

117TH CONGRESS
1ST SESSION

H. R. 2712

To ensure that certain loan programs of the Small Business Administration are made available to cannabis-related legitimate businesses and service providers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2021

Ms. VELÁZQUEZ (for herself, Mr. EVANS, Ms. NEWMAN, Mr. BLUMENAUER, and Mr. PERLMUTTER) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committees on Energy and Commerce, the Judiciary, Natural Resources, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that certain loan programs of the Small Business Administration are made available to cannabis-related legitimate businesses and service providers, 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 “Ensuring Safe Capital
5 Access for All Small Businesses Act of 2021”.

1 **SEC. 2. DECRIMINALIZATION OF CANNABIS.**

2 (a) CANNABIS REMOVED FROM SCHEDULE OF CON-
3 TROLLED SUBSTANCES.—Subsection (c) of schedule I of
4 section 202(c) of the Controlled Substances Act (21
5 U.S.C. 812) is amended—

6 (1) by striking paragraph (10) (relating to mar-
7 ihuana); and

8 (2) by striking paragraph (17) (relating to
9 terahydrocannabinols).

10 (b) CONFORMING AMENDMENTS TO CONTROLLED
11 SUBSTANCES ACT.—The Controlled Substances Act (21
12 U.S.C. 801 et seq.) is amended—

13 (1) in section 102(44) (21 U.S.C. 802(44)), by
14 striking “marihuana,”;

15 (2) in section 401(b) (21 U.S.C. 841(b))—

16 (A) in paragraph (1)—

17 (i) in subparagraph (A)—

18 (I) in clause (vi), by inserting
19 “or” after the semicolon;

20 (II) by striking (vii); and

21 (III) by redesignating clause
22 (viii) as clause (vii);

23 (ii) in subparagraph (B)—

24 (I) in clause (vi), by inserting
25 “or” after the semicolon;

26 (II) by striking clause (vii); and

1 (III) by redesignating clause
2 (viii) as clause (vii);
3 (iii) in subparagraph (C), in the first
4 sentence, by striking “subparagraphs (A),
5 (B), and (D)” and inserting “subpara-
6 graphs (A) and (B)”;
7 (iv) by striking subparagraph (D);
8 (v) by redesignating subparagraph (E)
9 as subparagraph (D); and
10 (vi) in subparagraph (D)(i), as so re-
11 designated, by striking “subparagraphs (C)
12 and (D)” and inserting “subparagraph
13 (C)”;
14 (B) by striking paragraph (4); and
15 (C) by redesignating paragraphs (5), (6),
16 and (7) as paragraphs (4), (5), and (6), respec-
17 tively;
18 (3) in section 402(c)(2)(B) (21 U.S.C.
19 842(c)(2)(B)), by striking “marihuana,”;
20 (4) in section 403(d)(1) (21 U.S.C. 843(d)(1)),
21 by striking “marihuana,”;
22 (5) in section 418(a) (21 U.S.C. 859(a)), by
23 striking the last sentence;
24 (6) in section 419(a) (21 U.S.C. 860(a)), by
25 striking the last sentence;

1 (7) in section 422(d) (21 U.S.C. 863(d))—

2 (A) in the matter preceding paragraph (1),
3 by striking “marijuana,”; and

4 (B) in paragraph (5), by striking “, such
5 as a marihuana cigarette,”; and

6 (8) in section 516(d) (21 U.S.C. 886(d)), by
7 striking “section 401(b)(6)” each place the term ap-
8 pears and inserting “section 401(b)(5)”.

9 (c) OTHER CONFORMING AMENDMENTS.—

10 (1) NATIONAL FOREST SYSTEM DRUG CONTROL
11 ACT OF 1986.—The National Forest System Drug
12 Control Act of 1986 (16 U.S.C. 559b et seq.) is
13 amended—

14 (A) in section 15002(a) (16 U.S.C.
15 559b(a)) by striking “marijuana and other”;

16 (B) in section 15003(2) (16 U.S.C.
17 559c(2)) by striking “marijuana and other”;
18 and

19 (C) in section 15004(2) (16 U.S.C.
20 559d(2)) by striking “marijuana and other”.

21 (2) INTERCEPTION OF COMMUNICATIONS.—Sec-
22 tion 2516 of title 18, United States Code, is amend-
23 ed—

24 (A) in subsection (1)(e), by striking “,
25 marihuana,”; and

1 (B) in subsection (2) by striking “mari-
 2 huana”.

3 **SEC. 3. 7(a) LOANS TO CANNABIS-RELATED LEGITIMATE**
 4 **BUSINESSES AND SERVICE PROVIDERS.**

5 Section 7(a) of the Small Business Act (15 U.S.C.
 6 636(a)) is amended by adding at the end the following
 7 new paragraph:

8 “(38) LOANS TO CANNABIS-RELATED LEGITI-
 9 MATE BUSINESSES AND SERVICE PROVIDERS.—

10 “(A) IN GENERAL.—The Administrator
 11 may not decline to provide a guarantee for a
 12 loan under this subsection, and a lender may
 13 not decline to make a loan made under this
 14 subsection, to an otherwise eligible small busi-
 15 ness concern solely because such concern is a
 16 cannabis-related legitimate business or service
 17 provider.

18 “(B) DEFINITIONS.—In this paragraph:

19 “(i) CANNABIS.—The term ‘cannabis’
 20 has the meaning given the term ‘mari-
 21 huana’ in section 102 of the Controlled
 22 Substances Act.

23 “(ii) CANNABIS PRODUCT.—The term
 24 ‘cannabis product’ means any article which
 25 contains cannabis, including an article

1 which is a concentrate, an edible, a tinc-
2 ture, a cannabis-infused product, or a top-
3 ical.

4 “(iii) CANNABIS-RELATED LEGITI-
5 MATE BUSINESS.—The term ‘cannabis-re-
6 lated legitimate business’ means a manu-
7 facturer, producer, or any person or com-
8 pany that is a small business concern and
9 that—

10 “(I) engages in any activity de-
11 scribed in subclause (II) pursuant to
12 a law established by a State or a po-
13 litical subdivision of a State, as deter-
14 mined by such State or political sub-
15 division; and

16 “(II) participates in any business
17 or organized activity that involves
18 handling cannabis or cannabis prod-
19 ucts, including cultivating, producing,
20 manufacturing, selling, transporting,
21 displaying, dispensing, distributing, or
22 purchasing cannabis or cannabis prod-
23 ucts.

24 “(iv) MANUFACTURER.—The term
25 ‘manufacturer’ means a person who manu-

1 factures, compounds, converts, processes,
2 prepares, or packages cannabis or cannabis
3 products.

4 “(v) PRODUCER.—The term ‘pro-
5 ducer’ means a person who plants, cul-
6 tivates, harvests, or in any way facilitates
7 the natural growth of cannabis.

8 “(vi) SERVICE PROVIDER.—The term
9 ‘service provider’—

10 “(I) means a business, organiza-
11 tion, or other person that—

12 “(aa) sells goods or services
13 to a cannabis-related legitimate
14 business; or

15 “(bb) provides any business
16 services, including the sale or
17 lease of real or any other prop-
18 erty, legal or other licensed serv-
19 ices, or any other ancillary serv-
20 ice, relating to cannabis; and

21 “(II) does not include a business,
22 organization, or other person that
23 participates in any business or orga-
24 nized activity that involves handling
25 cannabis or cannabis products, includ-

1 ing cultivating, producing, manufac-
 2 turing, selling, transporting, dis-
 3 playing, dispensing, distributing, or
 4 purchasing cannabis or cannabis prod-
 5 ucts.

6 “(vii) STATE.—The term ‘State’
 7 means each of the several States, the Dis-
 8 trict of Columbia, Puerto Rico, and any
 9 territory or possession of the United
 10 States.”.

11 **SEC. 4. DISASTER LOANS TO CANNABIS-RELATED LEGITI-**
 12 **MATE BUSINESSES AND SERVICE PROVIDERS.**

13 Section 7(b) of the Small Business Act (15 U.S.C.
 14 636(b)) is amended by inserting after paragraph (15) the
 15 following new paragraph:

16 “(16) ASSISTANCE TO CANNABIS-RELATED LE-
 17 GITIMATE BUSINESSES AND SERVICE PROVIDERS.—
 18 The Administrator may not decline to provide assist-
 19 ance under this subsection to an otherwise eligible
 20 borrower solely because such borrower is a cannabis-
 21 related legitimate business or service provider (as
 22 defined in subsection (a)(38)).”.

1 **SEC. 5. MICROLOANS TO CANNABIS-RELATED LEGITIMATE**
 2 **BUSINESSES AND SERVICE PROVIDERS.**

3 Section 7(m) of the Small Business Act (15 U.S.C.
 4 636(m)(13)) is amended by adding at the end the fol-
 5 lowing new paragraph:

6 “(14) ASSISTANCE TO CANNABIS-RELATED LE-
 7 GITIMATE BUSINESSES AND SERVICE PROVIDERS.—
 8 The Administrator may not decline to make a loan
 9 or a grant under this subsection, and an eligible
 10 intermediary may not decline to provide assistance
 11 under this subsection to an otherwise eligible bor-
 12 rower, eligible intermediary, or eligible nonprofit en-
 13 tity (as applicable) solely because such borrower,
 14 intermediary, or nonprofit entity is a cannabis-re-
 15 lated legitimate business or service provider (as de-
 16 fined in subsection (a)(38)).”.

17 **SEC. 6. SMALL BUSINESS INVESTMENT COMPANY DEBEN-**
 18 **TURES TO FINANCE CANNABIS-RELATED LE-**
 19 **GITIMATE BUSINESSES AND SERVICE PRO-**
 20 **VIDERS.**

21 Part A of title III of the Small Business Investment
 22 Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding
 23 at the end the following new section:

1 **“SEC. 321. DEBENTURES TO FINANCE CANNABIS-RELATED**
 2 **LEGITIMATE BUSINESSES AND SERVICE PRO-**
 3 **VIDERS.**

4 “(a) GUARANTEES.—The Administrator may not de-
 5 cline to purchase or guarantee a debenture made under
 6 this title to an otherwise eligible small business investment
 7 company solely because such small business investment
 8 company provides financing to an entity that is a can-
 9 nabis-related legitimate business or service provider (as
 10 defined in section 7(a)(38) of the Small Business Act).

11 “(b) OTHER ASSISTANCE.—A small business invest-
 12 ment company may not decline to provide assistance under
 13 this title to an otherwise eligible small business concern
 14 solely because such small business concern is a cannabis-
 15 related legitimate business or service provider (as defined
 16 in section 7(a)(38) of the Small Business Act).”.

17 **SEC. 7. STATE OR LOCAL DEVELOPMENT COMPANY LOANS**
 18 **TO FINANCE CANNABIS-RELATED LEGITI-**
 19 **MATE BUSINESSES AND SERVICE PROVIDERS.**

20 Title V of the Small Business Investment Act of 1958
 21 (15 U.S.C. 695 et seq.) is amended by adding at the end
 22 the following new section:

23 **“SEC. 511. LOANS TO FINANCE CANNABIS-RELATED LEGITI-**
 24 **MATE BUSINESSES AND SERVICE PROVIDERS.**

25 “(a) LOANS AND LOAN GUARANTEES.—The Admin-
 26 istrator may not decline to make or provide a guarantee

1 for a loan under this title to an otherwise eligible qualified
2 State or local development company solely because such
3 qualified State or local development company provides fi-
4 nancing to an entity that is a cannabis-related legitimate
5 business or service provider (as defined in section 7(a)(38)
6 of the Small Business Act).

7 “(b) OTHER ASSISTANCE.—A qualified State or local
8 development company may not decline to provide assist-
9 ance under this title to an otherwise eligible small business
10 concern solely because such small business concern is a
11 cannabis-related legitimate business or service provider (as
12 defined in section 7(a)(38) of the Small Business Act).”.

13 **SEC. 8. RULEMAKING.**

14 Not later than 120 days after the date of the enact-
15 ment of this Act, the Administrator of the Small Business
16 Administration shall issue or amend any rules, standard
17 operating procedures, other legal or policy guidance nec-
18 essary to carry out the requirements of this Act and the
19 amendments made by this Act.

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