

116TH CONGRESS  
2D SESSION

# S. 4875

To provide protections for good faith borrowers and lenders under the  
paycheck protection program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 26 (legislative day, OCTOBER 19), 2020

Mr. LEE introduced the following bill; which was read twice and referred to  
the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide protections for good faith borrowers and lenders  
under the paycheck protection program, 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 “Protections for Good  
5 Faith PPP Borrowers and Lenders Act”.

6 **SEC. 2. HOLDING HARMLESS GOOD FAITH BORROWERS**  
7 **AND LENDERS.**

8 Section 1106 of the CARES Act (15 U.S.C. 9005)  
9 is amended—

1           (1) by striking subsection (h) and inserting the  
2 following:

3           “(h) HOLD HARMLESS.—

4           “(1) IN GENERAL.—A lender may rely on all  
5 certifications and documentation submitted by an  
6 applicant or eligible recipient pursuant to any re-  
7 quirement in statute regarding covered loans, or  
8 rules or guidance promulgated to carry out any ac-  
9 tion relating to covered loans, from an applicant or  
10 eligible recipient attesting that the applicant or eligi-  
11 ble recipient has accurately verified all documenta-  
12 tion provided to the lender.

13           “(2) NO ENFORCEMENT ACTION.—With respect  
14 to a lender that relies on the certifications and docu-  
15 mentation described in paragraph (1)—

16           “(A) no enforcement or other action may  
17 be taken against the lender relating to loan  
18 origination, forgiveness, or guarantee based on  
19 such reliance, including claims under—

20           “(i) the Small Business Act (15  
21 U.S.C. 631 et seq.);

22           “(ii) sections 3729 through 3733 of  
23 title 31, United States Code (commonly  
24 known as the ‘False Claims Act’);

1 “(iii) the Financial Institutions Re-  
 2 form, Recovery, and Enforcement Act of  
 3 1989 (Public Law 101–73; 101 Stat. 183);

4 “(iv) section 21 of the Federal De-  
 5 posit Insurance Act (12 U.S.C. 1829b),  
 6 chapter 2 of title I of Public Law 91–508  
 7 (12 U.S.C. 1951 et seq.), and subchapter  
 8 II of chapter 53 of title 31, United States  
 9 Code (collectively known as the ‘Bank Se-  
 10 crecy Act’); or

11 “(v) any other Federal, State, or  
 12 other criminal or civil law or regulation;  
 13 and

14 “(B) the lender shall not be subject to any  
 15 penalties relating to loan origination, forgive-  
 16 ness, or guarantee based on such reliance.”;  
 17 and

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

19 “(n) ENFORCEMENT ACTION AGAINST BOR-  
 20 ROWERS.—An eligible recipient of a covered loan may only  
 21 be subject to an enforcement action or penalty relating  
 22 to loan origination, forgiveness, or guarantee of the cov-  
 23 ered loan if the eligible recipient commits fraud or expends  
 24 covered loan proceeds on expenses that are not allowable

1 under section 7(a)(36)(F) of the Small Business Act (15  
2 U.S.C. 636(a)(36)(F)).”.

3 **SEC. 3. EXCLUSION OF PPP LOANS FROM THE CALCULA-**  
4 **TION OF LENDING INSTITUTION ASSETS.**

5 (a) DEFINITIONS.—In this section—

6 (1) the terms “bank” and “bank holding com-  
7 pany” have the meanings given those terms in sec-  
8 tion 2 of the Bank Holding Company Act of 1956  
9 (12 U.S.C. 1841);

10 (2) the term “credit union” includes—

11 (A) an insured credit union, as that term  
12 is defined in section 101 of the Federal Credit  
13 Union Act (12 U.S.C. 1752); and

14 (B) any credit union that is eligible to  
15 make application to become an insured credit  
16 union pursuant to section 201 of the Federal  
17 Credit Union Act (12 U.S.C. 1781); and

18 (3) the term “lending institution” includes a  
19 bank, a bank holding company, and a credit union.

20 (b) PROHIBITION.—No loan made under section  
21 7(a)(36) of the Small Business Act (15 U.S.C.  
22 636(a)(36)) may be included in any asset threshold cal-  
23 culation for any lending institution, including a threshold  
24 described in—

1 (1) section 10(d)(4)(A) of the Federal Deposit  
2 Insurance Act (12 U.S.C. 1820(d)(4)(A));

3 (2) section 809 of the Community Reinvestment  
4 Act of 1977 (12 U.S.C. 2908);

5 (3) section 13(h)(1)(B)(i) of the Bank Holding  
6 Company Act of 1956 (12 U.S.C. 1851(h)(1)(B)(i));  
7 and

8 (4) any regulation promulgated under a section  
9 described in paragraph (1), (2), or (3).

10 **SEC. 4. PROHIBITION ON CFPB OVERSIGHT OF LENDING IN-**  
11 **STITUTIONS PARTICIPATING IN THE PPP.**

12 The Bureau of Consumer Financial Protection shall  
13 not have the authority to—

14 (1) assess, audit, review, or examine any part  
15 of the participation of a lender in the program es-  
16 tablished under section 7(a)(36) of the Small Busi-  
17 ness Act (15 U.S.C. 636(a)(36)); or

18 (2) levy fees or fines against a lender due to  
19 any action of the lender under the program de-  
20 scribed in paragraph (1).

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