

116TH CONGRESS  
1ST SESSION

# H. R. 4915

To amend the Small Business Act to provide loan guarantees for the acquisition of cybersecurity technology and services by eligible small businesses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2019

Mr. SCHNEIDER (for himself, Mr. FITZPATRICK, and Mr. CROW) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Act to provide loan guarantees for the acquisition of cybersecurity technology and services by eligible small 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 “Small Business Cyber-  
5 security Enhancement Act”.

6 **SEC. 2. LOAN GUARANTEES FOR CYBERSECURITY TECH-**  
7 **NOLOGY AND SERVICES.**

8 (a) IN GENERAL.—The Small Business Act (15  
9 U.S.C. 631 et seq.) is amended—

1 (1) by redesignating section 49 as section 50;

2 and

3 (2) by inserting the following new section after

4 section 48:

5 **“SEC. 49. LOAN GUARANTEES FOR CYBERSECURITY TECH-**  
6 **NOLOGY AND SERVICES.**

7 “(a) DEFINITIONS.—As used in this section:

8 “(1) CYBERSECURITY TECHNOLOGY AND SERV-  
9 ICES.—The term ‘cybersecurity technology and serv-  
10 ices’—

11 “(A) means—

12 “(i) computer hardware, software, and  
13 related technology that—

14 “(I) supports the prevention of  
15 damage to, protection of, and restora-  
16 tion of computers, electronic commu-  
17 nications systems, electronic commu-  
18 nications services, wire communica-  
19 tion, and electronic communication,  
20 including information contained there-  
21 in, to ensure its availability, integrity,  
22 authentication, confidentiality, and  
23 nonrepudiation;

24 “(II) is purchased by an eligible  
25 small business;

1           “(III) provides for encryption of  
2           data, detection of malware, or protec-  
3           tion of information and information  
4           systems from unauthorized access,  
5           use, disclosure, disruption, modifica-  
6           tion, or destruction;

7           “(IV) meets any requirements es-  
8           tablished by the Small Business De-  
9           velopment Center Cyber Strategy de-  
10          veloped under section 1841(a) of the  
11          National Defense Authorization Act  
12          for Fiscal Year 2017 (Public Law  
13          114–328; 130 Stat. 2662); and

14          “(V) meets any industry best  
15          practices standards;

16          “(ii) an insurance product available  
17          for purchase by an eligible small business  
18          that provides coverage for losses caused by  
19          a cyber attack on such business;

20          “(iii) services related to—

21                  “(I) the installation of computer  
22                  hardware, software, and related tech-  
23                  nology described under clause (i); or

1                   “(II) training on security prin-  
2                   ciples for employees of an eligible  
3                   small business; or

4                   “(iv) has the meaning given such term  
5                   by the Administrator; and

6                   “(B) does not include information tech-  
7                   nology whose sole use is financial management,  
8                   maintenance of inventory of basic supplies, or  
9                   appointment scheduling.

10                  “(2) ELIGIBLE SMALL BUSINESS.—The term  
11                  ‘eligible small business’ means a small business con-  
12                  cern that—

13                         “(A) has 100 or fewer employees;

14                         “(B) has been in business for at least 1  
15                         year; and

16                         “(C) has obtained training from a small  
17                         business development center.

18                  “(3) PRIME RATE.—The term ‘prime rate’  
19                  means the discount window primary credit interest  
20                  rate most recently published in the Federal Reserve  
21                  Statistical Release on selected interest rates (daily or  
22                  weekly), commonly referred to as the H.15 release,  
23                  or any successor publication.

24                  “(b) LOAN GUARANTEES FOR ELIGIBLE SMALL  
25                  BUSINESSES.—

1           “(1) GUARANTEE PERCENTAGE.—Subject to  
2 paragraph (2), the Administrator may guarantee up  
3 to 90 percent of the amount of a loan made to an  
4 eligible small business for—

5           “(A) the acquisition of cybersecurity tech-  
6 nology and services for use in the business oper-  
7 ations of the eligible small business; and

8           “(B) the costs associated with the installa-  
9 tion or use of such cybersecurity technology and  
10 services.

11           “(2) LIMITATIONS ON GUARANTEE AMOUNTS.—  
12 The maximum amount of the principal of a loan  
13 guaranteed under this section may not exceed  
14 \$50,000. The aggregate total amount of the prin-  
15 cipal of loans guaranteed under this section in a  
16 year may not exceed \$500,000,000.

17           “(c) FEES.—With respect to each loan guaranteed  
18 under this section, the Administration shall assess, collect,  
19 and retain such fees as are necessary to reduce to zero  
20 the cost to the Administration of making guarantees under  
21 this section. As used in this subsection, the term ‘cost’  
22 has the meaning given that term in section 502 of the  
23 Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

24           “(d) INTEREST RATES.—

1           “(1) FIXED RATE LOANS.—With respect to a  
2 fixed rate loan guaranteed under this section, the in-  
3 terest rate for such a loan may not exceed—

4           “(A) for a loan in an amount greater than  
5 \$25,000, the prime rate; and

6           “(B) for a loan in an amount less than or  
7 equal to \$25,000, the prime rate plus 3.25 per-  
8 cent.

9           “(2) VARIABLE RATE LOANS.—

10           “(A) IN GENERAL.—With respect to a  
11 variable rate loan guaranteed under this sec-  
12 tion, the interest rate for such a loan shall  
13 equal—

14           “(i) the prime rate plus the spread de-  
15 scribed under subparagraph (B); or

16           “(ii) the optional peg rate, as cal-  
17 culated quarterly by the Administrator and  
18 published in the Federal Register, plus the  
19 spread described under subparagraph (B).

20           “(B) NEGOTIATION OF SPREAD AND RATE  
21 OF CHANGE.—The lender and the borrower  
22 shall negotiate the amount of the spread which  
23 will be added to the interest rate described  
24 under subparagraph (A) and select the fre-  
25 quency at which the spread will change, which

1           shall be no more often than monthly and shall  
2           be consistent over the term of the loan.

3           “(e) DEFERRAL PERIOD.—The Administrator may  
4 defer payment of the principal and interest on a loan guar-  
5 anteed under this section for a period not to exceed 3  
6 years.

7           “(f) TERMS AND CONDITIONS FOR LOAN GUARAN-  
8 TEES.—

9           “(1) IN GENERAL.—A loan guaranteed under  
10 this section shall be subject to such terms and condi-  
11 tions as the Administrator may prescribe, includ-  
12 ing—

13                   “(A) explicit standards for use in periodi-  
14 cally assessing the credit risk of guaranteed  
15 loans;

16                   “(B) a requirement that the final maturity  
17 of such a loan may not exceed 7 years; and

18                   “(C) a requirement that such a loan may  
19 not be subordinated to another debt contracted  
20 by the borrower or to any other claims against  
21 the borrower in the case of default.

22           “(2) RESTRICTIONS.—The Administrator may  
23 not guarantee a loan under this section—

24                   “(A) unless the Administrator determines  
25 that the lender is responsible, that there is a

1 reasonable assurance of repayment, and that  
2 adequate provision is made for servicing the  
3 loan on reasonable terms and protecting the fi-  
4 nancial interest of the United States;

5 “(B) except to the extent that appropria-  
6 tions of budget authority to cover their costs  
7 are made in advance, as required under section  
8 504 of the Federal Credit Reform Act of 1990;  
9 and

10 “(C) if—

11 “(i) the income from such loan is ex-  
12 cluded from gross income for purposes of  
13 chapter 1 of the Internal Revenue Code of  
14 1986; or

15 “(ii) the guarantee provides signifi-  
16 cant collateral or security, as determined  
17 by the Administrator, for other obligations  
18 the income from which is so excluded.

19 “(3) GUARANTEES.—A loan guarantee provided  
20 under this section shall be conclusive evidence that—

21 “(A) the guarantee has been properly ob-  
22 tained;

23 “(B) the underlying loan qualified for such  
24 guarantee; and



1           “(C) absent fraud or material misrepresenta-  
2           tion by the holder and the lender, the guar-  
3           antee is presumed to be valid, legal, and en-  
4           forceable.

5           “(g) PAYMENT OF LOSSES.—

6           “(1) IN GENERAL.—If, as a result of a default  
7           by a borrower under a loan guaranteed under this  
8           section, and after the holder of the loan has made  
9           collection efforts and instituted enforcement pro-  
10          ceedings as the Administrator may require, the Ad-  
11          ministrator determines that the holder of the loan  
12          has suffered a loss, the Administrator shall pay to  
13          such holder the percentage of such loss specified in  
14          the guarantee contract. Upon making any such pay-  
15          ment, the Administrator shall be subrogated to all  
16          the rights of the recipient of the payment. The Ad-  
17          ministrator shall be entitled to recover from the bor-  
18          rower the amount of any payments made to the  
19          holder of the loan under this paragraph.

20          “(2) FORBEARANCE.—Nothing in this section  
21          may be construed to preclude any forbearance for  
22          the benefit of the borrower which may be agreed  
23          upon by the parties to the guaranteed loan and ap-  
24          proved by the Administrator, if budget authority for  
25          any resulting subsidy costs (as defined in section

1 502(5) of the Federal Credit Reform Act of 1990)  
2 is available.

3 “(3) MANAGEMENT OF PROPERTY.—Notwith-  
4 standing any other provision of law relating to the  
5 acquisition, handling, or disposal of property by the  
6 United States, the Administrator may complete, re-  
7 condition, reconstruct, renovate, repair, maintain,  
8 operate, or sell any property acquired by the Admin-  
9 istrator pursuant to this section.

10 “(h) SUNSET OF AUTHORITY.—The authority of the  
11 Administrator to make new loan guarantees under this  
12 section shall terminate after the end of the 5-year period  
13 beginning on the date of the enactment of this section.”.

14 (b) EFFECTIVE DATE.—The amendments made by  
15 subsection (a) shall take effect on the date that is 180  
16 days after the date of the enactment of this Act.

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