

117TH CONGRESS
1ST SESSION

S. 1058

To amend the Small Business Investment Act of 1958 to provide opportunities to rural business investment companies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2021

Mr. THUNE (for himself, Mrs. SHAHEEN, and Mrs. FISCHER) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To amend the Small Business Investment Act of 1958 to provide opportunities to rural business investment companies, 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 “Rural Capital Access
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “Administration” means the Small
9 Business Administration;

1 (2) the term “Administrator” means the Ad-
2 ministrator of the Administration;

3 (3) the term “appropriate committees of Con-
4 gress” means—

5 (A) the Committee on Small Business and
6 Entrepreneurship of the Senate;

7 (B) the Committee on Agriculture, Nutri-
8 tion, and Forestry of the Senate;

9 (C) the Committee on Small Business of
10 the House of Representatives; and

11 (D) the Committee on Agriculture of the
12 House of Representatives;

13 (4) the term “rural business investment com-
14 pany” has the meaning given the term in section
15 384A of the Consolidated Farm and Rural Develop-
16 ment Act (7 U.S.C. 2009cc);

17 (5) the term “Secretary” means the Secretary
18 of Agriculture; and

19 (6) the term “working group” means the inter-
20 agency working group established under section
21 4(a).

22 **SEC. 3. RURAL BUSINESS INVESTMENT.**

23 (a) IN GENERAL.—The Small Business Investment
24 Act of 1958 (15 U.S.C. 661 et seq.) is amended—

1 (1) in part A of title III (15 U.S.C. 681 et
2 seq.)—

3 (A) in section 303(b)(2) (15 U.S.C.
4 683(b)(2)), by adding at the end the following:

5 “(E) INVESTMENTS IN RURAL AREAS.—

6 “(i) DEFINITION.—In this subpara-
7 graph, the term ‘rural area’ has the mean-
8 ing given the term in section 343(a) of the
9 Consolidated Farm and Rural Develop-
10 ment Act (7 U.S.C. 1991(a)).

11 “(ii) ADDITIONAL LEVERAGE.—

12 “(I) IN GENERAL.—In calcu-
13 lating the outstanding leverage of a
14 company for the purposes of subpara-
15 graph (A), the Administrator shall not
16 include the amount of the cost basis
17 of any equity investment made by the
18 company in a smaller enterprise lo-
19 cated in a rural area if the Adminis-
20 trator, after performing an appro-
21 priate evaluation, determines that
22 such an exclusion will not result in
23 additional risk to the Administration
24 or the Federal Government.

1 “(II) LIMITATION.—The amount
 2 excluded under subclause (I) for a
 3 company shall not exceed \$25,000,000
 4 in any fiscal year.”;

5 (B) in section 308(g)(3) (15 U.S.C.
 6 687(g)(3))—

7 (i) in subparagraph (D), by striking
 8 “and” at the end;

9 (ii) in subparagraph (E), by striking
 10 the period at the end and inserting “;
 11 and”; and

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

14 “(F) the total number of rural business invest-
 15 ment companies, as defined in section 321(a), that
 16 received leverage from the Administration under sec-
 17 tion 321 in the previous year, including the amount
 18 of that leverage that each such rural business invest-
 19 ment company received.”;

20 (C) in section 310(d)(1)(A) (15 U.S.C.
 21 687b(d)(1)(A)), by inserting “(including each
 22 rural business investment company that receives
 23 leverage under section 321)” after “Each li-
 24 censee”; and

25 (D) by adding at the end the following:

1 **“SEC. 321. RURAL BUSINESS INVESTMENT COMPANIES.**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘covered amounts’ means, with
4 respect to a fiscal year, the amounts made available
5 for that fiscal year to grant leverage under this part
6 to small business investment companies;

7 “(2) the term ‘rural business investment com-
8 pany’ has the meaning given the term in section
9 384A of the Consolidated Farm and Rural Develop-
10 ment Act (7 U.S.C. 2009cc); and

11 “(3) the term ‘Secretary’ means the Secretary
12 of Agriculture.

13 “(b) LEVERAGE.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
15 if the Administration determines under subsection
16 (c) that the Administration will be unable to expend
17 all of the covered amounts for a particular fiscal
18 year, the Administration shall expend those unex-
19 pended covered amounts for that fiscal year to grant
20 leverage to rural business investment companies for
21 the purposes described in this part if, with respect
22 to that fiscal year, the Secretary determines that the
23 Secretary is unable to grant leverage to rural busi-
24 ness investment companies in a manner that is suffi-
25 cient to satisfy the leverage needs of those rural
26 business investment companies.

1 “(2) CONDITIONS.—With respect to leverage
2 granted by the Administration to a rural business
3 investment company under paragraph (1)—

4 “(A) the amount of the leverage made
5 available shall be subject to the limitations
6 under section 303(b)(2);

7 “(B) for the purposes of subparagraph
8 (A), any leverage granted by the Secretary to
9 the rural business investment company under
10 the program carried out under subtitle H of the
11 Consolidated Farm and Rural Development Act
12 (7 U.S.C. 2009cc et seq.) shall be included
13 when determining the maximum amount of out-
14 standing leverage that may be made available to
15 the rural business investment company under
16 this section; and

17 “(C) the Administration, in consultation
18 with the Secretary, shall—

19 “(i) impose such terms and conditions
20 with respect to the leverage that the Ad-
21 ministration and the Secretary determine
22 to be appropriate; and

23 “(ii) in developing the terms and con-
24 ditions described in clause (i)—

1 “(I) ensure, to the maximum ex-
 2 tent practicable, that those terms and
 3 conditions are not—

4 “(aa) duplicative of other re-
 5 quirements applicable to rural
 6 business investment companies;
 7 or

8 “(bb) otherwise unnecessary;
 9 and

10 “(II) take into consideration how
 11 rural business investment companies
 12 that have been issued a license by the
 13 Secretary under section 384D(e) of
 14 the Consolidated Farm and Rural De-
 15 velopment Act (7 U.S.C. 2009cc–3(e))
 16 before the date of enactment of this
 17 section could qualify to receive that le-
 18 verage.

19 “(c) INTERNAL EVALUATION.—Not later than June
 20 1 of each year, the Administration shall perform an eval-
 21 uation to determine whether the Administration will be
 22 unable to expend all of the covered amounts for the fiscal
 23 year in which the evaluation is made.”; and

24 (2) in section 503(g) (15 U.S.C. 697(g)), by in-
 25 serting “, and with respect to leverage granted

1 under section 321,” after “retained by the Adminis-
2 tration under this section”.

3 (b) SBA REQUIREMENTS.—

4 (1) ESTABLISHMENT OF APPLICATION PROC-
5 ESS.—Not later than 180 days after the date of en-
6 actment of this Act, the Administrator, in consulta-
7 tion with the Secretary, shall establish a process
8 through which a rural business investment company
9 may apply for leverage granted under section 321 of
10 the Small Business Investment Act of 1958, as
11 added by subsection (a) of this section.

12 (2) UPDATE TO RULES.—Not later than 180
13 days after the date of enactment of this Act, and in
14 addition to the process established under paragraph
15 (1), the Administrator shall make any updates to the
16 rules of the Administration that are necessary as a
17 result of this section and the amendments made by
18 this section.

19 **SEC. 4. INTERAGENCY WORKING GROUP.**

20 (a) ESTABLISHMENT.—Not later than 180 days after
21 the date of enactment of this Act, the Administrator, in
22 consultation with the Secretary, shall establish an inter-
23 agency working group to develop—

24 (1) administrative recommendations for improv-
25 ing the coordination between the Administration and

1 the Department of Agriculture in administering the
2 program carried out under part A of title III of the
3 Small Business Investment Act of 1958 (15 U.S.C.
4 681 et seq.) and the program carried out under sub-
5 title H of the Consolidated Farm and Rural Devel-
6 opment Act (7 U.S.C. 2009cc et seq.), respectively;
7 and

8 (2) legislative recommendations for improving
9 capital access and investment in rural areas of the
10 United States through the programs described in
11 paragraph (1), including by increasing the number
12 of licensees under those programs.

13 (b) MEMBERS.—

14 (1) IN GENERAL.—The Administrator, in con-
15 sultation with the Secretary, shall appoint to the
16 working group such representatives from the Admin-
17 istration and the Department of Agriculture, and
18 such non-Federal industry stakeholders, as the Ad-
19 ministrator, in consultation with the Secretary, de-
20 termines to be appropriate.

21 (2) COMPENSATION.—No member of the work-
22 ing group may receive any compensation by reason
23 of the service of the member on the working group.

24 (c) REPORT TO CONGRESS.—Not later than 180 days
25 after the date on which the working group is established

1 under subsection (a), the working group shall submit to
2 the appropriate committees of Congress a report that con-
3 tains—

4 (1) the administrative actions that the Adminis-
5 tration and the Department of Agriculture should
6 take to make the improvements described in para-
7 graph (1) of that subsection; and

8 (2) the legislative recommendations described in
9 paragraph (2) of that subsection.

10 (d) TERMINATION.—The working group shall termi-
11 nate upon submission of the report required under sub-
12 section (c).

13 (e) IMPLEMENTATION OF RECOMMENDATIONS.—Not
14 later than 90 days after the date on which the working
15 group submits the report required under subsection (c),
16 the Administration and the Department of Agriculture
17 shall take the administrative actions described in para-
18 graph (1) of that subsection.

19 (f) INAPPLICABILITY OF FEDERAL ADVISORY COM-
20 MITTEE ACT.—The Federal Advisory Committee Act (5
21 U.S.C. App.) shall not apply with respect to the working
22 group or the activities of the working group.

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