

117TH CONGRESS
1ST SESSION

S. _____

To amend the Small Business Act to modify the maximum paycheck protection program loan amount for farmers and ranchers, sole proprietors, independent contractors, and self-employed individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CARDIN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Small Business Act to modify the maximum paycheck protection program loan amount for farmers and ranchers, sole proprietors, independent contractors, and self-employed individuals, 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 “PPP Flexibility for
5 Farmers, Ranchers, and the Self-Employed Act”.

1 **SEC. 2. CALCULATION OF MAXIMUM PPP LOAN AMOUNT**
2 **FOR FARMERS AND RANCHERS.**

3 (a) IN GENERAL.—Section 7(a)(36)(V) of the Small
4 Business Act (15 U.S.C. 636(a)(36)(V)) is amended—

5 (1) by striking clause (i) and inserting the fol-
6 lowing:

7 “(i) DEFINITION.—In this subpara-
8 graph, the term ‘covered recipient’ means
9 an eligible recipient that—

10 “(I)(aa) operates as a sole pro-
11 prietorship, as an independent con-
12 tractor, or as a partnership with gross
13 farming income from self-employment;
14 or

15 “(bb) is an eligible self-employed
16 individual;

17 “(II) reports farm income or ex-
18 penses on a Schedule F (or any equiv-
19 alent successor schedule); and

20 “(III) was in business as of Feb-
21 ruary 15, 2020.”; and

22 (2) by striking clause (iv) and inserting the fol-
23 lowing:

24 “(iv) PARTNERSHIPS WITH NO EM-
25 PLOYEES.—With respect to a partnership

1 without employees, the maximum covered
2 loan amount shall be equal to the sum of—

3 “(I) the product obtained by mul-
4 tiplying—

5 “(aa) the gross income, lim-
6 ited to the amount attributable to
7 general partners as determined
8 by the sum of their distributive
9 shares of gross farming income
10 from self-employment, that is not
11 more than \$100,000 per partner,
12 and no more than \$500,000 in
13 total, divided by 12; and

14 “(bb) 2.5; and

15 “(II) the outstanding amount of
16 a loan under subsection (b)(2) that
17 was made during the period beginning
18 on January 31, 2020 and ending on
19 April 3, 2020 that the borrower in-
20 tends to refinance under the covered
21 loan, not including any amount of any
22 advance under the loan that is not re-
23 quired to be repaid.

24 “(v) RECALCULATION.—

1 “(I) IN GENERAL.—A lender that
2 made a covered loan before the date
3 of enactment of the PPP Flexibility
4 for Farmers, Ranchers, and the Self-
5 Employed Act may, at the request of
6 the covered recipient—

7 “(aa) recalculate the max-
8 imum loan amount applicable to
9 that covered loan based on the
10 formula described in clause (ii),
11 (iii), or (iv), as applicable, if
12 doing so would result in a larger
13 covered loan amount; and

14 “(bb) provide the covered re-
15 cipient with additional covered
16 loan amounts based on that re-
17 calculation.

18 “(II) LOAN LIMITATION.—For
19 purposes of receiving a recalculated
20 loan amount related to a covered loan
21 under subclause (I), paragraph
22 (37)(F) shall not apply.

23 “(III) EFFECT OF FORGIVE-
24 NESS.—Subject to rules issued by the
25 Administrator, a covered recipient

1 shall be eligible to submit a request
2 for a recalculated loan amount related
3 to a covered loan under subclause (I)
4 without regard to whether the covered
5 recipient has sought or received for-
6 giveness with respect to the applicable
7 covered loan under section 7A.

8 “(IV) FORGIVENESS OF RECAL-
9 CULATED LOAN AMOUNT.—For pur-
10 poses of this subparagraph, as soon as
11 is practicable upon expenditure of ad-
12 ditional covered loan amounts pro-
13 vided under subclause (I)—

14 “(aa) an eligible recipient
15 shall attest to compliance with
16 applicable requirements under
17 this paragraph; and

18 “(bb) the additional covered
19 loan amounts shall be forgiven
20 under section 7A.

21 “(V) REIMBURSEMENT FOR
22 LOAN PROCESSING.—The Adminis-
23 trator shall reimburse a lender for
24 processing recalculation requests

1 under this clause in an amount deter-
2 mined by the Administrator.”.

3 (b) EFFECTIVE DATE; APPLICABILITY.—The amend-
4 ments made by subsection (a) shall be effective as if in-
5 cluded in the CARES Act (Public Law 116–136) and shall
6 apply to any loan made pursuant to section 7(a)(36) of
7 the Small Business Act (15 U.S.C. 636(a)(36)) before, on,
8 or after the date of enactment of this Act.

9 **SEC. 3. REVISIONS TO LOAN AMOUNT CALCULATION AND**
10 **ELIGIBILITY.**

11 (a) DEFINITIONS.—In this section—

12 (1) the term “Administrator” means the Ad-
13 ministrator of the Small Business Administration;

14 (2) the term “covered loan” means a loan made
15 under paragraph (36) or (37) of section 7(a) of the
16 Small Business Act (15 U.S.C. 636(a));

17 (3) the term “eligible applicant” means a tax-
18 payer that files Internal Revenue Service Form
19 1040, Schedule C; and

20 (4) the term “interim final rule” means the in-
21 terim final rule of the Small Business Administra-
22 tion entitled “Business Loan Program Temporary
23 Changes; Paycheck Protection Program – Revisions
24 to Loan Amount Calculation and Eligibility”, Docket
25 Number SBA–2021–0010.

1 (b) CALCULATION OF MAXIMUM LOAN AMOUNT FOR
2 CERTAIN APPLICANTS.—

3 (1) IN GENERAL.—An eligible applicant apply-
4 ing for a covered loan may calculate the maximum
5 amount of the covered loan using the gross income
6 of the eligible applicant, as reported on the applica-
7 ble Internal Revenue Service Form 1040, Schedule
8 C filed by the eligible applicant, that is not more
9 than \$100,000.

10 (2) RETROACTIVE EFFECT.—Notwithstanding
11 any provision of the interim final rule, paragraph (1)
12 shall apply with respect to any covered loan made to
13 an eligible applicant that is approved on or after the
14 date of enactment of the Economic Aid to Hard-Hit
15 Small Businesses, Nonprofits, and Venues Act (title
16 III of division N of Public Law 116–260).

17 (c) RECALCULATION.—

18 (1) IN GENERAL.—The Administrator shall cre-
19 ate a process to allow eligible applicants to request
20 a recalculation of the amount of a covered loan and
21 receive additional amounts equal to the difference
22 between the amount of the covered loan originally
23 received by the eligible applicant and the amount of
24 the covered loan based on the application of this sec-
25 tion.

1 (2) LOAN LIMITATION.—For purposes of receiv-
2 ing additional amounts under paragraph (1), section
3 7(a)(37)(F) of the Small Business Act (15 U.S.C.
4 636(a)(37)(F)) shall not apply.

5 (3) EFFECT OF FORGIVENESS.—Subject to
6 rules issued by the Administrator, an eligible appli-
7 cant shall be eligible to submit a request for a recal-
8 culated loan amount under paragraph (1) without
9 regard to whether the eligible applicant has sought
10 or received forgiveness with respect to the applicable
11 covered loan under section 7A of the Small Business
12 Act (15 U.S.C. 636m).

13 (4) FORGIVENESS OF ADDITIONAL AMOUNTS.—
14 For purposes of this subsection, as soon as is prac-
15 ticable upon expenditure of additional covered loan
16 amounts provided under paragraph (1)—

17 (A) an eligible applicant shall attest to
18 compliance with applicable requirements under
19 section 7(a)(37) of the Small Business Act (15
20 U.S.C. 636(a)(37)); and

21 (B) the additional loan amounts shall be
22 forgiven under section 7A of the Small Business
23 Act (15 U.S.C. 636m).

24 (5) REIMBURSEMENT FOR LOAN PROC-
25 ESSING.—The Administrator shall reimburse a lend-

1 er for processing recalculation requests under this
2 subsection in an amount determined by the Adminis-
3 trator.

4 **SEC. 4. MAXIMUM AMOUNT OF SECOND DRAW LOAN.**

5 (a) IN GENERAL.—Section 7(a)(37) of the Small
6 Business Act (15 U.S.C. 636(a)(37)) is amended by strik-
7 ing subparagraph (C) and inserting the following:

8 “(C) MAXIMUM LOAN AMOUNT.—

9 “(i) IN GENERAL.—Except as other-
10 wise provided in this subparagraph, the
11 maximum amount of a covered loan made
12 to an eligible entity is the sum of—

13 “(I) the lesser of—

14 “(aa) the product obtained
15 by multiplying—

16 “(AA) at the election of
17 the eligible entity, the aver-
18 age total monthly payment
19 for payroll costs incurred or
20 paid by the eligible entity
21 during the 1-year period be-
22 fore the date on which the
23 loan is made or calendar
24 year 2019; by

25 “(BB) 2.5; or

1 “(bb) \$2,000,000; plus
2 “(II) with respect to a loan re-
3 ceived under paragraph (36) for which
4 the eligible entity received forgiveness
5 under section 1106 of the CARES Act
6 (as in effect before the date of enact-
7 ment of this paragraph), the amount
8 of an increase with respect to that
9 loan that the eligible entity would
10 have been eligible to receive under sec-
11 tion 312 of the Economic Aid to
12 Hard-Hit Small Businesses, Non-
13 profits, and Venues Act (title III of
14 division N of Public Law 116–260) if
15 the eligible entity had not received
16 such forgiveness.

17 “(ii) SEASONAL EMPLOYERS.—The
18 maximum amount of a covered loan made
19 to an eligible entity that is a seasonal em-
20 ployer is the sum of—

21 “(I) the lesser of—

22 “(aa) the product obtained
23 by multiplying—

24 “(AA) at the election of
25 the eligible entity, the aver-

1 age total monthly payments
2 for payroll costs incurred or
3 paid by the eligible entity
4 for any 12-week period be-
5 tween February 15, 2019
6 and February 15, 2020; by

7 “(BB) 2.5; or

8 “(bb) \$2,000,000; plus

9 “(II) with respect to a loan re-
10 ceived under paragraph (36) for which
11 the seasonal employer received for-
12 giveness under section 1106 of the
13 CARES Act (as in effect before the
14 date of enactment of this paragraph),
15 the amount of an increase with re-
16 spect to that loan that the seasonal
17 employer would have been eligible to
18 receive under section 312 of the Eco-
19 nomic Aid to Hard-Hit Small Busi-
20 nesses, Nonprofits, and Venues Act
21 (title III of division N of Public Law
22 116–260) if the seasonal employer
23 had not received such forgiveness.

24 “(iii) NEW ENTITIES.—The maximum
25 amount of a covered loan made to an eligi-

1 fore the date on which the
2 loan is made or calendar
3 year 2019; by
4 “(BB) 3.5; or
5 “(bb) \$2,000,000; plus
6 “(II) with respect to a loan re-
7 ceived under paragraph (36) for which
8 the eligible entity received forgiveness
9 under section 1106 of the CARES Act
10 (as in effect before the date of enact-
11 ment of this paragraph), the amount
12 of an increase with respect to that
13 loan that the eligible entity would
14 have been eligible to receive under sec-
15 tion 312 of the Economic Aid to
16 Hard-Hit Small Businesses, Non-
17 profits, and Venues Act (title III of
18 division N of Public Law 116–260) if
19 the eligible entity had not received
20 such forgiveness.”.

21 (b) **EFFECTIVE DATE; APPLICABILITY.**—The amend-
22 ments made by subsection (a) shall be effective as if in-
23 cluded in the Economic Aid to Hard-Hit Small Busi-
24 nesses, Nonprofits, and Venues Act (title III of division
25 N of Public Law 116–260) and shall apply to any loan

1 made pursuant to section 7(a)(37) of the Small Business
2 Act (15 U.S.C. 636(a)(37)) before, on, or after the date
3 of enactment of this Act.

4 **SEC. 5. ELIGIBILITY FOR PAYCHECK PROTECTION PRO-**
5 **GRAM SECOND DRAW LOANS.**

6 Section 7(a)(37)(A)(iv)(I)(bb) of the Small Business
7 Act (15 U.S.C. 636(a)(37)(A)(iv)(I)(bb)) is amended to
8 read as follows:

9 “(bb)(AA) except as pro-
10 vided in subitems (BB), (CC)
11 and (DD), had gross receipts
12 during any contiguous 90-day pe-
13 riod in 2020 that demonstrate
14 not less than a 25 percent reduc-
15 tion from the gross receipts of
16 the entity during the same period
17 in 2019;

18 “(BB) if the entity was
19 not in business during the
20 entirety of 2019, but was in
21 business for not fewer than
22 90 contiguous days during
23 2019, had gross receipts
24 during any contiguous 90-
25 day period in 2020 that

1 demonstrate not less than a
2 25 percent reduction from
3 the gross receipts of the en-
4 tity during the same contig-
5 uous 90-day period during
6 2019;

7 “(CC) if the entity was
8 not in business for the en-
9 tirety of 2019 and was not
10 in business for 90 contig-
11 uous days during 2019, had
12 gross receipts during any
13 contiguous 90-day period in
14 2020 that demonstrate not
15 less than a 25 percent re-
16 duction from the gross re-
17 ceipts of the entity during a
18 contiguous 90-day period be-
19 ginning on the date the
20 business began operations in
21 2019; and

22 “(DD) if the entity was
23 not in business during 2019,
24 but was in business for not
25 fewer than 90 contiguous

1 days during 2020, had gross
2 receipts during any contig-
3 uous 90-day period in 2020
4 that demonstrate not less
5 than a 25 percent reduction
6 from the gross receipts of
7 the entity during an earlier
8 contiguous 90-day period in
9 2020;”.

10 **SEC. 6. ELIGIBILITY FOR RELIEF UNDER THE PAYCHECK**
11 **PROTECTION PROGRAM AND THE RES-**
12 **TAURANT REVITALIZATION FUND.**

13 Section 5003 of the American Rescue Plan Act (Pub-
14 lic Law 117–2) is amended—

15 (1) in subsection (a)(7)—

16 (A) in subparagraph (A), by inserting
17 “and subsection (c)(7)” after “(D)”; and

18 (B) by striking the flush text following
19 subparagraph (D)(ii); and

20 (2) in subsection (c), by adding at the end the
21 following:

22 “(7) REDUCTION IN PANDEMIC-RELATED REV-
23 ENUE LOSS.—

24 “(A) DEFINITION.—In this paragraph, the
25 term ‘covered loan’ means a loan made under

1 paragraph (36) or (37) of section 7(a) of the
2 Small Business Act (15 U.S.C. 636(a)).

3 “(B) REDUCTION.—For purposes of this
4 section—

5 “(i) the pandemic-related revenue loss
6 for an eligible entity shall be reduced by
7 any amounts received from a covered loan
8 in 2020 or 2021; and

9 “(ii) if an eligible entity receives a
10 covered loan after submitting an applica-
11 tion for assistance under this section, the
12 otherwise applicable amount of an award
13 under this section shall be reduced by the
14 total amount of the covered loan received
15 by the eligible entity.

16 “(C) INELIGIBILITY FOR COVERED
17 LOAN.—If an eligible entity has applied for a
18 covered loan and is approved for an award
19 under this section before the Administrator
20 issues a loan number for the covered loan—

21 “(i) the eligible entity is ineligible for
22 the covered loan; and

23 “(ii) acceptance by the eligible entity
24 of any loan proceeds of the covered loan is
25 an unauthorized use of the covered loan.”.

1 **SEC. 7. EXTENSION.**

2 (a) SALARIES AND EXPENSES.—The matter under
3 the heading “SALARIES AND EXPENSES” under the head-
4 ing “SMALL BUSINESS ADMINISTRATION” under the
5 heading “INDEPENDENT AGENCIES” in title II of di-
6 vision B of the Paycheck Protection Program and Health
7 Care Enhancement Act (Public Law 116–139) is amended
8 by striking “September 30, 2021” and inserting “Sep-
9 tember 30, 2023”.

10 (b) MODIFICATION OF SET-ASIDES.—Section
11 323(d)(2)(B)(iii) of the Economic Aid to Hard-Hit Small
12 Businesses, Nonprofits, and Venues Act (title III of divi-
13 sion N of Public Law 116–260) is amended by striking
14 “March 31, 2021” and inserting “June 30, 2021”.