

Suspend the Rules and Pass the Bill, H.R. 7903, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
2D SESSION

H. R. 7903

To amend the Small Business Act to establish the Community Advantage Loan Program.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2020

Ms. JUDY CHU of California (for herself and Mr. SPANO) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to establish the Community Advantage Loan Program.

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. COMMUNITY ADVANTAGE LOAN PROGRAM.**

4 Section 7(a) of the Small Business Act (15 U.S.C.
5 636(a)) is amended by adding at the end the following:

6 “(37) COMMUNITY ADVANTAGE LOAN PRO-
7 GRAM.—

1 “(A) PURPOSES.—The purposes of the
2 Community Advantage Loan Program are—

3 “(i) to create a mission-oriented loan
4 guarantee program that builds on the dem-
5 onstrated success of the Community Ad-
6 vantage Pilot Program of the Administra-
7 tion, as established in 2011, to reach more
8 underserved small business concerns;

9 “(ii) to increase lending to small busi-
10 ness concerns in underserved and rural
11 markets, including veterans and members
12 of the military community, small business
13 concerns owned and controlled by socially
14 and economically disadvantaged individ-
15 uals, women, and startups;

16 “(iii) to ensure that the program
17 under this subsection (in this paragraph
18 referred to as the ‘7(a) loan program’) is
19 more inclusive and more broadly meets
20 congressional intent to reach borrowers
21 who are unable to get credit elsewhere on
22 reasonable terms and conditions;

23 “(iv) to help underserved small busi-
24 ness concerns become bankable by utilizing
25 the small-dollar financing and business

1 support experience of mission-oriented
2 lenders;

3 “(v) to allow certain mission-oriented
4 lenders, primarily nonprofit financial inter-
5 mediaries focused on economic develop-
6 ment in underserved markets, to access
7 guarantees for loans under this subsection
8 (in this paragraph referred to as ‘7(a)
9 loans’) of not more than \$250,000 and
10 provide management and technical assist-
11 ance to small business concerns as needed;

12 “(vi) to provide certainty for the lend-
13 ing partners that make loans under this
14 subsection and to attract new lenders; and

15 “(vii) to encourage collaboration be-
16 tween mission-oriented and conventional
17 lenders under this subsection in order to
18 support underserved small business con-
19 cerns.

20 “(B) DEFINITIONS.—In this paragraph—

21 “(i) the term ‘covered institution’
22 means—

23 “(I) a development company, as
24 defined in section 103 of the Small
25 Business Investment Act of 1958 (15

1 U.S.C. 662), participating in the 504
2 Loan Guaranty program established
3 under title V of such Act (15 U.S.C.
4 695 et seq.);

5 “(II) a nonprofit intermediary, as
6 defined in subsection (m)(12), partici-
7 pating in the microloan program
8 under subsection (m);

9 “(III) a non-Federally regulated
10 entity certified as a community devel-
11 opment financial institution by the
12 Community Development Financial
13 Institutions Fund established under
14 section 104(a) of the Riegle Commu-
15 nity Development and Regulatory Im-
16 provement Act of 1994 (12 U.S.C.
17 4703(a)); and

18 “(IV) an eligible intermediary, as
19 defined in subsection (l)(1), as in ef-
20 fect on the day before the date of en-
21 actment of this paragraph, that par-
22 ticipated in the Intermediary Lending
23 Pilot Program established under sub-
24 section (l)(2);

1 “(ii) the term ‘existing business’
2 means a small business concern that has
3 been in existence for not less than 2 years
4 on the date on which a loan is made to the
5 small business concern under the program;

6 “(iii) the term ‘new business’ means a
7 small business concern that has been exist-
8 ence for not more than 2 years on the date
9 on which a loan is made to the small busi-
10 ness concern under the program;

11 “(iv) the term ‘program’ means the
12 Community Advantage Loan Program es-
13 tablished under subparagraph (C);

14 “(v) the term ‘Reservist’ means a
15 member of a reserve component of the
16 Armed Forces named in section 10101 of
17 title 10, United States Code;

18 “(vi) the term ‘rural area’ means any
19 county that the Bureau of the Census has
20 defined as mostly rural or completely rural
21 in the most recent decennial census;

22 “(vii) the term ‘service-connected’ has
23 the meaning given the term in section
24 101(16) of title 38, United States Code;

1 “(viii) the term ‘small business con-
2 cern in an underserved market’ means a
3 small business concern—

4 “(I) that is located in—

5 “(aa) a low- to moderate-in-
6 come community;

7 “(bb) a HUBZone;

8 “(cc) a community that has
9 been designated as an empower-
10 ment zone or an enterprise com-
11 munity under section 1391 of the
12 Internal Revenue Code of 1986;

13 “(dd) a community that has
14 been designated as a promise
15 zone by the Secretary of Housing
16 and Urban Development;

17 “(ee) a community that has
18 been designated as a qualified
19 opportunity zone under section
20 1400Z-1 of the Internal Revenue
21 Code of 1986;

22 “(ff) a rural area; or

23 “(gg) any area for which a
24 disaster declaration or determina-
25 tion described in subparagraphs

1 (A), (B), (C), or (E) of sub-
2 section (b)(2) has been made
3 that has not terminated or ex-
4 pired more than 2 years before
5 the date (or later, as determined
6 by the Administrator) on which a
7 loan is made to such concern
8 under the program;

9 “(II) for which more than 50
10 percent of the employees reside in a
11 low- or moderate-income community;

12 “(III) that is a startup or new
13 business;

14 “(IV) owned and controlled by
15 socially and economically disadvan-
16 taged individuals, including Black
17 Americans, Hispanic Americans, Na-
18 tive Americans, Asian Pacific Ameri-
19 cans, and other minorities;

20 “(V) owned and controlled by
21 women;

22 “(VI) owned and controlled by
23 veterans;

24 “(VII) owned and controlled by
25 service-disabled veterans;

1 “(VIII) not less than 51 percent
2 owned and controlled by one or
3 more—

4 “(aa) members of the Armed
5 Forces participating in the Tran-
6 sition Assistance Program of the
7 Department of Defense;

8 “(bb) Reservists;

9 “(cc) spouses of veterans,
10 members of the Armed Forces, or
11 Reservists; or

12 “(dd) surviving spouses of
13 veterans who died on active duty
14 or as a result of a service-con-
15 nected disability; or

16 “(IX) that is eligible to receive a
17 veterans advantage loan;

18 “(ix) the term ‘small business concern
19 owned and controlled by socially and eco-
20 nomically disadvantaged individuals’ has
21 the meaning given the term in section
22 8(d)(3)(C);

23 “(x) the term ‘startup’ means a busi-
24 ness that has not yet opened; and

1 “(xi) the term ‘veterans advantage
2 loan’ means a loan made to a small busi-
3 ness concern under this subsection that is
4 eligible for a waiver of the guarantee fee
5 under paragraph (18) or the yearly fee
6 under paragraph (23) because the small
7 business concern is a concern described in
8 subclause (VI), (VII), or (VIII) of clause
9 (viii).

10 “(C) ESTABLISHMENT.—There is estab-
11 lished a Community Advantage Loan Program
12 under which the Administration may guarantee
13 loans made by covered institutions under this
14 subsection, including loans made to small busi-
15 ness concerns in underserved markets.

16 “(D) PROGRAM LEVELS.—In each of fiscal
17 years 2021 through 2025, not more than 10
18 percent of the number of loans guaranteed
19 under this subsection may be guaranteed under
20 the program.

21 “(E) NEW LENDERS.—

22 “(i) FISCAL YEARS 2021 AND 2022.—In
23 each of fiscal years 2021 and 2022—

1 “(I) not more than 150 covered
2 institutions shall participate in the
3 program; and

4 “(II) the Administrator shall
5 allow for new applicants and give pri-
6 ority to applications submitted by any
7 covered institution that is located in
8 an area with insufficient lending
9 under the program.

10 “(ii) FISCAL YEARS 2023, 2024, AND
11 2025.—

12 “(I) IN GENERAL.—In each of
13 fiscal years 2023, 2024, and 2025—

14 “(aa) except as provided in
15 subelause (II), not more than
16 175 covered institutions shall
17 participate in the program; and

18 “(bb) the Administrator
19 shall allow for new applicants
20 and give priority to applications
21 submitted by any covered institu-
22 tion that is located in an area
23 with insufficient lending under
24 the program.

1 “(II) EXCEPTION FOR FISCAL
2 YEAR 2025.—In fiscal year 2025, not
3 more than 200 covered institutions
4 may participate in the program if—

5 “(aa) after reviewing the re-
6 port under subparagraph
7 (M)(iii), the Administrator deter-
8 mines that not more than 200
9 covered institutions may partici-
10 pate in the program;

11 “(bb) the Administrator no-
12 tifies Congress in writing of the
13 determination of the Adminis-
14 trator under item (aa); and

15 “(cc) not later than July 30,
16 2024, the Administrator notifies
17 the public of the determination of
18 the Administrator under item
19 (aa).

20 “(F) GRANDFATHERING OF EXISTING
21 LENDERS.—Any covered institution that par-
22 ticipated in the Community Advantage Pilot
23 Program of the Administration and is in good
24 standing on the day before the date of enact-
25 ment of this paragraph—

1 “(i) shall retain designation in the
2 program; and

3 “(ii) shall not be required to submit
4 an application to participate in the pro-
5 gram.

6 “(G) REQUIREMENT TO MAKE LOANS TO
7 UNDERSERVED MARKETS.—Not less than 75
8 percent of loans made by a covered institution
9 under the program shall consist of loans made
10 to small business concerns in underserved mar-
11 kets.

12 “(H) MAXIMUM LOAN AMOUNT.—

13 “(i) IN GENERAL.—Except as pro-
14 vided in clause (ii), the maximum loan
15 amount for a loan guaranteed under the
16 program is \$250,000.

17 “(ii) EXCEPTION.—

18 “(I) IN GENERAL.—The Admin-
19 istration may, in the discretion of the
20 Administration, approve a guarantee
21 of a loan under the program that is
22 more than \$250,000 and not more
23 than \$350,000.

24 “(II) NOTIFICATION.—Not later
25 than 2 days after approving the guar-

1 antee of a loan under subclause (I),
2 the Administration shall provide noti-
3 fication of the approval to the covered
4 institution making the loan.

5 “(I) INTEREST RATES.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in clause (ii), the maximum allowable
8 interest rate prescribed by the Administra-
9 tion on any financing made on a deferred
10 basis pursuant to the program shall not
11 exceed the maximum allowable interest
12 rate in effect on September 1, 2018.

13 “(ii) MODIFICATION.—The Adminis-
14 tration shall not modify the maximum al-
15 lowable interest rate described in clause (i)
16 unless the Administration provides the
17 public with an opportunity to comment for
18 a period of not less than 180 days before
19 implementing the modified interest rate.

20 “(J) TRAINING AND TECHNICAL ASSIST-
21 ANCE.—The Administration—

22 “(i) shall in person and online, pro-
23 vide upfront and ongoing training and
24 technical assistance for covered institutions
25 making loans under the program in order

1 to support prudent lending standards and
2 improve the interface between the covered
3 institutions and the Administration;

4 “(ii) shall ensure that the training
5 and technical assistance described in clause
6 (i) is provided for free or at a low-cost;
7 and

8 “(iii) may enter into a contract to
9 provide the training or technical assistance
10 described in clause (i) with an organization
11 with expertise in lending under this sub-
12 section, mission-oriented lending, and lend-
13 ing to underserved markets.

14 “(K) DELEGATED AUTHORITY.—A covered
15 institution is not eligible to receive delegated
16 authority from the Administration under the
17 program until the covered institution makes not
18 less than 7 loans under the program.

19 “(L) REGULATIONS.—

20 “(i) IN GENERAL.—Not later than
21 180 days after the date of enactment of
22 this paragraph and in accordance with the
23 notice and comment procedures under sec-
24 tion 553 of title 5, United States Code, the

1 Administrator shall promulgate regulations
2 to carry out the program, which shall—

3 “(I) outline the requirements for
4 participation by covered institutions in
5 the program;

6 “(II) define performance metrics
7 for covered institutions participating
8 in the program for the first time,
9 which are required to be met in order
10 to continue participating in the pro-
11 gram;

12 “(III) determine the credit score
13 of a small business concern under
14 which the Administration is required
15 to underwrite a loan provided to the
16 small business concern under the pro-
17 gram and the loan may not be made
18 using the delegated authority of a cov-
19 ered institution;

20 “(IV) require each covered insti-
21 tution that sells loans made under the
22 program on the secondary market to
23 establish a loan loss reserve fund,
24 which—

1 “(aa) with respect to cov-
2 ered institutions in good stand-
3 ing, including the covered institu-
4 tions described in subparagraph
5 (F), shall be maintained at a
6 level equal to 3 percent of the
7 outstanding guaranteed portion
8 of the loans; and

9 “(bb) with respect to any
10 other covered institution, shall be
11 maintained at a level equal to 5
12 percent of the outstanding guar-
13 anteed portion of the loans; and

14 “(V) allow the Administrator to
15 require additional amounts to be de-
16 posited into a loan loss reserve fund
17 established by a covered institution
18 under subclause (IV) based on the
19 risk characteristics or performance of
20 the covered institution and the loan
21 portfolio of the covered institution.

22 “(ii) PILOT PROGRAM.—

23 “(I) REVERSION.—Beginning on
24 the date of enactment of this para-
25 graph and ending on the day before

1 the date on which the regulations pro-
2 mulgated by the Administrator under
3 clause (i) take effect, the Adminis-
4 trator may only carry out the Commu-
5 nity Advantage Pilot Program of the
6 Administration based on applicable
7 program guidelines, requirements, and
8 other policy in effect on September 1,
9 2018, except that the definition of un-
10 derserved market shall include—

11 “(aa) a community and an
12 area described in items (ee) and
13 (ff), respectively, of subpara-
14 graph (B)(viii)(I); and

15 “(bb) small business con-
16 cerns described in clauses (IV)
17 and (V) of subparagraph
18 (B)(viii).

19 “(II) TERMINATION.—Beginning
20 on the date on which the regulations
21 promulgated by the Administrator
22 under clause (i) take effect, the Ad-
23 ministrator may not carry out the
24 Community Advantage Pilot Program
25 of the Administration.

1 “(M) REPORTING.—

2 “(i) WEEKLY REPORTS.—

3 “(I) IN GENERAL.—The Admin-
4 istration shall report on the website of
5 the Administration, as part of the
6 weekly reports on lending approvals
7 under this subsection—

8 “(aa) on and after the date
9 of enactment of this paragraph
10 until the date on which the regu-
11 lations promulgated under sub-
12 paragraph (L)(i) take effect, the
13 number and dollar amount of
14 loans guaranteed under the Com-
15 munity Advantage Pilot Program
16 of the Administration; and

17 “(bb) on and after the date
18 on which the Administration be-
19 gins to approve loans under the
20 program, the number and dollar
21 amount of loans guaranteed
22 under the program.

23 “(II) SEPARATE ACCOUNTING.—
24 The number and dollar amount of
25 loans reported in a weekly report

1 under subclause (I) for loans guaran-
2 teed under the Community Advantage
3 Pilot Program of the Administration
4 and under the program shall include a
5 breakdown by the categories of race,
6 ethnicity, and gender of the owners of
7 the small business concerns.

8 “(ii) ANNUAL REPORTS.—

9 “(I) IN GENERAL.—For each of
10 the first 5 fiscal years in which the
11 program is in effect, the Administra-
12 tion shall submit to the Committee on
13 Small Business and Entrepreneurship
14 of the Senate and the Committee on
15 Small Business of the House of Rep-
16 resentatives, and make publicly avail-
17 able on the internet, information
18 about loans provided under the pro-
19 gram and under the Community Ad-
20 vantage Pilot Program of the Admin-
21 istration.

22 “(II) CONTENTS.—Each report
23 submitted and made publicly available
24 under subclause (I) shall include—

1 “(aa) the number and dollar
2 amounts of loans provided to
3 small business concerns under
4 the program and under the Com-
5 munity Advantage Pilot Program
6 of the Administration, including
7 a breakdown by—

8 “(AA) the gender of the
9 owners of the small business
10 concern;

11 “(BB) the race and
12 ethnicity of the owners of
13 the small business concern,
14 disaggregated in a manner
15 that captures all the racial
16 groups specified in the
17 American Community Sur-
18 vey conducted by the Bu-
19 reau of the Census;

20 “(CC) whether the
21 small business concern is lo-
22 cated in an urban or rural
23 area; and

24 “(DD) whether the
25 small business concern is a

1 startup, an existing busi-
2 ness, or a new business, as
3 provided in the weekly re-
4 ports on lending approvals
5 under this subsection;

6 “(bb) the proportion of loans
7 described in item (aa) compared
8 to—

9 “(AA) other 7(a) loans
10 of any amount;

11 “(BB) other 7(a) loans
12 of similar amounts;

13 “(CC) express loans
14 provided under paragraph
15 (31) of similar amounts; and

16 “(DD) other 7(a) loans
17 of similar amounts provided
18 to small business concerns
19 in underserved markets;

20 “(cc) a comparison of the
21 number and dollar amounts of
22 loans provided to small business
23 concerns under the program,
24 under the Community Advantage
25 Pilot Program of the Administra-

1 tion, and under each category of
2 loans described in item (bb), bro-
3 ken down by—

4 “(AA) loans of not
5 more than \$50,000;

6 “(BB) loans of more
7 than \$50,000 and not more
8 than \$150,000;

9 “(CC) loans of more
10 than \$150,000 and not more
11 than \$250,000; and

12 “(DD) loans of more
13 than \$250,000 and not more
14 than \$350,000;

15 “(dd) the number and dollar
16 amounts of loans provided to
17 small business concerns under
18 the program and under the Com-
19 munity Advantage Pilot Program
20 of the Administration by State,
21 and the jobs created or retained
22 within each State;

23 “(ee) with respect to loans
24 provided to small business con-
25 cerns under the program and

1 under the Community Advantage
2 Pilot Program of the Administra-
3 tion—

4 “(AA) the performance
5 of the loans provided by
6 each type of covered institu-
7 tion;

8 “(BB) the performance
9 of the loans broken down by
10 loan size;

11 “(CC) the performance
12 of the loans broken down by
13 whether the credit score of
14 the borrower is above, below,
15 or equal to 140;

16 “(DD) the predictive
17 purchase rate of the loans;

18 “(EE) the early default
19 rate of the loans;

20 “(FF) the 12-month
21 default rate of the loans;

22 “(GG) the cumulative
23 default rate for the loans for
24 the 5-year period preceding
25 the report;

1 “(HH) the charge-off
2 rates of the loans;

3 “(II) the charge-off
4 rates as a percent of the un-
5 paid principal balance as in
6 table 9 of the annual budget
7 submitted by the Adminis-
8 tration; and

9 “(JJ) the purchase
10 rates as a percent of the un-
11 paid principal balance as in
12 table 8 of the annual budget
13 submitted by the Adminis-
14 tration;

15 “(ff) a list of covered insti-
16 tutions participating in the pro-
17 gram and the Community Advan-
18 tage Pilot Program of the Ad-
19 ministration, including—

20 “(AA) the name, loca-
21 tion, and contact informa-
22 tion, such as the website and
23 telephone number, of each
24 covered institution; and

1 “(BB) a breakdown by
2 the number and dollar
3 amount of the loans ap-
4 proved for small business
5 concerns; and

6 “(gg) the benchmarks estab-
7 lished by the working group
8 under subparagraph (N)(i).

9 “(III) TIMING.—An annual re-
10 port required under this clause
11 shall—

12 “(aa) be submitted and
13 made publicly available not later
14 than October 15 of each year;
15 and

16 “(bb) cover the lending ac-
17 tivity for the fiscal year that
18 ended on September 30 of that
19 same year.

20 “(iii) GAO REPORT.—Not later than
21 3 years after the date of enactment of this
22 paragraph, the Comptroller General of the
23 United States shall submit to the Adminis-
24 trator, the Committee on Small Business
25 and Entrepreneurship of the Senate, and

1 the Committee on Small Business of the
2 House of Representatives a report—

3 “(I) assessing—

4 “(aa) the extent to which
5 the program fulfills the require-
6 ments of this paragraph; and

7 “(bb) the performance of
8 covered institutions participating
9 in the program; and

10 “(II) providing recommendations
11 on the administration of the program
12 and the findings under items (aa) and
13 (bb) of subclause (I).

14 “(N) WORKING GROUP.—

15 “(i) IN GENERAL.—Not later than 90
16 days after the date of enactment of this
17 paragraph, the Administrator shall estab-
18 lish a Community Advantage Working
19 Group, which shall—

20 “(I) include—

21 “(aa) a geographically di-
22 verse representation of members
23 from among covered institutions
24 participating in the program; and

1 “(bb) representatives from
2 the Office of Capital Access of
3 the Administration, including the
4 Office of Credit Risk Manage-
5 ment, the Office of Financial As-
6 sistance, and the Office of Eco-
7 nomic Opportunity;

8 “(II) develop recommendations
9 on how the Administration can effec-
10 tively manage, support, and promote
11 the program and the mission of the
12 program;

13 “(III) establish metrics of suc-
14 cess and benchmarks that reflect the
15 mission and population served by cov-
16 ered institutions under the program,
17 which the Administration shall use to
18 evaluate the performance of those cov-
19 ered institutions; and

20 “(IV) institute regular and sus-
21 tainable systems of communication be-
22 tween the Administration and covered
23 institutions participating in the pro-
24 gram.

1 “(ii) REPORT.—Not later than 180
2 days after the date of enactment of this
3 paragraph, the Administrator shall submit
4 to the Committee on Small Business and
5 Entrepreneurship of the Senate and the
6 Committee on Small Business of the
7 House of Representatives a report that in-
8 cludes—

9 “(I) the recommendations of the
10 Community Advantage Working
11 Group established under clause (i);
12 and

13 “(II) a recommended plan and
14 timeline for implementation of those
15 recommendations.

16 “(O) TERMINATION.—The authority to
17 carry out the program under this paragraph
18 shall terminate on September 30, 2025.”.