

Suspend the Rules and Pass the Bill, H.R. 8211, With an Amendment

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

116TH CONGRESS
2^D SESSION

H. R. 8211

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 11, 2020

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

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “504 Modernization and
5 Small Manufacturer Enhancement Act of 2020”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(P) expansion of small business concerns
25 with 10 or fewer employees.”; and

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

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

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

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

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

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

14 (A) in paragraph (2)(A)—

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

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

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

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

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

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

7 “(b) CLOSING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(d) DEFINITIONS.—In this section—

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

10 “(2) the term ‘covered loan’—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **SEC. 7. LEASING RULES FOR NEW FACILITIES AND EXIST-**
23 **ING BUILDINGS.**

24 (a) IN GENERAL.—Section 502(a) of the Small Busi-
25 ness Investment Act of 1958, as designated by section 3,

1 is amended by striking paragraphs (4) and (5) and insert-
2 ing the following new paragraphs:

3 “(4) NEW FACILITIES.—

4 “(A) IN GENERAL.—With respect to a
5 project to construct a new facility, an assisted
6 small business concern may permanently lease
7 not more than 20 percent of the project if such
8 concern—

9 “(i) permanently occupies and uses
10 not less than 60 percent of the project;

11 “(ii) plans to occupy and use an addi-
12 tional portion of the project that is not
13 permanently leased not later than 3 years
14 after receipt of assistance under this sec-
15 tion; and

16 “(iii) plans to permanently occupy and
17 use 80 percent of the project not later than
18 10 years after receipt of such assistance.

19 “(B) SMALL MANUFACTURERS.—With re-
20 spect to an assisted small business concern that
21 is a small manufacturer (as defined in section
22 501(e)(6)), subparagraph (A)(i) shall apply
23 with ‘50 percent’ substituted for ‘60 percent’.

1 “(5) EXISTING BUILDINGS.—With respect to a
2 project to acquire, renovate, or reconstruct an exist-
3 ing building, the following shall apply:

4 “(A) OCCUPANCY REQUIREMENTS.—The
5 assisted small business concern may perma-
6 nently lease not more than 50 percent of the
7 project if the concern permanently occupies and
8 uses not less than 50 percent of the project.

9 “(B) EXCEPTION.—The assisted small
10 business concern may permanently lease more
11 than 50 percent of the project if—

12 “(i) such concern—

13 “(I) has occupied and used the
14 existing building for a consecutive 12-
15 month period before submitting an
16 application for assistance under this
17 section;

18 “(II) agrees to permanently use
19 less than 50 percent of the existing
20 building and permanently lease more
21 than 50 percent for a consecutive 12-
22 month period after receiving such as-
23 sistance; and

1 “(III) affirms that the existing
2 building is appropriate for current
3 and reasonably anticipated needs; and
4 “(ii) the development company assist-
5 ing such project—

6 “(I) provides written notice to
7 the Administrator on the date on
8 which the development company closes
9 the loan for such project; and

10 “(II) once each year during the
11 first 5 years of the loan, and once
12 every 2 years for the remainder of the
13 loan—

14 “(aa) conducts an examina-
15 tion of the assisted small busi-
16 ness concern to ensure the con-
17 cern is not a real estate develop-
18 ment business; and

19 “(bb) files with the Adminis-
20 trator an anti-investor certifi-
21 cation signed by the development
22 company and the assisted small
23 business concern.

24 “(C) LEASE TERM.—Any residential lease
25 made under this paragraph shall be for a term

1 of not more than 1 year, and any commercial
2 lease made under this paragraph shall be for a
3 term of not more than 5 years.”.

4 (b) REPORT.—Not later than 5 years after the date
5 of the enactment of this Act, the Administrator of the
6 Small Business Administration shall submit to Congress
7 a report analyzing the impact of the amendments made
8 by this section on access to capital for small business con-
9 cerns (as defined under section 3 of the Small Business
10 Act (15 U.S.C. 632)), and recommending whether similar
11 notice, examination, and certifications requirements
12 should be made to the program established under section
13 7(a) of the Small Business Act (15 U.S.C. 636(a)).

14 **SEC. 8. LOW-INTEREST REFINANCING UNDER THE LOCAL**
15 **DEVELOPMENT BUSINESS LOAN PROGRAM.**

16 (a) EXPANSIONS.—Section 502(a)(7)(B) of the Small
17 Business Investment Act of 1958, as designated by section
18 3 and amended by section 5(d), is further amended—

- 19 (1) in the matter preceding clause (i), by strik-
20 ing “50 percent” and inserting “100 percent”; and
21 (2) in clause (v), by adding “and” at the end;
22 (3) by striking clause (vi); and
23 (4) by redesignating clause (vii) as clause (vi).

1 (b) REPEAL.—Section 521(a) of division E of the
2 Consolidated Appropriations Act, 2016 (Public Law 114–
3 113; 129 Stat. 2463; 15 U.S.C. 696 note) is repealed.

4 (c) REFINANCING.—Section 502(a)(7) of the Small
5 Business Investment Act of 1958, as designated by section
6 3, is amended by adding at the end the following new sub-
7 paragraph:

8 “(C) REFINANCING NOT INVOLVING EX-
9 PANSIONS.—

10 “(i) DEFINITIONS.—In this subpara-
11 graph—

12 “(I) the term ‘borrower’ means a
13 small business concern that submits
14 an application to a development com-
15 pany for financing under this sub-
16 paragraph;

17 “(II) the term ‘eligible fixed
18 asset’ means tangible property relat-
19 ing to which the Administrator may
20 provide financing under this section;
21 and

22 “(III) the term ‘qualified debt’
23 means indebtedness that—

24 “(aa) was incurred not less
25 than 6 months before the date of

1 the application for assistance
2 under this subparagraph;
3 “(bb) is a commercial loan;
4 “(cc) the proceeds of which
5 were used to acquire an eligible
6 fixed asset;
7 “(dd) was incurred for the
8 benefit of the small business con-
9 cern; and
10 “(ee) is collateralized by eli-
11 gible fixed assets; and
12 “(ii) AUTHORITY.—A project that
13 does not involve the expansion of a small
14 business concern may include the refi-
15 nancing of qualified debt if—
16 “(I) the amount of the financing
17 is not more than 90 percent of the
18 value of the collateral for the financ-
19 ing, except that, if the appraised value
20 of the eligible fixed assets serving as
21 collateral for the financing is less than
22 the amount equal to 125 percent of
23 the amount of the financing, the bor-
24 rower may provide additional cash or

1 other collateral to eliminate any defi-
2 ciency;

3 “(II) the borrower has been in
4 operation for all of the 2-year period
5 ending on the date the loan applica-
6 tion is submitted; and

7 “(III) for a financing for which
8 the Administrator determines there
9 will be an additional cost attributable
10 to the refinancing of the qualified
11 debt, the borrower agrees to pay a fee
12 in an amount equal to the anticipated
13 additional cost.

14 “(iii) FINANCING FOR BUSINESS EX-
15 PENSES.—

16 “(I) FINANCING FOR BUSINESS
17 EXPENSES.—The Administrator may
18 provide financing to a borrower that
19 receives financing that includes a refi-
20 nancing of qualified debt under clause
21 (ii), in addition to the refinancing
22 under clause (ii), to be used solely for
23 the payment of business expenses.

1 “(II) APPLICATION FOR FINANC-
2 ING.— An application for financing
3 under subclause (I) shall include—

4 “(aa) a specific description
5 of the expenses for which the ad-
6 ditional financing is requested;
7 and

8 “(bb) an itemization of the
9 amount of each expense.

10 “(III) CONDITION ON ADDI-
11 TIONAL FINANCING.—A borrower may
12 not use any part of the financing
13 under this clause for non-business
14 purposes.

15 “(iv) LOANS BASED ON JOBS.—

16 “(I) JOB CREATION AND RETEN-
17 TION GOALS.—

18 “(aa) IN GENERAL.—The
19 Administrator may provide fi-
20 nancing under this subparagraph
21 for a borrower that meets the job
22 creation goals under subsection
23 (d) or (e) of section 501.

24 “(bb) ALTERNATE JOB RE-
25 TENTION GOAL.—The Adminis-

1 trator may provide financing
2 under this subparagraph to a
3 borrower that does not meet the
4 goals described in item (aa) in an
5 amount that is not more than the
6 product obtained by multiplying
7 the number of employees of the
8 borrower by \$75,000.

9 “(II) NUMBER OF EMPLOYEES.—
10 For purposes of subclause (I), the
11 number of employees of a borrower is
12 equal to the sum of—

13 “(aa) the number of full-
14 time employees of the borrower
15 on the date on which the bor-
16 rower applies for a loan under
17 this subparagraph; and

18 “(bb) the product obtained
19 by multiplying—

20 “(AA) the number of
21 part-time employees of the
22 borrower on the date on
23 which the borrower applies
24 for a loan under this sub-
25 paragraph; by

1 “(BB) the quotient ob-
2 tained by dividing the aver-
3 age number of hours each
4 part time employee of the
5 borrower works each week
6 by 40.

7 “(v) NONDELEGATION.—Notwith-
8 standing section 508(e), the Administrator
9 may not permit a premier certified lender
10 to approve or disapprove an application for
11 assistance under this subparagraph.

12 “(vi) TOTAL AMOUNT OF LOANS.—
13 The Administrator may provide not more
14 than a total of \$7,500,000,000 of financ-
15 ing under this subparagraph for each fiscal
16 year.”.