

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. _____

To authorize the Community Advantage Loan Program of the Small Business Administration, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. CARDIN (for himself and Ms. ERNST)

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Community Advantage Loan Program Act of 2023”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—COMMUNITY ADVANTAGE LOAN PROGRAM

Sec. 101. Community Advantage Loan Program.

TITLE II—SMALL BUSINESS LENDING COMPANIES

Sec. 201. Short title.

Sec. 202. Findings.

Sec. 203. Lending criteria.

Sec. 204. Affiliation and franchise directory.
Sec. 205. Loan authorization.
Sec. 206. Oversight of small business lending companies.
Sec. 207. Office of Credit Risk Management.
Sec. 208. Denied loan or loan modification request.
Sec. 209. Direct lending.
Sec. 210. Restriction on refinancing debt.
Sec. 211. GAO study.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATION.—The term “Administra-
4 tion” means the Small Business Administration.

5 (2) ADMINISTRATOR.—The term “Adminis-
6 trator” means the Administrator of the Administra-
7 tion.

8 **TITLE I—COMMUNITY**
9 **ADVANTAGE LOAN PROGRAM**

10 **SEC. 101. COMMUNITY ADVANTAGE LOAN PROGRAM.**

11 (a) IN GENERAL.—Section 7(a) of the Small Busi-
12 ness Act (15 U.S.C. 636(a)) is amended by adding at the
13 end the following:

14 “(38) COMMUNITY ADVANTAGE LOAN PRO-
15 GRAM.—

16 “(A) PURPOSES.—The purposes of the
17 Community Advantage Loan Program are—

18 “(i) to create a mission-oriented loan
19 guarantee program;

1 “(ii) to increase lending to small busi-
2 ness concerns in underserved and rural
3 markets, including to new businesses;

4 “(iii) to ensure that the program
5 under this subsection expands inclusion
6 and more broadly meets congressional in-
7 tent to reach borrowers who are unable to
8 get credit elsewhere on reasonable terms
9 and conditions;

10 “(iv) to help underserved small busi-
11 ness concerns become bankable by utilizing
12 the small dollar financing and business
13 support experience of mission-oriented
14 lenders;

15 “(v) to allow certain mission-oriented
16 lenders, primarily financial intermediaries
17 focused on economic development in under-
18 served markets, access to guarantees for
19 loans under this subsection (referred to in
20 this paragraph as ‘7(a) loans’) and provide
21 management and technical assistance to
22 small business concerns as needed; and

23 “(vi) to assist covered institutions
24 with providing business support services

1 and technical assistance to small business
2 concerns, when needed.

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

4 “(i) COMMUNITY ADVANTAGE NET-
5 WORK PARTNER.—The term ‘Community
6 Advantage Network Partner’—

7 “(I) means a nonprofit, mission-
8 oriented organization that acts as a
9 Referral Agent to covered institutions
10 in order to expand the reach of the
11 program to small business concerns in
12 underserved markets; and

13 “(II) does not include a covered
14 institution making loans under the
15 program.

16 “(ii) COVERED INSTITUTION.—The
17 term ‘covered institution’ means an entity
18 that—

19 “(I) is—

20 “(aa) a development com-
21 pany, as defined in section 103 of
22 the Small Business Investment
23 Act of 1958 (15 U.S.C. 662),
24 participating in the 504 Loan
25 Guaranty program established

1 under title V of that Act (15
2 U.S.C. 695 et seq.);

3 “(bb) a nonprofit inter-
4 mediary, as defined in subsection
5 (m)(11), participating in the
6 microloan program under sub-
7 section (m);

8 “(cc) a non-Federally regu-
9 lated entity certified as a commu-
10 nity development financial insti-
11 tution by the Community Devel-
12 opment Financial Institutions
13 Fund established under section
14 104(a) of the Community Devel-
15 opment Banking and Financial
16 Institutions Act of 1994 (12
17 U.S.C. 4703(a)); or

18 “(dd) an eligible inter-
19 mediary, as defined in subsection
20 (l)(1), participating in the small
21 business intermediary lending
22 program established under sub-
23 section (l)(2); and

24 “(II) has approved and disbursed
25 10 similarly sized loans in the pre-

1 ceding 24-month period and is serv-
2 icing not less than 10 similarly sized
3 loans to small business concerns in
4 the portfolio of the entity.

5 “(iii) EXISTING BUSINESS.—The term
6 ‘existing business’ means a small business
7 concern that has been in existence for not
8 less than 2 years on the date on which a
9 loan is made to the small business concern
10 under the program.

11 “(iv) NEW BUSINESS.—The term ‘new
12 business’ means a small business concern
13 that has been in existence for not more
14 than 2 years on the date on which a loan
15 is made to the small business concern
16 under the program.

17 “(v) PROGRAM.—The term ‘program’
18 means the Community Advantage Loan
19 Program established under subparagraph
20 (C).

21 “(vi) REFERRAL AGENT.—The term
22 ‘Referral Agent’ has the meaning given the
23 term in section 103.1(f) of title 13, Code
24 of Federal Regulations, or any successor
25 regulation.

1 “(ff) a community that has
2 been designated as a promise
3 zone by the Secretary of Housing
4 and Urban Development;

5 “(II) for which more than 50
6 percent of the employees reside in a
7 low- or moderate-income community;

8 “(III) that is a new business; or

9 “(IV) that is owned and con-
10 trolled by veterans or spouses of vet-
11 erans.

12 “(C) ESTABLISHMENT.—There is estab-
13 lished a Community Advantage Loan Program
14 under which the Administration may guarantee
15 loans closed by covered institutions under this
16 subsection, with an emphasis on loans made to
17 small business concerns in underserved mar-
18 kets.

19 “(D) PROGRAM LEVELS.—In fiscal year
20 2024 and each fiscal year thereafter, not more
21 than 10 percent of the number of loans guaran-
22 teed under this subsection may be guaranteed
23 under the program.

24 “(E) GRANDFATHERING OF EXISTING
25 LENDERS.—Any covered institution that was li-

1 censed by the Administrator as a Community
2 Advantage small business lending company, or
3 that participated in the Community Advantage
4 Pilot Program of the Administration, during
5 the period beginning on May 1, 2023, and end-
6 ing on September 30, 2023, and was in good
7 standing during that period, as determined by
8 the Administration—

9 “(i) shall be designated as partici-
10 pants in the program;

11 “(ii) shall not be required to submit
12 an application to participate in the pro-
13 gram; and

14 “(iii) for the purpose of determining
15 the loan loss reserve amount of the covered
16 institution, shall have participation in the
17 Community Advantage Pilot Program in-
18 cluded in the calculation under subpara-
19 graph (J).

20 “(F) REQUIREMENT TO MAKE LOANS TO
21 UNDERSERVED MARKETS.—Not less than 60
22 percent of loans closed by a covered institution
23 under the program shall consist of loans made
24 to small business concerns in underserved mar-
25 kets.

1 “(G) MAXIMUM LOAN AMOUNT; COLLAT-
2 ERAL.—

3 “(i) MAXIMUM LOAN AMOUNT.—

4 “(I) IN GENERAL.—Except as
5 provided in subclause (II), the max-
6 imum loan amount for a loan guaran-
7 teed under the program is \$350,000.

8 “(II) EXPERIENCED LENDERS.—

9 “(aa) IN GENERAL.—The
10 Administrator may approve not
11 more than 8 covered institutions
12 (referred to in this subclause as
13 the ‘experienced lenders’), each of
14 which has not less than 5 years
15 of experience making loans under
16 the Community Advantage Pilot
17 Program of the Administration
18 or the program established under
19 this paragraph, to be eligible to
20 make loans under this subclause.

21 “(bb) MAXIMUM LOAN
22 AMOUNT.—Subject to item (dd),
23 an experienced lender may make
24 a loan guaranteed under the pro-

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gram in an amount that is not more than \$750,000.

“(cc) PARTICIPATION BY THE ADMINISTRATION.—With respect to an agreement to participate in a loan made under this subclause on a deferred basis, the participation by the Administration shall be—

“(AA) 75 percent of the balance of the financing outstanding at the time of the disbursement of the loan, if that balance is more than \$350,000;

“(BB) as described in clause (i) of paragraph (2)(G), if the balance of the financing outstanding at the time of the disbursement of the loan is as described in that clause; or

“(CC) as described in clause (ii) of paragraph (2)(G), if the balance of the

1 financing outstanding at the
2 time of the disbursement of
3 the loan is as described in
4 that clause.

5 “(dd) REQUIREMENTS TO
6 MAKE LOANS IN CERTAIN
7 AMOUNTS.—Not less than 60
8 percent of loans closed by each
9 selected lender under the pro-
10 gram shall consist of loans in an
11 amount that is not more than
12 \$350,000.

13 “(ii) COLLATERAL.—

14 “(I) IN GENERAL.—A covered in-
15 stitution shall not be required to take
16 collateral with respect to a loan guar-
17 anteed under the program if the
18 amount of that loan is not more than
19 \$50,000.

20 “(II) POLICIES AND PROCE-
21 DURES OF COVERED INSTITUTION.—
22 In determining the amount of collat-
23 eral required with respect to a loan
24 guaranteed under the program, a cov-
25 ered institution may use the collateral

1 policies and procedures of the covered
2 institution with respect to similarly
3 sized commercial loans closed by the
4 covered institution that are not guar-
5 anteed by the Administration.

6 “(H) INTEREST RATES.—The maximum
7 allowable interest rate prescribed by the Admin-
8 istration on any financing made on a deferred
9 basis pursuant to the program shall not exceed
10 the maximum allowable interest rate under sec-
11 tions 120.213 and 120.214 of title 13, Code of
12 Federal Regulations, or any successor regula-
13 tions.

14 “(I) REFINANCING OF COMMUNITY ADVAN-
15 TAGE PROGRAM LOANS.—A loan guaranteed
16 under the program or guaranteed under the
17 Community Advantage Pilot Program of the
18 Administration may be refinanced into another
19 7(a) loan made by a lender that does not par-
20 ticipate in the program.

21 “(J) LOAN LOSS RESERVE REQUIRE-
22 MENTS.—

23 “(i) LOAN LOSS RESERVE ACCOUNT
24 FOR COVERED INSTITUTIONS.—A covered
25 institution—

1 “(I) with not more than 5 years
2 of participation in the program shall
3 maintain a loan loss reserve account
4 with an amount equal to 5 percent of
5 the outstanding amount of the
6 unguaranteed portion of the loan
7 portfolio of the covered institution
8 under the program; and

9 “(II) with more than 5 years of
10 participation in the program shall
11 maintain a loan loss reserve account
12 with an amount equal to the average
13 repurchase rate of the covered institu-
14 tion over the preceding 36-month pe-
15 riod, except that such amount shall
16 not be less than 3 percent of the out-
17 standing amount of the unguaranteed
18 portion of the loan portfolio of the
19 covered institution under the program.

20 “(ii) ADDITIONAL LOAN LOSS RE-
21 SERVE AMOUNT FOR SELLING LOANS ON
22 THE SECONDARY MARKET.—In addition to
23 the amount required in the loan loss re-
24 serve account under clause (i), a covered
25 institution that sells a program loan on the

1 secondary market shall be required to
2 maintain the following additional amounts
3 in the loan loss reserve account:

4 “(I) For a covered institution
5 with less than 5 years of experience
6 selling program loans on the sec-
7 ondary market, an amount equal to 3
8 percent of the guaranteed portion of
9 each program loan sold on the sec-
10 ondary market.

11 “(II) For a covered institution
12 with more than 5 years of experience
13 selling program loans on the sec-
14 ondary market, an amount equal to
15 the average repurchase rate for loans
16 sold by the covered institution on the
17 secondary market over the preceding
18 36 months, except that such amount
19 shall be not less than 2 percent of the
20 guaranteed portion of each program
21 loan sold into the secondary market.

22 “(iii) RECALCULATION.—On October
23 1 of each year, the Administrator shall re-
24 calculate the loan loss reserve required
25 under clauses (i) and (ii).

1 “(K) TRAINING.—The Administration—

2 “(i) shall provide accessible upfront
3 and ongoing training for covered institu-
4 tions making loans under the program to
5 support program compliance and improve
6 the interface between the covered institu-
7 tions and the Administration, which shall
8 include—

9 “(I) guidance for following the
10 regulations of the Administration; and

11 “(II) guidance specific to mis-
12 sion-oriented lending that is intended
13 to help lenders effectively reach and
14 support small business concerns in
15 underserved markets, including man-
16 agement and technical assistance de-
17 livery;

18 “(ii) may enter into a contract to pro-
19 vide the training described in clause (i)
20 with an organization—

21 “(I) with expertise in lending
22 under this subsection; and primarily
23 specializing in—

24 “(aa) mission-oriented lend-
25 ing; and

1 “(bb) lending to small busi-
2 ness concerns in underserved
3 markets; and

4 “(iii) shall provide training for the
5 employees and contractors of the Adminis-
6 tration that regularly engage with covered
7 institutions or borrowers under the pro-
8 gram.

9 “(L) COMMUNITY ADVANTAGE OUTREACH
10 AND EDUCATION.—The Administrator—

11 “(i) shall develop and implement a
12 program to promote to, conduct outreach
13 to, and educate prospective covered institu-
14 tions about the program; and

15 “(ii) may enter into a contract with 1
16 or more nonprofit organizations experi-
17 enced in working with and training mission
18 driven lenders to provide the promotion,
19 outreach, and education described in clause
20 (i).

21 “(M) COMMUNITY ADVANTAGE NETWORK
22 PARTNER PARTICIPATION.—

23 “(i) IN GENERAL.—A covered institu-
24 tion that uses a Community Advantage
25 Network Partner shall abide by policies

1 and procedures of the Administration con-
2 cerning the use of Referral Agent fees per-
3 mitted by the Administration and disclo-
4 sure of those fees.

5 “(ii) PAYMENT OF FEES.—Notwith-
6 standing any other provision of law, all
7 fees described in clause (i) shall be paid by
8 the covered institution to the Community
9 Advantage Network Partner upon dis-
10 bursement of the applicable program loan.

11 “(N) DELEGATED AUTHORITY.—A covered
12 institution is not eligible to receive delegated
13 authority from the Administration under the
14 program until the covered institution has satis-
15 fied the following applicable requirements:

16 “(i) For a covered institution actively
17 participating in the Community Advantage
18 Pilot Program of the Administration, as of
19 the day before the date of enactment of
20 this paragraph—

21 “(I) the covered institution has
22 approved and fully disbursed not
23 fewer than 10 loans under that Pilot
24 Program; and

1 “(II) the Administration has
2 evaluated the ability of the covered in-
3 stitution to fulfill program require-
4 ments.

5 “(ii) For any covered institution not
6 described in clause (i)—

7 “(I) the covered institution has
8 approved and fully disbursed not
9 fewer than 20 loans under the pro-
10 gram; and

11 “(II) the Administration has
12 evaluated the ability of the covered in-
13 stitution to fulfill program require-
14 ments.

15 “(O) REPORTING.—

16 “(i) WEEKLY REPORTS.—

17 “(I) IN GENERAL.—The Admin-
18 istration shall report on the website of
19 the Administration, as part of the
20 weekly reports on lending approvals
21 under this subsection—

22 “(aa) on and after the date
23 of enactment of this paragraph,
24 the number and dollar amount of
25 loans guaranteed under the Com-

1 community Advantage Pilot Program
2 of the Administration; and

3 “(bb) on and after the date
4 on which the Administration be-
5 gins to approve loans under the
6 program, the number and dollar
7 amount of loans guaranteed
8 under the program.

9 “(II) SEPARATE ACCOUNTING.—
10 The number and dollar amount of
11 loans reported in a weekly report
12 under subclause (I) for loans guaran-
13 teed under the Community Advantage
14 Program of the Administration and
15 under the program shall include a
16 breakdown by the demographic infor-
17 mation of the owners of the small
18 business concerns, by whether the
19 small business concern is a new busi-
20 ness or an existing business, and by
21 whether the small business concern is
22 located in an urban or rural area, and
23 broken down by—

24 “(aa) loans of not more than
25 \$50,000;

1 “(bb) loans of more than
2 \$50,000 and not more than
3 \$150,000;

4 “(cc) loans of more than
5 \$150,000 and not more than
6 \$250,000;

7 “(dd) loans of more than
8 \$250,000 and not more than
9 \$350,000; and

10 “(ee) loans of more than
11 \$350,000 and not more than
12 \$750,000.

13 “(ii) ANNUAL REPORTS.—

14 “(I) IN GENERAL.—For each fis-
15 cal year in which the program is in ef-
16 fect, the Administration shall submit
17 to the Committee on Small Business
18 and Entrepreneurship of the Senate
19 and the Committee on Small Business
20 of the House of Representatives, and
21 make publicly available on the inter-
22 net, information about loans provided
23 under the program and under the
24 Community Advantage Pilot Program
25 of the Administration.

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“(II) CONTENTS.—Each report submitted and made publicly available under subclause (I) shall include—

“(aa) the number and dollar amounts of loans provided to small business concerns under the program, including a breakdown by—

“(AA) the demographic information of the owners of the small business concern;

“(BB) whether the small business concern is located in an urban or rural area; and

“(CC) whether the small business concern is an existing business or a new business, as provided in the weekly reports on lending approvals under this subsection;

“(bb) the proportion of loans described in item (aa) compared to—

1 “(AA) other 7(a) loans
2 of any amount;

3 “(BB) other 7(a) loans
4 of similar amounts;

5 “(CC) express loans
6 provided under paragraph
7 (31) of similar amounts; and

8 “(DD) other 7(a) loans
9 of similar amounts provided
10 to small business concerns
11 in underserved markets;

12 “(cc) a comparison of the
13 number and dollar amounts of
14 loans provided to small business
15 concerns under the program and
16 under each category of loans de-
17 scribed in item (aa), broken down
18 by—

19 “(AA) loans of not
20 more than \$50,000;

21 “(BB) loans of more
22 than \$50,000 and not more
23 than \$150,000;

1 “(CC) loans of more
2 than \$150,000 and not more
3 than \$250,000;

4 “(DD) loans of more
5 than \$250,000 and not more
6 than \$350,000; and

7 “(EE) loans of more
8 than \$350,000 and not more
9 than \$750,000;

10 “(dd) the number and dollar
11 amounts of loans provided to
12 small business concerns under
13 the program by State, and the
14 jobs created or retained within
15 each State; and

16 “(ee) a list of covered insti-
17 tutions participating in the pro-
18 gram and the Community Advan-
19 tage Program of the Administra-
20 tion, including—

21 “(AA) the name, loca-
22 tion, and contact informa-
23 tion, such as the website and
24 telephone number, of each
25 covered institution; and

1 “(BB) a breakdown by
2 the number and dollar
3 amount of the loans ap-
4 proved for small business
5 concerns.

6 “(III) TIMING.—An annual re-
7 port required under this clause
8 shall—

9 “(aa) be submitted and
10 made publicly available not later
11 than December 1 of each year;
12 and

13 “(bb) cover the lending ac-
14 tivity for the fiscal year that
15 ended on September 30 of that
16 same year.

17 “(P) GAO REPORT.—Not later than 5
18 years after the date of enactment of this para-
19 graph, the Comptroller General of the United
20 States shall submit to the Administrator, the
21 Committee on Small Business and Entrepre-
22 neurship of the Senate, and the Committee on
23 Small Business of the House of Representatives
24 a report—

25 “(i) assessing—

1 “(I) the extent to which the pro-
2 gram fulfills the requirements of this
3 paragraph; and

4 “(II) the performance of covered
5 institutions participating in the pro-
6 gram; and

7 “(ii) providing recommendations on
8 the administration of the program and the
9 findings under subclauses (I) and (II) of
10 clause (i).

11 “(Q) REGULATIONS.—

12 “(i) IN GENERAL.—Not later than
13 180 days after the date of enactment of
14 this paragraph, the Administrator shall
15 promulgate regulations governing the pro-
16 gram, including metrics for lender per-
17 formance, metrics of success and bench-
18 marks of the program, and criteria for ap-
19 propriate management and technical as-
20 sistance.

21 “(ii) UPDATES.—The Administrator
22 shall consult the report submitted under
23 subparagraph (P) and, not later than 180
24 days after the date on which the Comp-
25 troller General of the United States sub-

1 mits the report, promulgate any necessary
2 changes to existing regulations of the Ad-
3 ministration based on the recommenda-
4 tions contained in the report.”.

5 (b) PARTICIPATION.—Section 7(a)(2) of the Small
6 Business Act (15 U.S.C. 636(a)(2)) is amended—

7 (1) in subparagraph (A), in the matter pre-
8 ceding clause (i), by striking “and (F)” and insert-
9 ing “(F), and (G)”; and

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

11 “(G) PARTICIPATION IN THE COMMUNITY
12 ADVANTAGE LOAN PROGRAM.—Subject to sub-
13 paragraph (G)(i)(II)(cc) of paragraph (38), in
14 an agreement to participate in a loan on a de-
15 ferred basis under that paragraph, the partici-
16 pation by the Administration shall be—

17 “(i) 80 percent of the balance of the
18 financing outstanding at the time of the
19 disbursement of the loan, if that balance is
20 more than \$150,000 and not more than
21 \$350,000; or

22 “(ii) 90 percent of the balance of the
23 financing outstanding at the time of the
24 disbursement of the loan, if that balance is
25 not more than \$150,000.”.

1 **TITLE II—SMALL BUSINESS**
2 **LENDING COMPANIES**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Modernizing SBA’s
5 Business Loan Programs Act of 2023”.

6 **SEC. 202. FINDINGS.**

7 Congress finds that—

8 (1) in 1982, the Administration placed a mora-
9 torium on licensing new small business lending com-
10 panies because the Administration lacked the re-
11 sources to effectively service and supervise additional
12 small business lending companies;

13 (2) according to the Office of the Inspector
14 General of the Administration, the reduction in staff
15 in the Office of Credit Risk Management of the Ad-
16 ministration from 42 full-time employees to 29 full-
17 time employees could affect the fiscal year 2023
18 goals of the Administration for oversight reviews;

19 (3) the Administration has finalized a rule-
20 making to lift the moratorium on the licensing new
21 small business lending companies and establish a
22 new Community Advantage small business lending
23 company license, and there is no cap on the number
24 of small business lending companies licenses that
25 could be issued by the Administration;

1 (4) the increased costs and fees for an existing
2 Community Advantage lender in the Community Ad-
3 vantage Pilot Program of the Administration to ob-
4 tain and maintain a Community Advantage small
5 business lending company license could be cost pro-
6 hibitive for a majority of current Community Advan-
7 tage lenders to transition to a Community Advan-
8 tage small business lending company;

9 (5) on May 1, 2023, the Administration an-
10 nounced that the Community Advantage Pilot Pro-
11 gram would sunset on September 30, 2023, and the
12 authority of a Community Advantage lender to make
13 loans under section 7(a) of the Small Business Act
14 (15 U.S.C. 636(a)) under the pilot program will ter-
15 minate;

16 (6) the Administration does not have adequate
17 resources to issue either more than 3 new small
18 business lending company licenses or new Commu-
19 nity Advantage small business lending company li-
20 censes, as the Office of Credit Risk Management
21 does not have the capacity to assume additional
22 oversight responsibilities; and

23 (7) in order to increase small dollar lending in
24 underserved areas, the Community Advantage Pilot
25 Program should be made permanent, giving lenders

1 certainty to continue to make loans under section
2 7(a) of the Small Business Act (15 U.S.C. 636(a)).

3 **SEC. 203. LENDING CRITERIA.**

4 (a) 7(A) LOANS.—Section 7(a)(1) of the Small Busi-
5 ness Act (15 U.S.C. 636(a)(1)) is amended by adding at
6 the end the following:

7 “(D) UNDERWRITING REQUIREMENTS.—

8 “(i) IN GENERAL.—With respect to a
9 loan guaranteed under this subsection—

10 “(I) the applicant (including an
11 operating company) shall be credit-
12 worthy;

13 “(II) the loan must be so sound
14 as to reasonably assure repayment;
15 and

16 “(III) subject to the approval of
17 the Administrator, the Director of the
18 Office of Credit Risk Management
19 may require additional criteria.

20 “(ii) LENDING CRITERIA FOR LOANS
21 OF \$350,000 OR MORE.—With respect to a
22 loan guaranteed under this section that is
23 not less than \$350,000, the Administration
24 and lenders shall, as applicable, consider
25 the following:

1 “(I) Credit history of the appli-
2 cant (and the operating company, if
3 applicable), and the associates and
4 guarantors of the applicant.

5 “(II) Experience and depth of
6 management.

7 “(III) Strength of the business.

8 “(IV) Past earnings, projected
9 cash flow, and future prospects.

10 “(V) Ability to repay the loan
11 with earnings from the business of the
12 applicant.

13 “(VI) Sufficient invested equity
14 to operate on a sound financial basis.

15 “(VII) Potential for long-term
16 success.

17 “(VIII) Nature and value of col-
18 lateral (although inadequate collateral
19 may not be the sole reason for denial
20 of a loan application).

21 “(IX) The effect any affiliate of
22 the applicant may have on the ulti-
23 mate repayment ability of the appli-
24 cant.

1 “(iii) LENDING CRITERIA FOR LOANS
2 OF LESS THAN \$350,000.—With respect to a
3 loan guaranteed under this section that is
4 less than \$350,000—

5 “(I) lenders shall use appropriate
6 and generally acceptable commercial
7 credit analysis processes and proce-
8 dures consistent with those used for
9 similarly-sized commercial loans that
10 are not guaranteed by the Administra-
11 tion;

12 “(II) the Administration and
13 lenders may use a business credit
14 scoring model; and

15 “(III) the Administration and
16 lenders shall, as applicable, consider—

17 “(aa) the credit score or
18 credit history of the applicant
19 (and the operating company, if
20 applicable), and the associates
21 and guarantors of the applicant;

22 “(bb) the earnings or cash
23 flow of the applicant;

24 “(cc) any equity or collateral
25 of the applicant; and

1 “(dd) the effect any affili-
2 ates of the applicant may have on
3 the ultimate repayment ability of
4 the applicant.”.

5 (b) 504/CDC LOANS.—Section 502 of the Small
6 Business Investment Act of 1958 (15 U.S.C. 696) is
7 amended—

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

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

12 (2) in subsection (a), as so designated, by add-
13 ing at the end the following:

14 “(8) UNDERWRITING REQUIREMENTS.—

15 “(A) IN GENERAL.—With respect to a loan
16 made under this section—

17 “(i) the applicant (including an oper-
18 ating company) shall be creditworthy; and

19 “(ii) the loan must be so sound as to
20 reasonably assure repayment.

21 “(B) LENDING CRITERIA.—With respect to
22 a loan made under this section—

23 “(i) lenders and certified development
24 companies shall use appropriate and gen-
25 erally acceptable commercial credit analysis

1 processes and procedures consistent with
2 those used for similarly-sized commercial
3 loans that are not guaranteed by the Ad-
4 ministration;

5 “(ii) the Administration, lenders, and
6 certified development companies may use a
7 business credit scoring model; and

8 “(iii) the Administration, lenders, and
9 certified development companies shall, as
10 applicable, consider—

11 “(I) the credit score or credit his-
12 tory of the applicant (and the oper-
13 ating company, if applicable), and the
14 associates and guarantors of the ap-
15 plicant;

16 “(II) the earnings or cash flow of
17 the applicant; and

18 “(III) any equity or collateral of
19 the applicant.”.

20 **SEC. 204. AFFILIATION AND FRANCHISE DIRECTORY.**

21 (a) **AFFILIATION PRINCIPLES.—**

22 (1) **BUSINESS LOANS.—**Section 7(a)(1) of the
23 Small Business Act (15 U.S.C. 636(a)(1)), as
24 amended by section 203(a) of this Act, is amended
25 by adding at the end the following:

1 “(E) AFFILIATION PRINCIPLES.—Affili-
2 ation under any of the circumstances described
3 below is sufficient to establish affiliation for ap-
4 plicants for a loan guaranteed under this sub-
5 section:

6 “(i) AFFILIATION BASED ON OWNER-
7 SHIP.—

8 “(I) IN GENERAL.—For deter-
9 mining affiliation based on equity
10 ownership, a concern is an affiliate of
11 an individual, concern, or entity that
12 owns or has the power to control more
13 than 50 percent of the voting equity
14 of the concern.

15 “(II) OTHER OFFICERS.—If no
16 individual, concern, or entity is found
17 to control a concern under subclause
18 (I), the Administrator shall deem the
19 board of directors, president, or chief
20 executive officer (or other officers,
21 managing members, or partners who
22 control the management of the con-
23 cern) to be in control of the concern.

24 “(III) MINORITY SHARE-
25 HOLDER.—The Administrator shall

1 deem a minority shareholder of a con-
2 cern to be in control of the concern if
3 that individual or entity has the abil-
4 ity, under the charter, by-laws, or
5 shareholder agreement of the concern,
6 to prevent a quorum or otherwise
7 block action by the board of directors
8 or shareholders of the concern.

9 “(ii) AFFILIATION ARISING UNDER
10 STOCK OPTIONS, CONVERTIBLE SECURI-
11 TIES, AND AGREEMENTS TO MERGE.—

12 “(I) IN GENERAL.—In deter-
13 mining the size of a concern, the Ad-
14 ministrators shall—

15 “(aa) consider stock options,
16 convertible securities, and agree-
17 ments to merge (including agree-
18 ments in principle) to have a
19 present effect on the power to
20 control a concern; and

21 “(bb) treat options, convert-
22 ible securities, and agreements
23 described in item (aa) as though
24 the rights granted have been ex-
25 ercised.

1 “(II) AGREEMENTS TO OPEN OR
2 CONTINUE NEGOTIATIONS.—An agree-
3 ment to open or continue negotiations
4 towards the possibility of a merger or
5 a sale of stock at some later date is
6 not considered an ‘agreement in prin-
7 ciple’ and is not given present effect.

8 “(III) CONDITIONS PRECE-
9 DENT.—Stock options, convertible se-
10 curities, and agreements that are sub-
11 ject to conditions precedent that are
12 incapable of fulfillment, speculative,
13 conjectural, or unenforceable under
14 State or Federal law, or where the
15 probability of the transaction (or exer-
16 cise of the rights) occurring is shown
17 to be extremely remote, are not given
18 present effect.

19 “(IV) TERMINATION OF CON-
20 TROL.—

21 “(aa) IN GENERAL.—An in-
22 dividual, concern, or other entity
23 that controls 1 or more other
24 concerns cannot use stock op-
25 tions, convertible securities, or

1 agreements to appear to termi-
2 nate such control before actually
3 doing so.

4 “(bb) DIVESTING.—The Ad-
5 ministrator shall not give present
6 effect to the ability of an indi-
7 vidual, concern, or other entity to
8 divest all or part of their owner-
9 ship interest in a concern in
10 order to avoid a finding of affili-
11 ation.

12 “(iii) AFFILIATION BASED ON MAN-
13 AGEMENT.—Affiliation arises where—

14 “(I) the chief executive officer or
15 president of the applicant concern (or
16 other officers, managing members, or
17 partners who control the management
18 of the concern) also controls the man-
19 agement of 1 or more other concerns;

20 “(II) a single individual, concern,
21 or entity that controls the board of di-
22 rectors or management of 1 concern
23 also controls the board of directors or
24 management of 1 of more other con-
25 cerns; or

1 “(III) a single individual, con-
2 cern, or entity controls the manage-
3 ment of the applicant concern through
4 a management agreement.

5 “(iv) AFFILIATION BASED ON IDEN-
6 TITY OF INTEREST.—

7 “(I) DEFINITION.—In this
8 clause, the term ‘close relative’
9 means—

10 “(aa) a spouse, parent,
11 child, or sibling; and

12 “(bb) the spouse of any indi-
13 vidual described in item (aa).

14 “(II) CLOSE RELATIVES.—Affili-
15 ation arises when there is an identity
16 of interest between close relatives with
17 identical or substantially identical
18 business or economic interests, such
19 as where the close relatives operate
20 concerns in the same or similar indus-
21 try in the same geographic area.

22 “(III) AGGREGATED INTER-
23 ESTS.—If the Administrator deter-
24 mines that interests described in sub-
25 clause (II) should be aggregated, an

1 individual or firm may rebut that de-
2 termination with evidence showing
3 that the interests deemed to be 1 are
4 in fact separate.

5 “(v) AFFILIATION BASED ON FRAN-
6 CHISE AND LICENSE AGREEMENTS.—

7 “(I) IN GENERAL.—The re-
8 straints imposed on a franchisee or li-
9 censee by its franchise or license
10 agreement generally shall not be con-
11 sidered in determining whether the
12 franchisor or licensor is affiliated with
13 an applicant franchisee or licensee,
14 provided the applicant franchisee or li-
15 censee has the right to profit from its
16 efforts and bears the risk of loss com-
17 mensurate with ownership.

18 “(II) NATURE OF AGREEMENT.—
19 For purposes of subclause (I), the Ad-
20 ministrator shall only consider the
21 franchise or license agreements of the
22 applicant concern.

23 “(vi) DETERMINING THE CONCERN’S
24 SIZE.—In determining the size of a con-
25 cern, the Administrator counts the re-

1 receipts, employees, or the alternate size
2 standard (if applicable) of the concern
3 whose size is at issue and all of the domes-
4 tic and foreign affiliates of the concern, re-
5 gardless of whether the affiliates are orga-
6 nized for profit.

7 “(vii) EXCEPTIONS TO AFFILI-
8 ATION.—The exceptions to affiliation de-
9 scribed in section 121.103(b) of title 13,
10 Code of Federal Regulations, or any suc-
11 cessor regulation, shall apply.”.

12 (2) 504/CDC LOANS.—Section 502(a) of the
13 Small Business Investment Act of 1958 (15 U.S.C.
14 696(a)), as amended by section 203(b) of this Act,
15 is amended by adding at the end the following:

16 “(9) AFFILIATION PRINCIPLES.—Affiliation
17 under any of the circumstances described below is
18 sufficient to establish affiliation for applicants for a
19 loan under this subsection:

20 “(A) AFFILIATION BASED ON OWNER-
21 SHIP.—

22 “(i) OWNERSHIP OF ANOTHER BUSI-
23 NESS.—When the applicant owns more
24 than 50 percent of another business, the

1 applicant and the other business are affili-
2 ated.

3 “(ii) OWNERSHIP BY OTHER BUSI-
4 NESSES.—

5 “(I) When a business owns more
6 than 50 percent of an applicant, the
7 business that owns the applicant is af-
8 filiated with the applicant.

9 “(II) If a business entity owner
10 that owns more than 50 percent of an
11 applicant also owns more than 50 per-
12 cent of another business that operates
13 in the same 3-digit North American
14 Industry Classification System sub-
15 sector as the applicant, then the busi-
16 ness entity owner, the other business,
17 and the applicant are all affiliated.

18 “(iii) OWNERSHIP BY INDIVIDUALS.—
19 When an individual owns more than 50
20 percent of the applicant and the individual
21 also owns more than 50 percent of another
22 business entity that operates in the same
23 3-digit North American Industry Classi-
24 fication System subsector as the applicant,

1 the applicant and the individual owner's
2 other business entity are affiliated.

3 “(iv) LESS THAN 50 PERCENT.—When
4 an applicant does not have an owner that
5 owns more than 50 percent of the appli-
6 cant, if an owner of 20 percent or more of
7 the applicant also owns more than 50 per-
8 cent of another business entity that oper-
9 ates in the same 3-digit North American
10 Industry Classification System subsector
11 as the applicant, the applicant and the
12 owner's other business entity are affiliated.

13 “(v) SPOUSE AND MINOR CHIL-
14 DREN.—Ownership interests of spouses
15 and minor children shall be combined when
16 determining amount of ownership interest.

17 “(vi) PERCENTAGE OF OWNERSHIP.—
18 When determining the percentage of own-
19 ership that an individual owns in a busi-
20 ness, the Administrator shall consider the
21 pro rata ownership of entities.

22 “(B) AFFILIATION ARISING UNDER STOCK
23 OPTIONS, CONVERTIBLE SECURITIES, AND
24 AGREEMENTS TO MERGE.—

1 “(i) IN GENERAL.—The Administrator
2 shall—

3 “(I) consider stock options, con-
4 vertible securities, and agreements to
5 merge (including agreements in prin-
6 ciple) to have a present effect on the
7 ownership of an entity; and

8 “(II) treat options, convertible
9 securities, and agreements described
10 in subclause (I) as though the rights
11 granted have been exercised.

12 “(ii) AGREEMENTS TO OPEN OR CON-
13 TINUE NEGOTIATIONS.—An agreement to
14 open or continue negotiations towards the
15 possibility of a merger or a sale of stock at
16 some later date is not considered an
17 ‘agreement in principle’ and is not given
18 present effect.

19 “(iii) CONDITIONS PRECEDENT.—
20 Stock options, convertible securities, and
21 agreements that are subject to conditions
22 precedent that are incapable of fulfillment,
23 speculative, conjectural, or unenforceable
24 under State or Federal law, or where the
25 probability of the transaction (or exercise

1 of the rights) occurring is shown to be ex-
2 tremely remote, are not given present ef-
3 fect.

4 “(iv) ABILITY TO DIVEST.—The Ad-
5 ministrator shall not give present effect to
6 individuals’, concerns’, or other entities’
7 ability to divest all or part of their owner-
8 ship interest to avoid a finding of affili-
9 ation.

10 “(C) DETERMINING THE CONCERN’S
11 SIZE.—In determining the size of a concern, the
12 Administrator counts the receipts, employees, or
13 the alternate size standard (if applicable) of the
14 concern whose size is at issue and all of the do-
15 mestic and foreign affiliates of the concern, re-
16 gardless of whether the affiliates are organized
17 for profit.

18 “(D) EXCEPTIONS TO AFFILIATION.—The
19 exceptions to affiliation described in section
20 121.103(b) of title 13, Code of Federal Regula-
21 tions, or any successor regulation, shall apply.”.

22 (b) FRANCHISE DIRECTORY.—Not later than 30 days
23 after the date of enactment of this Act, the Administration
24 shall publish and maintain on the website of the Adminis-
25 tration a Franchise Directory, which shall contain a list

1 that lenders and certified development companies may use
2 in evaluating whether a franchise is eligible for financing
3 from the Administration.

4 **SEC. 205. LOAN AUTHORIZATION.**

5 (a) 7(A) LOANS.—Section 7(a)(1) of the Small Busi-
6 ness Act (15 U.S.C. 636(a)(1)), as amended by section
7 204(a) of this Act, is amended by adding at the end the
8 following:

9 “(F) LOAN AUTHORIZATION.—

10 “(i) IN GENERAL.—With respect to a
11 loan made or guaranteed under this sub-
12 section, the Administration shall issue a
13 written agreement providing the terms and
14 conditions under which the Administration
15 will make or guarantee the loan.

16 “(ii) NOT A CONTRACT.—A written
17 agreement issued under clause (i) is not a
18 contract to make a loan.”.

19 (b) 504/CDC LOANS.—Section 502(a) of the Small
20 Business Investment Act of 1958 (15 U.S.C. 696(a)), as
21 amended by section 204(b) of this Act, is amended by add-
22 ing at the end the following:

23 “(10) LOAN AUTHORIZATION.—

24 “(A) IN GENERAL.—With respect to a loan
25 made under this subsection, the Administration

1 shall issue a written agreement providing the
2 terms and conditions under which the Adminis-
3 tration will make the loan.

4 “(B) NOT A CONTRACT.—A written agree-
5 ment issued under subparagraph (A) is not a
6 contract to make a loan.”.

7 **SEC. 206. OVERSIGHT OF SMALL BUSINESS LENDING COM-**
8 **PANIES.**

9 (a) DEFINITION.—Section 3(r) of the Small Business
10 Act (15 U.S.C. 632(r)) is amended, in the matter pre-
11 ceding paragraph (1), by striking “As used in section 23
12 of this Act” and inserting “In this Act”.

13 (b) CAPITAL REQUIREMENTS; MAXIMUM NUMBER.—
14 Section 7(a)(1) of the Small Business Act (15 U.S.C.
15 636(a)(1)), as amended by section 205(a) of this Act, is
16 amended by adding at the end the following:

17 “(G) ADDITIONAL PROVISIONS RELATING
18 TO SMALL BUSINESS LENDING COMPANIES.—

19 “(i) MAXIMUM NUMBER.—

20 “(I) IN GENERAL.—Not more
21 than 17 small business lending com-
22 panies may be authorized to make
23 loans under this subsection at any
24 time.

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“(II) EXISTING SMALL BUSINESS
LENDING COMPANIES.—

“(aa) IN GENERAL.—Except
as provided in subclause (III),
each of the 14 small business
lending companies authorized to
make loans under this subsection
as of June 1, 2023 shall retain
such authorization on and after
the date of enactment of this
Act.

“(bb) LOSS OF AUTHORIZA-
TION.—With respect to a lender
that, as of the date of enactment
of this subparagraph, is author-
ized as a Community Advantage
small business lending company,
that lender shall, beginning on
that date of enactment—

“(AA) no longer have
that authorization; and

“(BB) be designated as
a lender under the Commu-
nity Advantage Loan Pro-

1 gram established under
2 paragraph (38).

3 “(III) TRANSFER OR SALE.—The
4 Administrator shall have the discre-
5 tion to authorize the transfer or sale
6 of a license of a small business lend-
7 ing company to make loans under this
8 subsection to another small business
9 lending company.

10 “(IV) LIMITATION OF DELE-
11 GATED AUTHORITY.—

12 “(aa) IN GENERAL.—Not-
13 withstanding paragraph (31), any
14 small business lending company
15 that the Administration author-
16 izes after June 1, 2023 to make
17 loans under this subsection shall
18 be ineligible for delegated author-
19 ity from the Administration to
20 make and approve loans under
21 this subsection for the 5-year pe-
22 riod beginning on the date on
23 which the Administration author-
24 izes the small business lending

1 company to make loans under
2 this subsection.

3 “(bb) EXISTING SBLCS.—
4 Item (aa) shall not apply with re-
5 spect to each of the 14 small
6 business lending companies au-
7 thorized to make loans under this
8 subsection as of June 1, 2023.

9 “(ii) MINIMUM CAPITAL REQUIRE-
10 MENTS.—

11 “(I) IN GENERAL.—Except as
12 provided in subclauses (II) and (III),
13 to be authorized to make loans under
14 this subsection, a small business lend-
15 ing company shall comply with the
16 minimum capital requirements in ef-
17 fect on January 3, 2021.

18 “(II) APPROVED ON OR AFTER
19 JANUARY 4, 2021.—Any small business
20 lending company authorized by the
21 Administration to make loans under
22 this subsection on or after January 4,
23 2021, including in the event of a
24 change of ownership or control, shall

1 maintain, at a minimum, the greater
2 of—

3 “(aa) unencumbered paid-in
4 capital and paid-in surplus of not
5 less than \$5,000,000; or

6 “(bb) an amount equal to 10
7 percent of the aggregate of its
8 share of all outstanding loans.

9 “(III) REQUIREMENTS ON AND
10 AFTER JANUARY 4, 2024.—On and
11 after January 4, 2024, each small
12 business lending company that makes
13 or acquires a loan under this sub-
14 section shall maintain, at a minimum,
15 the greater of—

16 “(aa) unencumbered paid-in
17 capital and paid-in surplus of not
18 less than \$5,000,000; or

19 “(bb) an amount equal to 10
20 percent of the aggregate of its
21 share of all outstanding loans.

22 “(iii) CRITERIA FOR LICENSING
23 SMALL BUSINESS LENDING COMPANIES.—
24 The Administrator shall use uniform terms
25 for the licensing of business concerns as

1 business loans under section 7(a) for
2 performance, excessive losses, or pred-
3 atory lending;

4 “(II) shall review and may revoke
5 the authority of a small business lend-
6 ing company to make, service, or liq-
7 uidate business loans under section
8 7(a) if—

9 “(aa) the early default rate
10 for the small business lending
11 company exceeds the average de-
12 fault rate for all small business
13 lending companies participating
14 in the loan program under sec-
15 tion 7(a);

16 “(bb) the small business
17 lending company fails to comply
18 with the requirements under sub-
19 paragraph (B); or

20 “(cc) the Director finds in
21 an audit conducted under sub-
22 paragraph (C)(ii) that the small
23 business lending company is not
24 in compliance with 1 or more of

1 the requirements described in
2 subparagraph (C); and

3 “(III) shall revoke the authority
4 of a small business lending company
5 to make, service, or liquidate business
6 loans under section 7(a) if the Direc-
7 tor has determined the small business
8 lending company has failed to comply
9 with the requirements in subclause
10 (II) or (III) of subparagraph (B)(ii)
11 for 2 or more years in a row.

12 “(ii) REPORTING REQUIREMENT.—If
13 the Director revokes the authority of a
14 small business lending company to make,
15 service, or liquidate business loans under
16 section 7(a), the Director shall report the
17 revocation, along with details and informa-
18 tion describing why that decision was
19 made, to the Office of the Inspector Gen-
20 eral of the Administration.

21 “(B) ANNUAL STRESS TESTS.—

22 “(i) IN GENERAL.—Each small busi-
23 ness lending company shall—

24 “(I) conduct an annual stress
25 test of the portfolio of the small busi-

1 ness lending company under section
2 7(a) in accordance with the require-
3 ments under clause (ii); and

4 “(II) report to the Director the
5 findings of each annual stress test
6 conducted under subclause (I).

7 “(ii) REQUIREMENTS.—Each stress
8 test conducted under clause (i) shall com-
9 ply with the following requirements:

10 “(I) The small business lending
11 company shall use financial data as of
12 December 31 of the calendar year
13 prior to the reporting year.

14 “(II) The small business lending
15 company shall use the scenarios pro-
16 vided by the Director, which shall re-
17 flect a minimum of 2 sets of economic
18 and financial conditions, including
19 baseline and severely adverse sce-
20 narios that incorporate consideration
21 of interest rate risk. The Director
22 shall provide a description of the sce-
23 narios required to be used by each
24 small business lending company not

1 later than February 15 of the report-
2 ing year.

3 “(III) The board of directors and
4 senior management of each small
5 business lending company shall con-
6 sider the results of the stress tests
7 conducted under this subsection in the
8 normal course of business, including
9 capital planning, assessment of capital
10 adequacy, and risk management prac-
11 tices of the small business lending
12 company.

13 “(C) COMPLIANCE WITH BANK SECRECY
14 ACT AND ANTI-MONEY LAUNDERING REQUIRE-
15 MENTS.—

16 “(i) DEFINITION.—In this subpara-
17 graph, the term ‘Bank Secrecy Act’
18 means—

19 “(I) section 21 of the Federal
20 Deposit Insurance Act (12 U.S.C.
21 1829b);

22 “(II) chapter 2 of title I of Pub-
23 lic Law 91–508 (12 U.S.C. 1951 et
24 seq.); and

1 requirements, and any applicable consumer
2 protection laws, including the Truth in
3 Lending Act (15 U.S.C. 1601 et seq.), the
4 Equal Credit Opportunity Act (15 U.S.C.
5 1691 et seq.), and the Gramm-Leach-Bliley
6 Act (Public Law 106–102; 113 Stat.
7 1338).”;

8 (5) in paragraph (4), as so redesignated, by in-
9 serting “NOTIFICATION.—” after “(4)”; and

10 (6) in paragraph (5), as so redesignated, by in-
11 serting “DELEGATION.—” after “(5)”.

12 **SEC. 207. OFFICE OF CREDIT RISK MANAGEMENT.**

13 Section 47 of the Small Business Act (15 U.S.C.
14 657t) is amended—

15 (1) in subsection (c)—

16 (A) in paragraph (1), by inserting before
17 the period at the end the following: “with a
18 demonstrated career in or outstanding quali-
19 fications or expertise related to finance and fi-
20 nancial risk management. The Director shall re-
21 port directly to the Administrator”; and

22 (B) by adding at the end the following:

23 “(3) COMPENSATION.—The Administrator shall
24 fix the compensation of the Director—

1 “(A) as necessary to carry out the duties
2 of the Office; and

3 “(B) in an amount that is not less than
4 the highest rate of basic pay for the Senior Ex-
5 ecutive Service under section 5382(b) of title 5,
6 United States Code.”; and

7 (2) in subsection (h)(2)—

8 (A) in subparagraph (I), by striking “and”
9 at the end;

10 (B) in subparagraph (J), by striking the
11 period at the end and inserting a semicolon;
12 and

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

14 “(K) the number of 7(a) lenders that had
15 more than 3 percent in early default rates; and

16 “(L) an analysis of the median and aver-
17 age credit scores of borrowers relating to early
18 default rates, purchase rates, and charge offs.”.

19 **SEC. 208. DENIED LOAN OR LOAN MODIFICATION REQUEST.**

20 (a) 7(A) LOANS.—Section 7(a)(1) of the Small Busi-
21 ness Act (15 U.S.C. 636(a)(1)), as amended by section
22 206(b) of this Act, is amended by adding at the end the
23 following:

24 “(H) DENIED LOAN OR LOAN MODIFICA-
25 TION REQUEST.—

1 “(i) ROLE OF ADMINISTRATOR.—The
2 Administrator may not intervene or make
3 a final decision with respect to a request
4 for reconsideration of a denied loan or loan
5 modification request made by an applicant
6 or recipient of a loan under this sub-
7 section.

8 “(ii) FINAL DECISION.—Only the Di-
9 rector of the Office of Financial Assistance
10 may make a final decision with respect to
11 a request for reconsideration of a denied
12 loan or loan modification request made by
13 an applicant or recipient of a loan under
14 this subsection.”.

15 (b) 504/CDC LOANS.—Section 502(a) of the Small
16 Business Investment Act of 1958 (15 U.S.C. 696(a)), as
17 amended by section 205(b) of this Act, is amended by add-
18 ing at the end the following:

19 “(11) DENIED LOAN OR LOAN MODIFICATION
20 REQUEST.—

21 “(A) ROLE OF ADMINISTRATOR.—The Ad-
22 ministrator may not intervene or make a final
23 decision with respect to a request for reconsid-
24 eration of a denied loan or loan modification re-

1 quest made by an applicant or recipient of a
2 loan under this section.

3 “(B) FINAL DECISION.—Only the Director
4 of the Office of Financial Assistance may make
5 a final decision with respect to a request for re-
6 consideration of a denied loan or loan modifica-
7 tion request made by an applicant or recipient
8 of a loan under this section.”.

9 **SEC. 209. DIRECT LENDING.**

10 Section 7(a)(1) of the Small Business Act (15 U.S.C.
11 636(a)(1)), as amended by section 208(a) of this Act, is
12 amended by adding at the end the following:

13 “(I) NOTIFICATION REQUIRED BEFORE DI-
14 RECT LENDING.—Not later than 60 days before
15 the Administration implements any policy or
16 pilot program that would allow the Administra-
17 tion to directly make a loan under this sub-
18 section, the Administrator shall submit a notifi-
19 cation to Congress for review.”.

20 **SEC. 210. RESTRICTION ON REFINANCING DEBT.**

21 Section 7(a)(1) of the Small Business Act (15 U.S.C.
22 636(a)(1)), as amended by section 209 of this Act, is
23 amended by adding at the end the following:

24 “(J) RESTRICTION ON REFINANCING
25 DEBT.—

1 “(i) DEFINITION.—In this subpara-
2 graph, the term ‘delegated authority’
3 means status granted by the Administra-
4 tion to a lender to allow the lender to proc-
5 ess, close, service, and liquidate certain
6 loans made under this subsection without
7 prior review by the Administration.

8 “(ii) RESTRICTION.—A lender shall be
9 prohibited from using any delegated au-
10 thority under this subsection to refinance
11 any debt held by the lender, including any
12 loan made under this subsection.”.

13 **SEC. 211. GAO STUDY.**

14 Not later than 2 years after the date of enactment
15 of this Act, the Comptroller General of the United States
16 shall conduct a study and submit to the Administrator,
17 the Committee on Small Business and Entrepreneurship
18 of the Senate, and the Committee on Small Business of
19 the House of Representatives a report that includes—

20 (1) an analysis of the use of alternative credit
21 models for loans made under section 7(a) of the
22 Small Business Act (15 U.S.C. 636(a)) in an
23 amount of less than \$350,000, including—

24 (A) an analysis of whether appropriate
25 guardrails are in place to prevent fraud, waste,

1 and abuse and provide protections for the bor-
2 rower;

3 (B) an evaluation of the effectiveness of
4 those credit models in reducing barriers to ac-
5 cess to capital to underserved and rural commu-
6 nities; and

7 (C) recommendations as to whether im-
8 provements can be made by Administration in
9 its use of alternative credit models to prevent
10 waste, fraud, and abuse and to improve access
11 to capital to underserved and rural commu-
12 nities;

13 (2) an audit of the operations, staffing, and re-
14 sources of the Office of Credit Risk Management of
15 the Administration, including the efforts of the Of-
16 fice to implement the new oversight provisions under
17 the amendments made by this title; and

18 (3) a survey of the practices of lenders under
19 section 7(a) of the Small Business Act (15 U.S.C.
20 636(a)) relating to the use of criminal history when
21 determining whether to approve a loan under that
22 section or a similarly sized commercial loan that is
23 not guaranteed by the Administration.