

114TH CONGRESS
2D SESSION

H. R. 5672

To help small businesses access capital and create jobs by reauthorizing
the successful State Small Business Credit Initiative.

IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2016

Mr. KILDEE (for himself, Ms. MAXINE WATERS of California, Mr. HONDA,
and Mr. LANGEVIN) introduced the following bill; which was referred to
the Committee on Financial Services

A BILL

To help small businesses access capital and create jobs by
reauthorizing the successful State Small Business Credit
Initiative.

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 “Small Business Access
5 to Capital Act of 2016”.

1 **SEC. 2. NEW TRANCHES OF CAPITAL FOR SUCCESSFUL**
2 **STATE PROGRAMS.**

3 Section 3003 of the Small Business Jobs Act of 2010
4 (12 U.S.C. 5702) is amended by adding at the end the
5 following:

6 “(d) **ADDITIONAL ALLOCATION AND COMPETITIVE**
7 **AWARDS.**—

8 “(1) **DEFINITIONS.**—In this subsection—

9 “(A) the term ‘eligible participating State’
10 means a participating State that has certified
11 to the Secretary that the State has expended,
12 transferred, or obligated not less than 80 per-
13 cent of the second $\frac{1}{3}$ of the 2010 allocation
14 transferred to the State under subsection
15 (c)(1)(A)(iii); and

16 “(B) the term ‘unused funds’ means—

17 “(i) amounts made available to the
18 Secretary under clause (i)(II) or (ii)(II) of
19 paragraph (2)(E); and

20 “(ii) amounts made available to the
21 Secretary under paragraph (4)(B)(ii).

22 “(2) **ALLOCATION FOR 2010 PARTICIPATING**
23 **STATES.**—

24 “(A) **ALLOCATION.**—Of the amount made
25 available under paragraph (6)(D), the Secretary
26 shall allocate a total of \$500,000,000 among el-

1 eligible participating States in the same ratio as
2 funds were allocated under the 2010 allocation
3 under subsection (b)(1) among participating
4 States.

5 “(B) APPLICATION.—An eligible partici-
6 pating State desiring to receive funds allocated
7 under this paragraph shall submit an applica-
8 tion—

9 “(i) not later than the date that is 6
10 months after the date of enactment of the
11 Small Business Access to Capital Act of
12 2016; and

13 “(ii) in such manner and containing
14 such information as the Secretary may re-
15 quire.

16 “(C) AVAILABILITY OF ALLOCATED
17 AMOUNT.—Notwithstanding subsection (c)(1),
18 after an eligible participating State approved by
19 the Secretary to receive an allocation under this
20 paragraph has certified to the Secretary that
21 the eligible participating State has expended,
22 transferred, or obligated not less than 80 per-
23 cent of the last $\frac{1}{3}$ of the 2010 allocation to the
24 eligible participating State, the Secretary shall
25 transfer to the eligible participating State the

1 funds allocated to the eligible participating
2 State under this paragraph.

3 “(D) USE OF TRANSFERRED FUNDS.—An
4 eligible participating State may use funds
5 transferred under this paragraph for any pur-
6 pose authorized under subparagraph (A) or (B)
7 of subsection (c)(3).

8 “(E) TERMINATION OF AVAILABILITY OF
9 AMOUNTS.—

10 “(i) IN GENERAL.—If an eligible par-
11 ticipating State has not certified to the
12 Secretary that the State has expended,
13 transferred, or obligated not less than 80
14 percent of the last $\frac{1}{3}$ of the 2010 alloca-
15 tion as of the date that is 2 years after the
16 date on which the Secretary approves the
17 eligible participating State to receive an al-
18 location under this paragraph, any
19 amounts allocated to the eligible partici-
20 pating State under this paragraph—

21 “(I) may not be transferred to
22 the eligible participating State under
23 this paragraph; and

1 “(II) shall be available to the
2 Secretary to make awards under para-
3 graph (4).

4 “(ii) OTHER AMOUNTS.—Effective on
5 the date that is 2 years after the date of
6 enactment of the Small Business Access to
7 Capital Act of 2016, any amounts allo-
8 cated under this paragraph to a partici-
9 pating State that, as of such date, is not
10 an eligible participating State or to an eli-
11 gible participating State that did not sub-
12 mit an application under subparagraph (B)
13 or was not approved by the Secretary to
14 receive an allocation under this para-
15 graph—

16 “(I) may not be transferred to an
17 eligible participating State under this
18 paragraph; and

19 “(II) shall be available to the
20 Secretary to make awards under para-
21 graph (4).

22 “(3) COMPETITIVE FUNDING.—

23 “(A) IN GENERAL.—Of the amount made
24 available under paragraph (6)(D), the Secretary
25 may award, on a competitive basis, not more

1 than a total of \$1,000,000,000 to participating
2 States and consortiums of participating States
3 for use for any purpose authorized under sub-
4 paragraph (A) or (B) of subsection (c)(3).

5 “(B) APPLICATION.—

6 “(i) IN GENERAL.—A participating
7 State or consortium of participating States
8 desiring to receive an award under this
9 paragraph shall submit an application—

10 “(I) not later than the date es-
11 tablished by the Secretary, which shall
12 be not later than the date that is 1
13 year after the date of enactment of
14 the Small Business Access to Capital
15 Act of 2016; and

16 “(II) in such manner and con-
17 taining such information as the Sec-
18 retary may require.

19 “(ii) NUMBER OF APPLICATIONS.—A
20 participating State may submit not more
21 than 1 application on behalf of the partici-
22 pating State and not more than 1 applica-
23 tion as part of a consortium of partici-
24 pating States.

1 “(iii) STATES THAT DID NOT PARTICI-
2 PATE.—A State that is not a participating
3 State may apply to the Secretary for ap-
4 proval to be a participating State for pur-
5 poses of this paragraph and paragraph (4),
6 in accordance with section 3004.

7 “(C) FACTORS.—In determining whether
8 to make an award to a participating State or
9 consortium of participating States under this
10 paragraph, the Secretary shall consider—

11 “(i) how the participating State or
12 consortium of participating States plan to
13 use amounts provided under the award
14 under the approved State program to—

15 “(I) leverage private sector cap-
16 ital;

17 “(II) create and retain jobs dur-
18 ing the 2-year period beginning on the
19 date of the award;

20 “(III) serve small businesses that
21 have been incorporated or in operation
22 for not more than 5 years;

23 “(IV) serve low- or moderate-in-
24 come communities; and

1 “(V) serve minority- and women-
2 owned small businesses;

3 “(ii) the extent to which the partici-
4 pating State or consortium of participating
5 States will establish or continue a robust
6 self-evaluation of the activities of the par-
7 ticipating State or consortium of partici-
8 pating States using amounts made avail-
9 able under this title;

10 “(iii) the extent to which the partici-
11 pating State or consortium of participating
12 States will provide non-Federal funds in
13 excess of the amount required under sub-
14 paragraph (E); and

15 “(iv) the extent to which the partici-
16 pating State expended, obligated, or trans-
17 ferred the 2010 allocation to the State.

18 “(D) AWARD OF FUNDS.—

19 “(i) FIRST TRANCHE.—Notwith-
20 standing subsection (c)(1), and not later
21 than 30 days after making an award under
22 this paragraph to a participating State or
23 consortium of participating States, the
24 Secretary shall transfer 50 percent of the
25 amount of the award to the participating

1 State or consortium of participating
2 States.

3 “(ii) SECOND TRANCHE.—After a par-
4 ticipating State or consortium of partici-
5 pating States has certified to the Secretary
6 that the participating State or consortium
7 of participating States has expended,
8 transferred, or obligated not less than 80
9 percent of the amount transferred under
10 clause (i), the Secretary shall transfer to
11 the participating State or consortium of
12 participating States the remaining amount
13 of the award.

14 “(E) STATE SHARE.—The State share of
15 the cost of the activities, excluding administra-
16 tive expenses, carried out using an award under
17 this paragraph shall be not less than 10 per-
18 cent. The Secretary may determine what con-
19 tributions by a State qualify as part of the
20 State share of the cost for purposes of this sub-
21 paragraph.

22 “(4) AWARD OF UNUSED FUNDS.—

23 “(A) IN GENERAL.—The Secretary may
24 award, on a competitive basis, unused funds to
25 participating States for use for any purpose au-

1 thorized under subparagraph (A) or (B) of sub-
2 section (c)(3).

3 “(B) UNUSED 2010 FUNDS.—

4 “(i) IN GENERAL.—The Secretary
5 shall determine whether any amounts allo-
6 cated to a participating State under sub-
7 section (b) shall be deemed no longer allo-
8 cated and no longer available if a partici-
9 pating State has not certified to the Sec-
10 retary that the State has expended, trans-
11 ferred, or obligated 80 percent of the sec-
12 ond $\frac{1}{3}$ of the 2010 allocation by December
13 31, 2016.

14 “(ii) AVAILABILITY.—Effective on the
15 date of the determination under clause (i),
16 any amounts identified in the determina-
17 tion that were deemed no longer allocated
18 and no longer available to the participating
19 State shall be available to the Secretary to
20 make awards under this paragraph.

21 “(C) APPLICATION.—A participating State
22 desiring to receive an award under this para-
23 graph shall submit an application—

24 “(i) not later than 3 months after the
25 date on which funds are deemed no longer

1 allocated and no longer available to any
2 participating State; and

3 “(ii) in such manner and containing
4 such information as the Secretary may re-
5 quire.

6 “(D) FACTORS.—In determining whether
7 to make an award to a participating State
8 under this paragraph, the Secretary shall con-
9 sider the factors described in paragraph (3)(C).

10 “(E) MINIMUM AMOUNT.—The Secretary
11 may not make an award of less than
12 \$5,000,000 under this paragraph.

13 “(5) EXTENSION OF COMPLIANCE AND REPORT-
14 ING.—Notwithstanding section 3007(d), a partici-
15 pating State that receives funds under paragraph
16 (2), (3), or (4) shall submit quarterly and annual re-
17 ports containing the information described in section
18 3007 until the end of the 8-year period beginning on
19 the date of enactment of the Small Business Access
20 to Capital Act of 2016.

21 “(6) ADMINISTRATION AND IMPLEMENTA-
22 TION.—

23 “(A) ADMINISTRATIVE EXPENSES FOR
24 PARTICIPATING STATES.—A participating State
25 may use not more than 3 percent of the amount

1 made available to the participating State under
2 paragraph (2), (3), or (4) for administrative ex-
3 penses incurred by the participating State in
4 implementing an approved State program.

5 “(B) CONTRACTING.—During the 1-year
6 period beginning on the date of enactment of
7 the Small Business Access to Capital Act of
8 2016, and notwithstanding any other provision
9 of law relating to public contracting, the Sec-
10 retary may enter into contracts to carry out
11 this subsection.

12 “(C) AMOUNTS NOT ASSISTANCE.—Any
13 amounts transferred to a participating State
14 under paragraph (2), (3), or (4) shall not be
15 considered assistance for purposes of subtitle V
16 of title 31, United States Code.

17 “(D) APPROPRIATION.—There are appro-
18 priated to the Secretary, out of any funds in
19 the Treasury not otherwise appropriated,
20 \$1,500,000,000 to carry out this subsection, in-
21 cluding to pay reasonable costs of administering
22 the programs under this subsection, to remain
23 available until expended.

24 “(E) TERMINATION OF SECRETARY’S PRO-
25 GRAM ADMINISTRATION FUNCTIONS.—The au-

1 thorities and duties of the Secretary to imple-
 2 ment and administer the program under this
 3 subsection shall terminate at the end of the 8-
 4 year period beginning on the date of enactment
 5 of the Small Business Access to Capital Act of
 6 2016.”.

7 **SEC. 3. IMPROVEMENTS TO THE STATE SMALL BUSINESS**
 8 **CREDIT INITIATIVE.**

9 The State Small Business Credit Initiative Act of
 10 2010 (12 U.S.C. 5701 et seq.) is amended—

11 (1) in section 3002, by adding at the end the
 12 following:

13 “(15) DEPOSITORY INSTITUTION.—The term
 14 ‘depository institution’ means—

15 “(A) a depository institution, as defined
 16 under section 3 of the Federal Deposit Insur-
 17 ance Act; and

18 “(B) a State credit union and a Federal
 19 credit union, as such terms are defined, respec-
 20 tively, under section 101 of the Federal Credit
 21 Union Act.

22 “(16) MINORITY.—The term ‘minority’ has the
 23 meaning given that term under section 1204(c) of
 24 the Financial Institutions Reform, Recovery, and
 25 Enforcement Act of 1989.

1 “(17) MINORITY-OWNED SMALL BUSINESS.—

2 The term ‘minority-owned small business’ means a
3 small business with—

4 “(A) more than 50 percent of the owner-
5 ship or control of which is held by one or more
6 minority individuals; and

7 “(B) more than 50 percent of the net prof-
8 it or loss of which accrues to one or more mi-
9 nority individuals.

10 “(18) MINORITY-OWNED DEPOSITORY INSTITU-
11 TION.—The term ‘minority-owned depository institu-
12 tion’ means a depository institution, if—

13 “(A) in the case of a privately owned insti-
14 tution, 51 percent or more of such institution is
15 owned by one or more socially and economically
16 disadvantaged individuals;

17 “(B) in the case of a publicly owned insti-
18 tution, 51 percent or more of the stock of such
19 institution is owned by one or more socially and
20 economically disadvantaged individuals; and

21 “(C) in the case of a mutual institution—

22 “(i) the board of directors and ac-
23 count holders of such institution are pre-
24 dominantly minority; and

1 “(ii) the community which the institu-
2 tion services is predominantly minority.

3 “(19) WOMEN-OWNED SMALL BUSINESS.—The
4 term ‘women-owned small business’ means a small
5 business with—

6 “(A) more than 50 percent of the owner-
7 ship or control of which is held by one or more
8 women; and

9 “(B) more than 50 percent of the net prof-
10 it or loss of which accrues to one or more
11 women.”;

12 (2) in section 3005(e)(8)—

13 (A) by striking “, including” and inserting
14 “and”; and

15 (B) by adding at the end the following:
16 “The Secretary may not approve any State cap-
17 ital access program that fails to include a plan
18 that promotes a fair share of the Federal con-
19 tributions to be used to strengthen and increase
20 economic opportunities for small businesses in
21 low- and moderate-income, minority, and other
22 underserved communities and women- and mi-
23 nority-owned small businesses.”;

24 (3) in section 3006(d) is amended by adding at
25 the end the following:

1 “(6) The extent to which the State plans to use
2 the Federal contributions to provide access to capital
3 for small businesses in low- and moderate-income,
4 minority, and other underserved communities and to
5 women- and minority-owned small businesses, and
6 the extent to which resulting small business lending
7 will expand economic opportunities for such commu-
8 nities and such businesses.”;

9 (4) in section 3007(b)—

10 (A) in paragraph (4), by striking “of each
11 borrower that received such a new loan” and in-
12 serting “in which the borrower is headquartered
13 and zip codes in which the borrower maintains
14 significant operations”; and

15 (B) by adding at the end the following:

16 “(6) The race, ethnicity, and sex of the prin-
17 cipal owners of the borrowers and applicants, the
18 number of applications and the date on which each
19 application was received, the loan or type of invest-
20 ment being applied for, and the number of loans or
21 applications that were approved and the date of such
22 approval. In compiling and reporting the information
23 required under this paragraph, a State may modify
24 data which is or will be available to the public, if the
25 State determines that the deletion or modification of

1 the data is necessary to protect the privacy interest
2 of the borrower or applicant.

3 “(7) A summary of the extent to which the ap-
4 proved State program increased economic opportuni-
5 ties for small businesses in low- and moderate-in-
6 come, minority, and other underserved communities
7 and women- and minority-owned small businesses,
8 consistent with the plan delivered by the State pur-
9 suant to section 3005(e)(8).

10 “(8) The number of loans or investments by
11 program type made by minority-owned depository in-
12 stitutions.”;

13 (5) in section 3009(a)—

14 (A) by amending paragraph (1) to read as
15 follows:

16 “(1) consult with the Director of the Office of
17 Minority and Women Inclusion of the Departmental
18 Offices of the Department of the Treasury, the Ad-
19 ministrator of the Small Business Administration,
20 and the head of each of the appropriate Federal
21 banking agencies (who shall each consult with the
22 Director of the Office of Minority and Women Inclu-
23 sion of their agency), on the administration of the
24 Program;”; and

1 (B) in paragraph (5), by inserting after
2 “performance,” the following: “efforts to ex-
3 pand economic opportunity for minority- and
4 women-owned small businesses,”; and
5 (6) in section 3010—

6 (A) by inserting after “in consultation
7 with” the following: “the Director of the Office
8 of Minority and Women Inclusion of the De-
9 partmental Offices of the Department of the
10 Treasury and”; and

11 (B) by adding at the end the following: “In
12 issuing such regulations the Secretary shall
13 seek public input from community, civil rights,
14 consumer advocates, small business advocates,
15 and other interested or affected parties.”.

○