

## Calendar No. 562

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

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

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## 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

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**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);

1           “(vi) the terms ‘exchange’, ‘issuer’,  
2           and ‘security’ have the meanings given  
3           those terms in section 3(a) of the Securi-  
4           ties Exchange Act of 1934 (15 U.S.C.  
5           78c(a)); and

6           “(vii) the term ‘Tribal business con-  
7           cern’ means a Tribal business concern de-  
8           scribed in section 31(b)(2)(C).

9           “(B) LOANS.—Except as otherwise pro-  
10          vided in this paragraph, the Administrator may  
11          guarantee covered loans to eligible entities  
12          under the same terms, conditions, and processes  
13          as a loan made under paragraph (36).

14          “(C) MAXIMUM LOAN AMOUNT.—

15                 “(i) IN GENERAL.—Except as other-  
16                 wise provided in this subparagraph, the  
17                 maximum amount of a covered loan made  
18                 to an eligible entity is the lesser of—

19                         “(I) the product obtained by mul-  
20                         tiplying—

21                                 “(aa) at the election of the  
22                                 eligible entity, the average total  
23                                 monthly payment for payroll  
24                                 costs incurred or paid by the eli-  
25                                 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 tipling—

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.



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

8                   “(i) shall include proceeds from pro-  
9                   gram services, fundraising events, fed-  
10                   erated campaigns, gifts, donor-advised  
11                   funds, and funds from similar sources; and

12                   “(ii) shall not include—

13                           “(I) Federal grants (excluding  
14                           any loan forgiveness on loans received  
15                           under paragraph (36) or this para-  
16                           graph);

17                           “(II) revenues from a supporting  
18                           organization;

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

22                           “(IV) any contribution of prop-  
23                           erty other than money, stocks, bonds,  
24                           and other securities, provided that the  
25                           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 PROCEDURE.—The Administrator shall, to the max-  
24 imum extent practicable, allow a lender ap-  
25

1           proved to make covered loans to use existing  
2           program guidance and standard operating pro-  
3           cedures for loans made under this subsection.

4           “(O) PROHIBITION ON USE OF PROCEEDS  
5           FOR LOBBYING ACTIVITIES.—None of the pro-  
6           ceeds of a covered loan may be used for—

7                   “(i) lobbying activities, as defined in  
8                   section 3 of the Lobbying Disclosure Act of  
9                   1995 (2 U.S.C. 1602);

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

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

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

21                   (1) IN GENERAL.—Section 7(a)(36)(E)(ii) of  
22                   the Small Business Act (15 U.S.C.  
23                   636(a)(36)(E)(ii)) is amended by striking  
24                   “\$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       (1) 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 Agricul-  
2 tural Mortgage Corporation.

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 equiva-  
12 lent to requirements referenced in section  
13 3(a)(iii)(II) of the interim final rule of the Ad-  
14 ministration entitled “Business Loan Program  
15 Temporary Changes; Paycheck Protection Pro-  
16 gram” (85 Fed. Reg. 20811 (April 15, 2020))  
17 or any similar requirement referenced in that  
18 interim final rule in implementing such para-  
19 graph (37).

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

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

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

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

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

9           “(xiii) the term ‘seasonal employer’  
10 means an eligible recipient that—

11           “(I) does not operate for more  
12 than 7 months in any calendar year;  
13 or

14           “(II) during the preceding cal-  
15 endar year, had gross receipts for any  
16 6 months of that year that were not  
17 more than 33.33 percent of the gross  
18 receipts of the employer for the other  
19 6 months of that year.”.

20           (2) LOAN FORGIVENESS.—Paragraph (12) of  
21 section 1106(a) of the CARES Act (15 U.S.C.  
22 9005(a)), as so redesignated by subsection (c)(2) of  
23 this section, is amended to read as follows:

24           “(12) the terms ‘payroll costs’ and ‘seasonal  
25 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

1 of the Executive Office for United States  
2 Trustees a written determination that, sub-  
3 ject to satisfying any other eligibility re-  
4 quirements, any debtor in possession or  
5 trustee that is authorized to operate the  
6 business of the debtor under section 1183,  
7 1184, 1203, 1204, or 1304 of title 11,  
8 United States Code, would be eligible for a  
9 loan under paragraphs (36) and (37) of  
10 section 7(a) of the Small Business Act (15  
11 U.S.C. 636(a)); and

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

15 (B) SUNSET.—

16 (i) IN GENERAL.—If the amendments  
17 made by this subsection take effect under  
18 subparagraph (A), effective on the date  
19 that is 2 years after the date of enactment  
20 of this Act—

21 (I) section 364 of title 11, United  
22 States Code, is amended by striking  
23 subsection (g);

24 (II) section 503(b) of title 11,  
25 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       (F) 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

116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 4773**

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**A BILL**

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

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OCTOBER 1, 2020

Read the second time and placed on the calendar