

116TH CONGRESS
2D SESSION

S. 4014

To provide for supplemental loans under the Paycheck Protection Program.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2020

Mr. CARDIN (for himself, Mr. COONS, Mrs. SHAHEEN, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To provide for supplemental loans under the Paycheck Protection 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. SHORT TITLE.**

4 This Act may be cited as the “Prioritized Paycheck
5 Protection Program Act” or the “P4 Act”.

6 **SEC. 2. PAYCHECK PROTECTION PROGRAM IMPROVE-**
7 **MENTS.**

8 (a) EXTENSION FOR CERTAIN BUSINESS CON-
9 CERNS.—Section 7(a)(36)(B) of the Small Business Act
10 (15 U.S.C. 636(a)(36)(B)) is amended—

1 (1) by striking “Except” and inserting the fol-
2 lowing:

3 “(i) IN GENERAL.—Except”; and

4 (2) by adding at the end the following:

5 “(ii) SUPPLEMENTAL PPP LOANS.—

6 “(I) DEFINITIONS.—In this
7 clause—

8 “(aa) the terms ‘exchange’,
9 ‘issuer’, and ‘security’ have the
10 meanings given such terms in
11 section 3(a) of the Securities Ex-
12 change Act of 1934 (15 U.S.C.
13 78c(a));

14 “(bb) the term ‘gross re-
15 ceipts’ means gross receipts with-
16 in the meaning of section 448(c)
17 of the Internal Revenue Code of
18 1986;

19 “(cc) the term ‘national se-
20 curities exchange’ means an ex-
21 change registered as a national
22 securities exchange under section
23 6 of the Securities Exchange Act
24 of 1934 (15 U.S.C. 78f);

1 “(dd) the term ‘publicly
2 traded entity’ means an issuer,
3 the securities of which are listed
4 on a national securities exchange;

5 “(ee) the term ‘smaller con-
6 cern’ means an eligible recipient
7 that—

8 “(AA) has not more
9 than 100 employees;

10 “(BB) operates under a
11 sole proprietorship or as an
12 independent contractor; or

13 “(CC) is an eligible
14 self-employed individual; and

15 “(ff) the term ‘significant
16 loss in revenue’ means that, due
17 to the impact of COVID-19—

18 “(AA) the gross re-
19 cepts of the eligible recipi-
20 ent during the first or sec-
21 ond calendar quarter of
22 2020 are less than 50 per-
23 cent of the gross receipts of
24 the eligible recipient during

the same calendar quarter in
2019;

“(BB) if the eligible recipient was not in business on April 1, 2019, the gross receipts of the eligible recipient during any 2-month period during the first 2 calendar quarters of 2020 are less than 50 percent of the amount of the gross receipts of the eligible recipient during any prior 2-month period during the first 2 calendar quarters of 2020; or

“(CC) if the eligible recipient is seasonal employer, as determined by the Administrator, the gross receipts of the eligible recipient during any 2-month period during the first 2 calendar quarters of 2020 are less than 50 percent of the amount of the gross receipts

1 of the eligible recipient dur-
2 ing the same 2-month period
3 in 2019.

4 “(II) AUTHORITY.—Except as
5 otherwise provided in this clause, for
6 an eligible recipient that has received
7 a covered loan under clause (i), the
8 Administrator may guarantee a single
9 supplemental covered loan to the eligi-
10 ble recipient under the same terms,
11 conditions, and processes as a covered
12 loan made under clause (i).

13 “(III) APPLICATION DEAD-
14 LINE.—An eligible recipient shall sub-
15 mit an application for a supplemental
16 covered loan under this clause not
17 later than October 1, 2020, or such
18 later date as the Administrator deter-
19 mines appropriate.

20 “(IV) CHOICE OF LENDER.—An
21 eligible recipient may apply for a sup-
22 plemental covered loan under this
23 clause with the lender that made the
24 covered loan under clause (i) to the el-
25 igible recipient or another lender.

1 “(V) ELIGIBILITY.—

2 “(aa) IN GENERAL.—A sup-
3 plemental covered loan under this
4 clause—

5 “(AA) may be made to
6 an eligible recipient that is a
7 smaller concern, has had a
8 significant loss in revenue,
9 and has used, or is expend-
10 ing funds at a rate that the
11 eligible recipient will use on
12 or before the expected date
13 of the disbursement of the
14 supplemental covered loan
15 under this clause, the full
16 amount of the covered loan
17 received under clause (i);
18 and

19 “(BB) may not be
20 made to a publicly traded
21 entity.

22 “(bb) BUSINESS CONCERNS
23 WITH MORE THAN 1 PHYSICAL
24 LOCATION.—

1 “(AA) IN GENERAL.—
2 For purposes of a supple-
3 mental covered loan under
4 this clause, subparagraph
5 (D)(iii) shall be applied by
6 substituting ‘not more than
7 100 employees per physical
8 location’ for ‘not more than
9 500 employees per physical
10 location’.

11 “(BB) LIMIT FOR MUL-
12 TIPLE LOCATIONS.—For an
13 eligible recipient with more
14 than 1 physical location, the
15 total amount of all supple-
16 mental covered loans under
17 this clause to the eligible re-
18 cipient shall not be more
19 than \$2,000,000.

20 “(VI) MAXIMUM AMOUNT FOR
21 SUPPLEMENTAL PPP.—The maximum
22 amount of a supplemental covered
23 loan under this clause is the lesser
24 of—

1 “(aa) the product obtained
2 by multiplying—

3 “(AA) the average total
4 monthly payments for pay-
5 roll costs by the eligible re-
6 cipient used to determine
7 the maximum amount of the
8 covered loan under clause (i)
9 made to the eligible recipient
10 under this paragraph; by

11 “(BB) 2.5; or
12 “(bb) \$2,000,000.

13 “(VII) EXCEPTION FROM CER-
14 TAIN CERTIFICATION REQUIRE-
15 MENTS.—An eligible recipient apply-
16 ing for a supplemental covered loan
17 under this clause shall not be required
18 to make the certification described in
19 subclauses (III) or (IV) of subpara-
20 graph (G)(i).

21 “(VIII) REIMBURSEMENT FOR
22 PROCESSING SUPPLEMENTAL PPP.—
23 For a supplemental covered loan
24 under this clause of not more than
25 \$50,000, the reimbursement under

1 subparagraph (P)(I) by the Adminis-
2 trator shall not be less than \$2,500.

3 “(iii) PRIORITY FOR SMALLEST RE-
4 CIPIENTS.—

5 “(I) APPLICATION PROC-
6 ESSING.—In processing applications
7 to guarantee covered loans, the Ad-
8 ministrators shall, taking into account
9 the sense of the Senate on giving pri-
10 ority to underserved and rural bor-
11 rowers under subparagraph (P)(iv),
12 prioritize the processing of applica-
13 tions to guarantee covered loans
14 under clause (i) or (ii) to eligible re-
15 cipients that have not more than 10
16 employees.

17 “(II) FUNDING PRIORITY.—The
18 Administrator shall ensure that—

19 “(aa) of the unobligated bal-
20 ances available for covered loans
21 on the date of enactment of the
22 Prioritized Paycheck Protection
23 Program Act, not less than the
24 lesser of 20 percent of such un-
25 obligated balances or

1 \$25,000,000,000 is used for
 2 guaranteeing covered loans under
 3 clause (i) or (ii) to eligible recipi-
 4 ents that have not more than 10
 5 employees; and

6 “(bb) to the extent addi-
 7 tional amounts are made avail-
 8 able for covered loans after the
 9 date of enactment of the
 10 Prioritized Paycheck Protection
 11 Program Act, not less than the
 12 lesser of 20 percent of the sum of
 13 the unobligated balances de-
 14 scribed in subitem (AA) and such
 15 additional amounts or
 16 \$25,000,000,000 is used for
 17 guaranteeing covered loans under
 18 clause (i) or (ii) to eligible recipi-
 19 ents that have not more than 10
 20 employees.”.

21 (b) COVERED PERIODS.—

22 (1) AUTHORITY TO EXTEND PERIOD FOR MAK-
 23 ING PPP AND P4 LOANS.—Section 7(a)(36)(A)(iii) of
 24 the Small Business Act (15 U.S.C.
 25 636(a)(36)(A)(iii)) is amended by inserting “, or

1 such later date as the Administrator determines ap-
2 propriate” after “December 31, 2020”.

3 (2) PERIOD FOR COSTS THAT ARE ELIGIBLE
4 FOR FORGIVENESS AND APPLICATION SUBMIS-
5 SION.—Section 1106 of the CARES Act (Public
6 Law 116–136) is amended—

7 (A) in subsection (a), by striking para-
8 graph (3) and inserting the following:

9 “(3) the term ‘covered period’ means the pe-
10 riod—

11 “(A) beginning on the date of the origina-
12 tion of a covered loan; and

13 “(B) ending on a date selected by the eligi-
14 ble recipient of the covered loan that occurs
15 during the period—

16 “(i) beginning on the date that is 8
17 weeks after such date of origination; and

18 “(ii) ending on December 31, 2020, or
19 such later date as the Administrator deter-
20 mines appropriate.”;

21 (B) in subsection (d), by inserting “, or
22 such later date as the Administrator determines
23 appropriate” after “December 31, 2020” each
24 place it appears;

1 (C) in subsection (e), in the matter pre-
 2 ceding paragraph (1), by striking “An eligible
 3 recipient” and inserting “After the end of the
 4 covered period with respect to an eligible recipi-
 5 ent, the eligible recipient”; and

6 (D) by striking subsection (l).

7 (3) APPLICABILITY OF AMENDMENTS.—The
 8 amendments made by paragraph (2) shall apply to
 9 a loan made under paragraph (36) of section 7(a) of
 10 the Small Business Act (15 U.S.C. 636(a)) before,
 11 on, or after the date of enactment of this Act.

12 (c) IMPLEMENTATION OF INSPECTOR GENERAL SUG-
 13 GESTED ACTIONS FOR PPP OVERSIGHT.—Not later than
 14 5 days after the date of enactment of this Act, the Admin-
 15 istrator of the Small Business Administration shall—

16 (1) issue guidance to prioritize underserved
 17 businesses, as described in the sense of the Senate
 18 provision under subparagraph (P)(iv) of section
 19 7(a)(36) of the Small Business Act (15 U.S.C.
 20 636(a)(36));

21 (2) issue an updated loan origin application for
 22 initial covered loans under such section and issue an
 23 origin application for supplemental covered loans
 24 under such section that collects demographic data to
 25 provide transparency for lending to underserved and

1 rural markets, as required under subparagraph (P)
2 of such section;

3 (3) implement the loan registration required
4 under such section; and

5 (4) consistent with information that the Admin-
6 istrator makes available on loans made by the Ad-
7 ministration in compliance with section 552 of title
8 5, United States Code (commonly known as the
9 “Freedom of Information Act”), begin publishing on
10 the website of the Administration information about
11 the paycheck protection program under section
12 7(a)(36) of the Small Business Act (15 U.S.C.
13 636(a)(36)), including initial covered loans and sup-
14 plemental covered loans, including—

15 (A) the name of each business or nonprofit
16 organization borrower;

17 (B) the address of the principal place of
18 business of each borrower;

19 (C) the name and address of the principal
20 place of business of each lender;

21 (D) the amount of each loan;

22 (E) the North American Industry Classi-
23 fication System code of each borrower;

24 (F) whether each borrower is a franchisee;

25 and

1 (G) the type of business of each borrower.

2 (d) FORGIVENESS COMPENSATION FEES.—Section
3 7(a)(36)(P) of the Small Business Act (15 U.S.C.
4 636(a)(36)(P)) is amended by adding at the end the fol-
5 lowing:

6 “(v) FORGIVENESS APPLICATION AS-
7 SISTANCE.—With respect to initial covered
8 loans and supplemental covered loans, the
9 Administrator may reimburse an agent
10 that assists an eligible recipient in pre-
11 paring an application for and documenta-
12 tion required to obtain forgiveness under
13 section 1106 of the Cares Act (Public Law
14 116–136), in an amount not to exceed
15 \$500.”.

16 (e) AMOUNT AUTHORIZED FOR COMMITMENTS.—
17 Section 1102(b) of the CARES Act (Public Law 116–136)
18 is amended to read as follows:

19 “(b) COMMITMENTS FOR PPP AND OTHER 7(a)
20 LOANS.—

21 “(1) PPP LOANS.—During the period begin-
22 ning on the date of enactment of the Prioritized
23 Paycheck Protection Program Act and ending on
24 December 31, 2020, or such later date as the Ad-
25 ministrator determines appropriate, subject to the

1 availability of appropriations, the Administrator may
2 make commitments under paragraph (36) of section
3 7(a) of the Small Business Act (15 U.S.C. 636(a))
4 in such amounts as the Administrator determines
5 necessary.

6 “(2) OTHER 7(a) LOANS.—During fiscal year
7 2020, the amount authorized for commitments for
8 section 7(a) of the Small Business Act (15 U.S.C.
9 636(a)) under the heading ‘BUSINESS LOANS PRO-
10 GRAM ACCOUNT’ under the heading ‘SMALL BUSI-
11 NESS ADMINISTRATION’ under title V of the Consoli-
12 dated Appropriations Act, 2020 (Public Law 116–
13 93; 133 Stat. 2475) shall apply with respect to any
14 commitments under such section 7(a) other than
15 under paragraph (36) of such section 7(a).”.

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