

117TH CONGRESS
2D SESSION

S. 4165

To amend the Community Development Banking and Financial Institutions Act of 1994 to establish a CDFI National Crisis Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2022

Mr. SCHATZ (for himself, Ms. BALDWIN, Mr. VAN HOLLEN, Mrs. GILLIBRAND, Mr. WYDEN, Ms. WARREN, Mrs. FEINSTEIN, Mr. BLUMENTHAL, Mr. SANDERS, Mr. HEINRICH, Mr. MERKLEY, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Community Development Banking and Financial Institutions Act of 1994 to establish a CDFI National Crisis Fund, 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 “CDFI Crisis Fund
5 Act”.

6 **SEC. 2. CDFI NATIONAL CRISIS FUND.**

7 (a) IN GENERAL.—The Community Development
8 Banking and Financial Institutions Act of 1994 (12

1 U.S.C. 4701 et seq.) is amended by inserting after section
 2 122 (12 U.S.C. 4719) the following:

3 **“SEC. 123. CDFI CRISIS FUND.**

4 “(a) DEFINITIONS.—In this section:

5 “(1) AFFECTED AREA.—The term ‘affected
 6 area’ means—

7 “(A) a State that is subject to a covered
 8 crisis;

9 “(B) a county that is subject to a covered
 10 crisis described in paragraph (3)(B); or

11 “(C) a Tribal government that is—

12 “(i) located in a State that is subject
 13 to a covered crisis; or

14 “(ii) subject to a covered crisis.

15 “(2) COMMUNITY DEVELOPMENT FINANCIAL IN-
 16 STITUTION.—The term ‘community development fi-
 17 nancial institution’ shall include small and emerging
 18 community development financial institutions, as de-
 19 fined in the most recent relevant regulations from
 20 the Department of the Treasury.

21 “(3) COVERED CRISIS.—The term ‘covered cri-
 22 sis’ means—

23 “(A) the emergency involving Federal pri-
 24 mary responsibility determined to exist by the
 25 President under section 501(b) of the Robert T.

1 Stafford Disaster Relief and Emergency Assist-
2 ance Act (42 U.S.C. 5191(b)) with respect to
3 the Coronavirus disease 2019 (COVID-19);

4 “(B) a major disaster exists in the State
5 for which assistance is authorized under section
6 408 of the Robert T. Stafford Disaster Relief
7 and Emergency Assistance Act (42 U.S.C.
8 5174) for a county;

9 “(C) a major disaster exists in the State
10 for which assistance is authorized under section
11 408 of the Robert T. Stafford Disaster Relief
12 and Emergency Assistance Act (42 U.S.C.
13 5174) for individuals who live in an area of the
14 State in which a majority of the residents of the
15 State reside;

16 “(D) an increase in statewide 6-month av-
17 erage unemployment rate, seasonally adjusted,
18 by not less than 0.5 percentage points more
19 than the lowest recorded unemployment rate
20 over the preceding 12-month period; or

21 “(E) an increase in the national 3-month
22 average unemployment rate, seasonally ad-
23 justed, by not less than 0.5 percentage points
24 more than the lowest recorded unemployment
25 rate over the preceding 12-month period.

1 “(4) CRISIS FUND.—The term ‘Crisis Fund’
2 means the CDFI National Crisis Fund established
3 under this section.

4 “(5) LOW-INCOME.—The term ‘low-income’
5 means having an income, as adjusted for family size,
6 that is—

7 “(A) for metropolitan areas, less than 80
8 percent of the area median income; and

9 “(B) for nonmetropolitan areas, the great-
10 er of—

11 “(i) less than 80 percent of the area
12 median income; or

13 “(ii) less than 80 percent of the state-
14 wide nonmetropolitan area median income.

15 “(6) MINORITY COMMUNITY DEVELOPMENT FI-
16 NANCIAL INSTITUTION.—The term ‘minority commu-
17 nity financial institution’ means a community devel-
18 opment financial institution that—

19 “(A) if a privately-owned institution, 51
20 percent is owned by one or more socially and
21 economically disadvantaged individuals;

22 “(B) if publicly-owned, 51 percent of the
23 stock is owned by one or more socially and eco-
24 nomically disadvantaged individuals; and

1 “(C) in the case of a mutual institution,
 2 where the majority of the Board of Directors,
 3 account holders, and the community which the
 4 institution services is predominantly Black
 5 American, Native American, Hispanic Amer-
 6 ican, or Asian American.

7 “(7) NATIVE COMMUNITY DEVELOPMENT FI-
 8 NANCIAL INSTITUTION.—

9 “(A) IN GENERAL.—The term ‘Native
 10 community development financial institution’
 11 means a community development financial insti-
 12 tution—

13 “(i) the activities of which not less
 14 than 51 percent serve Native Americans;
 15 or

16 “(ii) that is not less than 51 percent
 17 owned or controlled Native Americans.

18 “(B) NATIVE AMERICANS.—In this para-
 19 graph, the term ‘Native Americans’ has the
 20 meaning given the term in section 3765 of title
 21 38, United States Code.

22 “(8) STATE.—The term ‘State’ means any
 23 State of the United States, the District of Columbia,
 24 the Commonwealth of Puerto Rico, the Virgin Is-

1 lands, Guam, American Samoa, and the Common-
 2 wealth of the Northern Mariana Islands.

3 “(9) TRIBAL GOVERNMENT.—The term ‘Tribal
 4 government’ has the meaning given the term ‘Indian
 5 tribal government’ in section 102 of the Robert T.
 6 Stafford Disaster Relief and Emergency Assistance
 7 Act (42 U.S.C. 5122).

8 “(10) VERY LOW-INCOME.—The term ‘very low-
 9 income’ means having an income, as adjusted for
 10 family size, that is—

11 “(A) for metropolitan areas, less than 50
 12 percent of the area median income; and

13 “(B) for nonmetropolitan areas, the great-
 14 er of—

15 “(i) less than 50 percent of the area
 16 median income; or

17 “(ii) less than 50 percent of the state-
 18 wide nonmetropolitan area median income.

19 “(b) PURPOSE.—The purpose of this section is to cre-
 20 ate a fund to support community development financial
 21 institutions during acute periods of crisis in their mission
 22 to provide uniquely supportive financial products and serv-
 23 ices to otherwise underserved clients.

1 “(c) ESTABLISHMENT.—There is established in the
 2 Treasury the CDFI National Crisis Fund, which shall be
 3 within the Fund.

4 “(d) AVAILABILITY OF CRISIS FUND.—Amounts in
 5 the Crisis Fund shall be available, until expended, to pro-
 6 vide grants to community development financial institu-
 7 tions as provided under this section.

8 “(e) GRANTS.—

9 “(1) IN GENERAL.—The Crisis Fund shall be
 10 authorized to make grants to community develop-
 11 ment financial institutions to enable those institu-
 12 tions to provide emergency assistance in the form of
 13 financial products and services to help small busi-
 14 nesses and low-income and very low-income popu-
 15 lations respond to and recover from covered crises in
 16 the affected area.

17 “(2) APPLICATION.—

18 “(A) IN GENERAL.—The Secretary shall—

19 “(i) accept applications during the pe-
 20 riod beginning upon notification of a cov-
 21 ered crisis under subsection (f) and ending
 22 on the date that is 6 months after the date
 23 of the notification;

“(ii) approve or deny any application submitted for a grant under paragraph (1) not later than 30 days after receipt; and

“(iii) upon request by an applicant for a grant under paragraph (1), provide technical assistance for the applicant.

“(B) SELECTION FORMULA.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Fund shall—

“(I) develop a selection formula as may be necessary for the selection of community development financial institutions to receive assistance under this section and guidance to aid those institutions in meeting the formula; and

“(II) post the information described in subclause (I) on a publicly available website.

“(ii) CONSIDERATIONS.—In establishing the selection formula under clause (i), the Fund shall take into account—

“(I) the program capacity of a community development financial in-

stitution to provide emergency assistance in the form of financial products and services to help targeted populations or populations in investment areas recover from covered crises in the affected area; and

“(II) the need for simplicity in the selection formula given the varying capacities of community development financial institutions and the time frames required under this section.

“(3) AMOUNT OF GRANTS.—

“(A) DETERMINATION OF AMOUNT.—The amount of a grant made to a community development financial institution under this section shall be determined based on the previously demonstrated capacity of the community development financial institution to make impactful financial services and products available, as determined by the Secretary of the Treasury.

“(B) GRANT AMOUNT.—

“(i) MAXIMUM.—With respect to grants made under this section, the grant shall be in an amount that is not more

1 than 10 percent of the total amount in the
2 Crisis Fund for each fiscal year in which
3 the community development financial insti-
4 tution receives a grant.

5 “(ii) MINIMUM.—The Fund shall es-
6 tablish minimum grant amounts under this
7 section for each fiscal year in which a com-
8 munity development financial institution
9 receives a grant under this section based
10 on the demonstrated capacity of and the
11 cost of grant requirements for the appli-
12 cant.

13 “(C) LIMITATION OF ASSISTANCE.—The
14 total aggregate amount outstanding and com-
15 mitted to any community development financial
16 institution in grants under this section in any
17 fiscal year shall not exceed 15 percent of the
18 total amount of the Crisis Fund.

19 “(D) DISTRIBUTION OF ASSISTANCE.—The
20 Secretary shall disburse the full amount of a
21 grant under this section to an approved appli-
22 cant not later than 30 days after the date on
23 which the application is approved.

24 “(E) SET ASIDES.—

1 “(i) NATIVE CDFIS.—Of the amounts
 2 in the Crisis Fund, 10 percent shall be set
 3 aside for grants made to Native commu-
 4 nity development financial institutions,
 5 which set aside may also qualify under
 6 clause (ii).

7 “(ii) MINORITY COMMUNITY DEVEL-
 8 OPMENT FINANCIAL INSTITUTIONS.—Of
 9 the amounts in the Crisis Fund, 30 per-
 10 cent shall be set aside for grants made to
 11 minority community development financial
 12 institutions.

13 “(F) USE OF GRANT FUNDS FOR MORE
 14 THAN 1 COVERED CRISIS.—The Secretary may
 15 retroactively approve use of grant funds for cov-
 16 ered crises in affected areas that took place
 17 after the grant was made.

18 “(4) USE OF FUNDS.—A recipient of a grant
 19 under this section—

20 “(A) shall use—

21 “(i) not less than 90 percent of the
 22 grant funds for activities described in
 23 paragraph (1) in the affected area of the
 24 covered crisis;

1 “(ii) not less than 25 percent of the
2 grant funds for activities described in
3 paragraph (1) that benefit very low-income
4 individuals; and

5 “(iii) not less than 15 percent of the
6 grant funds for activities described in
7 paragraph (1) that benefit individuals with
8 incomes of not more than 30 percent of
9 the area median income, which set aside
10 may also qualify under clause (ii);

11 “(B) may use not more than 10 percent of
12 the grant funds for administrative costs, costs
13 related to outreach and partnership building,
14 and financial products and services to areas
15 surrounding the affected area; and

16 “(C) may use any remaining grant funds
17 approved for a covered crisis in an affected area
18 for another covered crisis in an affected area
19 occurring after the grant was made, if the Sec-
20 retary approves the use of those funds under
21 paragraph (3)(F).

22 “(5) UNEMPLOYMENT MEASURES FOR TRIBAL
23 GOVERNMENTS.—The Commissioner of the Bureau
24 of Labor Statistics shall coordinate with the Assist-
25 ant Secretary of Indian Affairs to develop reliable

1 unemployment measures for American Indian, Na-
 2 tive Alaskan, and Native Hawaiian communities in
 3 order to understand when the requirements for a
 4 covered crisis under subsection (a)(1)(C) are met
 5 with respect to a Tribal government.

6 “(f) NOTIFICATION OF COVERED CRISIS.—

7 “(1) EMERGENCY OR MAJOR DISASTER.—The
 8 Administrator of the Federal Emergency Manage-
 9 ment Agency, through the Secretary of the Treas-
 10 ury, shall notify the Fund when the requirements for
 11 a covered crisis under subparagraph (A) or (B) of
 12 subsection (a)(1) are met, which shall include the
 13 date on which the requirements are met and the rel-
 14 evant affected areas.

15 “(2) UNEMPLOYMENT.—The Secretary of
 16 Labor, through the Secretary of the Treasury, shall
 17 notify the Crisis Fund when the requirements for a
 18 covered crisis under subsection (a)(1)(C) are met,
 19 which shall include the date on which the require-
 20 ments are met and the relevant affected areas, in-
 21 cluding for Tribal governments.

22 “(g) DATA.—The Fund shall post updates on—

23 “(1) the disbursements of funds from the Crisis
 24 Fund, including the distribution of funds going to
 25 low-income and very low-income populations and de-

1 mographic data regarding the areas and populations
2 receiving funds from the Crisis Fund; and

3 “(2) all other applications made, denied, and
4 disbursed on a monthly basis during a covered crisis.

5 “(h) REPOSITORY OF BEST PRACTICES.—Based on
6 the recommendations of the Comptroller General of the
7 United States and data that the Secretary of the Treasury
8 may collect from recipients of grants under this section,
9 the Secretary of the Treasury shall—

10 “(1) develop a publicly accessible database of
11 best practices for effective use of those grants, in-
12 cluding past case studies of success and other useful
13 information; and

14 “(2) issue guidance, restrictions, and regula-
15 tions with respect to those grants.

16 “(i) AUTHORIZATION OF APPROPRIATIONS.—

17 “(1) CRISIS FUND AUTHORIZATION.—To carry
18 out this section, there are authorized to be appro-
19 priated to the Crisis Fund \$2,000,000,000 for fiscal
20 year 2023, to remain available until expended.

21 “(2) FUTURE FISCAL YEARS.—For every fiscal
22 year following fiscal year 2023, there is authorized
23 to be appropriated to the Crisis Fund an amount
24 equal to the amount by which—

1 “(A) \$2,000,000,000 (or, if greater, the
2 amount determined for such fiscal year under
3 paragraph (3)); exceeds

4 “(B) the balance of the Crisis Fund as of
5 the last day of the fiscal year preceding the fis-
6 cal year involved.

7 “(3) INFLATION ADJUSTMENT.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), the amount determined under this
10 paragraph for a fiscal year is the product of—

11 “(i) \$2,000,000,000; and

12 “(ii) the quotient obtained by divid-
13 ing—

14 “(I) the Consumer Price Index
15 for all-urban consumers published by
16 the Department of Labor for the 12-
17 month period ending with September
18 of the preceding fiscal year; and

19 “(II) the Consumer Price Index
20 for All-Urban Consumers published by
21 the Department of Labor for the 12-
22 month period ending with September
23 2019.

24 “(B) RULE OF APPLICATION.—In no case
25 shall the application of this paragraph result in

1 the application under paragraph (2)(A) of an
 2 amount for a fiscal year that is less than the
 3 amount that applied under such paragraph
 4 (2)(A) for the preceding fiscal year.

5 “(4) ADMINISTRATIVE EXPENSES.—Of the
 6 amounts made available under paragraph (1), the
 7 Crisis Fund may use not more than 0.5 percent for
 8 administrative costs and expenses.

9 “(j) REGULATIONS.—The Secretary of the Treasury
 10 may prescribe such regulations as necessary to carry out
 11 this section.

12 “(k) REPORT.—Not later than 1 year after the date
 13 of enactment of this section and periodically thereafter,
 14 the Comptroller General of the United States shall submit
 15 to Congress a report—

16 “(1) evaluating the impact of this section in
 17 meeting intended outcomes, focusing on the use of
 18 the Crisis Fund in aiding community development fi-
 19 nancial institutions to support their communities
 20 and helping them respond to and recover from nat-
 21 ural disasters and economic crises; and

22 “(2) making recommendations to the Fund and
 23 to Congress.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 25 The table of contents in section 1(b) of the Riegle Commu-

1 nity Development and Regulatory Improvement Act of
 2 1994 (Public Law 103–325; 108 Stat. 2160) is amended
 3 by inserting after the item relating to section 121 the fol-
 4 lowing:

“Sec. 122. Grants to establish loan-loss reserve funds.

“Sec. 123. CDFI Crisis Fund.”.

5 **SEC. 3. RESILIENCE GRANTS.**

6 Section 108 of the Community Development Banking
 7 and Financial Institutions Act of 1994 (12 U.S.C. 4707)
 8 is amended—

9 (1) in subsection (a)(1)—

10 (A) in subparagraph (A), by striking
 11 “and” at the end;

12 (B) in subparagraph (B), by striking the
 13 period at the end and inserting “; and”; and

14 (C) by adding at the end the following:

15 “(C) grants to community development fi-
 16 nancial institutions (as defined in section 123)
 17 to improve resilience to the impacts of covered
 18 crises (as defined in section 123) in any State
 19 (as defined in section 123).”;

20 (2) in subsection (d)—

21 (A) in paragraph (1), by striking “para-
 22 graph (2)” and inserting “paragraphs (2) and
 23 (3)”;

1 (B) by redesignating paragraph (3) as
2 paragraph (4);

3 (C) by inserting after paragraph (2) the
4 following:

5 “(3) RESILIENCE GRANTS.—With respect to re-
6 silience grants described in subsection (a)(1)(C),
7 each grant made in a fiscal year shall be in an
8 amount that is not more than 10 percent of the total
9 amount appropriated for resilience grants for that
10 fiscal year.”; and

11 (D) in paragraph (4), as so redesignated,
12 by striking “paragraphs (1) and (2)” and in-
13 serting “paragraphs (1), (2), and (3)”;

14 (3) by redesignating subsections (e) through (h)
15 as subsections (f) through (i), respectively; and

16 (4) by inserting after subsection (d) the fol-
17 lowing:

18 “(e) RESILIENCE GRANTS.—

19 “(1) IN GENERAL.—With respect to resilience
20 grants described in subsection (a)(1)(C), the Sec-
21 retary of the Treasury shall award the grants based
22 on criteria established by the Fund, including—

23 “(A) making awards for projects that the
24 Fund determines will have the greatest impact

1 in improving resilience for low-income popu-
 2 lations; and

3 “(B) coordinating with the Federal Emer-
 4 gency Management Agency, the Department of
 5 Housing and Urban Development, and with the
 6 Small Business Administration, as relevant, to
 7 ensure that the awards meet unmet resilience
 8 needs.

9 “(2) USE OF FUNDS.—A recipient of a resil-
 10 ience grant described in subsection (a)(1)(C) shall
 11 use—

12 “(A) not less than 25 percent of the grant
 13 funds for activities described in paragraph (1)
 14 that benefit very low-income individuals; and

15 “(B) not less than 15 percent of the grant
 16 funds for activities described in paragraph (1)
 17 that benefit individuals with incomes of not
 18 more than 30 percent of the area median in-
 19 come.

20 “(3) SET ASIDES.—

21 “(A) NATIVE CDFIS.—Of the amounts
 22 made available under this subsection, 10 per-
 23 cent shall be set aside for resilience grants
 24 made to Native community development finan-

1 cial institutions, which set aside may also qual-
2 ify under subparagraph (ii).

3 “(B) MINORITY COMMUNITY DEVELOP-
4 MENT FINANCIAL INSTITUTIONS.—Of the
5 amounts made available under this subsection,
6 30 percent shall be set aside for grants made
7 to minority community development financial
8 institutions.

9 “(4) REPOSITORY OF BEST PRACTICES.—Based
10 on the recommendations of the Comptroller General
11 of the United States and data that the Secretary of
12 the Treasury may collect from recipients of resilience
13 grants described in subsection (a)(1)(C), the Sec-
14 retary of the Treasury shall—

15 “(A) develop a publicly accessible database
16 of best practices for effective use of those
17 grants, including past case studies of success
18 and other useful information; and

19 “(B) issue guidance, restrictions, and regu-
20 lations with respect to those grants.

21 “(5) AUTHORIZATION OF APPROPRIATIONS.—
22 To provide resilience grants described in subsection
23 (a)(1)(C), there is authorized to be appropriated to
24 the Fund \$30,000,000 for fiscal year 2023, to re-
25 main available until expended.

1 “(6) DEFINITIONS.—In this subsection, the
2 terms ‘low-income’, ‘minority community develop-
3 ment financial institution’, ‘Native community devel-
4 opment financial institution’, and ‘very low-income’
5 have the meanings given those terms in section
6 123.”.

○