

116TH CONGRESS  
1ST SESSION

# S. 2361

To amend the Small Business Act to increase lending to underserved borrowers through the largest loan program of the Small Business Administration, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 31, 2019

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

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## A BILL

To amend the Small Business Act to increase lending to underserved borrowers through the largest loan program of the Small Business Administration, 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 “Closing the Credit Gap  
5 Act”.

6 **SEC. 2. COMMUNITY ADVANTAGE LOAN PROGRAM.**

7 Section 7(a) of the Small Business Act (15 U.S.C.  
8 636(a)) is amended by adding at the end the following:

1           “(36) COMMUNITY ADVANTAGE LOAN PRO-  
2           GRAM.—

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

5                   “(i) to create a mission-oriented loan  
6                   guarantee program that builds on the dem-  
7                   onstrated success of the Community Ad-  
8                   vantage Pilot Program of the Administra-  
9                   tion, as established in 2011, to reach more  
10                  underserved small business concerns;

11                   “(ii) to increase lending to small busi-  
12                   ness concerns in underserved and rural  
13                   markets, including veterans and members  
14                   of the military community, small business  
15                   concerns owned and controlled by socially  
16                   and economically disadvantaged individ-  
17                   uals, women, and startups;

18                   “(iii) to ensure that the program  
19                   under this subsection (in this paragraph  
20                   referred to as the ‘7(a) loan program’) is  
21                   more inclusive and more broadly meets  
22                   congressional intent to reach borrowers  
23                   who are unable to get credit elsewhere on  
24                   reasonable terms and conditions;

1 “(iv) to help underserved small busi-  
2 ness concerns become bankable by utilizing  
3 the small-dollar financing and business  
4 support experience of mission-oriented  
5 lenders;

6 “(v) to allow certain mission-oriented  
7 lenders, primarily nonprofit financial inter-  
8 mediaries focused on economic develop-  
9 ment in underserved markets, access to  
10 guarantees for loans under this subsection  
11 (in this paragraph referred to as ‘7(a)  
12 loans’) of not more than \$350,000 and  
13 provide management and technical assist-  
14 ance to small business concerns as needed;

15 “(vi) to provide certainty for the lend-  
16 ing partners that make loans under this  
17 subsection and to attract new lenders; and

18 “(vii) to encourage collaboration be-  
19 tween mission-oriented and conventional  
20 lenders under this subsection in order to  
21 support underserved small business con-  
22 cerns.

23 “(B) DEFINITIONS.—In this paragraph—

24 “(i) the term ‘covered institution’  
25 means—

1           “(I) a development company, as  
2 defined in section 103 of the Small  
3 Business Investment Act of 1958 (15  
4 U.S.C. 662), participating in the 504  
5 Loan Guaranty program established  
6 under title V of such Act (15 U.S.C.  
7 695 et seq.);

8           “(II) a nonprofit intermediary, as  
9 defined in subsection (m)(11), partici-  
10 pating in the microloan program  
11 under subsection (m);

12           “(III) a non-Federally regulated  
13 entity certified as a community devel-  
14 opment financial institution by the  
15 Community Development Financial  
16 Institutions Fund established under  
17 section 104(a) of the Riegle Commu-  
18 nity Development and Regulatory Im-  
19 provement Act of 1994 (12 U.S.C.  
20 4703(a)); and

21           “(IV) an eligible intermediary, as  
22 defined in subsection (l)(1), partici-  
23 pating in the Intermediary Lending  
24 Pilot Program established under sub-  
25 section (l)(2);

1           “(ii) the term ‘existing business’  
2 means a small business concern that has  
3 been in existence for not less than 2 years  
4 on the date on which a loan is made to the  
5 small business concern under the program;

6           “(iii) the term ‘new business’ means a  
7 small business concern that has been exist-  
8 ence for not more than 2 years on the date  
9 on which a loan is made to the small busi-  
10 ness concern under the program;

11           “(iv) the term ‘program’ means the  
12 Community Advantage Loan Program es-  
13 tablished under subparagraph (C);

14           “(v) the term ‘Reservist’ means a  
15 member of a reserve component of the  
16 Armed Forces named in section 10101 of  
17 title 10, United States Code;

18           “(vi) the term ‘rural area’ means any  
19 county that the Bureau of the Census has  
20 defined as mostly rural or completely rural  
21 in the most recent decennial census;

22           “(vii) the term ‘service-connected’ has  
23 the meaning given the term in section  
24 101(16) of title 38, United States Code;

1           “(viii) the term ‘small business con-  
2           cern in an underserved market’ means a  
3           small business concern—

4                   “(I) that is located in—

5                           “(aa) a low- to moderate-in-  
6                           come community;

7                           “(bb) a HUBZone;

8                           “(cc) a community that has  
9                           been designated as an empower-  
10                           ment zone or an enterprise com-  
11                           munity under section 1391 of the  
12                           Internal Revenue Code of 1986;

13                           “(dd) a community that has  
14                           been designated as a promise  
15                           zone by the Secretary of Housing  
16                           and Urban Development;

17                           “(ee) a community that has  
18                           been designated as a qualified  
19                           opportunity zone under section  
20                           1400Z-1 of the Internal Revenue  
21                           Code of 1986; or

22                           “(ff) a rural area;

23                           “(II) for which more than 50  
24                           percent of the employees reside in a  
25                           low- or moderate-income community;

1 “(III) that is a startup or new  
2 business;

3 “(IV) owned and controlled by  
4 socially and economically disadvan-  
5 taged individuals, including Black  
6 Americans, Hispanic Americans, Na-  
7 tive Americans, Asian Pacific Ameri-  
8 cans, and other minorities;

9 “(V) owned and controlled by  
10 women;

11 “(VI) owned and controlled by  
12 veterans;

13 “(VII) owned and controlled by  
14 service-disabled veterans;

15 “(VIII) not less than 51 percent  
16 owned and controlled by 1 or more—

17 “(aa) members of the Armed  
18 Forces participating in the Tran-  
19 sition Assistance Program of the  
20 Department of Defense;

21 “(bb) Reservists;

22 “(cc) spouses of veterans,  
23 members of the Armed Forces, or  
24 Reservists; or

1                   “(dd) surviving spouses of  
2                   veterans who died on active duty  
3                   or as a result of a service-con-  
4                   nected disability; or

5                   “(IX) that is eligible to receive a  
6                   veterans advantage loan;

7                   “(ix) the term ‘small business concern  
8                   owned and controlled by socially and eco-  
9                   nomically disadvantaged individuals’ has  
10                  the meaning given the term in section  
11                  8(d)(3)(C);

12                  “(x) the term ‘startup’ means a busi-  
13                  ness that has not yet opened; and

14                  “(xi) the term ‘veterans advantage  
15                  loan’ means a loan made to a small busi-  
16                  ness concern under this subsection that is  
17                  eligible for a waiver of the guarantee fee  
18                  under paragraph (18) or the yearly fee  
19                  under paragraph (23) because the small  
20                  business concern is a concern described in  
21                  subclause (VI), (VII), or (VIII) of clause  
22                  (viii).

23                  “(C) ESTABLISHMENT.—There is estab-  
24                  lished a Community Advantage Loan Program  
25                  under which the Administration may guarantee



1 loans made by covered institutions under this  
2 subsection, including loans made to small busi-  
3 ness concerns in underserved markets.

4 “(D) PROGRAM LEVELS.—In each of fiscal  
5 years 2020, 2021, 2022, 2023, and 2024, not  
6 more than 10 percent of the number of loans  
7 guaranteed under this subsection may be guar-  
8 anteed under the program.

9 “(E) NEW LENDERS.—

10 “(i) FISCAL YEARS 2020 AND 2021.—In  
11 each of fiscal years 2020 and 2021—

12 “(I) not more than 150 covered  
13 institutions shall participate in the  
14 program; and

15 “(II) the Administrator shall  
16 allow for new applicants and give pri-  
17 ority to applications submitted by any  
18 covered institution that is located in  
19 an area with insufficient or no lending  
20 under the program.

21 “(ii) FISCAL YEARS 2022, 2023, AND  
22 2024.—

23 “(I) IN GENERAL.—In each of  
24 fiscal years 2022, 2023, and 2024—

1           “(aa) except as provided in  
2           subclause (II), not more than  
3           175 covered institutions shall  
4           participate in the program; and

5           “(bb) the Administrator  
6           shall allow for new applicants  
7           and give priority to applications  
8           submitted by any covered institu-  
9           tion that is located in an area  
10          with insufficient or no lending  
11          under the program.

12          “(II) EXCEPTION FOR FISCAL  
13          YEAR 2024.—In fiscal year 2024, not  
14          more than 200 covered institutions  
15          may participate in the program if—

16               “(aa) after reviewing the re-  
17               port under subparagraph  
18               (M)(iii), the Administrator deter-  
19               mines that not more than 200  
20               covered institutions may partici-  
21               pate in the program;

22               “(bb) the Administrator no-  
23               tifies Congress in writing of the  
24               determination of the Adminis-  
25               trator under item (aa); and

1                   “(cc) not later than July 30,  
2                   2023, the Administrator notifies  
3                   the public of the determination of  
4                   the Administrator under item  
5                   (aa).

6                   “(F) GRANDFATHERING OF EXISTING  
7                   LENDERS.—Any covered institution that par-  
8                   ticipated in the Community Advantage Pilot  
9                   Program of the Administration and is in good  
10                  standing on the day before the date of enact-  
11                  ment of this paragraph—

12                  “(i) shall retain designation in the  
13                  program; and

14                  “(ii) shall not be required to submit  
15                  an application to participate in the pro-  
16                  gram.

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

23                  “(H) MAXIMUM LOAN AMOUNT.—

24                  “(i) IN GENERAL.—Except as pro-  
25                  vided in clause (ii), the maximum loan

1 amount for a loan guaranteed under the  
2 program is \$250,000.

3 “(ii) EXCEPTION.—

4 “(I) IN GENERAL.—The Admin-  
5 istration may, in the discretion of the  
6 Administration, approve a guarantee  
7 of a loan under the program that is  
8 more than \$250,000 and not more  
9 than \$350,000.

10 “(II) NOTIFICATION.—Not later  
11 than 2 days after receiving a request  
12 for an exception to the maximum loan  
13 amount established under clause (i),  
14 the Administration shall—

15 “(aa) review the request;

16 and

17 “(bb) provide a decision re-  
18 garding the request to the cov-  
19 ered institution making the loan.

20 “(I) INTEREST RATES.—

21 “(i) IN GENERAL.—Except as pro-  
22 vided in clause (ii), the maximum allowable  
23 interest rate prescribed by the Administra-  
24 tion on any financing made on a deferred  
25 basis pursuant to the program shall not

1 exceed the maximum allowable interest  
2 rate in effect on September 1, 2018.

3 “(ii) MODIFICATION.—The Adminis-  
4 tration shall not modify the maximum al-  
5 lowable interest rate described in clause (i)  
6 unless the Administration provides the  
7 public with an opportunity to comment for  
8 a period of not less than 180 days before  
9 implementing the modified interest rate.

10 “(J) TRAINING AND TECHNICAL ASSIST-  
11 ANCE.—The Administration—

12 “(i) shall in person and online, pro-  
13 vide upfront and ongoing training and  
14 technical assistance for covered institutions  
15 making loans under the program in order  
16 to support prudent lending standards and  
17 improve the interface between the covered  
18 institutions and the Administration;

19 “(ii) shall ensure that the training  
20 and technical assistance described in clause  
21 (i) is provided for free or at a low-cost;  
22 and

23 “(iii) may enter into a contract to  
24 provide the training or technical assistance  
25 described in clause (i) with an organization

1 with expertise in lending under this sub-  
2 section, mission-oriented lending, and lend-  
3 ing to underserved markets.

4 “(K) DELEGATED AUTHORITY.—A covered  
5 institution is not eligible to receive delegated  
6 authority from the Administration under the  
7 program until the covered institution makes not  
8 less than 7 loans under the program.

9 “(L) REGULATIONS.—

10 “(i) IN GENERAL.—Not later than  
11 180 days after the date of enactment of  
12 this paragraph and in accordance with the  
13 notice and comment procedures under sec-  
14 tion 553 of title 5, United States Code, the  
15 Administrator shall promulgate regulations  
16 to carry out the program, which shall be  
17 substantially similar to the Community Ad-  
18 vantage Pilot Program of the Administra-  
19 tion, as in effect on September 1, 2018,  
20 and shall—

21 “(I) outline the requirements for  
22 participation by covered institutions in  
23 the program;

24 “(II) define performance metrics  
25 for covered institutions participating

1 in the program for the first time,  
2 which are required to be met in order  
3 to continue participating in the pro-  
4 gram;

5 “(III) determine the credit score  
6 of a small business concern under  
7 which the Administration is required  
8 to underwrite a loan provided to the  
9 small business concern under the pro-  
10 gram and the loan may not be made  
11 using the delegated authority of a cov-  
12 ered institution;

13 “(IV) require each covered insti-  
14 tution that sells loans made under the  
15 program on the secondary market to  
16 establish a loan loss reserve fund,  
17 which—

18 “(aa) with respect to cov-  
19 ered institutions in good stand-  
20 ing, including the covered institu-  
21 tions described in subparagraph  
22 (F), shall be maintained at a  
23 level equal to 3 percent of the  
24 outstanding guaranteed portion  
25 of the loans; and

1           “(bb) with respect to any  
2           other covered institution, shall be  
3           maintained at a level equal to 5  
4           percent of the outstanding guar-  
5           anteed portion of the loans; and

6           “(V) allow the Administrator to  
7           require additional amounts to be de-  
8           posited into a loan loss reserve fund  
9           established by a covered institution  
10          under subclause (IV) based on the  
11          risk characteristics or performance of  
12          the covered institution and the loan  
13          portfolio of the covered institution.

14          “(ii) PILOT PROGRAM.—

15                 “(I) REVERSION.—Beginning on  
16                 the date of enactment of this para-  
17                 graph and ending on the day before  
18                 the date on which the regulations pro-  
19                 mulgated by the Administrator under  
20                 clause (i) take effect, the Adminis-  
21                 trator may only carry out the Commu-  
22                 nity Advantage Pilot Program of the  
23                 Administration based on applicable  
24                 program guidelines, requirements, and  
25                 other policy in effect on September 1,



1 2018, except that the definition of un-  
2 derserved market shall include—

3 “(aa) a community and an  
4 area described in items (ee) and  
5 (ff), respectively, of subpara-  
6 graph (B)(viii)(I); and

7 “(bb) small business con-  
8 cerns described in subclauses  
9 (IV) and (V) of subparagraph  
10 (B)(viii).

11 “(II) TERMINATION.—Beginning  
12 on the date on which the regulations  
13 promulgated by the Administrator  
14 under clause (i) take effect, the Ad-  
15 ministrator may not carry out the  
16 Community Advantage Pilot Program  
17 of the Administration.

18 “(M) REPORTING.—

19 “(i) WEEKLY REPORTS.—

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

1           “(aa) on and after the date  
2           of enactment of this paragraph  
3           until the date on which the regu-  
4           lations promulgated under sub-  
5           paragraph (L)(i) take effect, the  
6           number and dollar amount of  
7           loans guaranteed under the Com-  
8           munity Advantage Pilot Program  
9           of the Administration; and

10           “(bb) on and after the date  
11           on which the Administration be-  
12           gins to approve loans under the  
13           program, the number and dollar  
14           amount of loans guaranteed  
15           under the program.

16           “(II) SEPARATE ACCOUNTING.—

17           The number and dollar amount of  
18           loans reported in a weekly report  
19           under subclause (I) for loans guaran-  
20           teed under the Community Advantage  
21           Pilot Program of the Administration  
22           and under the program shall include a  
23           breakdown by the categories of race,  
24           ethnicity, and gender of the owners of  
25           the small business concerns.

1 “(ii) ANNUAL REPORTS.—

2 “(I) IN GENERAL.—For each of  
3 the first 5 fiscal years in which the  
4 program is in effect, the Administra-  
5 tion shall submit to the Committee on  
6 Small Business and Entrepreneurship  
7 of the Senate and the Committee on  
8 Small Business of the House of Rep-  
9 resentatives, and make publicly avail-  
10 able on the internet, information  
11 about loans provided under the pro-  
12 gram and under the Community Ad-  
13 vantage Pilot Program of the Admin-  
14 istration.

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

18 “(aa) the number and dollar  
19 amounts of loans provided to  
20 small business concerns under  
21 the program and under the Com-  
22 munity Advantage Pilot Program  
23 of the Administration, including  
24 a breakdown by—

1                   “(AA) the gender of the  
2 owners of the small business  
3 concern;

4                   “(BB) the race and  
5 ethnicity of the owners of  
6 the small business concern;

7                   “(CC) whether the  
8 small business concern is lo-  
9 cated in an urban or rural  
10 area; and

11                   “(DD) whether the  
12 small business concern is a  
13 startup, an existing busi-  
14 ness, or a new business, as  
15 provided in the weekly re-  
16 ports on lending approvals  
17 under this subsection;

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

21                   “(AA) other 7(a) loans  
22 of any amount;

23                   “(BB) other 7(a) loans  
24 of similar amounts;

1                   “(CC) express loans  
2                   provided under paragraph  
3                   (31) of similar amounts; and

4                   “(DD) other 7(a) loans  
5                   of similar amounts provided  
6                   to small business concerns  
7                   in underserved markets;

8                   “(cc) a comparison of the  
9                   number and dollar amounts of  
10                  loans provided to small business  
11                  concerns under the program,  
12                  under the Community Advantage  
13                  Pilot Program of the Administra-  
14                  tion, and under each category of  
15                  loans described in item (bb), bro-  
16                  ken down by—

17                  “(AA) loans of not  
18                  more than \$50,000;

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

22                  “(CC) loans of more  
23                  than \$150,000 and not more  
24                  than \$250,000; and

1                   “(DD) loans of more  
2                   than \$250,000 and not more  
3                   than \$350,000;

4                   “(dd) the number and dollar  
5                   amounts of loans provided to  
6                   small business concerns under  
7                   the program and under the Com-  
8                   munity Advantage Pilot Program  
9                   of the Administration by State,  
10                  and the jobs created or retained  
11                  within each State;

12                  “(ee) with respect to loans  
13                  provided to small business con-  
14                  cerns under the program and  
15                  under the Community Advantage  
16                  Pilot Program of the Administra-  
17                  tion—

18                  “(AA) the performance  
19                  of the loans provided by  
20                  each type of covered institu-  
21                  tion;

22                  “(BB) the performance  
23                  of the loans broken down by  
24                  loan size;

1                   “(CC) the predictive  
2 purchase rate of the loans;  
3                   “(DD) the early default  
4 rate of the loans;  
5                   “(EE) the 12-month  
6 default rate of the loans;  
7                   “(FF) the cumulative  
8 default rate for the loans for  
9 the 5-year period preceding  
10 the report;  
11                  “(GG) the charge-off  
12 rates of the loans;  
13                  “(HH) the charge-off  
14 rates as a percent of the un-  
15 paid principal balance as in  
16 table 9 of the annual budget  
17 submitted by the Adminis-  
18 tration; and  
19                  “(II) the purchase rates  
20 as a percent of the unpaid  
21 principal balance as in table  
22 8 of the annual budget sub-  
23 mitted by the Administra-  
24 tion;

1           “(ff) a list of covered insti-  
2           tutions participating in the pro-  
3           gram and the Community Advan-  
4           tage Pilot Program of the Ad-  
5           ministration, including—

6                   “(AA) the name, loca-  
7                   tion, and contact informa-  
8                   tion, such as the website and  
9                   telephone number, of each  
10                  covered institution; and

11                   “(BB) a breakdown by  
12                   the number and dollar  
13                   amount of the loans ap-  
14                   proved for small business  
15                   concerns; and

16                   “(gg) the benchmarks estab-  
17                   lished by the Community Advan-  
18                   tage Working Group under sub-  
19                   paragraph (N)(i).

20           “(III) TIMING.—An annual re-  
21           port required under this clause  
22           shall—

23                   “(aa) be submitted and  
24                   made publicly available not later



1 than November 15 of each year;  
2 and

3 “(bb) cover the lending ac-  
4 tivity for the fiscal year that  
5 ended on September 30 of that  
6 same year.

7 “(iii) GAO REPORT.—Not later than  
8 3 years after the date of enactment of this  
9 paragraph, the Comptroller General of the  
10 United States shall submit to the Adminis-  
11 trator, the Committee on Small Business  
12 and Entrepreneurship of the Senate, and  
13 the Committee on Small Business of the  
14 House of Representatives a report—

15 “(I) assessing—

16 “(aa) the extent to which  
17 the program fulfills the require-  
18 ments of this paragraph; and

19 “(bb) the performance of  
20 covered institutions participating  
21 in the program; and

22 “(II) providing recommendations  
23 on the administration of the program  
24 and the findings under items (aa) and  
25 (bb) of subclause (I).

1 “(N) WORKING GROUP.—

2 “(i) IN GENERAL.—Not later than 90  
3 days after the date of enactment of this  
4 paragraph, the Administrator shall estab-  
5 lish a Community Advantage Working  
6 Group, which shall—

7 “(I) include—

8 “(aa) a geographically di-  
9 verse representation of members  
10 from among covered institutions  
11 participating in the program; and

12 “(bb) representatives from  
13 the Office of Capital Access of  
14 the Administration, including the  
15 Office of Credit Risk Manage-  
16 ment, the Office of Financial As-  
17 sistance, and the Office of Eco-  
18 nomic Opportunity;

19 “(II) develop recommendations  
20 on how the Administration can effec-  
21 tively manage, support, and promote  
22 the program and the mission of the  
23 program;

24 “(III) establish metrics of suc-  
25 cess and benchmarks that reflect the

1 mission and population served by cov-  
2 ered institutions under the program,  
3 which the Administration shall use to  
4 evaluate the performance of those cov-  
5 ered institutions; and

6 “(IV) institute regular and sus-  
7 tainable systems of communication be-  
8 tween the Administration and covered  
9 institutions participating in the pro-  
10 gram.

11 “(ii) REPORT.—Not later than 180  
12 days after the date of enactment of this  
13 paragraph, the Administrator shall submit  
14 to the Committee on Small Business and  
15 Entrepreneurship of the Senate and the  
16 Committee on Small Business of the  
17 House of Representatives a report that in-  
18 cludes—

19 “(I) the recommendations of the  
20 Community Advantage Working  
21 Group established under clause (i);  
22 and

1                   “(II) a recommended plan and  
2                   timeline for implementation of those  
3                   recommendations.”.

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