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116TH CONGRESS
2D SESSION

S. 4135

To provide forgivable physical disaster loans to businesses damaged due to civil unrest, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 1, 2020

Mr. TOOMEY introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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A BILL

To provide forgivable physical disaster loans to businesses damaged due to civil unrest, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Helping Entrepreneurs Access Loans Act'' or the ''HEAL Act''.

SEC. 2. FORGIVABLE BUSINESS PHYSICAL DISASTER LOANS FOR DAMAGE DUE TO CIVIL UNREST.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''covered period'' means the period beginning on May 26, 2020 and ending on July 1, 2020; and

(3) the term ''eligible entity'' means a business concern—

(A) with average annual receipts (as defined in section 121.104 of title 13, Code of Federal Regulations, or any successor regulation) of not more than $2,000,000; and

(B) that—

(i) is located within an area for which the Administrator declared a disaster in accordance with section 123.3(a)(3) of title 13, Code of Federal Regulations, or any successor regulation, with respect to civil unrest that began on May 26, 2020 in Minneapolis, Minnesota and spread across the United States; and

(ii) incurred damage to real or personal property of the business concern during the covered period as a result of the civil unrest described in clause (i).

(b) BUSINESS PHYSICAL DISASTER LOANS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, an eligible entity shall be eligible for a loan made by the Administration under section 7(b)(1) of the Small Business Act (15 U.S.C. 636(b)(1)) under the same terms, conditions, and processes as a loan made under such section to repair, rehabilitate, or replace property, real or personal, of the eligible entity that was damaged or destroyed during the covered period as a result of the civil unrest described in subsection (a)(3)(B)(i).

(2) DISASTER DECLARATION.—With respect to the disaster declaration described in subsection (a)(3)(B)(i) for a loan made under paragraph (1), the requirement under section 123.3(a)(3)(ii) of title 13, Code of Federal Regulations, or any successor regulation, that 25 percent or more of the work force in the area would be unemployed for not fewer than 90 days shall not apply.

(3) LOAN AMOUNT.—

(A) IN GENERAL.—The amount of a loan made under paragraph (1) shall be equal to 100 percent of the amount required to repair, rehabilitate, or replace property, real or personal, of the eligible entity that—

(i) was damaged or destroyed during the covered period as a result of the civil unrest described in subsection (a)(3)(B)(i); and

(ii) is not compensated for by—

(I) insurance;

(II) a grant from a State or local government; or

(III) any other means.

(B) DEDUCTION OF ADVANCE AMOUNT.—The amount of any advance received by an eligible entity under subsection (c) shall be deducted from the loan amount for the eligible entity under subparagraph (A).

(4) TERMS; CREDIT ELSEWHERE.—

(A) IN GENERAL.—With respect to a loan made to an eligible entity under paragraph (1)—

(i) the Administrator shall waive—

(I) any rules related the personal guarantee on loans of not more than $200,000 during the covered period for all applicants; and

(II) any requirement that an applicant needs to be in business for the

1-year period before the civil unrest described in subsection (a)(3)(B)(i), except that no waiver may be made for an eligible entity that was not in operation on January 31, 2020;

(ii) the eligible entity shall not be required to show that the eligible entity is unable to obtain credit elsewhere; and

(iii) no collateral shall be required for the loan.

(B) REPAYMENT.—Any payments on a loan made to an eligible entity under paragraph (1) are deferred until June 30, 2022, and interest shall not begin to accrue until such date.

(5) APPLICATION.—

(A) IN GENERAL.—Not later than 7 days after the date of enactment of this Act, the Administrator shall begin to accept applications for a loan under paragraph (1).

(B) DEADLINE.—An eligible entity desiring a loan under this subsection shall submit to the Administrator an application not later than December 31, 2020.

(C) APPROVAL AND ABILITY TO REPAY.—With respect to an applicant for a loan made under paragraph (1), the Administrator may—

(i) approve the applicant based on the credit score or personal guarantee of the applicant; or

(ii) use alternative appropriate methods to determine the applicant's ability to repay.

(6) USE OF FUNDS.—A recipient of a loan made under paragraph (1) shall use the loan proceeds to repair, rehabilitate, or replace property, real or personal, damaged or destroyed during the covered period as a result of the civil unrest described in subsection (a)(3)(B)(i), provided that such damage or destruction is not compensated for by insurance, a grant from a State or local government, or otherwise.

(7) LOAN FORGIVENESS.—

(A) IN GENERAL.—An eligible entity that received a loan made under paragraph (1), or an eligible entity that received a loan under section 7(b)(1) of the Small Business Act (15 U.S.C. 636(b)(1)) before the date of enactment of this Act related to the civil unrest described

in subsection (a)(3)(B)(i), shall be eligible for forgiveness of indebtedness equal to 75 percent of the loan amount if the eligible entity—

(i) submits to the Administrator documentation of sales for 2019 and 2020 and tax returns for 2019 and 2020; and

(ii) the eligible entity is in operation as of December 31, 2021.

(B) AMOUNTS NOT FORGIVEN.—Any remaining amount of a loan described in subparagraph (A) that is not forgiven under this paragraph as of December 31, 2021 shall—

(i) be considered a loan made under section 7(b)(1) of the Small Business Act (15 U.S.C. 636(b)(1));

(ii) bear an interest rate of 3.75 percent; and

(iii) have a 30-year term.

(8) DUPLICATION.—An eligible entity that received a loan under subsection (a)(36) or (b)(2) of section 7 of the Small Business Act (15 U.S.C. 636) before the date of enactment of this Act shall be eligible for a loan under paragraph (1) if the proceeds of the loan made under such subsection (a)(36) or

(b)(2) are not used for the same expenses as the loan under paragraph (1).

(c) EMERGENCY GRANT.—

(1) IN GENERAL.—An eligible entity that applies for a loan under subsection (b)(1) may request that the Administrator provide an advance, subject to paragraph (3), to the eligible entity not later than 10 days after the date on which the Administrator receives an application from the eligible entity.

(2) VERIFICATION.—Before disbursing amounts under this subsection, the Administrator shall verify that the applicant is an eligible entity by accepting a self-certification from the applicant under penalty of perjury pursuant to section 1746 of title 28, United States Code.

(3) AMOUNT.—The amount of an advance provided to an eligible entity under this subsection shall be the lesser of—

(A) 20 percent of the amount requested by the eligible entity; or

(B) $10,000.

(4) USE OF FUNDS.—An advance received under this subsection shall only be used for the allowable uses for a loan under subsection (b)(1).

(5) REPAYMENT.—

(A) IN GENERAL.—Except as provided under subparagraph (B), an eligible entity that receives an advance under this subsection shall not be required to repay any amounts of the advance.

(B) RETURN OF ADVANCE.—If an applicant for a loan under subsection (b)(1) is later determined to be ineligible for the loan because the applicant does not meet the requirements to be an eligible entity described in subsection (a)(3), the applicant shall return to the Administrator any advance amount provided under this subsection—

(i) not later than 90 days after receiving notice of the determination of ineligibility; or

(ii) if the Administrator determines that the applicant submitted the application in bad faith, not later than 30 days after receiving notice of that determination, plus interest in an amount equal to 4.75 percent of the advance.

(d) RESOURCES AND SERVICES IN LANGUAGES OTHER THAN ENGLISH.—The Administrator shall provide the resources and services made available by the Ad-

ministration relating to the loans and grants available under this section to eligible entities in the 10 most commonly spoken languages, other than English, in the United States, which shall include Mandarin, Cantonese, Japanese, and Korean.

(e) REGULATIONS.—The Administrator shall issue guidance and rules to carry out this section.

(f) DIRECT APPROPRIATION.—

(1) IN GENERAL.—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—HEAL Act'', $80,000,000, to remain available until September 30, 2021, for carrying out this section.

(2) EMERGENCY DESIGNATION.—

(A) IN GENERAL.—The amounts provided under this subsection 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)).

(B) DESIGNATION IN SENATE.—In the Senate, this subsection 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.

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