

116TH CONGRESS
2D SESSION

H. R. 8211

To amend the Small Business Investment Act of 1958 to improve the loan guaranty program, enhance the ability of small manufacturers to access affordable capital, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 2020

Ms. CRAIG (for herself and Mr. CHABOT) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Investment Act of 1958 to improve the loan guaranty program, enhance the ability of small manufacturers to access affordable capital, 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 “504 Modernization and
5 Small Manufacturer Enhancement Act of 2020”.

1 **SEC. 2. ADDITIONS TO POLICY GOALS FOR THE DEVELOP-**
2 **MENT COMPANY PROGRAM.**

3 Section 501(d)(3) of the Small Business Investment
4 Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

5 (1) by redesignating subparagraphs (A) through
6 (L) as subparagraphs (B) through (M), respectively;

7 (2) by inserting before subparagraph (B) (as so
8 redesignated) the following:

9 “(A) workforce development through work-
10 based or work-integrated training, which shall
11 be satisfied by demonstrating that a small busi-
12 ness concern that is a subject of the project
13 has—

14 “(i) a documented in-house training
15 program, the duration of which is not
16 shorter than 12 weeks; or

17 “(ii) entered into a contract with an
18 entity—

19 “(I) to provide trained applicants
20 for any open position of employment
21 at the small business concern; and

22 “(II) that ensures that any appli-
23 cant provided to the small business
24 concern under subclause (I) has un-
25 dergone not fewer than 12 weeks of

1 training that is relevant to the open
2 position described in that subclause,”;

3 (3) by amending subparagraph (D) (as so re-
4 designated) to read as follows:

5 “(D) expansion of minority-owned, em-
6 ployee-owned, or women-owned business devel-
7 opment,”;

8 (4) in subparagraph (L) (as so redesignated),
9 by striking “producers, or” and inserting “pro-
10 ducers,”;

11 (5) in subparagraph (M) (as so redesignated),
12 by striking the period at the end and inserting a
13 comma;

14 (6) by inserting after subparagraph (M) the fol-
15 lowing new subparagraphs:

16 “(N) enhanced ability for small business
17 concerns to reduce costs by using energy effi-
18 cient products and generating renewable en-
19 ergy, or

20 “(O) aid revitalizing of any area for which
21 a disaster has been declared or determined
22 under subparagraph (A), (B), (C), or (E) of
23 section 7(b)(2) of the Small Business Act.”;
24 and

1 (7) in the flush text following subparagraph
2 (O), as added by paragraph (6), by striking “sub-
3 paragraphs (J) and (K)” and inserting “subpara-
4 graphs (K) and (L)”.

5 **SEC. 3. INCREASE IN LOAN AMOUNTS FOR MANUFAC-**
6 **TURING LOANS.**

7 Section 502 of the Small Business Investment Act
8 of 1958 (15 U.S.C. 696) is amended—

9 (1) in the matter preceding paragraph (1), by
10 striking “The Administration” and inserting the fol-
11 lowing:

12 “(a) IN GENERAL.—The Administration”; and

13 (2) in subsection (a), as so designated—

14 (A) in paragraph (2)(A)—

15 (i) in the matter preceding clause (i),
16 by striking “section” and inserting “sub-
17 section”; and

18 (ii) in clause (iii), by striking
19 “\$5,500,000” and inserting “\$6,500,000”;

20 (B) in paragraph (3)(A), by striking “this
21 section” and inserting “this subsection”; and

22 (C) in paragraph (5), by striking “this sec-
23 tion” and inserting “this subsection”.

1 **SEC. 4. IMPROVEMENTS TO 504 LOAN CLOSING PROCE-**
2 **DURE.**

3 Title V of the Small Business Investment Act of 1958
4 (15 U.S.C. 695 et seq.) is amended—

5 (1) in section 502, as amended by section 3, by
6 adding at the end the following new subsections:

7 “(b) CLOSING.—

8 “(1) AUTHORITY OF CERTAIN DEVELOPMENT
9 COMPANIES.—An accredited lender certified com-
10 pany may take any of the following actions to facili-
11 tate the closing of a loan made under subsection (a):

12 “(A) Reallocate the cost of the project with
13 respect to which the loan is made in an amount
14 that is not more than 10 percent of the overall
15 cost of the project.

16 “(B) Correct any name that is applicable
17 to the loan, including the name of any bor-
18 rower, guarantor, eligible passive company de-
19 scribed in subparagraph (C)(i), and operating
20 company described in subparagraph (C)(ii).

21 “(C) Form any of the following to receive
22 proceeds of the loan:

23 “(i) An eligible passive company that
24 complies with section 120.111 of title 13,
25 Code of Federal Regulations, or any suc-
26 cessor regulation.

1 “(ii) If an eligible passive company is
2 formed under clause (i), an operating com-
3 pany with respect to that eligible passive
4 company.

5 “(D) Correct the address of any property
6 with respect to which the loan is made.

7 “(E) Correct the name of any interim
8 lender or third-party lender.

9 “(F) Change any third-party lender or in-
10 terim lender if that lender is a financial institu-
11 tion that is regulated by the Federal Govern-
12 ment or a State government.

13 “(G) Make a guarantor a co-borrower or a
14 co-borrower a guarantor.

15 “(H) Add a guarantor that does not
16 change ownership with respect to the loan.

17 “(I) Reduce the amount of standby debt
18 before the closing as a result of regularly sched-
19 uled payments.

20 “(J) Reduce the cost of the project with
21 respect to which the loan is made.

22 “(2) FEES.—The Administrator shall—

23 “(A) issue a rule regarding the amount of
24 a closing fee that may be financed in a debenture
25 that is issued by a certified development

1 company to make one or more loans to small
2 business concerns, the proceeds of which are
3 used by that concern for the purposes described
4 in subsection (a), except that such amount shall
5 be not less than \$3,500; and

6 “(B) periodically update the rule issued
7 under subparagraph (A).

8 “(3) NO ADVERSE CHANGE AND FINANCIAL
9 STATEMENT.—Before the closing with respect to a
10 loan made under subsection (a), the borrower and
11 any operating company shall—

12 “(A) make the certification required under
13 section 120.892 of title 13, Code of Federal
14 Regulations, or any successor regulation; and

15 “(B) submit to the certified development
16 company a financial statement that is not more
17 than 180 days old, which the company shall
18 certify not later than 120 days before the date
19 on which the certified development company
20 issues a debenture with respect to the project to
21 which the loan relates.

22 “(c) EXPRESS PROGRAM.—An accredited lender cer-
23 tified company may, with respect to a covered loan, take
24 any of the following actions with respect to the loan:

1 “(1) Any action described in any of subpara-
2 graphs (A) through (J) of subsection (b)(1).

3 “(2) If the borrower is not delinquent with re-
4 spect to the loan payments—

5 “(A) permit the loan to subordinate to a
6 new third-party lender loan for the purposes of
7 refinancing that third-party lender loan, except
8 that no refinanced amount with respect to the
9 loan may be increased in order to provide cash
10 to the borrower;

11 “(B) permit a new party to assume respon-
12 sibility for the loan if the original borrower re-
13 mains on the loan as the original guarantor;

14 “(C) obtain force placed insurance cov-
15 erage for the loan if the borrower has allowed
16 insurance coverage with respect to the loan to
17 lapse; and

18 “(D) endorse an insurance check with re-
19 spect to the property that is financed by the
20 loan in an amount that is less than \$100,000.

21 “(3) Certify that the loan is compliant with the
22 appraisal requirements and environmental policies
23 and procedures applicable to the loan under Stand-
24 ard Operating Procedure 50 10 6 of the Administra-

1 tion, effective August 28, 2020, or any successor
2 Standard Operating Procedure.

3 “(d) DEFINITIONS.—In this section—

4 “(1) the term ‘accredited lender certified com-
5 pany’ means a certified development company that
6 meets the requirements under section 507(b), includ-
7 ing a certified development company that the Ad-
8 ministration has designated as an accredited lender
9 under such section 507(b); and

10 “(2) the term ‘covered loan’—

11 “(A) means a loan made under subsection
12 (a) in an amount that is not more than
13 \$500,000; and

14 “(B) does not include a loan made to a
15 borrower that is a franchise that, or is in an in-
16 dustry that, has a high rate of default, as annu-
17 ally determined by the Administrator.”; and

18 (2) by adding at the end the following new sec-
19 tion:

20 **“SEC. 511. CLOSING AND OVERSIGHT.**

21 “(a) SBA DISTRICT COUNSELS.—Beginning on the
22 date of enactment of this section, with respect to the pro-
23 gram established under this title, district counsels of the
24 Administration shall be subject to the same requirements,
25 and shall have the same authority and responsibilities, as

1 in effect with respect to that program on the day before
2 the date of enactment of this section, except that—

3 “(1) the Office of Credit Risk Management of
4 the Administration shall have the responsibility for
5 all duties relating to conducting file reviews of loans
6 made under this title; and

7 “(2) district counsels of the Administration
8 shall not have any responsibility relating to the re-
9 view of closing packages with respect to a loan made
10 under this title.

11 “(b) DESIGNATED ATTORNEYS.—For the purposes of
12 this title, the following provisions and requirements shall
13 apply with respect to a designated attorney of a certified
14 development company:

15 “(1) A designated attorney that meets the re-
16 quirements determined under paragraph (2) shall be
17 responsible for certifying documents relating to the
18 closing of a loan described in this title.

19 “(2) The Administrator may determine any
20 continuing education requirements that the des-
21 ignated attorney shall be required to satisfy in order
22 to be permitted to close a loan made under this title.

23 “(3) If, as of the date of enactment of this sec-
24 tion, a certified development company does not have
25 a designated attorney, during the 270-day period be-

1 ginning on that date of enactment, the certified de-
2 velopment company may identify such an attorney,
3 subject to the approval of the Administrator.”.

4 **SEC. 5. CERTIFIED DEVELOPMENT COMPANY LOANS FOR**
5 **SMALL MANUFACTURERS.**

6 (a) CONTRIBUTION REQUIREMENT.—Section
7 502(a)(3)(C) of the Small Business Investment Act of
8 1958, as designated by section 3, is amended—

9 (1) by redesignating clauses (i), (ii), (iii), and
10 (iv) as subclauses (I), (II), (III), and (IV), respec-
11 tively, and adjusting the margins of such subclauses
12 accordingly;

13 (2) by inserting before subclause (I), as so re-
14 designated, the following:

15 “(i) for a small business concern that
16 is not a small manufacturer (as defined in
17 section 501(e)(7))—”;

18 (3) in subclause (III), as so redesignated, by
19 striking “clauses (i) and (ii)” and inserting “sub-
20 clauses (I) and (II)”;

21 (4) in subclause (IV) as so redesignated, by
22 striking the period and the end and inserting “; or”;
23 and

24 (5) by adding at the end the following:

1 “(ii) for a small manufacturer (as de-
2 fined in section 501(e)(7))—

3 “(I) at least 5 percent of the
4 total cost of the project financed, if
5 the small business concern has been in
6 operation for a period of 2 years or
7 less;

8 “(II) at least 5 percent of the
9 total cost of the project financed, if
10 the project involves a limited or single
11 purpose building or structure;

12 “(III) at least 10 percent of the
13 total cost of the project financed if the
14 project involves both of the conditions
15 set forth in subclauses (I) and (II); or

16 “(IV) at least 5 percent of the
17 total cost of the project financed, in
18 all other circumstances, at the discre-
19 tion of the development company.”.

20 (b) CREATION OR RETENTION OF JOBS REQUIRE-
21 MENT.—Section 501(e) of the Small Business Investment
22 Act of 1958 (15 U.S.C. 695(e)) is amended—

23 (1) in paragraph (1), by striking “creates or re-
24 tains” and all that follows through the period at the
25 end and inserting “creates or retains 1 job for every

1 \$75,000 guaranteed by the Administration, except
2 that the amount is \$150,000 in the case of a project
3 of a small manufacturer.”;

4 (2) in paragraph (2), by striking “creates or re-
5 tains” and all that follows through the period at the
6 end and inserting “creates or retains 1 job for every
7 \$75,000 guaranteed by the Administration, except
8 that the amount is \$150,000 in the case of a project
9 of a small manufacturer.”;

10 (3) by redesignating paragraph (6) as para-
11 graph (7); and

12 (4) by inserting after paragraph (5) the fol-
13 lowing:

14 “(6) For a loan for a project directed toward the cre-
15 ation of job opportunities under subsection (d)(1), the Ad-
16 ministrator shall publish on the website of the Administra-
17 tion the number of jobs created or retained under the
18 project as of the date that is 2 years after the completion
19 (as determined based on information provided by the de-
20 velopment company) of the project.”.

21 (c) COLLATERAL REQUIREMENTS.—Section
22 502(a)(3)(E)(i) of the Small Business Investment Act of
23 1958, as designated by section 3, is amended by adding
24 at the end the following: “Additional collateral shall not

1 be required in the case of a small manufacturer (as de-
2 fined in section 501(e)(7)).”.

3 (d) DEBT REFINANCING.—Section 502(a)(7)(B) of
4 the Small Business Investment Act of 1958, as designated
5 by section 3, is amended in the matter preceding clause
6 (i) by inserting “(or in the case of a small manufacturer
7 (as defined in section 501(e)(7)), that does not exceed 100
8 percent of the project cost of the expansion)” after “cost
9 of the expansion”.

10 (e) AMOUNT OF GUARANTEED DEBENTURE.—Sec-
11 tion 503(a) of the Small Business Investment Act of 1958
12 (15 U.S.C. 697(a)) is amended by adding at the end the
13 following:

14 “(5) Any debenture issued by a State or local devel-
15 opment company to a small manufacturer (as defined in
16 section 501(e)(7)) with respect to which a guarantee is
17 made under this subsection shall be in an amount equal
18 to not more than 50 percent of the cost of the project
19 with respect to which such debenture is issued, without
20 regard to whether good cause has been shown.”.

21 **SEC. 6. ASSISTANCE FOR SMALL MANUFACTURERS.**

22 Title V of the Small Business Investment Act of 1958
23 (15 U.S.C. 695 et seq.), as amended by section 4(2), is
24 further amended by adding at the end the following new
25 section:

1 **“SEC. 512. ASSISTANCE FOR SMALL MANUFACTURERS.**

2 “(a) IN GENERAL.—The Administrator shall ensure
3 that each district office of the Administration partners
4 with not less than 1 resource partner to provide training
5 to small business concerns assigned a North American In-
6 dustry Classification System code for manufacturing on
7 obtaining assistance under the program carried out under
8 this title, including with respect to the application process
9 under that program and partnering with development
10 companies under this title.

11 “(b) RESOURCE PARTNER DEFINED.—In this sec-
12 tion, the term ‘resource partner’ means—

13 “(1) a small business development center (as
14 defined in section 3 of the Small Business Act);

15 “(2) a women’s business center (described
16 under section 29 of such Act);

17 “(3) a chapter of the Service Corps of Retired
18 Executives (established under section 8(b)(1)(B) of
19 such Act); and

20 “(4) a Veteran Business Outreach Center (de-
21 scribed under section 32 of such Act).”.

○