

116TH CONGRESS
2D SESSION

S. 3814

To establish a loan program for businesses affected by COVID–19 and to extend the loan forgiveness period for paycheck protection program loans made to the hardest hit businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2020

Mr. BENNET (for himself and Mr. YOUNG) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish a loan program for businesses affected by COVID–19 and to extend the loan forgiveness period for paycheck protection program loans made to the hardest hit businesses, 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 “Reviving the Economy
5 Sustainably Towards A Recovery in Twenty-twenty Act”
6 or the “RESTART Act”.

1 **SEC. 2. EXTENSION OF COVERED PERIOD FOR LOAN FOR-**
2 **GIVENESS UNDER THE PAYCHECK PROTEC-**
3 **TION PROGRAM FOR THE HARDEST HIT BUSI-**
4 **NESSES.**

5 Section 1106 of the CARES Act (Public Law 116–
6 136) is amended—

7 (1) by amending subsection (a)(3) to read as
8 follows:

9 “(3) the term ‘covered period’ means—

10 “(A) except as provided in subparagraph
11 (B), the 8-week period beginning on the date of
12 the origination of a covered loan; or

13 “(B) the period beginning on the date of
14 the origination of a covered loan and ending on
15 the later of the date that is 16 weeks after the
16 date of the origination of the covered loan and
17 the date that is 8 weeks after the date of enact-
18 ment of the Reviving the Economy Sustainably
19 Towards A Recovery in Twenty-twenty Act, if
20 the eligible recipient of the covered loan—

21 “(i) has less than 500 full-time equiv-
22 alent employees; and

23 “(ii) makes a good faith certification
24 to the Administrator that, during the 8-
25 week period described in subparagraph
26 (A), the eligible recipient suffered a decline

1 in gross receipts of not less than 25 per-
2 cent relative to a comparable 8-week pe-
3 riod—

4 “(I) immediately preceding
5 March 2, 2020; or

6 “(II) during 2019;” and

7 (2) in subsection (d)(2), by adding at the end
8 the following:

9 “(C) EXCEPTION.—This paragraph shall
10 not apply with respect to an eligible recipient
11 described in subsection (a)(3)(B).”.

12 **SEC. 3. RESTART LOAN PROGRAM.**

13 (a) DEFINITIONS.—In this section:

14 (1) ADMINISTRATION; ADMINISTRATOR.—The
15 terms “Administration” and “Administrator” mean
16 the Small Business Administration and the Adminis-
17 trator thereof, respectively.

18 (2) COMMUNITY DEVELOPMENT FINANCIAL IN-
19 STITUTION.—The term “community development fi-
20 nancial institution” has the meaning given the term
21 in section 103 of the Riegle Community Develop-
22 ment and Regulatory Improvement Act of 1994 (12
23 U.S.C. 4702).

1 (3) COVERED LOAN.—The term “covered loan”
2 means a loan made under this section during the
3 covered period.

4 (4) COVERED PERIOD.—The term “covered pe-
5 riod” means—

6 (A) except as provided in subparagraph
7 (B), and as determined by the eligible recipient
8 of a covered loan, the 6-month period beginning
9 on—

10 (i) the date of the origination of the
11 covered loan;

12 (ii) the first day of the next scheduled
13 pay period following the date of the origi-
14 nation of the covered loan;

15 (iii) the first day of the first full
16 month following the date of the origination
17 of the covered loan; or

18 (iv) April 15, 2020; or

19 (B) with respect to an eligible recipient of
20 a covered loan that suffered a decline in gross
21 receipts of more than 80 percent in 2020 as
22 compared to 2019 or in the 6-month period be-
23 ginning on the date of the origination of the
24 covered loan as compared to a comparable pe-
25 riod in 2019, and as determined by the eligible

1 recipient of a covered loan, the 12-month period
2 beginning on—

3 (i) the date of the origination of the
4 covered loan;

5 (ii) the first day of the next scheduled
6 pay period following the date of the origi-
7 nation of the covered loan;

8 (iii) the first day of the first full
9 month following the date of the origination
10 of the covered loan; or

11 (iv) April 15, 2020.

12 (5) ELIGIBLE RECIPIENT.—The term “eligible
13 recipient”—

14 (A) means an individual or entity that—

15 (i) is eligible to receive a loan made
16 under section 7(a)(36) of the Small Busi-
17 ness Act (15 U.S.C. 636(a)(36)); or

18 (ii) has not more than 5,000 full-time
19 employees;

20 (B) includes—

21 (i) a nonprofit organization that—

22 (I) has not more than 5,000 full-
23 time employees; and

1 (II) is not more than 50 percent
2 owned or controlled by a State, local,
3 or Tribal government;

4 (ii) a business concern that—

5 (I) deals in rare coins and
6 stamps; and

7 (II) has not more than 5,000
8 full-time employees; and

9 (iii) a business concern that leases or
10 finances equipment to other businesses, if
11 the business concern—

12 (I) has not more than 5,000 full-
13 time employees; and

14 (II) is not—

15 (aa) a mortgage lender; or

16 (bb) a lender participating
17 in the loan program under sec-
18 tion 7(a)(36) of the Small Busi-
19 ness Act (15 U.S.C. 636(a)(36)).

20 (6) MINORITY DEPOSITORY INSTITUTION.—The
21 term “minority depository institution” has the
22 meaning given the term in section 308 of the Finan-
23 cial Institutions Reform, Recovery, and Enforcement
24 Act of 1989 (12 U.S.C. 1463 note).

1 (7) NONPROFIT ORGANIZATION.—The term
2 “nonprofit organization” means an entity described
3 in paragraph (3), (5), (6), (7) (related to housing),
4 (12), (13), or (19) of section 501(c) of the Internal
5 Revenue Code and that is exempt from taxation
6 under section 501(a) of such Code.

7 (8) PAYROLL COSTS.—The term “payroll costs”
8 has the meaning given the term in section
9 7(a)(36)(A) of the Small Business Act (15 U.S.C.
10 636(a)(36)(A)), except that such costs shall not in-
11 clude—

12 (A) qualified wages taken into account in
13 determining the credit allowed under section
14 2301(g) of the CARES Act (Public Law 116–
15 136); or

16 (B) any payments made to an independent
17 contractor.

18 (9) SECRETARY.—The term “Secretary” means
19 the Secretary of the Treasury.

20 (10) UNDERSERVED BORROWER.—The term
21 “underserved borrower” means any business concern
22 that has traditionally had difficulty accessing fi-
23 nance, including—

24 (A) business concerns that—

1 (i) have fewer than 25 employees and
2 do not have a strong relationship with a
3 bank;

4 (ii) are owned or controlled by minori-
5 ties;

6 (iii) are owned or controlled by
7 women;

8 (iv) are owned or controlled by vet-
9 erans, including service-disabled veterans
10 (as those terms are defined in section 3(q)
11 of the Small Business Act (15 U.S.C.
12 632(q)); or

13 (v) are located in low-income and
14 rural communities, including those in areas
15 eligible for assistance under section 45D of
16 the Internal Revenue Code of 1986; and

17 (B) Tribal business concerns.

18 (b) ESTABLISHMENT.—The Administrator shall es-
19 tablish a program to guarantee loans made to eligible re-
20 cipients affected by COVID–19.

21 (c) PARTICIPATION.—In an agreement to participate
22 in a covered loan on a deferred basis, the participation
23 by the Administration shall be 100 percent.

24 (d) TERMS AND REQUIREMENTS.—

1 (1) DURATION.—Except as provided in para-
2 graph (4), the duration of a covered loan shall be for
3 not more than 7 years.

4 (2) AMOUNT.—

5 (A) IN GENERAL.—The amount of a cov-
6 ered loan made to an eligible recipient shall be
7 not more than the lesser of—

8 (i) 45 percent of the 2019 gross re-
9 cepts of the eligible recipient; and

10 (ii) \$12,000,000.

11 (B) DUPLICATION OF ASSISTANCE.—

12 (i) IN GENERAL.—An eligible recipient
13 of a covered loan shall not use proceeds of
14 the covered loan for the same expenses
15 that are covered using funds received
16 under subsection (a)(36) or (b)(2) of sec-
17 tion 7 of the Small Business Act (15
18 U.S.C. 636) or section 1110 of the
19 CARES Act (Public Law 116–136).

20 (ii) REDUCTION BASED ON OTHER
21 SBA LOANS.—The amount of a covered
22 loan for which an eligible recipient may re-
23 ceive under this section shall be reduced by
24 the amount of any assistance received by
25 the eligible recipient under subsection

1 (a)(36) or (b)(2) of section 7 of the Small
2 Business Act (15 U.S.C. 636) or section
3 1110 of the CARES Act (Public Law 116–
4 136) that is intended to be used for the al-
5 lowable expenses described in subsection
6 (g)(2) during the covered period.

7 (3) INTEREST RATE.—

8 (A) IN GENERAL.—Except as provided in
9 paragraph (4), the interest rate on a covered
10 loan shall be, as determined by the Adminis-
11 trator and the Secretary—

12 (i) for the first 2 years of the covered
13 loan, not less than 2 percent and not more
14 than 4 percent; and

15 (ii) for the third through seventh
16 years of the covered loan, the Applicable
17 Federal Rate plus 250 to 600 basis points
18 based on the decline in gross receipts of
19 the eligible recipient.

20 (B) NO PAYMENTS FOR 12 MONTHS.—No
21 payments shall be due on interest on a covered
22 loan for the first 12 months of the covered loan.

23 (4) SPECIAL PROVISIONS FOR NONPROFIT OR-
24 GANIZATIONS.—At the time of application for a cov-

1 ered loan, a nonprofit organization described in sub-
2 section (a)(5)(B) shall make an election—

3 (A) for a covered loan with a maturity of
4 not more than 10 years and an interest rate of
5 not more than 2 percent for the first 4 years
6 of a covered loan, with no eligibility for forgive-
7 ness of the covered loan under subsection (j); or

8 (B) for a covered loan with the maturity
9 and interest rate terms described in paragraphs
10 (1) and (3), respectively, with the ability to ob-
11 tain forgiveness of the covered loan if the non-
12 profit organization qualifies under subsection
13 (j)(2).

14 (5) PAYMENT DEFERRAL.—

15 (A) IN GENERAL.—No payment of prin-
16 cipal shall be due on a covered loan for the first
17 2 years of the covered loan.

18 (B) ADDITIONAL DEFERRAL.—After the 2-
19 year deferral period described in subparagraph
20 (A), the Administrator may grant not more
21 than an additional 2 years of principal deferral
22 to an eligible recipient of a covered loan if the
23 eligible recipient is certified by the Adminis-
24 trator and the Secretary as economically dis-
25 tressed based on publicly available criteria es-

1 tablished by the Administrator and the Sec-
2 retary.

3 (6) ORIGINATION FEES.—

4 (A) IN GENERAL.—The origination fee for
5 a covered loan shall be as follows:

6 (i) 3.75 percent for a covered loan of
7 not more than \$100,000.

8 (ii) 3.5 percent for a covered loan of
9 more than \$100,000 and not more than
10 \$250,000.

11 (iii) 3.25 percent for a covered loan of
12 more than \$250,000 and not more than
13 \$500,000.

14 (iv) 3 percent for a covered loan of
15 more than \$500,000 and not more than
16 \$750,000.

17 (v) 2.75 percent for a covered loan of
18 more than \$750,000 and not more than
19 \$1,000,000.

20 (vi) 2.5 percent for a covered loan of
21 more than \$1,000,000 and not more than
22 \$1,500,000.

23 (vii) 2.25 percent for a covered loan of
24 more than \$1,500,000 and not more than
25 \$1,750,000.

1 (viii) 2 percent for a covered loan of
2 more than \$1,750,000 and not more than
3 \$2,000,000.

4 (ix) 1.75 percent for a covered loan of
5 more than \$2,000,000 and not more than
6 \$2,500,000.

7 (x) 1.5 percent for a covered loan of
8 more than \$2,500,000 and not more than
9 \$3,000,000.

10 (xi) 1.25 percent for a covered loan of
11 more than \$3,000,000 and not more than
12 \$3,500,000.

13 (xii) 1 percent for a covered loan of
14 more than \$3,500,000 and not more than
15 \$4,000,000.

16 (xiii) 0.75 percent for a covered loan
17 of more than \$4,000,000 and not more
18 than \$12,000,000.

19 (B) PAYMENT BY FEDERAL GOVERN-
20 MENT.—The Administrator shall—

21 (i) for any covered loan that is made
22 to an eligible recipient with not more than
23 500 full-time employees, pay the applicable
24 origination fee described in subparagraph
25 (A); and

1 (ii) for any covered loan of not more
2 than \$10,000,000 that is made to an eligi-
3 ble recipient with more than 500 full-time
4 employees, pay 50 percent of the amount
5 of the applicable origination fee described
6 in subparagraph (A).

7 (C) PAYMENT BY ELIGIBLE RECIPIENT.—

8 After any applicable payments by the Adminis-
9 trator under subparagraph (B), the eligible re-
10 cipient of a covered loan—

11 (i) shall be responsible for paying the
12 remainder of any applicable origination fee
13 under subparagraph (A); and

14 (ii) may finance the amount of the ap-
15 plicable origination fee as part of the cov-
16 ered loan amount, with such origination
17 fee amount not counting toward the limita-
18 tion on covered loan amounts described in
19 paragraph (2)(A).

20 (7) STREAMLINED PROCEDURES.—The Admin-
21 istrator and the Secretary shall establish streamlined
22 application and loan approval procedures for eligible
23 recipients with not more than 500 full-time employ-
24 ees, including by allowing an eligible recipient to use
25 an existing application submitted to a lender for the

1 loan program under section 7(a)(36) of the Small
2 Business Act (15 U.S.C. 636(a)(36)) and update the
3 application as necessary for purposes of applying for
4 a covered loan.

5 (8) APPLICATION.—

6 (A) AVAILABILITY.—The Administrator
7 shall make available the application for a cov-
8 ered loan in the 10 most commonly spoken lan-
9 guages, other than English, in the United
10 States, which shall include Spanish, Mandarin,
11 Cantonese, Japanese, and Korean.

12 (B) GUIDANCE.—Not later than 15 days
13 after the date of enactment of this Act, the Ad-
14 ministrator and the Secretary shall issue guid-
15 ance to allow lenders to receive applications for
16 covered loans.

17 (C) DEADLINE FOR RESPONSE.—A lender
18 that receives an application for a covered loan
19 shall—

20 (i) not later than 2 days after submis-
21 sion of the application to the Adminis-
22 trator, notify the applicant that the lender
23 submitted the application and provide the
24 confirmation number; and

1 (ii) not later than 15 days after ap-
2 proving the application, disburse the funds
3 to the applicant.

4 (D) FORMAT.—The application for a cov-
5 ered loan shall be similar to the application
6 used for a loan made under section 7(a)(36) of
7 the Small Business Act (15 U.S.C. 636(a)(36)),
8 with additional details requested by the Admin-
9 istrator as necessary.

10 (E) APPLICATION WINDOWS.—The Admin-
11 istrator shall make efforts to ensure that under-
12 served borrowers that are eligible recipients re-
13 ceive covered loans, including by establishing
14 exclusive application windows for those eligible
15 recipients.

16 (9) LIMITATION ON NUMBER OF LOANS.—An
17 eligible recipient may receive not more than 2 cov-
18 ered loans, the requested aggregate amount of which
19 shall not exceed the limitation on covered loan
20 amounts described in paragraph (2)(A).

21 (10) WAIVER OF PREPAYMENT PENALTY.—Not-
22 withstanding any other provision of law, there shall
23 be no prepayment penalty for any payment made on
24 a covered loan.

1 (11) UNITED STATES OPERATIONS.—A covered
2 loan may only be used for expenses related to the
3 operations of an eligible recipient carried out in the
4 United States, including any territory or possession
5 of the United States and operations carried out off
6 of the United States coastline.

7 (e) LENDERS.—

8 (1) EXISTING PPP LENDERS.—A lender that is
9 approved to make loans under section 7(a)(36) of
10 the Small Business Act (15 U.S.C. 636(a)(36)) and
11 is approved by the Administrator and the Secretary
12 may make and approve covered loans.

13 (2) ADDITIONAL LENDERS.—The authority to
14 make covered loans shall be extended to additional
15 lenders determined by the Administrator and the
16 Secretary to have the necessary qualifications to
17 process, close, disburse, and service loans made with
18 the guarantee of the Administration.

19 (3) LENDERS SERVING UNDERSERVED BOR-
20 ROWERS.—In approving lenders to make covered
21 loans, the Administrator and the Secretary shall give
22 priority to lenders that are community development
23 financial institutions with lower lending volumes, mi-
24 nority depository institutions, mission-based non-
25 profit lenders, nonbank lenders, and other financial

1 institutions that disproportionately serve under-
2 served borrowers.

3 (4) RESALE OF LOANS.—A lender of a covered
4 loan may sell the covered loan to a third party.

5 (5) SALE OF PARTICIPATION IN COVERED
6 LOANS.—A lender of a covered loan may sell a par-
7 ticipation in the covered loan to a non-authorized
8 lender in an amount that is not more than 85 per-
9 cent of the covered loan.

10 (6) AGENT DISCLOSURE.—In order to be eligi-
11 ble to obtain a fee, any agent shall be disclosed to
12 the lender and the Administrator at the time of ap-
13 plication for a covered loan.

14 (7) CAPITAL AND LIQUIDITY REQUIREMENTS.—
15 Until December 31, 2021, the amount of a covered
16 loan made by a lender shall be disregarded by Fed-
17 eral regulators for the purpose of calculating regu-
18 latory capital and liquidity requirements.

19 (f) BORROWER REQUIREMENTS.—

20 (1) CERTIFICATION.—An eligible recipient ap-
21 plying for a covered loan shall submit a good faith
22 certification that the eligible recipient suffered a de-
23 cline in gross receipts of not less than 25 percent—

24 (A) during an 8-week period during the pe-
25 riod beginning on February 15, 2020, and end-

1 ing on July 31, 2020, relative to a comparable
2 8-week period during—

3 (i) the period beginning on January 1,
4 2020, and ending on March 31, 2020; or

5 (ii) 2019; or

6 (B) during a calendar or fiscal quarter
7 during the period beginning on February 15,
8 2020, and ending on July 31, 2020, relative to
9 the same calendar or fiscal quarter in 2019.

10 (2) ACCOUNTING METHOD.—An eligible recipi-
11 ent may calculate the decline in gross receipts de-
12 scribed in paragraph (1) using the cash or accrual
13 accounting method.

14 (3) ADJUSTMENTS.—The Administrator, in
15 consultation with the Secretary, shall provide guid-
16 ance on appropriate adjustments to the terms under
17 this subsection for eligible recipients seeking a cov-
18 ered loan that are fiscal year taxpayers or seasonal
19 businesses.

20 (4) RESTRICTIONS.—

21 (A) IN GENERAL.—The Administrator may
22 enter into agreements to guarantee covered
23 loans made to eligible recipients only if the Ad-
24 ministrator determines that the agreement pro-
25 vides that, until the date that is 12 months

1 after the date on which the covered loan is no
2 longer outstanding—

3 (i) the eligible recipient or an affiliate
4 of the eligible recipient shall not purchase
5 an equity security that is listed on a na-
6 tional securities exchange of the eligi-
7 ble recipient or any parent company of the eligi-
8 ble recipient, except to the extent required
9 under a contractual obligation in effect as
10 of the date of enactment of this Act;

11 (ii) the eligible recipient shall not pay
12 dividends or make other capital distribu-
13 tions with respect to the common stock of
14 the eligible recipient; and

15 (iii) the restrictions on certain em-
16 ployee compensation described in section
17 4004(a) of the CARES Act (Public Law
18 116–136) apply to officers and employees
19 of the eligible recipient.

20 (B) EXCEPTIONS.—

21 (i) DIVIDENDS.—Subparagraph
22 (A)(ii) shall not apply to any eligible re-
23 cipient that is a real estate investment
24 trust (as defined under section 856 of the
25 Internal Revenue Code of 1986) for the

1 taxable year in which the distribution is
2 made to the extent that such entity distrib-
3 utes no more than 100 percent of real es-
4 tate investment trust taxable income (as
5 defined in section 857(b)(2) of such Code,
6 determined without regard to the deduc-
7 tion for dividends paid (as defined in sec-
8 tion 561 of such Code)) during such tax-
9 able year.

10 (ii) DISTRIBUTIONS.—Notwithstand-
11 ing subparagraph (A), during the period
12 described in that subparagraph an eligible
13 recipient that is an S-corporation or a lim-
14 ited liability company may provide a dis-
15 tribution to pay income taxes.

16 (5) EMERGENCY RELIEF FUNDS.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), an eligible recipient applying
19 for a covered loan may not receive or have re-
20 ceived any assistance under 4003 of the
21 CARES Act (Public Law 116–136) for any
22 purpose.

23 (B) RETURN OF FUNDS.—An eligible re-
24 cipient that received assistance under section
25 4003 of the CARES Act (Public Law 116–136)

1 may apply for a covered loan if the eligible re-
2 cipient returns the funds received under such
3 section 4003.

4 (6) BUSINESS CONCERNS WITH MORE THAN 1
5 PHYSICAL LOCATION.—A business concern that em-
6 ploys not more than 500 full-time employees per
7 physical location of the business concern and that is
8 assigned a North American Industry Classification
9 System code beginning with 72 at the time of dis-
10 bursal shall be eligible to receive a covered loan if
11 the number of full-time employees, in the aggregate,
12 does not exceed 5,000.

13 (7) WAIVER OF AFFILIATION RULES.—The pro-
14 visions applicable to affiliations under section
15 121.103 of title 13, Code of Federal Regulations, or
16 any successor regulation, are waived with respect to
17 eligibility for a covered loan for—

18 (A) any eligible recipient with not more
19 than 500 employees that is assigned a North
20 American Industry Classification System code
21 beginning with 72;

22 (B) any eligible recipient operating as a
23 franchise;

24 (C) any eligible recipient that receives fi-
25 nancial assistance from a company licensed

1 under section 301 of the Small Business Invest-
2 ment Act of 1958 (15 U.S.C. 681); and

3 (D) any eligible recipient with not more
4 than 500 full-time employees that is not more
5 than 50 percent owned or controlled by another
6 entity.

7 (8) CALCULATION OF FULL-TIME EMPLOY-
8 EES.—For purposes of determining the number of
9 full-time employees of an eligible recipient as of Feb-
10 ruary 15, 2020—

11 (A) any employee working not fewer than
12 30 hours per week shall be considered a full-
13 time employee; and

14 (B) any employee working not fewer than
15 10 hours and fewer than 30 hours per week
16 shall be counted as one-half of a full-time em-
17 ployee.

18 (9) CREDIT ELSEWHERE.—During the covered
19 period, an eligible recipient is not required to show
20 that the eligible recipient is unable to obtain credit
21 elsewhere, as defined in section 3(h) of the Small
22 Business Act (15 U.S.C. 632(h)).

23 (10) SUBORDINATION.—Any covered loan made
24 to an eligible recipient shall be subordinate to any

1 liability incurred by the eligible recipient before Feb-
2 ruary 15, 2020.

3 (11) RESTRICTIONS FOR PRIOR BANK-
4 RUPTCY.—A lender may deny an application for a
5 covered loan submitted by an eligible recipient if,
6 during the 7-year period preceding the date of the
7 application, the eligible recipient or a person that
8 owns or controls the eligible recipient filed a petition
9 for bankruptcy under chapter 7 or 13 of title 11,
10 United States Code.

11 (g) USE OF FUNDS.—

12 (1) IN GENERAL.—An eligible recipient of a
13 covered loan may use the proceeds for allowable ex-
14 penses described in paragraph (2).

15 (2) ALLOWABLE EXPENSES.—The expenses de-
16 scribed in this paragraph are—

17 (A) payroll costs for employees and fur-
18 loughed employees, including—

19 (i) costs for continuation coverage
20 provided pursuant to part 6 of subtitle B
21 of title I of the Employee Retirement In-
22 come Security Act of 1974 (other than
23 under section 609), title XXII of the Pub-
24 lic Health Service Act, section 4980B of
25 the Internal Revenue Code of 1986 (other

1 than subsection (f)(1) of such section inso-
2 far as it relates to pediatric vaccines), or
3 section 8905a of title 5, United States
4 Code, or under a State program that pro-
5 vides comparable continuation coverage,
6 other than coverage under a health flexible
7 spending arrangement under a cafeteria
8 plan within the meaning of section 125 of
9 the Internal Revenue Code of 1986; or

10 (ii) any other non-cash benefit;

11 (B) rent;

12 (C) utilities;

13 (D) mortgage interest payments on exist-
14 ing mortgages as of February 15, 2020;

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

17 (F) costs related to personal protective
18 equipment;

19 (G) payments of principal on outstanding
20 loans;

21 (H) payments made to independent con-
22 tractors, as reported on Form-1099 MISC;

23 (I) other ordinary and necessary business
24 expenses, including—

- 1 (i) settling existing debts owed to ven-
2 dors and replenishing inventory;
3 (ii) franchise fees;
4 (iii) hotel management fees;
5 (iv) maintenance expenses;
6 (v) administrative costs;
7 (vi) taxes;
8 (vii) operating leases; and
9 (viii) any other capital expenditure or
10 expense required under any State, local, or
11 Federal law or guideline related to social
12 distancing.

13 (3) PROHIBITED EXPENSES.—An eligible recipi-
14 ent may not use the proceeds of a covered loan—

15 (A) to purchase real estate;

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

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

19 (D) for contributions or expenditures to, or
20 on behalf of, any political party, party com-
21 mittee, or candidate for elective office; or

22 (E) for any other use as may be prohibited
23 by the Administrator.

24 (h) LOAN DISBURSAL.—

1 (1) INITIAL DISBURSAL.—During the initial 14-
2 day period in which lenders make and approve cov-
3 ered loans, the lenders shall be limited to making
4 covered loans to eligible recipients—

5 (A) with fewer than 50 full-time employees
6 for the first 7-day period; and

7 (B) with fewer than 500 full-time employ-
8 ees for the second 7-day period.

9 (2) REPORT.—Not later than the later of the
10 date that is 180 days after the date on which
11 amounts made available to carry out this Act are ex-
12 pended or July 31, 2021, the Inspector General of
13 the Administration shall submit to Congress a report
14 evaluating whether small business concerns (as de-
15 fined in section 3 of the Small Business Act (15
16 U.S.C. 632)), minority-owned eligible recipients, and
17 other underserved borrowers are treated fairly in the
18 process of making and approving covered loans.

19 (i) MATURITY FOR LOANS WITH REMAINING BAL-
20 ANCE AFTER APPLICATION FOR FORGIVENESS.—With re-
21 spect to a covered loan that has a remaining balance after
22 a reduction based on the loan forgiveness amount under
23 subsection (j)—

1 (1) the remaining balance shall continue to be
2 guaranteed by the Administration under this section;
3 and

4 (2) the covered loan shall have a maximum ma-
5 turity of 78 months from the date on which the bor-
6 rower applies for loan forgiveness under that sub-
7 section.

8 (j) LOAN FORGIVENESS.—

9 (1) IN GENERAL.—Except as otherwise pro-
10 vided in this subsection, an eligible recipient of a
11 covered loan that is not a nonprofit organization
12 shall be eligible for forgiveness for expenses de-
13 scribed in subparagraphs (A) through (F) of sub-
14 section (g)(2) incurred during the covered period
15 using proceeds of the covered loan in an amount
16 equal to the product obtained by multiplying—

17 (A) the product obtained by multiplying—

18 (i) the percentage decline in revenues
19 of the eligible recipient—

20 (I) if the covered period does not
21 extend past March 31, 2021, between
22 the total revenue received by the busi-
23 ness during calendar year 2020 and
24 the total revenue received by the busi-
25 ness during calendar year 2019; or

1 (II) between the total revenue
2 during the 6-month period following
3 the date of the origination of the cov-
4 ered loan and the total revenue during
5 a comparable 6-month period during
6 the 12-month period preceding the
7 date of the origination of the covered
8 loan; and

9 (ii) .90; and

10 (B)(i) for an eligible recipient with not
11 more than 500 employees, the sum of the ex-
12 penses of the eligible recipient described in sub-
13 paragraphs (A) through (F) of subsection
14 (g)(2) paid during the covered period; or

15 (ii) for an eligible recipient with more than
16 500 and not more than 5,000 employees, the
17 sum of—

18 (I) the benefits described in clauses
19 (i) and (ii) of subsection (g)(2)(A) of this
20 section and the payments described in
21 subitems (CC) through (GG) of section
22 7(a)(36)(A)(viii)(I)(aa) of the Small Busi-
23 ness Act (15 U.S.C.
24 636(a)(36)(A)(viii)(I)(aa)) that were paid
25 during the covered period; and

1 (II) the expenses described in sub-
2 paragraphs (B) through (F) of subsection
3 (g)(2) that were paid during the covered
4 period.

5 (2) LOAN FORGIVENESS FOR SMALL NON-
6 PROFITS.—A nonprofit organization described in
7 subsection (a)(5)(B) with not more than 500 full-
8 time employees that is an eligible recipient of a cov-
9 ered loan shall be eligible for forgiveness for ex-
10 penses described in subparagraphs (A) through (F)
11 of subsection (g)(2) using, at the election of the non-
12 profit organization—

13 (A) the amount obtained using the formula
14 described in paragraph (1), except that gross
15 receipts shall not include donations, grants,
16 dues, and investment income; or

17 (B) the amount obtained using the formula
18 described in paragraph (1), except that the
19 number in subparagraph (A)(ii) of such para-
20 graph shall be—

21 (i) .7 for a nonprofit organization
22 with not more than 50 full-time employees;
23 and

1 (ii) .2 for a nonprofit organization
2 with not fewer than 50 and not more than
3 500 full-time employees.

4 (3) PROHIBITION ON FORGIVENESS.—Any cov-
5 ered loan made to an eligible recipient that is pub-
6 licly traded, is a nonprofit organization described in
7 section 501(c)(7) of the Internal Revenue Code, or
8 is an eligible recipient described in subsection
9 (f)(7)(D) shall not be eligible for loan forgiveness
10 under this subsection.

11 (4) LIMITATION ON AMOUNT OF FORGIVE-
12 NESS.—

13 (A) IN GENERAL.—The amount of all cov-
14 ered loans made to an eligible recipient that
15 may be forgiven under this subsection shall not
16 exceed the total losses incurred by the eligible
17 recipient in the taxable year 2020.

18 (B) APPLICATION OF RELATED PARTY
19 PAYMENTS.—The Secretary shall issue regula-
20 tions that provide that, for purposes of the loss
21 calculation under subparagraph (A)—

22 (i) with respect to an eligible recipient
23 of a covered loan with not fewer than 500
24 full-time employees, related party trans-

1 actions are prohibited from counting to-
2 ward the loss calculation; and

3 (ii) with respect to an eligible recipi-
4 ent of a covered loan with not more than
5 500 full-time employees, any related party
6 payments made during the covered period
7 cannot be greater than related party pay-
8 ments made during taxable year 2019.

9 (C) CAPITAL LOSSES.—For purposes of
10 the loss calculation under subparagraph (A),
11 capital losses from the sale of assets or deduc-
12 tions for guaranteed payments to partners in
13 partnerships or owners in S corporations shall
14 not count toward the loss calculation.

15 (D) LIMITATION ON PPE EXPENSES.—An
16 eligible recipient may only receive forgiveness
17 for personal protective equipment expenses de-
18 scribed in subsection (g)(2)(F) of not more
19 than \$5,000.

20 (5) NO LIMITS BASED ON PERCENTAGE OF
21 FUNDS USED FOR CERTAIN EXPENSES.—The Ad-
22 ministrator or the Secretary shall not place limita-
23 tions on forgiveness under this subsection based on
24 the percentage of covered loan proceeds that are

1 used for specific expenses described in subsection
2 (g)(2).

3 (6) HOLD HARMLESS.—If a lender approved to
4 make covered loans has received the required docu-
5 mentation under this section from an applicant at-
6 testing that the applicant has accurately verified the
7 eligibility, gross receipts, and expenses of the appli-
8 cant during the covered period—

9 (A) an enforcement action may not be
10 taken against the lender under section 47(e) of
11 the Small Business Act (15 U.S.C. 657t(e)) re-
12 lating to loan forgiveness for those expenses;
13 and

14 (B) the lender shall not be subject to any
15 penalties by the Administrator relating to loan
16 forgiveness for the expenses.

17 (7) TREATMENT OF FORGIVEN AMOUNTS.—

18 (A) IN GENERAL.—Section 108(a)(1) of
19 the Internal Revenue Code of 1986 is amended
20 by striking “or” at the end of subparagraph
21 (D), by striking the period at the end of sub-
22 paragraph (E)(ii) and inserting “, or”, and by
23 adding at the end the following new subpara-
24 graph:

1 “(F) the indebtedness discharged is a cov-
2 ered loan (as defined in section 4(a) of the RE-
3 START Act) discharged under section 4(j) of
4 such Act.”.

5 (B) REDUCTION OF TAX ATTRIBUTES.—
6 Section 108(b)(1) of such Code is amended by
7 striking “or (C)” and inserting “, (C), or (F)
8 (after application of subsection (j)(i))”.

9 (C) LIMITATION.—Section 108 of such
10 Code is amended by adding at the end the fol-
11 lowing new subsection:

12 “(j) SPECIAL RULES FOR DISCHARGES OF COVERED
13 LOANS.—

14 “(1) INCLUSION OF EXCESS AMOUNTS.—

15 “(A) IN GENERAL.—In the case of any
16 taxpayer to which subsection (a)(1)(F) applies,
17 the gross income of such taxpayer for any tax-
18 able year in the applicable period shall be in-
19 creased by the product of—

20 “(i) 20 percent, and

21 “(ii) so much of the amount excluded
22 under subsection (a)(1)(F) as exceeds
23 \$250,000.

24 “(B) APPLICABLE PERIOD.—For purposes
25 of subparagraph (A), the term ‘applicable pe-

1 riod’ means the 5 taxable-year period beginning
2 with the taxable year in which the discharge oc-
3 curs.

4 “(2) APPLICATION TO TAX ATTRIBUTES.—For
5 purposes of applying subsection (b), the amount
6 taken into account as excluded from income under
7 subsection (a)(1)(F) shall not exceed \$250,000.”.

8 (D) EFFECTIVE DATE.—The amendments
9 made by this paragraph shall apply to dis-
10 charges of indebtedness after the date of the
11 enactment of this Act.

12 (8) COORDINATION WITH EMPLOYEE RETEN-
13 TION TAX CREDIT.—Section 2301(g) of the CARES
14 Act (Public Law 116–136) is amended to read as
15 follows:

16 “(g) ELECTION TO NOT TAKE CERTAIN WAGES
17 INTO ACCOUNT.—

18 “(1) IN GENERAL.—This section shall not apply
19 to qualified wages paid by an eligible employer with
20 respect to which such employer makes an election
21 (at such time and in such manner as the Secretary
22 may prescribe) to have this section not apply to such
23 wages.

24 “(2) COORDINATION WITH RESTART LOANS.—
25 The Secretary, in consultation with the Adminis-

1 trator of the Small Business Administration, shall
2 issue guidance providing that payroll costs paid or
3 incurred during the covered period shall not fail to
4 be treated as qualified wages under this section by
5 reason of an election under paragraph (1) to the ex-
6 tent that a covered loan of the eligible employer is
7 not forgiven by reason of a decision under section
8 3(j) of the RESTART Act. Terms used in the pre-
9 ceding sentence which are also used in section 3 of
10 such Act shall have the same meaning as when used
11 in such section.”.

12 (k) SPECIAL RULES FOR SEASONAL AND NEW BUSI-
13 NESSES.—

14 (1) IN GENERAL.—The Administrator and the
15 Secretary shall develop special rules and procedures
16 for eligibility, calculation of full-time employees, loan
17 terms, and loan forgiveness for—

18 (A) covered loans made to eligible recipi-
19 ents that are seasonal that do not have suffi-
20 cient revenue to fully benefit from assistance
21 provided under this section; and

22 (B) covered loans made to eligible recipi-
23 ents formed after January 1, 2019, that do not
24 have sufficient revenue to fully benefit from as-
25 sistance provided under this section.

1 (2) LOAN AMOUNT.—The Administrator and
2 the Secretary shall develop terms with respect to the
3 loan amount of a covered loan for the eligible recipi-
4 ents described in paragraph (1) to provide consistent
5 support to those eligible recipients relative to an ex-
6 isting or a non-seasonal eligible recipient.

7 (3) PROHIBITION.—An eligible recipient formed
8 after January 1, 2019, shall not be eligible for loan
9 forgiveness under this section.

10 (l) TRANSPARENCY.—

11 (1) REPORTING.—The Administrator shall col-
12 lect and publish information in searchable and
13 downloadable format on eligible recipients of covered
14 loans, including—

15 (A) the name of each eligible recipient with
16 not fewer than 50 full-time employees that re-
17 ceived a covered loan, which shall be published
18 on a monthly basis;

19 (B) aggregate demographic information of
20 applicants that applied and applicants that were
21 approved for a covered loan, which shall be pub-
22 lished on a weekly basis;

23 (C) the number of loan applications re-
24 ceived and total loan amount requested, the
25 number of loan applications awaiting disposition

1 and the total loan amount awaiting disposition,
2 the number of loan applications rejected and
3 the total loan amount rejected, and the number
4 of loan applications approved and the total loan
5 amount approved by each lender, which shall be
6 published on a weekly basis;

7 (D) aggregate total loan volume approved
8 broken down by industry and by State, which
9 shall be published on a weekly basis;

10 (E) details on the number of full-time
11 equivalent employees, loan size, loan terms, in-
12 dustry, and headquarters location of each eligi-
13 ble recipient of a covered loan, which shall be
14 published on a monthly basis; and

15 (F) the name of and loan amount forgiven
16 for each eligible recipient of a covered loan with
17 not fewer than 50 full-time employees, with ag-
18 gregate loan amount forgiveness data provided
19 for all eligible recipients of covered loans, which
20 shall be published in a final report not later
21 than December 31, 2022.

22 (2) MULTIPLE APPLICATIONS.—To the extent
23 possible, the Administrator should endeavor to de-
24 duplicate multiple applications for a covered loan

1 submitted by the same applicant to different lenders
2 for purposes of public reporting.

3 (m) SEPARATION OF FUNDS AND BANKRUPTCY
4 TREATMENT.—

5 (1) SEPARATION OF FUNDS.—An eligible recipi-
6 ent of a covered loan shall—

7 (A) separately account for, and not com-
8 mingle with other funds, the proceeds of the
9 covered loan; and

10 (B) account in detail for the use of the
11 proceeds.

12 (2) BANKRUPTCY TREATMENT.—

13 (A) IN GENERAL.—If an eligible recipient
14 of a covered loan is a debtor in a case under
15 chapter 7 or 13 of title 11, United States Code,
16 and the covered loan is still outstanding on the
17 date of the commencement of the case—

18 (i) any interest of the eligible recipient
19 in the proceeds of the covered loan shall
20 not be included in the property of the es-
21 tate; and

22 (ii) the amount of the proceeds of the
23 covered loan that were not expended on al-
24 lowable expenses described in subsection

1 (g)(2) or forgiven under subsection (j) shall
2 be transferred to the Federal Government.

3 (B) UNRECOVERED AMOUNTS ON COVERED
4 LOANS.—Nothing in subparagraph (A) shall
5 preclude the Federal Government from pur-
6 suing a claim in a case under chapter 7 or 13
7 of title 11, United States Code, with respect to
8 the difference, if any, between the amount due
9 to the Federal Government on a covered loan
10 and the amount that was transferred under
11 subparagraph (A)(ii).

12 (n) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to the Administration—

14 (1) such sums as may be necessary to carry out
15 this section, to remain available until December 31,
16 2020; and

17 (2) \$150,000,000, to remain available until ex-
18 pended, for administrative purposes to update tech-
19 nologies to allow for digital case management, elec-
20 tronic submissions, and increased telecommuni-
21 cations related to the program under this section.

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