

117TH CONGRESS
1ST SESSION

S. 1613

To require the Administrator of the Small Business Administration to establish a grant program for certain fitness facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2021

Ms. DUCKWORTH (for herself and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To require the Administrator of the Small Business Administration to establish a grant program for certain fitness facilities, 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 “Gym Mitigation and
5 Survival Act of 2021” or the “GYMS Act of 2021”.

6 **SEC. 2. GRANTS FOR FITNESS FACILITIES.**

7 (a) DEFINITIONS.—In this section:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Small Busi-
3 ness Administration.

4 (2) AFFILIATED BUSINESS.—The term “affili-
5 ated business” means a business in which an eligible
6 entity has an equity or right to profit distributions
7 of not less than 50 percent, and in which an eligible
8 entity has the contractual authority to control the
9 direction of the business, provided that such affili-
10 ation shall be determined as of any arrangements or
11 agreements in existence as of March 13, 2020.

12 (3) ELIGIBLE ENTITY.—The term “eligible enti-
13 ty” means a fitness facility—

14 (A) which provides instruction in a pro-
15 gram of physical exercise or offers space for the
16 preservation, maintenance, encouragement, or
17 development of physical fitness;

18 (B) which does not offer golf, hunting,
19 sailing, or riding facilities;

20 (C) where the health or fitness component
21 of which is not incidental to its overall function
22 and purpose; and

23 (D) which is not part of a State or local
24 government facility.

25 (b) AUTHORITY.—

1 (1) INITIAL GRANTS.—The Administrator may
2 make initial grants to eligible entities in accordance
3 with this section.

4 (2) SUPPLEMENTAL GRANTS.—The Adminis-
5 trator may make a supplemental grant in accordance
6 with this section to an eligible entity that receives a
7 grant under paragraph (1) if, as of December 31,
8 2020, the revenues of the eligible entity for the most
9 recent calendar quarter are not more than 33 per-
10 cent of the revenues of the eligible entity for the cor-
11 responding calendar quarter during 2019 due to the
12 COVID–19 pandemic.

13 (3) PRIORITY.—During the initial 14-day pe-
14 riod in which the Administrator awards initial
15 grants under this subsection, the Administrator shall
16 prioritize awarding grants to eligible entities serving
17 marginalized and underrepresented communities,
18 with a focus on women, veteran, and minority-owned
19 and operated eligible entities serving such commu-
20 nities.

21 (c) AMOUNT.—

22 (1) INITIAL GRANTS.—A grant under sub-
23 section (b)(1) shall be in the amount equal to the
24 lesser of—

1 (A) the amount equal to 45 percent of the
 2 gross revenue of the eligible entity during 2019;

3 (B) for an eligible entity that began oper-
 4 ations after January 1, 2019, the amount equal
 5 to the product obtained by multiplying—

6 (i) the average monthly gross revenue
 7 for each full month during which the entity
 8 was in operation during 2019; by

9 (ii) 6; or

10 (C) \$20,000,000.

11 (2) SUPPLEMENTAL GRANTS.—A grant under
 12 subsection (b)(2) shall be in the amount equal to 25
 13 percent of the grant received by the eligible entity
 14 under subsection (b)(1).

15 (3) AGGREGATE MAXIMUM AMOUNT.—The ag-
 16 gregate amount of grants made to an eligible entity
 17 and any affiliated businesses of the eligible entity
 18 under this section shall not exceed \$25,000,000.

19 (d) USE OF FUNDS.—

20 (1) CERTIFICATION.—An eligible entity apply-
 21 ing for a grant under this section shall make a good
 22 faith certification—

23 (A) that the uncertainty of current eco-
 24 nomic conditions makes necessary the grant re-

1 quest to support the ongoing operations of the
2 eligible entity; and

3 (B) acknowledging that funds will be used
4 to retain workers or for other allowable ex-
5 penses described in paragraph (4).

6 (2) TIMING.—

7 (A) EXPENSES INCURRED.—

8 (i) IN GENERAL.—Except as provided
9 in clause (ii), amounts received under a
10 grant under this section may be used for
11 costs incurred during the period beginning
12 on March 1, 2020, and ending on Decem-
13 ber 31, 2021.

14 (ii) EXTENSION FOR SUPPLEMENTAL
15 GRANTS.—If an eligible entity receives a
16 grant under subsection (b)(2), amounts re-
17 ceived under either grant under this sec-
18 tion may be used for costs incurred during
19 the period beginning on March 1, 2020,
20 and ending on June 30, 2022.

21 (B) EXPENDITURE.—

22 (i) IN GENERAL.—Except as provided
23 in clause (ii), an eligible entity shall return
24 to the Administrator any amounts received
25 under a grant under this section that are

not expended on or before the date that is 1 year after the date of disbursement of the grant.

(ii) EXTENSION FOR SUPPLEMENTAL GRANTS.—If an eligible entity receives a grant under subsection (b)(2), the eligible entity shall return to the Administrator any amounts received under either grant under this section that are not expended on or before the date that is 18 months after the date of disbursement to the eligible entity of the grant under subsection (b)(1).

(3) ALLOWABLE EXPENSES.—

(A) DEFINITIONS.—In this paragraph—

(i) the terms “covered mortgage obligation”, “covered rent obligation”, “covered utility payment”, and “covered worker protection expenditure” have the meanings given those terms in section 7A(a) of the Small Business Act (15 U.S.C. 636m(a)); and

(ii) the term “payroll costs” has the meaning given that term in section

1 7(a)(36)(A) of the Small Business Act (15
2 U.S.C. 636(a)(36)(A)).

3 (B) EXPENSES.—An eligible entity may
4 use amounts received under a grant under this
5 section for—

6 (i) payroll costs;

7 (ii) payments on any covered rent ob-
8 ligation and common area maintenance
9 charges under a lease agreement;

10 (iii) any covered utility payment;

11 (iv) scheduled payments of interest or
12 principal on any covered mortgage obliga-
13 tion (which shall not include any prepay-
14 ment of principal on a covered mortgage
15 obligation);

16 (v) scheduled interest payments on
17 other scheduled debt as of February 15,
18 2020;

19 (vi) covered worker protection expend-
20 itures;

21 (vii) payments of principal on out-
22 standing loans;

23 (viii) payments made to independent
24 contractors, as reported on Form-1099
25 MISC; and

1 (ix) other ordinary and necessary
 2 business expenses, including—

3 (I) settling existing debts owed to
 4 vendors;

5 (II) maintenance expenses;

6 (III) administrative costs;

7 (IV) taxes;

8 (V) operating leases;

9 (VI) advertising, fitness equip-
 10 ment, subscription, and software ex-
 11 penses that are within the scope of
 12 the normal business practice of the el-
 13 igible entity;

14 (VII) payments required for in-
 15 surance on any insurance policy;

16 (VIII) capital expenditures or ex-
 17 penses required under any State,
 18 local, or Federal law or guideline re-
 19 lated to social distancing; and

20 (IX) any other expenses that the
 21 Administrator determines to be essen-
 22 tial to maintaining the eligible entity.

23 (4) PROHIBITED EXPENSES.—An eligible entity
 24 may not use amounts received under a grant under
 25 this section—

1 (A) to purchase real estate;

2 (B) for payments of interest or principal
3 on loans originated after February 15, 2020;

4 (C) to invest or re-lend funds;

5 (D) for contributions or expenditures to, or
6 on behalf of, any political party, party com-
7 mittee, or candidate for elective office; or

8 (E) for any other use as may be prohibited
9 by the Administrator.

10 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated \$30,000,000,000 to carry
12 out this section.

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