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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMUNITY ADVANTAGE LOAN PROGRAM.

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

“(37) COMMUNITY ADVANTAGE LOAN PROGRAM.—
“(A) PURPOSES.—The purposes of the Community Advantage Loan Program are—

“(i) to create a mission-oriented loan guarantee program that builds on the demonstrated success of the Community Advantage Pilot Program of the Administration, as established in 2011, to reach more underserved small business concerns;

“(ii) to increase lending to small business concerns in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals, women, and startups;

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

“(iv) to help underserved small business concerns become bankable by utilizing the small-dollar financing and business
support experience of mission-oriented lenders;

“(v) to allow certain mission-oriented lenders, primarily nonprofit financial intermediaries focused on economic development in underserved markets, to access guarantees for loans under this subsection (in this paragraph referred to as ‘7(a) loans’) of not more than $250,000 and provide management and technical assistance to small business concerns as needed;

“(vi) to provide certainty for the lending partners that make loans under this subsection and to attract new lenders; and

“(vii) to encourage collaboration between mission-oriented and conventional lenders under this subsection in order to support underserved small business concerns.

“(B) DEFINITIONS.—In this paragraph—

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

“(I) a development company, as defined in section 103 of the Small Business Investment Act of 1958 (15
U.S.C. 662), participating in the 504 Loan Guaranty program established under title V of such Act (15 U.S.C. 695 et seq.);

“(II) a nonprofit intermediary, as defined in subsection (m)(12), participating in the microloan program under subsection (m);

“(III) a non-Federally regulated entity certified as a community development financial institution by the Community Development Financial Institutions Fund established under section 104(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703(a)); and

“(IV) an eligible intermediary, as defined in subsection (l)(1), as in effect on the day before the date of enactment of this paragraph, that participated in the Intermediary Lending Pilot Program established under subsection (l)(2);
“(ii) the term ‘existing business’ means a small business concern that has been in existence for not less than 2 years on the date on which a loan is made to the small business concern under the program;

“(iii) the term ‘new business’ means a small business concern that has been existence for not more than 2 years on the date on which a loan is made to the small business concern under the program;

“(iv) the term ‘program’ means the Community Advantage Loan Program established under subparagraph (C);

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

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

“(vii) the term ‘service-connected’ has the meaning given the term in section 101(16) of title 38, United States Code;
“(viii) the term ‘small business concern in an underserved market’ means a small business concern—

“(I) that is located in—

“(aa) a low- to moderate-income community;

“(bb) a HUBZone;

“(cc) a community that has been designated as an empowerment zone or an enterprise community under section 1391 of the Internal Revenue Code of 1986;

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

“(ee) a community that has been designated as a qualified opportunity zone under section 1400Z–1 of the Internal Revenue Code of 1986;

“(ff) a rural area; or

“(gg) any area for which a disaster declaration or determination described in subparagraphs
(A), (B), (C), or (E) of subsection (b)(2) has been made that has not terminated or expired more than 2 years before the date (or later, as determined by the Administrator) on which a loan is made to such concern under the program;

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

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

“(IV) owned and controlled by socially and economically disadvantaged individuals, including Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other minorities;

“(V) owned and controlled by women;

“(VI) owned and controlled by veterans;

“(VII) owned and controlled by service-disabled veterans;
“(VIII) not less than 51 percent owned and controlled by one or more—

“(aa) members of the Armed Forces participating in the Transition Assistance Program of the Department of Defense;

“(bb) Reservists;

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

“(dd) surviving spouses of veterans who died on active duty or as a result of a service-connected disability; or

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

“(ix) the term ‘small business concern owned and controlled by socially and economically disadvantaged individuals’ has the meaning given the term in section 8(d)(3)(C);

“(x) the term ‘startup’ means a business that has not yet opened; and
“(xi) the term ‘veterans advantage loan’ means a loan made to a small business concern under this subsection that is eligible for a waiver of the guarantee fee under paragraph (18) or the yearly fee under paragraph (23) because the small business concern is a concern described in subclause (VI), (VII), or (VIII) of clause (viii).

“(C) ESTABLISHMENT.—There is established a Community Advantage Loan Program under which the Administration may guarantee loans made by covered institutions under this subsection, including loans made to small business concerns in underserved markets.

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

“(E) NEW LENDERS.—

““(i) FISCAL YEARS 2021 AND 2022.—In each of fiscal years 2021 and 2022—
“(I) not more than 150 covered institutions shall participate in the program; and

“(II) the Administrator shall allow for new applicants and give priority to applications submitted by any covered institution that is located in an area with insufficient lending under the program.

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

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

“(aa) except as provided in subclause (II), not more than 175 covered institutions shall participate in the program; and

“(bb) the Administrator shall allow for new applicants and give priority to applications submitted by any covered institution that is located in an area with insufficient lending under the program.
“(II) Exception for Fiscal Year 2025.—In fiscal year 2025, not more than 200 covered institutions may participate in the program if—

“(aa) after reviewing the report under subparagraph (M)(iii), the Administrator determines that not more than 200 covered institutions may participate in the program;

“(bb) the Administrator notifies Congress in writing of the determination of the Administrator under item (aa); and

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

“(F) Grandfathering of Existing Lenders.—Any covered institution that participated in the Community Advantage Pilot Program of the Administration and is in good standing on the day before the date of enactment of this paragraph—
“(i) shall retain designation in the program; and

“(ii) shall not be required to submit an application to participate in the program.

“(G) Requirement to make loans to underserved markets.—Not less than 75 percent of loans made by a covered institution under the program shall consist of loans made to small business concerns in underserved markets.

“(H) Maximum loan amount.—

“(i) In general.—Except as provided in clause (ii), the maximum loan amount for a loan guaranteed under the program is $250,000.

“(ii) Exception.—

“(I) In general.—The Administration may, in the discretion of the Administration, approve a guarantee of a loan under the program that is more than $250,000 and not more than $350,000.

“(II) Notification.—Not later than 2 days after approving the guar-
antee of a loan under subclause (I),
the Administration shall provide noti-
fication of the approval to the covered
institution making the loan.

“(I) INTEREST RATES.—

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

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

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

“(i) shall in person and online, pro-
vide upfront and ongoing training and
technical assistance for covered institutions
making loans under the program in order
to support prudent lending standards and improve the interface between the covered institutions and the Administration;

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

“(iii) may enter into a contract to provide the training or technical assistance described in clause (i) with an organization with expertise in lending under this subsection, mission-oriented lending, and lending to underserved markets.

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

“(L) REGULATIONS.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph and in accordance with the notice and comment procedures under section 553 of title 5, United States Code, the
Administrator shall promulgate regulations to carry out the program, which shall—

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

“(II) define performance metrics for covered institutions participating in the program for the first time, which are required to be met in order to continue participating in the program;

“(III) determine the credit score of a small business concern under which the Administration is required to underwrite a loan provided to the small business concern under the program and the loan may not be made using the delegated authority of a covered institution;

“(IV) require each covered institution that sells loans made under the program on the secondary market to establish a loan loss reserve fund, which—
“(aa) with respect to covered institutions in good standing, including the covered institutions described in subparagraph (F), shall be maintained at a level equal to 3 percent of the outstanding guaranteed portion of the loans; and

“(bb) with respect to any other covered institution, shall be maintained at a level equal to 5 percent of the outstanding guaranteed portion of the loans; and

“(V) allow the Administrator to require additional amounts to be deposited into a loan loss reserve fund established by a covered institution under subclause (IV) based on the risk characteristics or performance of the covered institution and the loan portfolio of the covered institution.

“(ii) PILOT PROGRAM.—

“(I) REVERSION.—Beginning on the date of enactment of this paragraph and ending on the day before
the date on which the regulations promulgated by the Administrator under clause (i) take effect, the Administrator may only carry out the Community Advantage Pilot Program of the Administration based on applicable program guidelines, requirements, and other policy in effect on September 1, 2018, except that the definition of underserved market shall include—

“(aa) a community and an area described in items (ee) and (ff), respectively, of subparagraph (B)(viii)(I); and

“(bb) small business concerns described in clauses (IV) and (V) of subparagraph (B)(viii).

“(II) TERMINATION.—Beginning on the date on which the regulations promulgated by the Administrator under clause (i) take effect, the Administrator may not carry out the Community Advantage Pilot Program of the Administration.
“(M) REPORTING.—

“(i) WEEKLY REPORTS.—

“(I) IN GENERAL.—The Administration shall report on the website of the Administration, as part of the weekly reports on lending approvals under this subsection—

“(aa) on and after the date of enactment of this paragraph until the date on which the regulations promulgated under subparagraph (L)(i) take effect, the number and dollar amount of loans guaranteed under the Community Advantage Pilot Program of the Administration; and

“(bb) on and after the date on which the Administration begins to approve loans under the program, the number and dollar amount of loans guaranteed under the program.

“(II) SEPARATE ACCOUNTING.—

The number and dollar amount of loans reported in a weekly report
under subclause (I) for loans guaranteed under the Community Advantage Pilot Program of the Administration and under the program shall include a breakdown by the categories of race, ethnicity, and gender of the owners of the small business concerns.

“(ii) ANNUAL REPORTS.—

“(I) IN GENERAL.—For each of the first 5 fiscal years in which the program is in effect, the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, and make publicly available on the internet, information about loans provided under the program and under the Community Advantage Pilot Program of the Administration.

“(II) CONTENTS.—Each report submitted and made publicly available under subclause (I) shall include—
“(aa) the number and dollar amounts of loans provided to small business concerns under the program and under the Community Advantage Pilot Program of the Administration, including a breakdown by—

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

“(BB) the race and ethnicity of the owners of the small business concern, disaggregated in a manner that captures all the racial groups specified in the American Community Survey conducted by the Bureau of the Census;

“(CC) whether the small business concern is located in an urban or rural area; and

“(DD) whether the small business concern is a
startup, an existing business, or a new business, as provided in the weekly reports on lending approvals under this subsection;

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

“(AA) other 7(a) loans of any amount;

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

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

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

“(ee) a comparison of the number and dollar amounts of loans provided to small business concerns under the program, under the Community Advantage Pilot Program of the Administra-
tion, and under each category of loans described in item (bb), broken down by—

“(AA) loans of not more than $50,000;

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

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

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

“(dd) the number and dollar amounts of loans provided to small business concerns under the program and under the Community Advantage Pilot Program of the Administration by State, and the jobs created or retained within each State;

“(ee) with respect to loans provided to small business concerns under the program and
under the Community Advantage Pilot Program of the Administration—

“(AA) the performance of the loans provided by each type of covered institution;

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

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

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

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

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

“(GG) the cumulative default rate for the loans for the 5-year period preceding the report;
“(HH) the charge-off rates of the loans;

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

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

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

“(AA) the name, loca-
tion, and contact informa-
tion, such as the website and telephone number, of each covered institution; and
“(BB) a breakdown by the number and dollar amount of the loans approved for small business concerns; and

“(gg) the benchmarks established by the working group under subparagraph (N)(i).

“(III) TIMING.—An annual report required under this clause shall—

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

“(bb) cover the lending activity for the fiscal year that ended on September 30 of that same year.

“(iii) GAO REPORT.—Not later than 3 years after the date of enactment of this paragraph, the Comptroller General of the United States shall submit to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and
the Committee on Small Business of the House of Representatives a report—

“(I) assessing—

“(aa) the extent to which the program fulfills the requirements of this paragraph; and

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

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

“(N) WORKING GROUP.—

“(i) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall establish a Community Advantage Working Group, which shall—

“(I) include—

“(aa) a geographically diverse representation of members from among covered institutions participating in the program; and
“(bb) representatives from the Office of Capital Access of the Administration, including the Office of Credit Risk Management, the Office of Financial Assistance, and the Office of Economic Opportunity;

“(II) develop recommendations on how the Administration can effectively manage, support, and promote the program and the mission of the program;

“(III) establish metrics of success and benchmarks that reflect the mission and population served by covered institutions under the program, which the Administration shall use to evaluate the performance of those covered institutions; and

“(IV) institute regular and sustainable systems of communication between the Administration and covered institutions participating in the program.
“(ii) REPORT.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

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

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

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