

Calendar No. 562

116TH CONGRESS
2D SESSION**S. 4773**

To establish the Paycheck Protection Program Second Draw Loan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30 (legislative day, SEPTEMBER 29), 2020

Ms. COLLINS (for herself and Mr. RUBIO) introduced the following bill; which was read the first time

OCTOBER 1, 2020

Read the second time and placed on the calendar

A BILL

To establish the Paycheck Protection Program Second Draw Loan, 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 “Continuing the Pay-
5 check Protection Program Act”.

6 **SEC. 2. SMALL BUSINESS RECOVERY.**

7 (a) DEFINITIONS.—In this section:

1 (1) ADMINISTRATION; ADMINISTRATOR.—The
 2 terms “Administration” and “Administrator” mean
 3 the Small Business Administration and the Adminis-
 4 trator thereof, respectively.

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

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

15 (c) ADDITIONAL ELIGIBLE EXPENSES.—

16 (1) ALLOWABLE USE OF PPP LOAN.—Section
 17 7(a)(36)(F)(i) of the Small Business Act (15 U.S.C.
 18 636(a)(36)(F)(i)) is amended—

19 (A) in subclause (VI), by striking “and” at
 20 the end;

21 (B) in subclause (VII), by striking the pe-
 22 riod at the end and inserting a semicolon; and

23 (C) by adding at the end the following:

24 “(VIII) covered operations ex-
 25 penditures, as defined in section

1 1106(a) of the CARES Act (15
2 U.S.C. 9005(a));

3 “(IX) covered property damage
4 costs, as defined in such section
5 1106(a);

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

8 “(XI) covered worker protection
9 expenditures, as defined in such sec-
10 tion 1106(a).”.

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

13 (A) in subsection (a)—

14 (i) by redesignating paragraphs (6),
15 (7), and (8) as paragraphs (10), (11), and
16 (12), respectively;

17 (ii) by redesignating paragraph (5) as
18 paragraph (8);

19 (iii) by redesignating paragraph (4) as
20 paragraph (6);

21 (iv) by redesignating paragraph (3) as
22 paragraph (4);

23 (v) by inserting after paragraph (2)
24 the following:

1 “(3) the term ‘covered operations expenditure’
 2 means a payment for any business software or cloud
 3 computing service that facilitates business oper-
 4 ations, product or service delivery, the processing,
 5 payment, or tracking of payroll expenses, human re-
 6 sources, sales and billing functions, or accounting or
 7 tracking of supplies, inventory, records and ex-
 8 penses;”;

9 (vi) by inserting after paragraph (4),
 10 as so redesignated, the following:

11 “(5) the term ‘covered property damage cost’
 12 means a cost related to property damage and van-
 13 dalism or looting due to public disturbances that oc-
 14 curred during 2020 that was not covered by insur-
 15 ance or other compensation;”;

16 (vii) by inserting after paragraph (6),
 17 as so redesignated, the following:

18 “(5) the term ‘covered supplier cost’ means an
 19 expenditure made by an entity to a supplier of goods
 20 pursuant to a contract, order, or purchase order in
 21 effect before October 1, 2020 for the supply of goods
 22 that are essential to the operations of the entity at
 23 the time at which the expenditure is made;”;

24 (viii) by inserting after paragraph (8),
 25 as so redesignated, the following:

1 “(9) the term ‘covered worker protection ex-
2 penditure’—

3 “(A) means an operating or a capital ex-
4 penditure that is required to facilitate the adap-
5 tation of the business activities of an entity to
6 comply with requirements established or guid-
7 ance issued by the Department of Health and
8 Human Services, the Centers for Disease Con-
9 trol, or the Occupational Safety and Health Ad-
10 ministration during the period beginning on
11 March 1, 2020 and ending the date on which
12 the national emergency declared by the Presi-
13 dent under the National Emergencies Act (50
14 U.S.C. 1601 et seq.) with respect to the
15 Coronavirus Disease 2019 (COVID–19) expires
16 related to the maintenance of standards for
17 sanitation, social distancing, or any other work-
18 er or customer safety requirement related to
19 COVID–19;

20 “(B) may include—

21 “(i) the purchase, maintenance, or
22 renovation of assets that create or ex-
23 pand—

24 “(I) a drive-through window fa-
25 cility;

1 “(II) an indoor, outdoor, or com-
2 bined air or air pressure ventilation or
3 filtration system;

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

6 “(IV) an indoor, outdoor, or com-
7 bined commercial real property;

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

10 “(VI) other assets relating to the
11 compliance with the requirements or
12 guidance described in subparagraph
13 (A), as determined by the Adminis-
14 trator in consultation with the Sec-
15 retary of Health and Human Services
16 and the Secretary of Labor; and

17 “(ii) the purchase of—

18 “(I) covered materials described
19 in section 328.103(a) of title 44, Code
20 of Federal Regulations, or any suc-
21 cessor regulation;

22 “(II) particulate filtering face-
23 piece respirators approved by the Na-
24 tional Institute for Occupational Safe-
25 ty and Health, including those ap-

1 proved only for emergency use author-
2 ization; or

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

9 “(C) does not include residential real prop-
10 erty or intangible property;”; and

11 (ix) in paragraph (11), as so redesign-
12 nated—

13 (I) in subparagraph (C), by strik-
14 ing “and” at the end;

15 (II) in subparagraph (D), by
16 striking “and” at the end; and

17 (III) by adding at the end the
18 following:

19 “(E) covered operations expenditures;

20 “(F) covered property damage costs;

21 “(G) covered supplier costs; and

22 “(H) covered worker protection expendi-
23 tures; and”;

24 (B) in subsection (b), by adding at the end
25 the following:

1 “(5) Any covered operations expenditure.

2 “(6) Any covered property damage cost.

3 “(7) Any covered supplier cost.

4 “(8) Any covered worker protection expendi-
5 ture.”;

6 (C) in subsection (d)(8), by inserting “any
7 payment on any covered operations expenditure,
8 any payment on any covered property damage
9 cost, any payment on any covered supplier cost,
10 any payment on any covered worker protection
11 expenditure,” after “rent obligation,”; and

12 (D) in subsection (e)—

13 (i) in paragraph (2), by inserting
14 “payments on covered operations expendi-
15 tures, payments on covered property dam-
16 age costs, payments on covered supplier
17 costs, payments on covered worker protec-
18 tion expenditures,” after “lease obliga-
19 tions,”; and

20 (ii) in paragraph (3)(B), by inserting
21 “make payments on covered operations ex-
22 penditures, make payments on covered
23 property damage costs, make payments on
24 covered supplier costs, make payments on

1 covered worker protection expenditures,”
2 after “rent obligation,”.

3 (d) LENDER SAFE HARBOR.—Subsection (h) of sec-
4 tion 1106 of the CARES Act (15 U.S.C. 9005) is amended
5 to read as follows:

6 “(h) HOLD HARMLESS.—

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

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

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

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

22 “(A) an enforcement action may not be
23 taken against the lender acting in good faith re-
24 lating to origination or forgiveness of a covered
25 loan based on such reliance; and

1 “(B) the lender acting in good faith shall
 2 not be subject to any penalties relating to origi-
 3 nation or forgiveness of a covered loan based on
 4 such reliance.”.

5 (e) SELECTION OF COVERED PERIOD FOR FORGIVE-
 6 NESS.—Section 1106 of the CARES Act (15 U.S.C. 9005)
 7 is amended—

8 (1) by amending paragraph (4) of subsection
 9 (a), as so redesignated by subsection (c) of this sec-
 10 tion, to read as follows:

11 “(4) the term ‘covered period’ means the pe-
 12 riod—

13 “(A) beginning on the date of the origina-
 14 tion of a covered loan; and

15 “(B) ending on a date selected by the eligi-
 16 ble recipient of the covered loan that occurs
 17 during the period—

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

20 “(ii) ending on the date that is 24
 21 weeks after such date of origination;”; and

22 (2) by striking subsection (l).

23 (f) SIMPLIFIED APPLICATION.—Section 1106 of the
 24 CARES Act (15 U.S.C. 9005), as amended by subsection
 25 (e) of this section, is amended—

1 (1) in subsection (e), in the matter preceding
 2 paragraph (1), by striking “An eligible” and insert-
 3 ing “Except as provided in subsection (l), an eligi-
 4 ble”;

5 (2) in subsection (f), by inserting “or the infor-
 6 mation required under subsection (l), as applicable”
 7 after “subsection (e)”; and

8 (3) by adding at the end the following:

9 “(l) SIMPLIFIED APPLICATION.—

10 “(1) COVERED LOANS UNDER \$150,000.—

11 “(A) IN GENERAL.—Notwithstanding sub-
 12 section (e), with respect to a covered loan made
 13 to an eligible recipient that is not more than
 14 \$150,000, the covered loan amount shall be for-
 15 given under this section if the eligible recipi-
 16 ent—

17 “(i) signs and submits to the lender a
 18 one-page online or paper form, to be estab-
 19 lished by the Administrator not later than
 20 7 days after the date of enactment of the
 21 Continuing the Paycheck Protection Pro-
 22 gram Act, that—

23 “(I) reports the amount of the
 24 covered loan amount spent by the eli-
 25 gible recipient—

1 “(aa) on payroll costs; and

2 “(bb) on the sum of—

3 “(AA) payments of in-
4 terest on any covered mort-
5 gage obligation (which shall
6 not include any prepayment
7 of or payment of principal
8 on a covered mortgage obli-
9 gation);

10 “(BB) payments on any
11 covered rent obligation;

12 “(CC) covered utility
13 payments;

14 “(DD) covered oper-
15 ations expenditures;

16 “(EE) covered property
17 damage costs;

18 “(FF) covered supplier
19 costs; and

20 “(GG) covered worker
21 protection expenditures; and

22 “(II) attests that the eligible re-
23 cipient made a good faith effort to
24 comply with the requirements under

1 section 7(a)(36) of the Small Business
2 Act (15 U.S.C. 636(a)(36)); and

3 “(ii) retains records relevant to the
4 form that prove compliance with those re-
5 quirements—

6 “(I) with respect to employment
7 records, for the 4-year period fol-
8 lowing submission of the form; and

9 “(II) with respect to other
10 records, for the 3-year period fol-
11 lowing submission of the form.

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

17 “(C) AUDIT.—The Administrator may—

18 “(i) review and audit covered loans
19 described in subparagraph (A); and

20 “(ii) in the case of fraud, ineligibility,
21 or other material noncompliance with ap-
22 plicable loan or loan forgiveness require-
23 ments, modify—

24 “(I) the amount of a covered loan
25 described in subparagraph (A); or

1 “(II) the loan forgiveness amount
2 with respect to a covered loan de-
3 scribed in subparagraph (A).

4 “(2) COVERED LOANS BETWEEN \$150,000 AND
5 \$2,000,000.—

6 “(A) IN GENERAL.—Notwithstanding sub-
7 section (e), with respect to a covered loan made
8 to an eligible recipient that is more than
9 \$150,000 and not more than \$2,000,000—

10 “(i) the eligible recipient seeking loan
11 forgiveness under this section—

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

17 “(II) shall retain—

18 “(aa) all employment
19 records relevant to the applica-
20 tion for loan forgiveness for the
21 4-year period following submis-
22 sion of the application; and

23 “(bb) all other supporting
24 documentation relevant to the ap-
25 plication for loan forgiveness for

1 the 3-year period following sub-
2 mission of the application; and

3 “(III) may complete and submit
4 any form related to borrower demo-
5 graphic information;

6 “(ii) review by the lender of an appli-
7 cation submitted by the eligible recipient
8 for loan forgiveness under this section shall
9 be limited to whether the lender received a
10 complete application, with all fields com-
11 pleted, initialed, or signed, as applicable;
12 and

13 “(iii) the lender shall—

14 “(I) accept the application sub-
15 mitted by the eligible recipient for
16 loan forgiveness under this section;
17 and

18 “(II) submit the application to
19 the Administrator.

20 “(B) AUDIT.—The Administrator may—

21 “(i) review and audit covered loans
22 described in subparagraph (A); and

23 “(ii) in the case of fraud, ineligibility,
24 or other material noncompliance with ap-

1 plicable loan or loan forgiveness require-
2 ments, modify—

3 “(I) the amount of a covered loan
4 described in subparagraph (A); or

5 “(II) the loan forgiveness amount
6 with respect to a covered loan de-
7 scribed in subparagraph (A).

8 “(3) AUDIT PLAN.—

9 “(A) IN GENERAL.—Not later than 30
10 days after the date of enactment of the Con-
11 tinuing the Paycheck Protection Program Act,
12 the Administrator shall submit to the Com-
13 mittee on Small Business and Entrepreneurship
14 of the Senate and the Committee on Small
15 Business of the House of Representatives an
16 audit plan that details—

17 “(i) the policies and procedures of the
18 Administrator for conducting reviews and
19 audits of covered loans; and

20 “(ii) the metrics that the Adminis-
21 trator shall use to determine which covered
22 loans will be audited for each category of
23 covered loans described in paragraphs (1)
24 and (2).

1 “(B) REPORTS.—Not later than 30 days
 2 after the date on which the Administrator sub-
 3 mits the audit plan required under subpara-
 4 graph (A), and each month thereafter, the Ad-
 5 ministrator shall submit to the Committee on
 6 Small Business and Entrepreneurship of the
 7 Senate and the Committee on Small Business
 8 of the House of Representatives a report on the
 9 review and audit activities of the Administrator
 10 under this subsection, which shall include—

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

13 “(ii) the number of reviews and audits
 14 that have been ongoing for more than 60
 15 days; and

16 “(iii) any substantial changes made to
 17 the audit plan submitted under subpara-
 18 graph (A).”.

19 (g) GROUP INSURANCE PAYMENTS AS PAYROLL
 20 COSTS.—Section 7(a)(36)(A)(viii)(I)(aa)(EE) of the
 21 Small Business Act (15 U.S.C.
 22 636(a)(36)(A)(viii)(I)(aa)(EE)) is amended by inserting
 23 “and other group insurance” before “benefits”.

24 (h) PAYCHECK PROTECTION PROGRAM SECOND
 25 DRAW LOANS.—Section 7(a) of the Small Business Act

1 (15 U.S.C. 636(a)) is amended by adding at the end the
 2 following:

3 “(37) PAYCHECK PROTECTION PROGRAM SEC-
 4 OND DRAW LOANS.—

5 “(A) DEFINITIONS.—In this paragraph—

6 “(i) the terms ‘community financial
 7 institutions’, ‘credit union’, ‘eligible self-
 8 employed individual’, ‘insured depository
 9 institution’, ‘nonprofit organization’, ‘pay-
 10 roll costs’, ‘seasonal employer’, and ‘vet-
 11 erans organization’ have the meanings
 12 given those terms in paragraph (36), ex-
 13 cept that ‘eligible entity’ shall be sub-
 14 stituted for ‘eligible recipient’ each place it
 15 appears in the definitions of those terms;

16 “(ii) the term ‘covered loan’ means a
 17 loan made under this paragraph;

18 “(iii) the terms ‘covered mortgage ob-
 19 ligation’, ‘covered operating expenditure’,
 20 ‘covered property damage cost’, ‘covered
 21 rent obligation’, ‘covered supplier cost’,
 22 ‘covered utility payment’, and ‘covered
 23 worker protection expenditure’ have the
 24 meanings given those terms in section

1 1106(a) of the CARES Act (15 U.S.C.
2 9005(a));

3 “(iv) the term ‘covered period’ means
4 the period beginning on the date of the
5 origination of a covered loan and ending on
6 December 31, 2020;

7 “(v) the term ‘eligible entity’—

8 “(I) means any business concern,
9 nonprofit organization, veterans orga-
10 nization, Tribal business concern, eli-
11 gible self-employed individual, sole
12 proprietor, independent contractor, or
13 small agricultural cooperative that—

14 “(aa)(AA) with respect to a
15 business concern, would qualify
16 as a small business concern by
17 the annual receipts size standard
18 (if applicable) established by sec-
19 tion 121.201 of title 13, Code of
20 Federal Regulations, or any suc-
21 cessor regulation; or

22 “(BB) if the entity does not
23 qualify as a small business con-
24 cern, meets the alternative size

1 standard established under sec-
2 tion 3(a)(5);

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

5 “(cc)(AA) except as provided
6 in subitems (BB), (CC), and
7 (DD), had gross receipts during
8 the first, second, or third quarter
9 in 2020 that demonstrate not
10 less than a 35 percent reduction
11 from the gross receipts of the en-
12 tity during the same quarter in
13 2019;

14 “(BB) if the entity was not
15 in business during the first or
16 second quarter of 2019, but was
17 in business during the third and
18 fourth quarter of 2019, had gross
19 receipts during the first, second,
20 or third quarter of 2020 that
21 demonstrate not less than a 35
22 percent reduction from the gross
23 receipts of the entity during the
24 third or fourth quarter of 2019;

1 “(CC) if the entity was not
2 in business during the first, sec-
3 ond, or third quarter of 2019,
4 but was in business during the
5 fourth quarter of 2019, had gross
6 receipts during the first, second,
7 or third quarter of 2020 that
8 demonstrate not less than a 35
9 percent reduction from the gross
10 receipts of the entity during the
11 fourth quarter of 2019; or

12 “(DD) if the entity was not
13 in business during 2019, but was
14 in operation on February 15,
15 2020, had gross receipts during
16 the second or third quarter of
17 2020 that demonstrate not less
18 than a 35 percent reduction from
19 the gross receipts of the entity
20 during the first quarter of 2020;

21 “(II) includes an organization de-
22 scribed in subparagraph (D)(vii) of
23 paragraph (36) that is eligible to re-
24 ceive a loan under that paragraph and
25 that meets the requirements described

1 in items (aa) and (cc) of subclause
2 (I); and

3 “(III) does not include—

4 “(aa) an issuer, the securi-
5 ties of which are listed on an ex-
6 change registered a national se-
7 curities exchange under section 6
8 of the Securities Exchange Act of
9 1934 (15 U.S.C. 78f);

10 “(bb) any entity that—

11 “(AA) is a type of busi-
12 ness concern described in
13 subsection (b), (c), (d), (e),
14 (f), (h), (l) (m), (p), (q), (r),
15 or (s) of section 120.110 of
16 title 13, Code of Federal
17 Regulations, or any suc-
18 cessor regulation;

19 “(BB) is a type of busi-
20 ness concern described in
21 section 120.110(g) of title
22 13, Code of Federal Regula-
23 tions, or any successor regu-
24 lation, except as otherwise
25 provided in the interim final

1 rule of the Administration
2 entitled ‘Business Loan Pro-
3 gram Temporary Changes;
4 Paycheck Protection Pro-
5 gram—Additional Eligibility
6 Criteria and Requirements
7 for Certain Pledges of
8 Loans’ (85 Fed. Reg. 21747
9 (April 20, 2020));

10 “(CC) is a type of busi-
11 ness concern described in
12 section 120.110(i) of title
13 13, Code of Federal Regula-
14 tions, or any successor regu-
15 lation, except if the business
16 concern is an organization
17 described in paragraph
18 (36)(D)(vii);

19 “(DD) is a type of
20 business concern described
21 in section 120.110(j) of title
22 13, Code of Federal Regula-
23 tions, or any successor regu-
24 lation, except as otherwise
25 provided in the interim final

1 rules of the Administration
2 entitled ‘Business Loan Pro-
3 gram Temporary Changes;
4 Paycheck Protection Pro-
5 gram—Eligibility of Certain
6 Electric Cooperatives’ (85
7 Fed. Reg. 29847 (May 19,
8 2020)) and ‘Business Loan
9 Program Temporary
10 Changes; Paycheck Protec-
11 tion Program—Eligibility of
12 Certain Telephone Coopera-
13 tives’ (85 Fed. Reg. 35550
14 (June 11, 2020)) or any
15 other guidance or rule
16 issued or that may be issued
17 by the Administrator;

18 “(EE) is a type of busi-
19 ness concern described in
20 section 120.110(n) of title
21 13, Code of Federal Regula-
22 tions, or any successor regu-
23 lation, except as otherwise
24 provided in the interim final
25 rule of the Administration

1 entitled ‘Business Loan Pro-
2 gram Temporary Changes;
3 Paycheck Protection Pro-
4 gram—Additional Eligibility
5 Revisions to First Interim
6 Final Rule’ (85 Fed. Reg.
7 38301 (June 26, 2020)) or
8 any other guidance or rule
9 issued or that may be issued
10 by the Administrator;

11 “(FF) is a type of busi-
12 ness concern described in
13 section 120.110(o) of title
14 13, Code of Federal Regula-
15 tions, or any successor regu-
16 lation, except as otherwise
17 provided in any guidance or
18 rule issued or that may be
19 issued by the Administrator;
20 or

21 “(GG) is an entity that
22 would be described in the
23 subsections listed in
24 subitems (AA) through (FF)

1 if the entity were a business
2 concern; or

3 “(HH) is assigned, or
4 was approved for a loan
5 under paragraph (36) with,
6 a North American Industry
7 Classification System code
8 beginning with 52;

9 “(cc) any business concern
10 or entity primarily engaged in
11 political or lobbying activities,
12 which shall include any entity
13 that is organized for research or
14 for engaging in advocacy in areas
15 such as public policy or political
16 strategy or otherwise describes
17 itself as a think tank in any pub-
18 lic documents;

19 “(dd) any business concern
20 or entity—

21 “(AA) for which an en-
22 tity created in or organized
23 under the laws of the Peo-
24 ple’s Republic of China or
25 the Special Administrative

1 Region of Hong Kong, or
2 that has significant oper-
3 ations in the People’s Re-
4 public of China or the Spe-
5 cial Administrative Region
6 of Hong Kong, owns or
7 holds, directly or indirectly,
8 not less than 20 percent of
9 the economic interest of the
10 business concern or entity,
11 including as equity shares or
12 a capital or profit interest in
13 a limited liability company
14 or partnership; or

15 “(BB) that retains, as
16 a member of the board of di-
17 rectors of the business con-
18 cern, a person who is a resi-
19 dent of the People’s Repub-
20 lic of China; or

21 “(ee) any person required to
22 submit a registration statement
23 under section 2 of the Foreign
24 Agents Registration Act of 1938
25 (22 U.S.C. 612);

“(vi) the terms ‘exchange’, ‘issuer’,
and ‘security’ have the meanings given
those terms in section 3(a) of the Securi-
ties Exchange Act of 1934 (15 U.S.C.
78c(a)); 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) at the election of the
eligible entity, the average total
monthly payment for payroll
costs incurred or paid by the eli-
gible entity during—

1 “(AA) the 1-year period
 2 before the date on which the
 3 loan is made; or

4 “(BB) calendar year
 5 2019; by

6 “(bb) 2.5; or

7 “(II) \$2,000,000.

8 “(ii) SEASONAL EMPLOYERS.—The
 9 maximum amount of a covered loan made
 10 to an eligible entity that is a seasonal em-
 11 ployer is the lesser of—

12 “(I) the product obtained by mul-
 13 tiplying—

14 “(aa) at the election of the
 15 eligible entity, the average total
 16 monthly payments for payroll
 17 costs incurred or paid by the eli-
 18 gible entity—

19 “(AA) for a 12-week
 20 period beginning February
 21 15, 2019 or March 1, 2019
 22 and ending June 30, 2019;
 23 or

24 “(BB) for a consecutive
 25 12-week period between May

1 1, 2019 and September 15,
2 2019; by

3 “(bb) 2.5; or

4 “(II) \$2,000,000.

5 “(iii) NEW ENTITIES.—The maximum
6 amount of a covered loan made to an eligi-
7 ble entity that did not exist during the 1-
8 year period preceding February 15, 2020
9 is the lesser of—

10 “(I) the product obtained by mul-
11 tiplying—

12 “(aa) the quotient obtained
13 by dividing—

14 “(AA) the sum of the
15 total monthly payments by
16 the eligible entity for payroll
17 costs paid or incurred by the
18 eligible entity as of the date
19 on which the eligible entity
20 applies for the covered loan;
21 by

22 “(BB) the number of
23 months in which those pay-
24 roll costs were paid or in-
25 curred; by

1 “(bb) 2.5; or

2 “(II) \$2,000,000.

3 “(iv) LIMIT FOR MULTIPLE LOCA-
4 TIONS.—With respect to an eligible entity
5 with more than 1 physical location, the
6 total amount of all covered loans shall be
7 not more than \$2,000,000.

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

11 “(vi) 90 DAY RULE FOR MAXIMUM
12 LOAN AMOUNT.—The maximum aggregate
13 loan amount of loans guaranteed under
14 this subsection that are approved for an el-
15 igible entity (including any affiliates) with-
16 in 90 days of approval of another loan
17 under this subsection for the eligible entity
18 (including any affiliates) shall not exceed
19 \$10,000,000.

20 “(D) EXCEPTION FROM CERTAIN CERTIFI-
21 CATION REQUIREMENTS.—An eligible entity ap-
22 plying for a covered loan shall not be required
23 to make the certification described in subclause
24 (III) or (IV) of paragraph (36)(G)(i).

1 “(E) FEE WAIVER.—With respect to a cov-
2 ered loan—

3 “(i) in lieu of the fee otherwise appli-
4 cable under paragraph (23)(A), the Ad-
5 ministrators shall collect no fee; and

6 “(ii) in lieu of the fee otherwise appli-
7 cable under paragraph (18)(A), the Ad-
8 ministrators shall collect no fee.

9 “(F) ELIGIBLE CHURCHES AND RELIGIOUS
10 ORGANIZATIONS.—

11 “(i) SENSE OF CONGRESS.—It is the
12 sense of Congress that the interim final
13 rule of the Administration entitled ‘Busi-
14 ness Loan Program Temporary Changes;
15 Paycheck Protection Program’ (85 Fed.
16 Reg. 20817 (April 15, 2020)) properly
17 clarified the eligibility of churches and reli-
18 gious organizations for loans made under
19 paragraph (36).

20 “(ii) APPLICABILITY OF PROHIBI-
21 TION.—The prohibition on eligibility estab-
22 lished by section 120.110(k) of title 13,
23 Code of Federal Regulations, or any suc-
24 cessor regulation, shall not apply to a cov-
25 ered loan.

“(G) GROSS RECEIPTS FOR NONPROFIT
AND VETERANS ORGANIZATIONS.—For purposes
of calculating gross receipts under subpara-
graph (A)(v)(I)(cc) for an eligible entity that is
a nonprofit organization, a veterans organiza-
tion, or an organization described in subpara-
graph (A)(v)(II), gross receipts—

“(i) shall include proceeds from pro-
gram services, fundraising events, fed-
erated 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 para-
graph);

“(II) revenues from a supporting
organization;

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

“(IV) any contribution of prop-
erty other than money, stocks, bonds,
and other securities, provided that the
non-cash contribution is not sold by

1 the organization in a transaction un-
2 related to the tax-exempt purpose of
3 the organization; or

4 “(V) any loan proceeds from a
5 loan made under paragraph (36).

6 “(H) LOAN FORGIVENESS.—

7 “(i) IN GENERAL.—Except as other-
8 wise provided in this subparagraph, an eli-
9 gible entity shall be eligible for forgiveness
10 of indebtedness on a covered loan in the
11 same manner as an eligible recipient with
12 respect to a loan made under paragraph
13 (36), as described in section 1106 of the
14 CARES Act (15 U.S.C. 9005).

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

21 “(I) Payroll costs.

22 “(II) Any payment of interest on
23 any covered mortgage obligation
24 (which shall not include any prepay-

1 ment of or payment of principal on a
2 covered mortgage obligation).

3 “(III) Any covered operations ex-
4 penditure.

5 “(IV) Any covered property dam-
6 age cost.

7 “(V) Any payment on any cov-
8 ered rent obligation.

9 “(VI) Any covered utility pay-
10 ment.

11 “(VII) Any covered supplier cost.

12 “(VIII) Any covered worker pro-
13 tection expenditure.

14 “(iii) LIMITATION ON FORGIVENESS
15 FOR ALL ELIGIBLE ENTITIES.—The for-
16 giveness amount under this subparagraph
17 shall be equal to the lesser of—

18 “(I) the amount described in
19 clause (ii); and

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

22 “(aa) the amount of the cov-
23 ered loan used for payroll costs
24 during the covered period; and

25 “(bb) 0.60.

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

6 “(J) REIMBURSEMENT FOR LOAN PROC-
 7 ESSING AND SERVICING.—The Administrator
 8 shall reimburse a lender authorized to make a
 9 covered loan in an amount that is—

10 “(i) 3 percent of the principal amount
 11 of the financing of the covered loan up to
 12 \$350,000; and

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

16 “(K) SET ASIDE FOR SMALL ENTITIES.—
 17 Not less than \$25,000,000,000 of the total
 18 amount of covered loans guaranteed by the Ad-
 19 ministrator shall be made to eligible entities
 20 with not more than 10 employees as of Feb-
 21 ruary 15, 2020.

22 “(L) SET ASIDE FOR COMMUNITY FINAN-
 23 CIAL INSTITUTIONS, SMALL INSURED DEPOSI-
 24 TORY INSTITUTIONS, CREDIT UNIONS, AND
 25 FARM CREDIT SYSTEM INSTITUTIONS.—Not less

1 than \$10,000,000,000 of the total amount of
2 covered loans guaranteed by the Administrator
3 shall be made by—

4 “(i) community financial institutions;

5 “(ii) insured depository institutions
6 with consolidated assets of less than
7 \$10,000,000,000;

8 “(iii) credit unions with consolidated
9 assets of less than \$10,000,000,000; and

10 “(iv) institutions of the Farm Credit
11 System chartered under the Farm Credit
12 Act of 1971 (12 U.S.C. 2001 et seq.) with
13 consolidated assets of less than
14 \$10,000,000,000 (not including the Fed-
15 eral Agricultural Mortgage Corporation).

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

23 “(N) STANDARD OPERATING PROCE-
24 DURE.—The Administrator shall, to the max-
25 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) PROHIBITION ON USE OF PROCEEDS
FOR LOBBYING ACTIVITIES.—None of the pro-
ceeds of a covered loan may be used for—

“(i) lobbying activities, as defined in
section 3 of the Lobbying Disclosure Act of
1995 (2 U.S.C. 1602);

“(ii) lobbying expenditures related to
a State or local election; or

“(iii) expenditures designed to influ-
ence the enactment of legislation, appro-
priations, regulation, administrative action,
or Executive order proposed or pending be-
fore Congress or any State government,
State legislature, or local legislature or leg-
islative body.”.

(i) CONTINUED ACCESS TO THE PAYCHECK PROTEC-
TION PROGRAM.—

(1) 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”.

1 (2) APPLICABILITY OF MAXIMUM LOAN AMOUNT
2 CALCULATION.—

3 (A) DEFINITIONS.—In this paragraph, the
4 terms “covered loan” and “eligible recipient”
5 have the meanings given those terms in section
6 7(a)(36) of the Small Business Act (15 U.S.C.
7 636(a)(36)).

8 (B) APPLICABILITY.—The amendment
9 made by paragraph (1) shall apply only with re-
10 spect to a covered loan applied for by an eligible
11 recipient on or after the date of enactment of
12 this Act.

13 (j) INCREASED ABILITY FOR PAYCHECK PROTEC-
14 TION PROGRAM BORROWERS TO REQUEST AN INCREASE
15 IN LOAN AMOUNT DUE TO UPDATED REGULATIONS.—

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

20 (2) INCREASED AMOUNT.—Notwithstanding the
21 interim final rule issued by the Administration enti-
22 tled “Business Loan Program Temporary Changes;
23 Paycheck Protection Program—Loan Increases” (85
24 Fed. Reg. 29842 (May 19, 2020)), an eligible recipi-
25 ent of a covered loan that is eligible for an increased

1 covered loan amount as a result of any interim final
 2 rule that allows for covered loan increases may sub-
 3 mit a request for an increase in the covered loan
 4 amount even if—

5 (A) the initial covered loan amount has
 6 been fully disbursed; or

7 (B) the lender of the initial covered loan
 8 has submitted to the Administration a Form
 9 1502 report related to the covered loan.

10 (k) CALCULATION OF MAXIMUM LOAN AMOUNT FOR
 11 FARMERS AND RANCHERS UNDER THE PAYCHECK PRO-
 12 TECTION PROGRAM.—

13 (1) IN GENERAL.—Section 7(a)(36) of the
 14 Small Business Act (15 U.S.C. 636(a)(36)), as
 15 amended by subsection (i) of this section, is amend-
 16 ed—

17 (A) in subparagraph (E), in the matter
 18 preceding clause (i), by striking “During” and
 19 inserting “Except as provided in subparagraph
 20 (T), during”; and

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

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

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

4 “(I) operates as a sole propri-
 5 etorship or as an independent con-
 6 tractor, or is an eligible self-employed
 7 individual;

8 “(II) reports farm income or ex-
 9 penses on a Schedule F (or any equiv-
 10 alent successor schedule); and

11 “(III) was in business during the
 12 period beginning on February 15,
 13 2019 and ending on June 30, 2019.

14 “(ii) NO EMPLOYEES.—With respect
 15 to covered recipient without employees, the
 16 maximum covered loan amount shall be the
 17 lesser of—

18 “(I) the sum of—

19 “(aa) the product obtained
 20 by multiplying—

21 “(AA) the gross income
 22 of the covered recipient in
 23 2019, as reported on a
 24 Schedule F (or any equiva-
 25 lent successor schedule),

1 that is not more than
2 \$100,000, divided by 12;
3 and

4 “(BB) 2.5; and

5 “(bb) the outstanding
6 amount of a loan under sub-
7 section (b)(2) that was made
8 during the period beginning on
9 January 31, 2020 and ending on
10 April 3, 2020 that the borrower
11 intends to refinance under the
12 covered loan, not including any
13 amount of any advance under the
14 loan that is not required to be re-
15 paid; or

16 “(II) \$2,000,000.

17 “(iii) WITH EMPLOYEES.—With re-
18 spect to a covered recipient with employ-
19 ees, the maximum covered loan amount
20 shall be calculated using the formula de-
21 scribed in subparagraph (E), except that
22 the gross income of the covered recipient
23 described in clause (ii)(I)(aa)(AA) of this
24 subparagraph, as divided by 12, shall be

1 added to the sum calculated under sub-
2 paragraph (E)(i)(I).

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

8 “(I) recalculate the maximum
9 loan amount applicable to that cov-
10 ered loan based on the formula de-
11 scribed in clause (ii) or (iii), as appli-
12 cable, if doing so would result in a
13 larger covered loan amount; and

14 “(II) provide the covered recipi-
15 ent with additional covered loan
16 amounts based on that recalcula-
17 tion.”.

18 (l) FARM CREDIT SYSTEM INSTITUTIONS.—

19 (1) DEFINITION OF FARM CREDIT SYSTEM IN-
20 STITUTION.—In this subsection, the term “Farm
21 Credit System institution”—

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

1 (B) does not include the Federal Agricultural Mortgage Corporation.

2
3 (2) FACILITATION OF PARTICIPATION IN PPP
4 AND SECOND DRAW LOANS.—

5 (A) APPLICABLE RULES.—Solely with re-
6 spect to loans under paragraphs (36) and (37)
7 of section 7(a) of the Small Business Act (15
8 U.S.C. 636(a)), Farm Credit Administration
9 regulations and guidance issued as of July 14,
10 2020, and compliance with such regulations and
11 guidance, shall be deemed functionally equivalent
12 to requirements referenced in section
13 3(a)(iii)(II) of the interim final rule of the Administration
14 entitled “Business Loan Program
15 Temporary Changes; Paycheck Protection Program”
16 (85 Fed. Reg. 20811 (April 15, 2020))
17 or any similar requirement referenced in that
18 interim final rule in implementing such paragraph
19 (37).

20 (B) APPLICABILITY OF CERTAIN LOAN REQUIREMENTS.—For purposes of making loans
21 under paragraph (36) or (37) of section 7(a) of
22 the Small Business Act (15 U.S.C. 636(a)) or
23 forgiving those loans in accordance with section
24 1106 of the CARES Act (15 U.S.C. 9005) and
25

1 subparagraph (H) of such paragraph (37), sec-
 2 tions 4.13, 4.14, and 4.14A of the Farm Credit
 3 Act of 1971 (12 U.S.C. 2199, 2202, 2202a)
 4 (including regulations issued under those sec-
 5 tions) shall not apply.

6 (C) RISK WEIGHT.—

7 (i) IN GENERAL.—With respect to the
 8 application of Farm Credit Administration
 9 capital requirements, a loan described in
 10 clause (ii)—

11 (I) shall receive a risk weight of
 12 zero percent; and

13 (II) shall not be included in the
 14 calculation of any applicable leverage
 15 ratio or other applicable capital ratio
 16 or calculation.

17 (ii) LOANS DESCRIBED.—A loan re-
 18 ferred to in clause (i) is—

19 (I) a loan made by a Farm Cred-
 20 it Bank described in section 1.2(a) of
 21 the Farm Credit Act of 1971 (12
 22 U.S.C. 2002(a)) to a Federal Land
 23 Bank Association, a Production Credit
 24 Association, or an agricultural credit
 25 association described in that section

1 to make loans under paragraph (36)
 2 or (37) of section 7(a) of the Small
 3 Business Act (15 U.S.C. 636(a)) or
 4 forgive those loans in accordance with
 5 section 1106 of the CARES Act (15
 6 U.S.C. 9005) and subparagraph (H)
 7 of such paragraph (37); or

8 (II) a loan made by a Federal
 9 Land Bank Association, a Production
 10 Credit Association, an agricultural
 11 credit association, or the bank for co-
 12 operatives described in section 1.2(a)
 13 of the Farm Credit Act of 1971 (12
 14 U.S.C. 2002(a)) under paragraph
 15 (36) or (37) of section 7(a) of the
 16 Small Business Act (15 U.S.C.
 17 636(a)).

18 (D) RESERVATION OF LOAN GUARAN-
 19 TEES.—Section 7(a)(36)(S) of the Small Busi-
 20 ness Act (15 U.S.C. 636(a)(36)(S)) is amend-
 21 ed—

22 (i) in clause (i)—

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

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

4 (III) by adding at the end the
 5 following:

6 “(III) institutions of the Farm
 7 Credit System chartered under the
 8 Farm Credit Act of 1971 (12 U.S.C.
 9 2001 et seq.) with consolidated assets
 10 of not less than \$10,000,000,000 and
 11 less than \$50,000,000,000.”; and
 12 (ii) in clause (ii)—

13 (I) in subclause (II), by striking
 14 “and” at the end;

15 (II) in subclause (III), by strik-
 16 ing the period at the end and insert-
 17 ing “; and”; and

18 (III) by adding at the end the
 19 following:

20 “(IV) institutions of the Farm
 21 Credit System chartered under the
 22 Farm Credit Act of 1971 (12 U.S.C.
 23 2001 et seq.) with consolidated assets
 24 of less than \$10,000,000,000.”.

25 (m) DEFINITION OF SEASONAL EMPLOYER.—

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

(A) in clause (xi), by striking “and” at the end;

(B) in clause (xii), by striking the period at the end and inserting “; and”; and

(C) 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 calendar 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.”.

(2) LOAN FORGIVENESS.—Paragraph (12) of section 1106(a) of the CARES Act (15 U.S.C. 9005(a)), as so redesignated by subsection (c)(2) of this section, is amended to read as follows:

“(12) the terms ‘payroll costs’ and ‘seasonal employer’ have the meanings given those terms in

1 section 7(a)(36) of the Small Business Act (15
2 U.S.C. 636(a)(36)).”.

3 (n) ELIGIBILITY OF 501(C)(6) ORGANIZATIONS FOR
4 LOANS UNDER THE PAYCHECK PROTECTION PRO-
5 GRAM.—Section 7(a)(36)(D) of the Small Business Act
6 (15 U.S.C. 636(a)(36)(D)) is amended—

7 (1) in clause (v), by inserting “or whether an
8 organization described in clause (vii) employs not
9 more than 150 employees,” after “clause (i)(I),”;

10 (2) in clause (vi), by inserting “, an organiza-
11 tion described in clause (vii),” after “nonprofit orga-
12 nization”; and

13 (3) by adding at the end the following:

14 “(vii) ELIGIBILITY FOR CERTAIN
15 501(C)(6) ORGANIZATIONS.—

16 “(I) IN GENERAL.—Except as
17 provided in subclause (II), any organi-
18 zation that is described in section
19 501(c)(6) of the Internal Revenue
20 Code and that is exempt from tax-
21 ation under section 501(a) of such
22 Code (excluding professional sports
23 leagues and organizations with the
24 purpose of promoting or participating
25 in a political campaign or other activ-

1 ity) shall be eligible to receive a cov-
2 ered loan if—

3 “(aa) the organization does
4 not receive more than 10 percent
5 of its receipts from lobbying ac-
6 tivities;

7 “(bb) the lobbying activities
8 of the organization do not com-
9 prise more than 10 percent of the
10 total activities of the organiza-
11 tion; and

12 “(cc) the organization em-
13 ploys not more than 150 employ-
14 ees.

15 “(II) DESTINATION MARKETING
16 ORGANIZATIONS.—Notwithstanding
17 subclause (I), during the covered pe-
18 riod, any destination marketing orga-
19 nization shall be eligible to receive a
20 covered loan if—

21 “(aa) the destination mar-
22 keting organization does not re-
23 ceive more than 10 percent of its
24 receipts from lobbying activities;

1 “(bb) the lobbying activities
 2 of the destination marketing or-
 3 ganization do not comprise more
 4 than 10 percent of the total ac-
 5 tivities of the organization;

6 “(cc) the destination mar-
 7 keting organization employs not
 8 more than 150 employees; and

9 “(dd) the destination mar-
 10 keting organization—

11 “(AA) is described in
 12 section 501(c) of the Inter-
 13 nal Revenue Code and is ex-
 14 empt from taxation under
 15 section 501(a) of such Code;
 16 or

17 “(BB) is a quasi-gov-
 18 ernmental entity or is a po-
 19 litical subdivision of a State
 20 or local government, includ-
 21 ing any instrumentality of
 22 those entities.”.

23 (o) PROHIBITION ON USE OF LOAN PROCEEDS FOR
 24 LOBBYING ACTIVITIES.—Section 7(a)(36)(F) of the Small

1 Business Act (15 U.S.C. 636(a)(36)(F)) is amended by
 2 adding at the end the following:

3 “(vi) PROHIBITION.—None of the pro-
 4 ceeds of a covered loan may be used for—

5 “(I) lobbying activities, as de-
 6 fined in section 3 of the Lobbying
 7 Disclosure Act of 1995 (2 U.S.C.
 8 1602);

9 “(II) lobbying expenditures re-
 10 lated to a State or local election; or

11 “(III) expenditures designed to
 12 influence the enactment of legislation,
 13 appropriations, regulation, adminis-
 14 trative action, or Executive order pro-
 15 posed or pending before Congress or
 16 any State government, State legisla-
 17 ture, or local legislature or legislative
 18 body.”.

19 (p) EFFECTIVE DATE; APPLICABILITY.—The amend-
 20 ments made to paragraph (36) of section 7(a) of the Small
 21 Business Act (15 U.S.C. 636(a)) and title I of the CARES
 22 Act (Public Law 116–136) under this section shall be ef-
 23 fective as if included in the CARES Act and shall apply
 24 to any loan made pursuant to section 7(a)(36) of the
 25 Small Business Act (15 U.S.C. 636(a)(36)).

1 (q) BANKRUPTCY PROVISIONS.—

2 (1) IN GENERAL.—Section 364 of title 11,
3 United States Code, is amended by adding at the
4 end the following:

5 “(g)(1) The court, after notice and a hearing, may
6 authorize a debtor in possession or a trustee that is au-
7 thorized to operate the business of the debtor under sec-
8 tion 1183, 1184, 1203, 1204, or 1304 of this title to ob-
9 tain a loan under paragraph (36) or (37) of section 7(a)
10 of the Small Business Act (15 U.S.C. 636(a)), and such
11 loan shall be treated as a debt to the extent the loan is
12 not forgiven in accordance with section 1106 of the
13 CARES Act (15 U.S.C. 9005) or subparagraph (H) of
14 such paragraph (37), as applicable, with priority equal to
15 a claim of the kind specified in subsection (c)(1) of this
16 section.

17 “(2) The trustee may incur debt described in para-
18 graph (1) notwithstanding any provision in a contract,
19 prior order authorizing the trustee to incur debt under this
20 section, prior order authorizing the trustee to use cash col-
21 lateral under section 363, or applicable law that prohibits
22 the debtor from incurring additional debt.

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

1 Rules of Bankruptcy Procedure, at such hearing, the court
2 may grant relief on a final basis.”.

3 (2) ALLOWANCE OF ADMINISTRATIVE EX-
4 PENSES.—Section 503(b) of title 11, United States
5 Code, is amended—

6 (A) in paragraph (8)(B), by striking “and”
7 at the end;

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

10 (C) by adding at the end the following:

11 “(10) any debt incurred under section
12 364(g)(1) of this title.”.

13 (3) CONFIRMATION OF PLAN FOR REORGANIZA-
14 TION.—Section 1191 of title 11, United States Code,
15 is amended by adding at the end the following:

16 “(f) SPECIAL PROVISION RELATED TO COVID-19
17 PANDEMIC.—Notwithstanding section 1129(a)(9)(A) of
18 this title and subsection (e) of this section, a plan that
19 provides for payment of a claim of a kind specified in sec-
20 tion 503(b)(10) of this title may be confirmed under sub-
21 section (b) of this section if the plan proposes to make
22 payments on account of such claim when due under the
23 terms of the loan giving rise to such claim.”.

24 (4) CONFIRMATION OF PLAN FOR FAMILY
25 FARMERS AND FISHERMEN.—Section 1225 of title

1 11, United States Code, is amended by adding at
 2 the end the following:

3 “(d) Notwithstanding section 1222(a)(2) of this title
 4 and subsection (b)(1) of this section, a plan that provides
 5 for payment of a claim of a kind specified in section
 6 503(b)(10) of this title may be confirmed if the plan pro-
 7 poses to make payments on account of such claim when
 8 due under the terms of the loan giving rise to such
 9 claim.”.

10 (5) CONFIRMATION OF PLAN FOR INDIVID-
 11 UALS.—Section 1325 of title 11, United States
 12 Code, is amended by adding at the end the fol-
 13 lowing:

14 “(d) Notwithstanding section 1322(a)(2) of this title
 15 and subsection (b)(1) of this section, a plan that provides
 16 for payment of a claim of a kind specified in section
 17 503(b)(10) of this title may be confirmed if the plan pro-
 18 poses to make payments on account of such claim when
 19 due under the terms of the loan giving rise to such
 20 claim.”.

21 (6) EFFECTIVE DATE; SUNSET.—

22 (A) EFFECTIVE DATE.—The amendments
 23 made by paragraphs (1) through (5) shall—

24 (i) take effect on the date on which
 25 the Administrator submits to the Director

of the Executive Office for United States Trustees a written determination that, subject to satisfying any other eligibility requirements, any debtor in possession 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 paragraphs (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)); and

(ii) apply to any case pending on or commenced on or after the date described in clause (i).

(B) SUNSET.—

(i) IN GENERAL.—If the amendments made by this subsection take effect under subparagraph (A), 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 subsection (g);

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

1 (aa) in paragraph (8)(B), by
2 adding “and” at the end;

3 (bb) in paragraph (9), by
4 striking “; and” at the end and
5 inserting a period; and

6 (cc) by striking paragraph
7 (10);

8 (III) section 1191 of title 11,
9 United States Code, is amended by
10 striking subsection (f);

11 (IV) section 1225 of title 11,
12 United States Code, is amended by
13 striking subsection (d); and

14 (V) section 1325 of title 11,
15 United States Code, is amended by
16 striking subsection (d).

17 (ii) APPLICABILITY.—Notwithstanding
18 the amendments made by clause (i) of this
19 subparagraph, if the amendments made by
20 paragraphs (1), (2), (3), (4), and (5) take
21 effect under subparagraph (A) of this
22 paragraph, such amendments shall apply
23 to any case under title 11, United States
24 Code, commenced before the date that is 2

1 years after the date of enactment of this
2 Act.

3 (r) OVERSIGHT.—

4 (1) COMPLIANCE WITH OVERSIGHT REQUIRE-
5 MENTS.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), on and after the date of en-
8 actment of this Act, the Administrator shall
9 comply with any data or information requests
10 or inquiries made by the Comptroller General of
11 the United States not later than 30 days (or
12 such later date as the Comptroller General may
13 specify) after receiving the request or inquiry.

14 (B) EXCEPTION.—If the Administrator is
15 unable to comply with a request or inquiry de-
16 scribed in subparagraph (A) within the 30-day
17 period or, if applicable, later period described in
18 that clause, the Administrator shall, during
19 that 30-day (or later) period, submit to the
20 Committee on Small Business and Entrepre-
21 neurship of the Senate and the Committee on
22 Small Business of the House of Representatives
23 a notification that includes a detailed justifica-
24 tion for the inability of the Administrator to
25 comply with the request or inquiry.

1 (2) TESTIMONY.—Not later than the date that
 2 is 30 days after the date of enactment of this Act,
 3 and every quarter thereafter until the date that is 2
 4 years after the date of enactment of this Act, the
 5 Administrator and the Secretary of the Treasury
 6 shall testify before the Committee on Small Business
 7 and Entrepreneurship of the Senate and the Com-
 8 mittee on Small Business of the House of Rep-
 9 resentatives regarding implementation of this section
 10 and the amendments made by this section.

11 (s) CONFLICTS OF INTEREST.—

12 (1) DEFINITIONS.—In this subsection:

13 (A) CONTROLLING INTEREST.—The term
 14 “controlling interest” means owning, control-
 15 ling, or holding not less than 20 percent, by
 16 vote or value, of the outstanding amount of any
 17 class of equity interest in an entity.

18 (B) COVERED ENTITY.—

19 (i) DEFINITION.—The term “covered
 20 entity” means an entity in which a covered
 21 individual directly or indirectly holds a
 22 controlling interest.

23 (ii) TREATMENT OF SECURITIES.—
 24 For the purpose of determining whether an
 25 entity is a covered entity, the securities

1 owned, controlled, or held by 2 or more in-
2 dividuals who are related as described in
3 subparagraph (C)(ii) shall be aggregated.

4 (C) COVERED INDIVIDUAL.—The term
5 “covered individual” means—

6 (i) the President, the Vice President,
7 the head of an Executive department, or a
8 Member of Congress; and

9 (ii) the spouse, child, son-in-law, or
10 daughter-in-law, as determined under ap-
11 plicable common law, of an individual de-
12 scribed in clause (i).

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

17 (E) MEMBER OF CONGRESS.—The term
18 “Member of Congress” means a Member of the
19 Senate or House of Representatives, a Delegate
20 to the House of Representatives, and the Resi-
21 dent Commissioner from Puerto Rico.

22 (F) EQUITY INTEREST.—The term “equity
23 interest” means—

24 (i) a share in an entity, without re-
25 gard to whether the share is—

- 1 (I) transferable; or
2 (II) classified as stock or any-
3 thing similar;
4 (ii) a capital or profit interest in a
5 limited liability company or partnership; or
6 (iii) a warrant or right, other than a
7 right to convert, to purchase, sell, or sub-
8 scribe to a share or interest described in
9 clause (i) or (ii), respectively.

10 (2) REQUIREMENT.—The principal executive of-
11 ficer and the principal financial officer, or individ-
12 uals performing similar functions, of an entity seek-
13 ing to enter a transaction made under paragraph
14 (36) or (37) of section 7(a) of the Small Business
15 Act (15 U.S.C. 636(a)), as added and amended by
16 this section, shall, before that transaction is ap-
17 proved, disclose to the Administrator whether the
18 entity is a covered entity.

19 (3) APPLICABILITY.—The requirement under
20 paragraph (2)—

21 (A) shall apply with respect to any trans-
22 action made under paragraph (36) or (37) of
23 section 7(a) of the Small Business Act (15
24 U.S.C. 636(a)), as added and amended by this

1 section, on or after the date of enactment of
 2 this Act; and

3 (B) shall not apply with respect to—

4 (i) any transaction described in sub-
 5 paragraph (A) that was made before the
 6 date of enactment of this Act; or

7 (ii) forgiveness under section 1106 of
 8 the CARES Act (15 U.S.C. 9005) or any
 9 other provision of law of any loan associ-
 10 ated with any transaction described in sub-
 11 paragraph (A) that was made before the
 12 date of enactment of this Act.

13 (t) COMMITMENT AUTHORITY AND APPROPRIA-
 14 TIONS.—

15 (1) COMMITMENT AUTHORITY.—Section
 16 1102(b) of the CARES Act (Public Law 116–136)
 17 is amended—

18 (A) in paragraph (1)—

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

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

24 (iii) by striking “paragraph (36)” and
 25 inserting “paragraphs (36) and (37)”; and

1 (iv) by striking “\$659,000,000,000”
 2 and inserting “\$779,640,000,000”; and

3 (B) by amending paragraph (2) to read as
 4 follows:

5 “(2) OTHER 7(A) LOANS.—During fiscal year
 6 2020, the amount authorized for commitments for
 7 section 7(a) of the Small Business Act (15 U.S.C.
 8 636(a)) under the heading ‘Small Business Adminis-
 9 tration—Business Loans Program Account’ in the
 10 Financial Services and General Government Appro-
 11 priations Act, 2020 (division C of Public Law 116–
 12 193) shall apply with respect to any commitments
 13 under such section 7(a) other than under para-
 14 graphs (36) and (37) of such section 7(a).”.

15 (2) DIRECT APPROPRIATIONS.—

16 (A) NEW DIRECT APPROPRIATIONS FOR
 17 PPP LOANS, SECOND DRAW LOANS, AND THE
 18 MBDA.—There is appropriated, out of amounts
 19 in the Treasury not otherwise appropriated, for
 20 the fiscal year ending September 30, 2020, to
 21 remain available until September 30, 2021, for
 22 additional amounts—

23 (i) \$257,640,000,000 under the head-
 24 ing “Small Business Administration—
 25 Business Loans Program Account, CARES

1 Act” for the cost of guaranteed loans as
2 authorized under paragraph (36) and (37)
3 of section 7(a) of the Small Business Act
4 (15 U.S.C. 636(a)), as amended and added
5 by this Act;

6 (ii) \$10,000,000 under the heading
7 “Department of Commerce—Minority
8 Business Development Agency” for minor-
9 ity business centers of the Minority Busi-
10 ness Development Agency to provide tech-
11 nical assistance to small business concerns;
12 and

13 (iii) \$50,000,000 under the heading
14 “Small Business Administration—Salaries
15 and Expenses” for the cost of carrying out
16 reviews and audits of loans under sub-
17 section (l) of section 1106 of the CARES
18 Act (15 U.S.C. 9005), as amended by this
19 Act.

20 (B) AVAILABILITY OF AMOUNTS APPRO-
21 PRIATED FOR THE OFFICE OF INSPECTOR GEN-
22 ERAL.—Section 1107(a)(3) of the CARES Act
23 (15 U.S.C. 9006(a)(3)) is amended by striking
24 “September 20, 2024” and inserting “ex-
25 pended”.

1 (3) RESCISSION.—Of the unobligated balances
2 in the appropriations account under the heading
3 “Small Business Administration—Business Loans
4 Program Account, CARES Act” as of the day before
5 the date of enactment of this Act, effective on the
6 date of enactment of this Act \$137,000,000,000
7 shall be rescinded and deposited into the general
8 fund of the Treasury.

9 (4) EMERGENCY DESIGNATION.—

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

15 (B) DESIGNATION IN SENATE.—In the
16 Senate, this subsection is designated as an
17 emergency requirement pursuant to section
18 4112(a) of H. Con. Res. 71 (115th Congress),
19 the concurrent resolution on the budget for fis-
20 cal year 2018.

Calendar No. 562

116TH CONGRESS
2D Session

S. 4773

A BILL

To establish the Paycheck Protection Program
Second Draw Loan, and for other purposes.

OCTOBER 1, 2020

Read the second time and placed on the calendar