

118TH CONGRESS
1ST SESSION

S. 1352

To amend the Small Business Investment Act of 1958 to improve the loan guaranty program, enhance the ability of small manufacturers to access affordable capital, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2023

Ms. KLOBUCHAR (for herself, Mr. YOUNG, Mr. BOOKER, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To amend the Small Business Investment Act of 1958 to improve the loan guaranty program, enhance the ability of small manufacturers to access affordable capital, 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 “504 Modernization and
5 Small Manufacturer Enhancement Act of 2023”.

1 **SEC. 2. ADDITIONS TO POLICY GOALS FOR THE DEVELOP-**
 2 **MENT COMPANY PROGRAM.**

3 Section 501(d)(3) of the Small Business Investment
 4 Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

5 (1) by redesignating subparagraphs (A) through
 6 (L) as subparagraphs (B) through (M), respectively;

7 (2) by inserting before subparagraph (B), as so
 8 redesignated, the following:

9 “(A) workforce development through work-
 10 based or work-integrated training, which shall
 11 be satisfied by demonstrating that a small busi-
 12 ness concern that is a subject of the project
 13 has—

14 “(i) a documented in-house training
 15 program, the duration of which is not
 16 shorter than 12 weeks; or

17 “(ii) entered into a contract with an
 18 entity—

19 “(I) to provide trained applicants
 20 for any open position of employment
 21 at the small business concern; and

22 “(II) that ensures that any appli-
 23 cant provided to the small business
 24 concern under subclause (I) has un-
 25 dergone not fewer than 12 weeks of

1 training that is relevant to the open
2 position described in that subclause,”;

3 (3) by amending subparagraph (D), as so re-
4 designated, to read as follows:

5 “(D) expansion of minority-owned, em-
6 ployee-owned, or women-owned business devel-
7 opment,”;

8 (4) in subparagraph (L), as so redesignated, by
9 striking “producers, or” and inserting “producers,”;

10 (5) in subparagraph (M), as so redesignated, by
11 striking the period at the end and inserting a
12 comma;

13 (6) by inserting after subparagraph (M), as so
14 redesignated, the following:

15 “(N) enhanced ability for small business
16 concerns to reduce costs by using energy effi-
17 cient products and generating renewable en-
18 ergy,

19 “(O) aid revitalizing of any area for which
20 a disaster has been declared or determined
21 under subparagraph (A), (B), (C), or (E) of
22 section 7(b)(2) of the Small Business Act (15
23 U.S.C. 636(b)(2)), or

24 “(P) expansion of small business concerns
25 with 10 or fewer employees.”; and

1 (7) in the flush text following subparagraph
 2 (P), as added by paragraph (6), by striking “sub-
 3 paragraphs (J) and (K)” and inserting “subpara-
 4 graphs (K) and (L)”.

5 **SEC. 3. INCREASE IN LOAN AMOUNTS FOR MANUFAC-**
 6 **TURING LOANS.**

7 Section 502 of the Small Business Investment Act
 8 of 1958 (15 U.S.C. 696) is amended—

9 (1) in the matter preceding paragraph (1), by
 10 striking “The Administration” and inserting the fol-
 11 lowing:

12 “(a) IN GENERAL.—The Administration”; and

13 (2) in subsection (a), as so designated—

14 (A) in paragraph (2)(A)—

15 (i) in the matter preceding clause (i),
 16 by striking “section” and inserting “sub-
 17 section”; and

18 (ii) in clause (iii), by striking
 19 “\$5,500,000” and inserting “\$6,500,000”;
 20 and

21 (B) in paragraph (3)(A), by striking “this
 22 section” and inserting “this subsection”.

1 **SEC. 4. IMPROVEMENTS TO 504 LOAN CLOSING PROCE-**
 2 **DURE.**

3 Title V of the Small Business Investment Act of 1958
 4 (15 U.S.C. 695 et seq.) is amended—

5 (1) in section 502, as amended by section 3, by
 6 adding at the end the following:

7 “(b) CLOSING.—

8 “(1) AUTHORITY OF CERTAIN DEVELOPMENT
 9 COMPANIES.—An accredited lender certified com-
 10 pany may take any of the following actions to facili-
 11 tate the closing of a loan made under subsection (a):

12 “(A) Reallocate the cost of the project with
 13 respect to which the loan is made in an amount
 14 that is not more than 10 percent of the overall
 15 cost of the project.

16 “(B) Correct any name that is applicable
 17 to the loan, including the name of any bor-
 18 rower, guarantor, eligible passive company de-
 19 scribed in subparagraph (C)(i), and operating
 20 company described in subparagraph (C)(ii).

21 “(C) Form any of the following to receive
 22 proceeds of the loan:

23 “(i) An eligible passive company that
 24 complies with section 120.111 of title 13,
 25 Code of Federal Regulations, or any suc-
 26 cessor regulation.

1 “(ii) If an eligible passive company is
2 formed under clause (i), an operating com-
3 pany with respect to that eligible passive
4 company.

5 “(D) Correct the address of any property
6 with respect to which the loan is made.

7 “(E) Correct the name of any interim
8 lender or third-party lender.

9 “(F) Change any third-party lender or in-
10 terim lender if that lender is a financial institu-
11 tion that is regulated by the Federal Govern-
12 ment or a State government.

13 “(G) Make a guarantor a co-borrower or a
14 co-borrower a guarantor.

15 “(H) Add a guarantor that does not
16 change ownership with respect to the loan.

17 “(I) Reduce the amount of standby debt
18 before the closing as a result of regularly sched-
19 uled payments.

20 “(J) Reduce the cost of the project with
21 respect to which the loan is made.

22 “(2) FEES.—The Administrator shall—

23 “(A) issue a rule regarding the amount of
24 a closing fee that may be financed in a debenture
25 that is issued by a certified development

1 company to make one or more loans to small
 2 business concerns, the proceeds of which are
 3 used by that concern for the purposes described
 4 in subsection (a), except that such amount shall
 5 be not less than \$3,500; and

6 “(B) periodically update the rule issued
 7 under subparagraph (A).

8 “(3) NO ADVERSE CHANGE AND FINANCIAL
 9 STATEMENT.—Before the closing with respect to a
 10 loan made under subsection (a), the borrower and
 11 any operating company shall—

12 “(A) make the certification required under
 13 section 120.892 of title 13, Code of Federal
 14 Regulations, or any successor regulation; and

15 “(B) submit to the certified development
 16 company a financial statement that is not more
 17 than 180 days old, which the company shall
 18 certify not later than 120 days before the date
 19 on which the certified development company
 20 issues a debenture with respect to the project to
 21 which the loan relates.

22 “(c) ACCREDITED LENDER CERTIFIED COMPANY
 23 DEFINED.—In this section, the term ‘accredited lender
 24 certified company’ means a certified development company
 25 that meets the requirements under section 507(b), includ-

1 ing a certified development company that the Administra-
 2 tion has designated as an accredited lender under such
 3 section 507(b).”; and

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

5 **“SEC. 511. CLOSING AND OVERSIGHT.**

6 “(a) SBA DISTRICT COUNSELS.—Beginning on the
 7 date of enactment of this section, with respect to the pro-
 8 gram established under this title, district counsels of the
 9 Administration shall be subject to the same requirements,
 10 and shall have the same authority and responsibilities, as
 11 in effect with respect to that program on the day before
 12 the date of enactment of this section, except that—

13 “(1) the Office of Credit Risk Management of
 14 the Administration shall have the responsibility for
 15 all duties relating to conducting file reviews of loans
 16 made under this title; and

17 “(2) district counsels of the Administration
 18 shall not have any responsibility relating to the re-
 19 view of closing packages with respect to a loan made
 20 under this title.

21 “(b) DESIGNATED ATTORNEYS.—For the purposes of
 22 this title, the following provisions and requirements shall
 23 apply with respect to a designated attorney of a certified
 24 development company:

1 “(1) A designated attorney that meets the re-
 2 quirements determined under paragraph (2) shall be
 3 responsible for certifying documents relating to the
 4 closing of a loan described in this title.

5 “(2) The Administrator may determine any
 6 continuing education requirements that the des-
 7 ignated attorney shall be required to satisfy in order
 8 to be permitted to close a loan made under this title.

9 “(3) If, as of the date of enactment of this sec-
 10 tion, a certified development company does not have
 11 a designated attorney, during the 270-day period be-
 12 ginning on that date of enactment, the certified de-
 13 velopment company may identify such an attorney,
 14 subject to the approval of the Administrator.”.

15 **SEC. 5. CERTIFIED DEVELOPMENT COMPANY LOANS FOR**
 16 **SMALL MANUFACTURERS.**

17 (a) CONTRIBUTION REQUIREMENT.—Section
 18 502(a)(3)(C) of the Small Business Investment Act of
 19 1958, as designated by section 3, is amended—

20 (1) by redesignating clauses (i), (ii), (iii), and
 21 (iv) as subclauses (I), (II), (III), and (IV), respec-
 22 tively, and adjusting the margins of such subclauses
 23 accordingly;

24 (2) by inserting before subclause (I), as so re-
 25 designated, the following:

1 “(i) for a small business concern that
 2 is not a small manufacturer (as defined in
 3 section 501(e)(7))—”;

4 (3) in subclause (III), as so redesignated, by
 5 striking “clauses (i) and (ii)” and inserting “sub-
 6 clauses (I) and (II)”;

7 (4) in subclause (IV) as so redesignated, by
 8 striking the period at the end and inserting “; or”;
 9 and

10 (5) by adding at the end the following:

11 “(ii) for a small manufacturer (as de-
 12 fined in section 501(e)(7))—

13 “(I) at least 5 percent of the
 14 total cost of the project financed, if
 15 the small business concern has been in
 16 operation for a period of 2 years or
 17 less;

18 “(II) at least 5 percent of the
 19 total cost of the project financed, if
 20 the project involves a limited or single
 21 purpose building or structure;

22 “(III) at least 10 percent of the
 23 total cost of the project financed if the
 24 project involves both of the conditions
 25 set forth in subclauses (I) and (II); or

1 “(IV) at least 5 percent of the
2 total cost of the project financed, in
3 all other circumstances, at the discre-
4 tion of the development company.”.

5 (b) CREATION OR RETENTION OF JOBS REQUIRE-
6 MENT.—Section 501(e) of the Small Business Investment
7 Act of 1958 (15 U.S.C. 695(e)) is amended—

8 (1) in paragraph (1), by striking “creates or re-
9 tains” and all that follows through the period at the
10 end and inserting “creates or retains 1 job for every
11 \$75,000 guaranteed by the Administration, except
12 that the amount is \$150,000 in the case of a project
13 of a small manufacturer.”;

14 (2) in paragraph (2), by striking “creates or re-
15 tains” and all that follows through the period at the
16 end and inserting “creates or retains 1 job for every
17 \$75,000 guaranteed by the Administration, except
18 that the amount is \$150,000 in the case of a project
19 of a small manufacturer.”;

20 (3) by redesignating paragraph (6) as para-
21 graph (7); and

22 (4) by inserting after paragraph (5) the fol-
23 lowing:

24 “(6) For a loan for a project directed toward the cre-
25 ation of job opportunities under subsection (d)(1), the Ad-

1 administrator shall publish on the website of the Administra-
 2 tion the number of jobs created or retained under the
 3 project as of the date that is 2 years after the completion
 4 (as determined based on information provided by the de-
 5 velopment company) of the project.”.

6 (c) COLLATERAL REQUIREMENTS.—Section
 7 502(a)(3)(E)(i) of the Small Business Investment Act of
 8 1958, as designated by section 3, is amended by adding
 9 at the end the following: “Additional collateral shall not
 10 be required in the case of a small manufacturer (as de-
 11 fined in section 501(e)(7)).”.

12 (d) DEBT REFINANCING.—Section 502(a)(7)(B) of
 13 the Small Business Investment Act of 1958, as designated
 14 by section 3, is amended—

15 (1) in the matter preceding clause (i), by insert-
 16 ing “(or in the case of a small manufacturer (as de-
 17 fined in section 501(e)(7)), that does not exceed 100
 18 percent of the project cost of the expansion)” after
 19 “cost of the expansion”;

20 (2) in clause (v), by adding “and” at the end;

21 (3) by striking clause (vi); and

22 (4) by redesignating clause (vii) as clause (vi).

23 (e) AMOUNT OF GUARANTEED DEBENTURE.—Sec-
 24 tion 503(a) of the Small Business Investment Act of 1958

1 (15 U.S.C. 697(a)) is amended by adding at the end the
 2 following:

3 “(5) Any debenture issued by a State or local devel-
 4 opment company to a small manufacturer (as defined in
 5 section 501(e)(7)) with respect to which a guarantee is
 6 made under this subsection shall be in an amount equal
 7 to not more than 50 percent of the cost of the project
 8 with respect to which such debenture is issued, without
 9 regard to whether good cause has been shown.”.

10 **SEC. 6. ASSISTANCE FOR SMALL MANUFACTURERS.**

11 Title V of the Small Business Investment Act of 1958
 12 (15 U.S.C. 695 et seq.), as amended by section 4(2), is
 13 further amended by adding at the end the following:

14 **“SEC. 512. ASSISTANCE FOR SMALL MANUFACTURERS.**

15 “(a) IN GENERAL.—The Administrator shall ensure
 16 that each district office of the Administration partners
 17 with not less than 1 resource partner to provide training
 18 to small business concerns assigned a North American In-
 19 dustry Classification System code for manufacturing on
 20 obtaining assistance under the program carried out under
 21 this title, including with respect to the application process
 22 under that program and partnering with development
 23 companies under this title.

24 “(b) RESOURCE PARTNER DEFINED.—In this sec-
 25 tion, the term ‘resource partner’ means—

1 “(1) a small business development center, as
 2 defined in section 3 of the Small Business Act (15
 3 U.S.C. 632);

4 “(2) a women’s business center described in
 5 section 29 of such Act (15 U.S.C. 656);

6 “(3) a chapter of the Service Corps of Retired
 7 Executives established under section 8(b)(1)(B) of
 8 such Act (15 U.S.C. 637(b)(1)(B)); and

9 “(4) a Veteran Business Outreach Center de-
 10 scribed in section 32 of such Act (15 U.S.C.
 11 657b).”.

12 **SEC. 7. LEASING RULES FOR NEW FACILITIES AND EXIST-**
 13 **ING BUILDINGS.**

14 (a) IN GENERAL.—Section 502(a) of the Small Busi-
 15 ness Investment Act of 1958, as designated by section 3,
 16 is amended by striking paragraphs (4) and (5) and insert-
 17 ing the following:

18 “(4) NEW FACILITIES.—

19 “(A) IN GENERAL.—With respect to a
 20 project to construct a new facility, an assisted
 21 small business concern may permanently lease
 22 not more than 20 percent of the project if such
 23 concern—

24 “(i) permanently occupies and uses
 25 not less than 60 percent of the project;

1 “(ii) plans to occupy and use an addi-
 2 tional portion of the project that is not
 3 permanently leased not later than 3 years
 4 after receipt of assistance under this sec-
 5 tion; and

6 “(iii) plans to permanently occupy and
 7 use 80 percent of the project not later than
 8 10 years after receipt of such assistance.

9 “(B) SMALL MANUFACTURERS.—With re-
 10 spect to an assisted small business concern that
 11 is a small manufacturer (as defined in section
 12 501(e)(7)), subparagraph (A)(i) shall apply
 13 with ‘50 percent’ substituted for ‘60 percent’.

14 “(5) EXISTING BUILDINGS.—With respect to a
 15 project to acquire, renovate, or reconstruct an exist-
 16 ing building, the following shall apply:

17 “(A) OCCUPANCY REQUIREMENTS.—The
 18 assisted small business concern may perma-
 19 nently lease not more than 50 percent of the
 20 project if the concern permanently occupies and
 21 uses not less than 50 percent of the project.

22 “(B) EXCEPTION.—The assisted small
 23 business concern may permanently lease more
 24 than 50 percent of the project if—

25 “(i) such concern—

1 “(I) has occupied and used the
2 existing building for a consecutive 12-
3 month period before submitting an
4 application for assistance under this
5 section;

6 “(II) agrees to permanently use
7 less than 50 percent of the existing
8 building and permanently lease more
9 than 50 percent for a consecutive 12-
10 month period after receiving such as-
11 sistance; and

12 “(III) affirms that the existing
13 building is appropriate for current
14 and reasonably anticipated needs; and

15 “(ii) the development company assist-
16 ing such project—

17 “(I) provides written notice to
18 the Administrator on the date on
19 which the development company closes
20 the loan for such project; and

21 “(II) once each year during the
22 first 5 years of the loan, and once
23 every 2 years for the remainder of the
24 loan—

1 “(aa) conducts an examina-
2 tion of the assisted small busi-
3 ness concern to ensure the con-
4 cern is not a real estate develop-
5 ment business; and

6 “(bb) files with the Adminis-
7 trator an anti-investor certifi-
8 cation signed by the development
9 company and the assisted small
10 business concern.

11 “(C) LEASE TERM.—Any residential lease
12 made under this paragraph shall be for a term
13 of not more than 1 year, and any commercial
14 lease made under this paragraph shall be for a
15 term of not more than 5 years.”.

16 (b) REPORT.—Not later than 5 years after the date
17 of enactment of this Act, the Administrator of the Small
18 Business Administration shall submit to Congress a report
19 analyzing the impact of the amendments made by this sec-
20 tion on access to capital for small business concerns (as
21 defined in section 3 of the Small Business Act (15 U.S.C.
22 632)), and recommending whether similar notice, exam-
23 ination, and certifications requirements should be made to

- 1 the program established under section 7(a) of the Small
- 2 Business Act (15 U.S.C. 636(a)).

○