” at the end;
(2) in paragraph (9), by striking the period at the end and inserting "; and"; and
(3) by adding at the end the following:
"(10) any debt incurred under section 364(g)(1) of this title."

(c) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1191 of title 11, United States Code, is amended by adding at the end the following:
"(f) SPECIAL PROVISION RELATED TO COVID–19 PANDEMIC.—Notwithstanding section 1129(a)(9)(A) of this title and subsection (e) of this section, a plan that provides for payment of a claim of a kind specified in section 503(b)(10) of this title may be confirmed under subsection (b) of this section if the plan proposes to make payments on account of such claim when due under the terms of the loan giving rise to such claim."

(d) CONFIRMATION OF PLAN FOR FAMILY FARMERS AND FISHERMEN.—Section 1225 of title 11, United States Code, is amended by adding at the end the following:
"(d) Notwithstanding section 1222(a)(2) of this title and subsection (b)(1) of this section, a plan that provides for payment of a claim of a kind specified in section 503(b)(10) of this title may be confirmed if the plan proposes to make payments on account of such claim when
due under the terms of the loan giving rise to such
claim.”.

(e) CONFIRMATION OF PLAN FOR INDIVIDUALS.—
Section 1325 of title 11, United States Code, is amended
by adding at the end the following:

“(d) Notwithstanding section 1322(a)(2) of this title
and subsection (b)(1) of this section, a plan that provides
for payment of a claim of a kind specified in section
503(b)(10) of this title may be confirmed if the plan pro-
poses to make payments on account of such claim when
due under the terms of the loan giving rise to such
claim.”.

(f) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—The amendments made
by subsections (a) through (e) shall—

(A) take effect on the date on which the
Administrator of the Small Business Admin-
istration submits to the Director of the Executive
Office for United States Trustees a written de-
termination that, subject to satisfying any other
eligibility requirements, any debtor in posses-
sion or trustee that is authorized to operate the
business of the debtor under section 1183,
1184, 1203, 1204, or 1304 of title 11, United
States Code, would be eligible for a loan under
section 7(a)(36) of the Small Business Act (15 U.S.C. 635(a)(36)); and

(B) apply to any case pending on or commenced on or after the date described in sub-
paragraph (A).

(2) SUNSET.—

(A) IN GENERAL.—If the amendments
made by this section take effect under para-
graph (1), effective on the date that is 2 years
after the date of enactment of this Act—

(i) section 364 of title 11, United
States Code, is amended by striking sub-
section (g);

(ii) section 503(b) of title 11, United
States Code, is amended—

(I) in paragraph (8)(B), by add-
ing “and” at the end;

(II) in paragraph (9), by striking
“; and” at the end and inserting a pe-
riod; and

(III) by striking paragraph (10);

(iii) section 1191 of title 11, United
States Code, is amended by striking sub-
section (f);
(iv) section 1225 of title 11, United States Code, is amended by striking subsection (d); and

(v) section 1325 of title 11, United States Code, is amended by striking subsection (d).

(B) APPLICABILITY.—Notwithstanding the amendments made by subparagraph (A) of this paragraph, if the amendments made by subsections (a), (b), (c), (d), and (e) take effect under paragraph (1) of this subsection, such amendments shall apply to any case under title 11, United States Code, commenced before the date that is 2 years after the date of enactment of this Act.

SEC. 16. CONFLICTS OF INTEREST.

(a) DEFINITIONS.—In this section:

(1) CONTROLLING INTEREST.—The term "controlling interest" means owning, controlling, or holding not less than 20 percent, by vote or value, of the outstanding amount of any class of equity interest in an entity.

(2) COVERED ENTITY.—

(A) DEFINITION.—The term "covered entity" means an entity in which a covered indi-
vidual directly or indirectly holds a controlling interest.

(B) TREATMENT OF SECURITIES.—For the purpose of determining whether an entity is a covered entity, the securities owned, controlled, or held by 2 or more individuals who are related as described in paragraph (3)(B) shall be aggregated.

(3) COVERED INDIVIDUAL.—The term “covered individual” means—

(A) the President, the Vice President, the head of an Executive department, or a Member of Congress; and

(B) the spouse, child, son-in-law, or daughter-in-law, as determined under applicable common law, of an individual described in subparagraph (A).

(4) EXECUTIVE DEPARTMENT.—The term “Executive department” has the meaning given the term in section 101 of title 5, United States Code.

(5) MEMBER OF CONGRESS.—The term “Member of Congress” means a Member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.
(6) **EQUITY INTEREST.**—The term “equity interest” means—

(A) a share in an entity, without regard to whether the share is—

(i) transferable; or

(ii) classified as stock or anything similar;

(B) a capital or profit interest in a limited liability company or partnership; or

(C) a warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share or interest described in subparagraph (A) or (B), respectively.

(b) **REQUIREMENT.**—The principal executive officer and the principal financial officer, or individuals performing similar functions, of an entity seeking to enter a transaction made under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added and amended by this Act, shall, before that transaction is approved, disclose to the Administrator whether the entity is a covered entity.

(e) **APPLICABILITY.**—The requirement under subsection (b)—

(1) shall apply with respect to any transaction made under paragraph (36) or (37) of section 7(a)
of the Small Business Act (15 U.S.C. 636(a)), as
added and amended by this Act, on or after the date
of enactment of this Act; and

(2) shall not apply with respect to—

(A) any transaction described in paragraph
(1) that was made before the date of enactment
of this Act; or

(B) forgiveness under section 1106 of the
CARES Act (15 U.S.C. 9005) or any other pro-
vision of law of any loan associated with any
transaction described in paragraph (1) that was
made before the date of enactment of this Act.

SEC. 17. FUNDING.

(a) COMMITMENT AUTHORITY.—

(1) CARES ACT AMENDMENTS.—Section
1102(b) of the CARES Act (Public Law 116–136)
is amended—

(A) in paragraph (1)—

(i) in the paragraph heading, by in-
serting “AND SECOND DRAW” after
“PPP”;

(ii) by striking “August 8, 2020” and
inserting “December 31, 2020”;

(iii) by striking “paragraph (36)” and
inserting “paragraphs (36) and (37)”; and
(iv) by striking "$659,000,000,000" and inserting "$749,000,000,000"; and  
(B) by amending paragraph (2) to read as follows:

"(2) OTHER 7(A) LOANS.—During fiscal year 2020, the amount authorized for commitments for section 7(a) of the Small Business Act (15 U.S.C. 636(a)) under the heading ‘Small Business Administration—Business Loans Program Account’ in the Financial Services and General Government Appropriations Act, 2020 (division C of Public Law 116–193) shall apply with respect to any commitments under such section 7(a) other than under paragraphs (36) and (37) of such section 7(a).”.

(b) DIRECT APPROPRIATIONS.—

(1) RESCISSION.—With respect to unobligated balances under the heading “"Small Business Administration—Business Loans Program Account, CARES Act” as of the day before the date of enactment of this Act, $100,000,000,000 shall be permanently rescinded.

(2) NEW DIRECT APPROPRIATIONS.—There is appropriated, out of amounts in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, for an additional amount for
“Small Business Administration—Business Loans Program Account, CARES Act”, $190,000,000,000, to remain available under September 30, 2021, for the cost of guaranteed loans as authorized under paragraph (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as amended and added by this Act.

(c) EMERGENCY DESIGNATION.—

(1) IN GENERAL.—The amounts provided under this section are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(2) DESIGNATION IN SENATE.—In the Senate, this section is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

SEC. 18. EMERGENCY RULEMAKING AUTHORITY.

Not later than 30 days after the date of enactment of this Act, the Administrator shall issue regulations to carry out this Act and the amendments made by this Act without regard to the notice requirements under section 553(b) of title 5, United States Code.

SEC. 19. DEFINITIONS.

In this Act:
(1) Administration; Administrator.—The terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof.

(2) Small business concern.—The term “small business concern” has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).