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15 U.S.C. Section 636(a)(36)(Q)

Additional powers

(a)Loans to small business concerns; allowable purposes; qualified business; restrictions and limitations

The Administration is empowered to the extent and in such amounts as provided in advance in appropriation Acts to make loans for plant acquisition, construction, conversion, or expansion, including the acquisition of land, material, supplies, equipment, and working capital, and to make loans to any qualified small business concern, including those owned by qualified Indian tribes, for purposes of this chapter. Such financings may be made either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis. These powers shall be subject, however, to the following restrictions, limitations, and provisions:

(1) In general.—

(A) Credit elsewhere.—

(i)In general.—

The Administrator has the authority to direct, and conduct oversight for, the methods by which lenders determine whether a borrower is able to obtain credit elsewhere. No financial assistance shall be extended pursuant to this subsection if the applicant can obtain credit elsewhere. No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no direct financing may be made unless it is shown that a participation is not available.

(ii)Liquidity.—

On and after October 1, 2015, the Administrator may not guarantee a loan under this subsection if the lender determines that the borrower is unable to obtain credit elsewhere solely because the liquidity of the lender depends upon the guaranteed portion of the loan being sold on the secondary market.

(B)Background checks.—

Prior to the approval of any loan made pursuant to this subsection, or section 503 of the Small Business Investment Act of 1958 [15 U.S.C. 697], the Administrator may verify

the applicant's criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation.

(C)Lending limits of lenders.—

On and after October 1, 2015, the Administrator may not guarantee a loan under this subsection if the sole purpose for requesting the guarantee is to allow the lender to exceed the legal lending limit of the lender.

(2)Level of participation in guaranteed loans.—

(A)In general.—Except as provided in subparagraphs (B), (D), (E), and (F), in an agreement to participate in a loan on a deferred basis under this subsection (including a loan made under the Preferred Lenders Program), such participation by the Administration shall be equal to—

(i)75 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance exceeds \$150,000; or

(ii)85 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance is less than or equal to \$150,000.

(B)Reduced participation upon request.—

(i)In general.—

The guarantee percentage specified by subparagraph (A) for any loan under this subsection may be reduced upon the request of the participating lender.

(ii)Prohibition.—

The Administration shall not use the guarantee percentage requested by a participating lender under clause (i) as a criterion for establishing priorities in approving loan guarantee requests under this subsection.

(C)Interest rate under preferred lenders program.—

(i)In general.—

The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, applicable to other loans guaranteed under this subsection.

(ii)Export-import bank lenders.—

Any lender that is participating in the Delegated Authority Lender Program of the Export-Import Bank of the United States (or any successor to the Program) shall be eligible to participate in the Preferred Lenders Program.

(iii) Preferred lenders program defined.—For purposes of this subparagraph, the term “Preferred Lenders Program” means any program established by the Administrator, as authorized under the proviso in section 634(b)(7) of this title, under which a written agreement between the lender and the Administration delegates to the lender—

(I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration; and

(II) complete authority to service and liquidate such loans without obtaining the prior specific approval of the Administration for routine servicing and liquidation activities, but shall not take any actions creating an actual or apparent conflict of interest.

(D) Participation under export working capital program.—

In an agreement to participate in a loan on a deferred basis under the Export Working Capital Program established pursuant to paragraph (14)(A), such participation by the Administration shall be 90 percent.

(E) Participation in international trade loan.—

In an agreement to participate in a loan on a deferred basis under paragraph (16), the participation by the Administration may not exceed 90 percent.

(F) Participation in the paycheck protection program.—

In an agreement to participate in a loan on a deferred basis under paragraph (36), the participation by the Administration shall be 100 percent.

(3) No loan shall be made under this subsection—

(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this chapter would exceed \$3,750,000 (or if the gross loan amount would exceed \$5,000,000), except as provided in subparagraph (B);

(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this chapter would exceed \$4,500,000 (or if the gross loan amount would exceed \$5,000,000), of which not more than \$4,000,000 may be used for working capital, supplies, or financings under paragraph (14) for export purposes; and

(C)if effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis if the amount would exceed \$350,000.

(4)Interest rates and prepayment charges.—

(A)Interest rates.—

Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any financing made on a deferred basis pursuant to this subsection shall not exceed a rate prescribed by the Administration, and the rate of interest for the Administration's share of any direct or immediate participation loan shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 per centum, and an additional amount as determined by the Administration, but not to exceed 1 per centum per annum: Provided, That for those loans to assist any public or private organization for the handicapped or to assist any handicapped individual as provided in paragraph (10) of this subsection, the interest rate shall be 3 per centum per annum.

(B)Payment of accrued interest.—

(i)In general.—

Any bank or other lending institution making a claim for payment on the guaranteed portion of a loan made under this subsection shall be paid the accrued interest due on the loan from the earliest date of default to the date of payment of the claim at a rate not to exceed the rate of interest on the loan on the date of default, minus one percent.

(ii)Loans sold on secondary market.—

If a loan described in clause (i) is sold on the secondary market, the amount of interest paid to a bank or other lending institution described in that clause from the earliest date of default to the date of payment of the claim shall be no more than the agreed upon rate, minus one percent.

(iii)Applicability.—

Clauses (i) and (ii) shall not apply to loans made on or after October 1, 2000.

(C)Prepayment charges

(i)In general.—A borrower who prepays any loan guaranteed under this subsection shall remit to the Administration a subsidy recoupment fee calculated in accordance with clause (ii) if—

(I)the loan is for a term of not less than 15 years;

(II)the prepayment is voluntary;

(III)the amount of prepayment in any calendar year is more than 25 percent of the outstanding balance of the loan; and

(IV)the prepayment is made within the first 3 years after disbursement of the loan proceeds.

(ii)Subsidy recoupment fee.—The subsidy recoupment fee charged under clause (i) shall be—

(I)5 percent of the amount of prepayment, if the borrower prepays during the first year after disbursement;

(II)3 percent of the amount of prepayment, if the borrower prepays during the second year after disbursement; and

(III)1 percent of the amount of prepayment, if the borrower prepays during the third year after disbursement.

(5)No such loans including renewals and extensions thereof may be made for a period or periods exceeding twenty-five years, except that such portion of a loan made for the purpose of acquiring real property or constructing, converting, or expanding facilities may have a maturity of twenty-five years plus such additional period as is estimated may be required to complete such construction, conversion, or expansion.

(6)All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: Provided, however, That—

(A)for loans to assist any public or private organization or to assist any handicapped individual as provided in paragraph (10) of this subsection any reasonable doubt shall be resolved in favor of the applicant;

(B)recognizing that greater risk may be associated with loans for energy measures as provided in paragraph (12) of this subsection, factors in determining “sound value” shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: Provided further, That such status need not be as sound as that required for general loans under this subsection; and [1]

(C)Repealed. Pub. L. 97–35, title XIX, § 1910, Aug. 13, 1981, 95 Stat. 778.

On that portion of the loan used to refinance existing indebtedness held by a bank or other lending institution, the Administration shall limit the amount of deferred participation to 80 per centum of the amount of the loan at the time of disbursement: Provided further, That any authority conferred by this subparagraph on the Administration shall be exercised solely by the Administration and shall not be delegated to other than Administration personnel.

(7)The Administration may defer payments on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern.

(8)The Administration may make loans under this subsection to small business concerns owned and controlled by disabled veterans (as defined in section 4211(3) of title 38).

(9)The Administration may provide loans under this subsection to finance residential or commercial construction or rehabilitation for sale: Provided, however, That such loans shall not be used primarily for the acquisition of land.

(10)The Administration may provide guaranteed loans under this subsection to assist any public or private organization for the handicapped or to assist any handicapped individual, including service-disabled veterans, in establishing, acquiring, or operating a small business concern.

(11)The Administration may provide loans under this subsection to any small business concern, or to any qualified person seeking to establish such a concern when it determines that such loan will further the policies established in section 631(c) [2] of this title, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals or owned by low-income individuals.

(12)

(A)The Administration may provide loans under this subsection to assist any small business concern, including start up, to enable such concern to design architecturally or engineer, manufacture, distribute, market, install, or service energy measures: Provided, however, That such loan proceeds shall not be used primarily for research and development.

(B) [3] The Administration may provide deferred participation loans under this subsection to finance the planning, design, or installation of pollution control facilities for the purposes set forth in section 404 of the Small Business Investment Act of 1958 [15 U.S.C. 694–1]. Notwithstanding the limitation expressed in paragraph (3) of this subsection, a loan made under this paragraph may not result in a total amount outstanding and committed to a borrower from the business loan and investment fund of more than \$1,000,000.

(13) The Administration may provide fi-nancings under this subsection to State and local development companies for the purposes of, and subject to the restrictions in, title V of the Small Business Investment Act of 1958 [15 U.S.C. 695 et seq.].

(14)Export working capital program.—

(A)In general.—

The Administrator may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending

institution may establish the rate of interest on such financings as may be legal and reasonable.

(B)Terms.—

(i)Loan amount.—

The Administrator may not guarantee a loan under this paragraph of more than \$5,000,000.

(ii)Fees.—

(I)In general.—

For a loan under this paragraph, the Administrator shall collect the fee assessed under paragraph (23) not more frequently than once each year.

(II)Untapped credit.—

The Administrator may not assess a fee on capital that is not accessed by the small business concern.

(C)Considerations.—

When considering loan or guarantee applications, the Administration shall give weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small businesses, including agricultural concerns, in the export market.

(D)Marketing.—

The Administrator shall aggressively market its export financing program to small businesses.

(15)

(A)The Administration may guarantee loans under this subsection—

(i)to qualified employee trusts with respect to a small business concern for the purpose of purchasing, and for any transaction costs associated with purchasing, stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 per centum of the stock of the concern; and

(ii)to a small business concern under a plan approved by the Administrator, if the proceeds from the loan are only used to make a loan to a qualified employee trust,

and for any transaction costs associated with making that loan, that results in the qualified employee trust owning at least 51 percent of the small business concern.

(B)The plan requiring the Administrator's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust or by the small business concern with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that—

(i)not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of title 26), at least 51 per centum of the total stock of such concern shall be allocated to the accounts of at least 51 per centum of the employees of such concern who are entitled to share in such allocation,

(ii)there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated,

(iii)there will be adequate management to assure management expertise and continuity, and

(iv)with respect to a loan made to a trust, or to a cooperative in accordance with paragraph (35)—

(I)a seller of the small business concern may remain involved as an officer, director, or key employee of the small business concern when a qualified employee trust or cooperative has acquired 100 percent of ownership of the small business concern; and

(II)any seller of the small business concern who remains as an owner of the small business concern, regardless of the percentage of ownership interest, shall be required to provide a personal guarantee by the Administration.

(C)In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

(D)For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

(E)The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration, which shall include—

(i)the total number of loans made to employee-owned business concerns that were guaranteed by the Administrator under this subsection or section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696), including the number of loans made—

(I)to small business concerns owned and controlled by socially and economically disadvantaged individuals; and

(II)to cooperatives;

(ii)the total number of financings made to employee-owned business concerns by companies licensed under section 301(c) of the Small Business Investment Act of 1958 (15 U.S.C. 696(c)) [15 U.S.C. 681(c)], including the number of financings made—

(I)to small business concerns owned and controlled by socially and economically disadvantaged individuals; and

(II)to cooperatives; and

(iii)any outreach and educational activities conducted by the Administration with respect to employee-owned business concerns.

(F)A small business concern that makes a loan to a qualified employee trust under subparagraph (A)(ii) is not required to contain the same terms and conditions as the loan made to the small business concern that is guaranteed by the Administration under such subparagraph.

(G)With respect to a loan made to a qualified employee trust under this paragraph, or to a cooperative in accordance with paragraph (35), the Administrator may, as deemed appropriate, elect to not require any mandatory equity to be provided by the qualified employee trust or cooperative to make the loan.

(16)International trade.—

(A)In general.—If the Administrator determines that a loan guaranteed under this subsection will allow an eligible small business concern that is engaged in or adversely affected by international trade to improve its competitive position, the Administrator may make such loan to assist such concern—

(i)in the financing of the acquisition, construction, renovation, modernization, improvement, or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade;

(ii)in the refinancing of existing indebtedness that is not structured with reasonable terms and conditions, including any debt that qualifies for refinancing under any other provision of this subsection; or

(iii)by providing working capital.

(B)Security.—

(i)In general.—

Except as provided in clause (ii), each loan made under this paragraph shall be secured by a first lien position or first mortgage on the property or equipment financed by the loan or on other assets of the small business concern.

(ii)Exception.—

A loan under this paragraph may be secured by a second lien position on the property or equipment financed by the loan or on other assets of the small business concern, if the Administrator determines the lien provides adequate assurance of the payment of the loan.

(C)Engaged in international trade.—

For purposes of this paragraph, a small business concern is engaged in international trade if, as determined by the Administrator, the small business concern is in a position to expand existing export markets or develop new export markets.

(D)Adversely affected by international trade.—For purposes of this paragraph, a small business concern is adversely affected by international trade if, as determined by the Administrator, the small business concern—

(i)is confronting increased competition with foreign firms in the relevant market;
and

(ii)is injured by such competition.

(E)Findings by certain federal agencies.—

For purposes of subparagraph (D)(ii) the Administrator shall accept any finding of injury by the International Trade Commission or any finding of injury by the Secretary of Commerce pursuant to chapter 3 of title II of the Trade Act of 1974 [19 U.S.C. 2341 et seq.].

(F)List of export finance lenders.—

(i)Publication of list required.—The Administrator shall publish an annual list of the banks and participating lending institutions that, during the 1-year period ending on the date of publication of the list, have made loans guaranteed by the Administration under—

(I)this paragraph;

(II) paragraph (14); or

(III) paragraph (34).

(ii) Availability of list.—The Administrator shall—

(I) post the list published under clause (i) on the website of the Administration; and

(II) make the list published under clause (i) available, upon request, at each district office of the Administration.

(17) The Administration shall authorize lending institutions and other entities in addition to banks to make loans authorized under this subsection.

(18) Guarantee fees.—

(A) In general.—With respect to each loan guaranteed under this subsection (other than a loan that is repayable in 1 year or less), the Administration shall collect a guarantee fee, which shall be payable by the participating lender, and may be charged to the borrower, as follows:

(i) A guarantee fee not to exceed 2 percent of the deferred participation share of a total loan amount that is not more than \$150,000.

(ii) A guarantee fee not to exceed 3 percent of the deferred participation share of a total loan amount that is more than \$150,000, but not more than \$700,000.

(iii) A guarantee fee not to exceed 3.5 percent of the deferred participation share of a total loan amount that is more than \$700,000.

(iv) In addition to the fee under clause (iii), a guarantee fee equal to 0.25 percent of any portion of the deferred participation share that is more than \$1,000,000.

(B) Retention of certain fees.—

Lenders participating in the programs established under this subsection may retain not more than 25 percent of a fee collected under subparagraph (A)(i).

(19)

(A) In addition to the Preferred Lenders Program authorized by the proviso in section 634(b)(7) of this title, the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared

to other lenders, but such suspension or revocation shall not affect any outstanding guarantee.

(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of \$50,000 or less in guarantees to eligible small business loan applicants, the Administration shall develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans.

(C) Authority to liquidate loans.—

(i) In general.—

The Administrator may permit lenders participating in the Certified Lenders Program to liquidate loans made with a guarantee from the Administration pursuant to a liquidation plan approved by the Administrator.

(ii) Automatic approval.—

If the Administrator does not approve or deny a request for approval of a liquidation plan within 10 business days of the date on which the request is made (or with respect to any routine liquidation activity under such a plan, within 5 business days) such request shall be deemed to be approved.

(20)

(A) The Administration is empowered to make loans either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis to small business concerns eligible for assistance under subsection (j)(10) and section 637(a) of this title. Such assistance may be provided only if the Administration determines that—

(i) the type and amount of such assistance requested by such concern is not otherwise available on reasonable terms from other sources;

(ii) with such assistance such concern has a reasonable prospect for operating soundly and profitably within a reasonable period of time;

(iii) the proceeds of such assistance will be used within a reasonable time for plant construction, conversion, or expansion, including the acquisition of equipment, facilities, machinery, supplies, or material or to supply such concern with working capital to be used in the manufacture of articles, equipment, supplies, or material for defense or civilian production or as may be necessary to insure a well-balanced national economy; and

(iv) such assistance is of such sound value as reasonably to assure that the terms under which it is provided will not be breached by the small business concern.

(B)

(i) No loan shall be made under this paragraph if the total amount outstanding and committed (by participation or otherwise) to the borrower would exceed \$750,000.

(ii) Subject to the provisions of clause (i), in agreements to participate in loans on a deferred (guaranteed) basis, participation by the Administration shall be not less than 85 per centum of the balance of the financing outstanding at the time of disbursement.

(iii) The rate of interest on financings made on a deferred (guaranteed) basis shall be legal and reasonable.

(iv) Financings made pursuant to this paragraph shall be subject to the following limitations:

(I) No immediate participation may be purchased unless it is shown that a deferred participation is not available.

(II) No direct financing may be made unless it is shown that a participation is unavailable.

(C) A direct loan or the Administration's share of an immediate participation loan made pursuant to this paragraph shall be any secured debt instrument—

(i) that is subordinated by its terms to all other borrowings of the issuer;

(ii) the rate of interest on which shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loan and adjusted to the nearest one-eighth of 1 per centum;

(iii) the term of which is not more than twenty-five years; and

(iv) the principal on which is amortized at such rate as may be deemed appropriate by the Administration, and the interest on which is payable not less often than annually.

(21)

(A) The Administration may make loans on a guaranteed basis under the authority of this subsection—

(i) to a small business concern that has been (or can reasonably be expected to be) detrimentally affected by—

(I) the closure (or substantial reduction) of a Department of Defense installation; or

(II)the termination (or substantial reduction) of a Department of Defense program on which such small business was a prime contractor or subcontractor (or supplier) at any tier; or

(ii)to a qualified individual or a veteran seeking to establish (or acquire) and operate a small business concern.

(B)Recognizing that greater risk may be associated with a loan to a small business concern described in subparagraph (A)(i), any reasonable doubts concerning the firm's proposed business plan for transition to nondefense-related markets shall be resolved in favor of the loan applicant when making any determination regarding the sound value of the proposed loan in accordance with paragraph (6).

(C)Loans pursuant to this paragraph shall be authorized in such amounts as provided in advance in appropriation Acts for the purposes of loans under this paragraph.

(D)For purposes of this paragraph a qualified individual is—

(i)a member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement;

(ii)a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement; or

(iii)an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program.

(E)Job creation and community benefit.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

(i)have the greatest potential for—

(I)creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

(II)preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

(ii)have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.

(22)The Administration is authorized to permit participating lenders to impose and collect a reasonable penalty fee on late payments of loans guaranteed under this subsection in an amount not to exceed 5 percent of the monthly loan payment per month plus interest.

(23)Yearly fee.—

(A)In general.—

With respect to each loan approved under this subsection, the Administration shall assess, collect, and retain a fee, not to exceed 0.55 percent per year of the outstanding balance of the deferred participation share of the loan, in an amount established once annually by the Administration in the Administration's annual budget request to Congress, as necessary to reduce to zero the cost to the Administration of making guarantees under this subsection. As used in this paragraph, the term "cost" has the meaning given that term in section 661a of title 2.

(B)Payer.—

The yearly fee assessed under subparagraph (A) shall be payable by the participating lender and shall not be charged to the borrower.

(C)Lowering of borrower fees.—If the Administration determines that fees paid by lenders and by small business borrowers for guarantees under this subsection may be reduced, consistent with reducing to zero the cost to the Administration of making such guarantees—

(i)the Administration shall first consider reducing fees paid by small business borrowers under clauses (i) through (iii) of paragraph (18)(A), to the maximum extent possible; and

(ii)fees paid by small business borrowers shall not be increased above the levels in effect on December 8, 2004.

(24)Notification requirement.—

The Administration shall notify the Committees on Small Business of the Senate and the House of Representatives not later than 15 days before making any significant policy or administrative change affecting the operation of the loan program under this subsection.

(25)Limitation on conducting pilot projects.—

(A)In general.—

Not more than 10 percent of the total number of loans guaranteed in any fiscal year under this subsection may be awarded as part of a pilot program which is commenced by the Administrator on or after October 1, 1996.

(B)"Pilot program" defined.—

In this paragraph, the term ‘pilot program’ means any lending program initiative, project, innovation, or other activity not specifically authorized by law.

(C)Low documentation loan program.—

The Administrator may carry out the low documentation loan program for loans of \$100,000 or less only through lenders with significant experience in making small business loans. Not later than 90 days after September 30, 1996, the Administrator shall promulgate regulations defining the experience necessary for participation as a lender in the low documentation loan program.

(26)Calculation of subsidy rate.—

All fees, interest, and profits received and retained by the Administration under this subsection shall be included in the calculations made by the Director of the Office of Management and Budget to offset the cost (as that term is defined in section 661a of title 2) to the Administration of purchasing and guaranteeing loans under this chapter.

(27)Repealed. Pub. L. 106–8, § 3(c), Apr. 2, 1999, 113 Stat. 16.

(28)Leasing.—

In addition to such other lease arrangements as may be authorized by the Administration, a borrower may permanently lease to one or more tenants not more than 20 percent of any property constructed with the proceeds of a loan guaranteed under this subsection, if the borrower permanently occupies and uses not less than 60 percent of the total business space in the property.

(29)Real estate appraisals.—

(A)In general.—With respect to a loan under this subsection that is secured by commercial real property, an appraisal of such property by a State licensed or certified appraiser—

(i)shall be required by the Administration in connection with any such loan, if such loan is in an amount greater than the Federal banking regulator appraisal threshold; or

(ii)may be required by the Administration or the lender in connection with any such loan, if such loan is in an amount equal to or less than the Federal banking regulator appraisal threshold, if such appraisal is necessary for appropriate evaluation of creditworthiness.

(B)Federal banking regulator appraisal threshold defined.—

For purposes of this paragraph, the term “Federal banking regulator appraisal threshold” means the lesser of the threshold amounts set by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance

Corporation for when a federally related transaction that is a commercial real estate transaction requires an appraisal prepared by a State licensed or certified appraiser.

(30)Ownership requirements.—

Ownership requirements to determine the eligibility of a small business concern that applies for assistance under any credit program under this chapter shall be determined without regard to any ownership interest of a spouse arising solely from the application of the community property laws of a State for purposes of determining marital interests.

(31)Express loans.—

(A)Definitions.—As used in this paragraph:

(i)The term “disaster area” means the area for which the President has declared a major disaster, during the 5-year period beginning on the date of the declaration.

(ii)The term “express lender” means any lender authorized by the Administration to participate in the Express Loan Program.

(iii)The term “express loan” means any loan made pursuant to this paragraph in which a lender utilizes to the maximum extent practicable its own loan analyses, procedures, and documentation.

(iv)The term “Express Loan Program” means the program for express loans established by the Administration under paragraph (25)(B), as in existence on April 5, 2004, with a guaranty rate of not more than 50 percent.

(B)Restriction to express lender.—

The authority to make an express loan shall be limited to those lenders deemed qualified to make such loans by the Administration. Designation as an express lender for purposes of making an express loan shall not prohibit such lender from taking any other action authorized by the Administration for that lender pursuant to this subsection.

(C)Grandfathering of existing lenders.—

Any express lender shall retain such designation unless the Administration determines that the express lender has violated the law or regulations promulgated by the Administration or modifies the requirements to be an express lender and the lender no longer satisfies those requirements.

(D)Maximum loan amount.—

The maximum loan amount under the Express Loan Program is \$1,000,000.

(E)Option to participate.—

Except as otherwise provided in this paragraph, the Administration shall take no regulatory, policy, or administrative action, without regard to whether such action requires notification pursuant to paragraph (24), that has the effect of requiring a lender to make an express loan pursuant to subparagraph (D).

(F) Express loans for renewable energy and energy efficiency.—

(i) Definitions.—In this subparagraph—

(I) the term “biomass”—

(aa) means any organic material that is available on a renewable or recurring basis, including—

(AA) agricultural crops;

(BB) trees grown for energy production;

(CC) wood waste and wood residues;

(DD) plants (including aquatic plants and grasses);

(EE) residues;

(FF) fibers;

(GG) animal wastes and other waste materials; and

(HH) fats, oils, and greases (including recycled fats, oils, and greases); and

(bb) does not include—

(AA) paper that is commonly recycled; or

(BB) unsegregated solid waste;

(II) the term “energy efficiency project” means the installation or upgrading of equipment that results in a significant reduction in energy usage; and

(III) the term “renewable energy system” means a system of energy derived from—

(aa) a wind, solar, biomass (including biodiesel), or geothermal source; or

(bb) hydrogen derived from biomass or water using an energy source described in item (aa).

(ii)Loans.—The Administrator may make a loan under the Express Loan Program for the purpose of—

(I)purchasing a renewable energy system; or

(II)carrying out an energy efficiency project for a small business concern.

(G)Guarantee fee waiver for veterans.—

(i)Guarantee fee waiver.—

The Administrator may not collect a guarantee fee described in paragraph (18) in connection with a loan made under this paragraph to a veteran or spouse of a veteran on or after October 1, 2015.

(ii)Definition.—In this subparagraph, the term “veteran or spouse of a veteran” means—

(I)a veteran, as defined in section 632(q)(4) of this title;

(II)an individual who is eligible to participate in the Transition Assistance Program established under section 1144 of title 10;

(III)a member of a reserve component of the Armed Forces named in section 10101 of title 10;

(IV)the spouse of an individual described in subclause (I), (II), or (III); or

(V)the surviving spouse (as defined in section 101 of title 38) of an individual described in subclause (I), (II), or (III) who died while serving on active duty or as a result of a disability that is service-connected (as defined in such section).

(H)Recovery opportunity loans.—

(i)In general.—

The Administrator may guarantee an express loan to a small business concern located in a disaster area in accordance with this subparagraph.

(ii)Maximums.—For a loan guaranteed under clause (i)—

(I)the maximum loan amount is \$150,000; and

(II)the guarantee rate shall be not more than 85 percent.

(iii)Overall cap.—

A loan guaranteed under clause (i) shall not be counted in determining the amount of loans made to a borrower for purposes of subparagraph (D).

(iv)Operations.—

A small business concern receiving a loan guaranteed under clause (i) shall certify that the small business concern was in operation on the date on which the applicable major disaster occurred as a condition of receiving the loan.

(v)Repayment ability.—

A loan guaranteed under clause (i) may only be made to a small business concern that demonstrates, to the satisfaction of the Administrator, sufficient capacity to repay the loan.

(vi)Timing of payment of guarantees.—

(I)In general.—

Not later than 90 days after the date on which a request for purchase is filed with the Administrator, the Administrator shall determine whether to pay the guaranteed portion of the loan.

(II)Recapture.—

Notwithstanding any other provision of law, unless there is a subsequent finding of fraud by a court of competent jurisdiction relating to a loan guaranteed under clause (i), on and after the date that is 6 months after the date on which the Administrator determines to pay the guaranteed portion of the loan, the Administrator may not attempt to recapture the paid guarantee.

(vii)Fees.—

(I)In general.—

Unless the Administrator has waived the guarantee fee that would otherwise be collected by the Administrator under paragraph (18) for a loan guaranteed under clause (i), and except as provided in subclause (II), the guarantee fee for the loan shall be equal to the guarantee fee that the Administrator would collect if the guarantee rate for the loan was 50 percent.

(II)Exception.—

Subclause (I) shall not apply if the cost of carrying out the program under this subsection in a fiscal year is more than zero and such cost is directly attributable to the cost of guaranteeing loans under clause (i).

(viii)Rules.—

Not later than 270 days after November 25, 2015, the Administrator shall promulgate rules to carry out this subparagraph.

(32)Loans for energy efficient technologies.—

(A)Definitions.—In this paragraph—

(i)the term “cost” has the meaning given that term in section 661a of title 2;

(ii)the term “covered energy efficiency loan” means a loan—

(I)made under this subsection; and

(II)the proceeds of which are used to purchase energy efficient designs, equipment, or fixtures, or to reduce the energy consumption of the borrower by 10 percent or more; and

(iii)the term “pilot program” means the pilot program established under subparagraph (B) [4]

(B)Establishment.—

The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for covered energy efficiency loans.

(C)Duration.—

The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

(D)Maximum participation.—

A covered energy efficiency loan shall include the maximum participation levels by the Administrator permitted for loans made under this subsection.

(E)Fees.—

(i)In general.—

The fee on a covered energy efficiency loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

(ii)Waiver.—The Administrator may waive clause (i) for a fiscal year if—

(I)for the fiscal year before that fiscal year, the annual rate of default of covered energy efficiency loans exceeds that of loans made under this subsection that are not covered energy efficiency loans;

(II)the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making covered energy efficiency loans; and

(III)no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

(iii)Effect of waiver.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

(I)shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

(II)shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

(iv)No increase of fees.—

The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not covered energy efficiency loans as a direct result of the pilot program.

(F)GAO report.—

(i)In general.—

Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

(ii)Contents.—The report submitted under clause (i) shall include—

(I)the number of covered energy efficiency loans for which fees were reduced under the pilot program;

(II)a description of the energy efficiency savings with the pilot program;

(III)a description of the impact of the pilot program on the program under this subsection;

(IV)an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

(V) recommendations for improving the pilot program.

(33) Increased veteran participation program.—

(A) Definitions.—In this paragraph—

(i) the term “cost” has the meaning given that term in section 661a of title 2;

(ii) the term “pilot program” means the pilot program established under subparagraph (B); and

(iii) the term “veteran participation loan” means a loan made under this subsection to a small business concern owned and controlled by veterans of the Armed Forces or members of the reserve components of the Armed Forces.

(B) Establishment.—

The Administrator shall establish and carry out a pilot program under which the Administrator shall reduce the fees for veteran participation loans.

(C) Duration.—

The pilot program shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the pilot program.

(D) Maximum participation.—

A veteran participation loan shall include the maximum participation levels by the Administrator permitted for loans made under this subsection.

(E) Fees.—

(i) In general.—

The fee on a veteran participation loan shall be equal to 50 percent of the fee otherwise applicable to that loan under paragraph (18).

(ii) Waiver.—The Administrator may waive clause (i) for a fiscal year if—

(I) for the fiscal year before that fiscal year, the annual estimated rate of default of veteran participation loans exceeds that of loans made under this subsection that are not veteran participation loans;

(II) the cost to the Administration of making loans under this subsection is greater than zero and such cost is directly attributable to the cost of making veteran participation loans; and

(III)no additional sources of revenue authority are available to reduce the cost of making loans under this subsection to zero.

(iii)Effect of waiver.—If the Administrator waives the reduction of fees under clause (ii), the Administrator—

(I)shall not assess or collect fees in an amount greater than necessary to ensure that the cost of the program under this subsection is not greater than zero; and

(II)shall reinstate the fee reductions under clause (i) when the conditions in clause (ii) no longer apply.

(iv)No increase of fees.—

The Administrator shall not increase the fees under paragraph (18) on loans made under this subsection that are not veteran participation loans as a direct result of the pilot program.

(F)GAO report.—

(i)In general.—

Not later than 1 year after the date that the pilot program terminates, the Comptroller General of the United States shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the pilot program.

(ii)Contents.—The report submitted under clause (i) shall include—

(I)the number of veteran participation loans for which fees were reduced under the pilot program;

(II)a description of the impact of the pilot program on the program under this subsection;

(III)an evaluation of the efficacy and potential fraud and abuse of the pilot program; and

(IV)recommendations for improving the pilot program.

(34)Export express program.—

(A)Definitions.—In this paragraph—

(i)the term “export development activity” includes—

(I)obtaining a standby letter of credit when required as a bid bond, performance bond, or advance payment guarantee;

(II)participation in a trade show that takes place outside the United States;

(III)translation of product brochures or catalogues for use in markets outside the United States;

(IV)obtaining a general line of credit for export purposes;

(V)performing a service contract from buyers located outside the United States;

(VI)obtaining transaction-specific financing associated with completing export orders;

(VII)purchasing real estate or equipment to be used in the production of goods or services for export;

(VIII)providing term loans or other financing to enable a small business concern, including an export trading company and an export management company, to develop a market outside the United States; and

(IX)acquiring, constructing, renovating, modernizing, improving, or expanding a production facility or equipment to be used in the United States in the production of goods or services for export; and

(ii)the term “express loan” means a loan in which a lender uses to the maximum extent practicable the loan analyses, procedures, and documentation of the lender to provide expedited processing of the loan application.

(B)Authority.—

The Administrator may guarantee the timely payment of an express loan to a small business concern made for an export development activity.

(C)Level of participation.—

(i)Maximum amount.—

The maximum amount of an express loan guaranteed under this paragraph shall be \$500,000.

(ii)Percentage.—For an express loan guaranteed under this paragraph, the Administrator shall guarantee—

(I)90 percent of a loan that is not more than \$350,000; and

(II)75 percent of a loan that is more than \$350,000 and not more than \$500,000.

(35)Loans to cooperatives.—

(A)Definition.—

In this paragraph, the term “cooperative” means an entity that is determined to be a cooperative by the Administrator, in accordance with applicable Federal and State laws and regulation.

(B)Authority.—

The Administration shall guarantee loans made to a cooperative for the purpose described in paragraph (15).

(36)Paycheck protection program.—

(A)Definitions.—In this paragraph—

(i)the terms “appropriate Federal banking agency” and “insured depository institution” have the meanings given those terms in section 1813 of title 12;

(ii)the term “covered loan” means a loan made under this paragraph during the covered period;

(iii)the term “covered period” means the period beginning on February 15, 2020 and ending on December 31, 2020;

(iv)the term “eligible recipient” means an individual or entity that is eligible to receive a covered loan;

(v)the term “eligible self-employed individual” has the meaning given the term in section 7002(b) of the Families First Coronavirus Response Act (Public Law 116–127);

(vi)the term “insured credit union” has the meaning given the term in section 1752 of title 12;

(vii)the term “nonprofit organization” means an organization that is described in section 501(c)(3) of title 26 and that is exempt from taxation under section 501(a) of title 26;

(viii)the term “payroll costs”—

(I)means—

(aa)the sum of payments of any compensation with respect to employees that is a—

(AA)salary, wage, commission, or similar compensation;

(BB)payment of cash tip or equivalent;

(CC)payment for vacation, parental, family, medical, or sick leave;

(DD)allowance for dismissal or separation;

(EE)payment required for the provisions of group health care benefits, including insurance premiums;

(FF)payment of any retirement benefit; or

(GG)payment of State or local tax assessed on the compensation of employees; and

(bb)the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar compensation and that is in an amount that is not more than \$100,000 in 1 year, as prorated for the covered period; and

(II)shall not include—

(aa)the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period;

(bb)taxes imposed or withheld under chapters 21, 22, or 24 of title 26 during the covered period;

(cc)any compensation of an employee whose principal place of residence is outside of the United States;

(dd)qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116–127); or

(ee)qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act (Public Law 116–127);

(ix)the term “veterans organization” means an organization that is described in section 501(c)(19) of title 26 that is exempt from taxation under section 501(a) of title 26;

(x)the term “community development financial institution” has the meaning given the term in section 4702 of title 12); [5]

(xi)the term “community financial institutions” means—

(I)a community development financial institution;

(II)a minority depository institution, as defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note);

(III)a development company that is certified under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.); and

(IV)an intermediary, as defined in subsection (m)(11); and

(xii)the term “credit union” means a State credit union or a Federal credit union, as those terms are defined, respectively, in section 1752 of title 12.

(B)Paycheck protection loans.—

Except as otherwise provided in this paragraph, the Administrator may guarantee covered loans under the same terms, conditions, and processes as a loan made under this subsection.

(C)Registration of loans.—

Not later than 15 days after the date on which a loan is made under this paragraph, the Administration shall register the loan using the TIN (as defined in section 7701 of title 26) assigned to the borrower.

(D)Increased eligibility for certain small businesses and organizations.—

(i)In general.—During the covered period, in addition to small business concerns, any business concern, nonprofit organization, veterans organization, or Tribal business concern described in section 657a(b)(2)(C) of this title shall be eligible to receive a covered loan if the business concern, nonprofit organization, veterans organization, or Tribal business concern employs not more than the greater of—

(I)500 employees; or

(II)if applicable, the size standard in number of employees established by the Administration for the industry in which the business concern, nonprofit organization, veterans organization, or Tribal business concern operates.

(ii)Inclusion of sole proprietors, independent contractors, and eligible self-employed individuals.—

(I) In general.—

During the covered period, individuals who operate under a sole proprietorship or as an independent contractor and eligible self-employed individuals shall be eligible to receive a covered loan.

(II) Documentation.—

An eligible self-employed individual, independent contractor, or sole proprietorship seeking a covered loan shall submit such documentation as is necessary to establish such individual as eligible, including payroll tax filings reported to the Internal Revenue Service, Forms 1099–MISC, and income and expenses from the sole proprietorship, as determined by the Administrator and the Secretary.

(iii) Business concerns with more than 1 physical location.—

During the covered period, any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a North American Industry Classification System code beginning with 72 at the time of disbursement shall be eligible to receive a covered loan.

(iv) Waiver of affiliation rules.—During the covered period, the provisions applicable to affiliations under section 121.103 of title 13, Code of Federal Regulations, or any successor regulation, are waived with respect to eligibility for a covered loan for—

(I) any business concern with not more than 500 employees that, as of the date on which the covered loan is disbursed, is assigned a North American Industry Classification System code beginning with 72;

(II) any business concern operating as a franchise that is assigned a franchise identifier code by the Administration; and

(III) any business concern that receives financial assistance from a company licensed under section 681 of this title.

(v) Employee.—

For purposes of determining whether a business concern, nonprofit organization, veterans organization, or Tribal business concern described in section 657a(b)(2)(C) of this title employs not more than 500 employees under clause (i)(I), the term “employee” includes individuals employed on a full-time, part-time, or other basis.

(vi) Affiliation.—

The provisions applicable to affiliations under section 121.103 of title 13, Code of Federal Regulations, or any successor thereto, shall apply with respect to a

nonprofit organization and a veterans organization in the same manner as with respect to a small business concern.

(E)Maximum loan amount.—During the covered period, with respect to a covered loan, the maximum loan amount shall be the lesser of—

(i)

(I)the sum of—

(aa)the product obtained by multiplying—

(AA)the average total monthly payments by the applicant for payroll costs incurred during the 1-year period before the date on which the loan is made, except that, in the case of an applicant that is seasonal employer, as determined by the Administrator, the average total monthly payments for payroll shall be for the 12-week period beginning February 15, 2019, or at the election of the eligible recipient, March 1, 2019, and ending June 30, 2019; by

(BB)2.5; and

(bb)the outstanding amount of a loan under subsection (b)(2) that was made during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available to be refinanced under the covered loan; or

(II)if requested by an otherwise eligible recipient that was not in business during the period beginning on February 15, 2019 and ending on June 30, 2019, the sum of—

(aa)the product obtained by multiplying—

(AA)the average total monthly payments by the applicant for payroll costs incurred during the period beginning on January 1, 2020 and ending on February 29, 2020; by

(BB)2.5; and

(bb)the outstanding amount of a loan under subsection (b)(2) that was made during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available to be refinanced under the covered loan; or

(ii)\$10,000,000.

(F)Allowable uses of covered loans.—

(i) In general.—During the covered period, an eligible recipient may, in addition to the allowable uses of a loan made under this subsection, use the proceeds of the covered loan for—

(I) payroll costs;

(II) costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;

(III) employee salaries, commissions, or similar compensations;

(IV) payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);

(V) rent (including rent under a lease agreement);

(VI) utilities; and

(VII) interest on any other debt obligations that were incurred before the covered period.

(ii) Delegated authority.—

(I) In general.—

For purposes of making covered loans for the purposes described in clause (i), a lender approved to make loans under this subsection shall be deemed to have been delegated authority by the Administrator to make and approve covered loans, subject to the provisions of this paragraph.

(II) Considerations.—In evaluating the eligibility of a borrower for a covered loan with the terms described in this paragraph, a lender shall consider whether the borrower—

(aa) was in operation on February 15, 2020; and

(bb)

(AA) had employees for whom the borrower paid salaries and payroll taxes; or

(BB) paid independent contractors, as reported on a Form 1099–MISC.

(iii) Additional lenders.—

The authority to make loans under this paragraph shall be extended to additional lenders determined by the Administrator and the Secretary of the Treasury to have the necessary qualifications to process, close, disburse and service loans made with the guarantee of the Administration.

(iv) Refinance.—

A loan made under subsection (b)(2) during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available may be refinanced as part of a covered loan.

(v) Nonrecourse.—

Notwithstanding the waiver of the personal guarantee requirement or collateral under subparagraph (J), the Administrator shall have no recourse against any individual shareholder, member, or partner of an eligible recipient of a covered loan for nonpayment of any covered loan, except to the extent that such shareholder, member, or partner uses the covered loan proceeds for a purpose not authorized under clause (i).

(G) Borrower requirements.—

(i) [6] Certification.—An eligible recipient applying for a covered loan shall make a good faith certification—

(I) that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;

(II) acknowledging that funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;

(III) that the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan; and

(IV) during the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan.

(H) Fee waiver.—During the covered period, with respect to a covered loan—

(i) in lieu of the fee otherwise applicable under paragraph (23)(A), the Administrator shall collect no fee; and

(ii) in lieu of the fee otherwise applicable under paragraph (18)(A), the Administrator shall collect no fee.

(I)Credit elsewhere.—

During the covered period, the requirement that a small business concern is unable to obtain credit elsewhere, as defined in section 632(h) of this title, shall not apply to a covered loan.

(J)Waiver of personal guarantee requirement.—During the covered period, with respect to a covered loan—

(i)no personal guarantee shall be required for the covered loan; and

(ii)no collateral shall be required for the covered loan.

(K)Maturity for loans with remaining balance after application of forgiveness.—With respect to a covered loan that has a remaining balance after reduction based on the loan forgiveness amount under section 9005 of this title—

(i)the remaining balance shall continue to be guaranteed by the Administration under this subsection; and

(ii)the covered loan shall have a minimum maturity of 5 years and a maximum maturity of 10 years from the date on which the borrower applies for loan forgiveness under that section.

(L)Interest rate requirements.—

A covered loan shall bear an interest rate not to exceed 4 percent.

(M)Loan deferment.—

(i)Definition of impacted borrower.—

(I)In general.—In this subparagraph, the term “impacted borrower” means an eligible recipient that—

(aa)is in operation on February 15, 2020; and

(bb)has an application for a covered loan that is approved or pending approval on or after March 27, 2020.

(II)Presumption.—

For purposes of this subparagraph, an impacted borrower is presumed to have been adversely impacted by COVID–19.

(ii)Deferral.—During the covered period, the Administrator shall—

(I)consider each eligible recipient that applies for a covered loan to be an impacted borrower; and

(II)require lenders under this subsection to provide complete payment deferment relief for impacted borrowers with covered loans, including payment of principal, interest, and fees, until the date on which the amount of forgiveness determined under section 9005 of this title is remitted to the lender.

(iii)Secondary market.—

During the covered period, with respect to a covered loan that is sold on the secondary market, if an investor declines to approve a deferral requested by a lender under clause (ii), the Administrator shall exercise the authority to purchase the loan so that the impacted borrower may receive a deferral, including payment of principal, interest, and fees, until the date on which the amount of forgiveness determined under section 9005 of this title is remitted to the lender.

(iv)Guidance.—

Not later than 30 days after March 27, 2020, the Administrator shall provide guidance to lenders under this paragraph on the deferment process described in this subparagraph.

(v)Rule of construction.—

If an eligible recipient fails to apply for forgiveness of a covered loan within 10 months after the last day of the covered period defined in section 9005(a) of this title, such eligible recipient shall make payments of principal, interest, and fees on such covered loan beginning on the day that is not earlier than the date that is 10 months after the last day of such covered period.

(N)Secondary market sales.—

A covered loan shall be eligible to be sold in the secondary market consistent with this subsection. The Administrator may not collect any fee for any guarantee sold into the secondary market under this subparagraph.

(O)Regulatory capital requirements.—

(i)Risk weight.—

With respect to the appropriate Federal banking agencies or the National Credit Union Administration Board applying capital requirements under their respective risk-based capital requirements, a covered loan shall receive a risk weight of zero percent.

(ii)Temporary relief from tdr disclosures.—

Notwithstanding any other provision of law, an insured depository institution or an insured credit union that modifies a covered loan in relation to COVID–19-related difficulties in a troubled debt restructuring on or after March 13, 2020, shall not be required to comply with the Financial Accounting Standards Board Accounting Standards Codification Subtopic 310–40 (“Receivables – Troubled Debt Restructurings by Creditors”) for purposes of compliance with the requirements of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), until such time and under such circumstances as the appropriate Federal banking agency or the National Credit Union Administration Board, as applicable, determines appropriate.

(P) Reimbursement for processing.—

(i) In general.—The Administrator shall reimburse a lender authorized to make a covered loan at a rate, based on the balance of the financing outstanding at the time of disbursement of the covered loan, of—

(I) 5 percent for loans of not more than \$350,000;

(II) 3 percent for loans of more than \$350,000 and less than \$2,000,000;
and

(III) 1 percent for loans of not less than \$2,000,000.

(ii) Fee limits.—

An agent that assists an eligible recipient to prepare an application for a covered loan may not collect a fee in excess of the limits established by the Administrator.

(iii) Timing.—

A reimbursement described in clause (i) shall be made not later than 5 days after the disbursement of the covered loan.

(iv) Sense of the senate.—

It is the sense of the Senate that the Administrator should issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined in section 637(d)(3)(C) of this title), women, and businesses in operation for less than 2 years.



(Q) Duplication.—

Nothing in this paragraph shall prohibit a recipient of an economic injury disaster loan made under subsection (b)(2) during the period beginning on January 31, 2020 and ending on the date on which covered loans are made available that is for a purpose other

than paying payroll costs and other obligations described in subparagraph (F) from receiving assistance under this paragraph.

(R)Waiver of prepayment penalty.—

Notwithstanding any other provision of law, there shall be no prepayment penalty for any payment made on a covered loan.

(S)Set-aside for insured depository institutions, credit unions, and community financial institutions.—

(i)Insured depository institutions and credit unions.—In making loan guarantees under this paragraph after April 24, 2020, the Administrator shall guarantee not less than \$30,000,000,000 in loans made by—

(I)insured depository institutions with consolidated assets of not less than \$10,000,000,000 and less than \$50,000,000,000; and

(II)credit unions with consolidated assets of not less than \$10,000,000,000 and less than \$50,000,000,000.

(ii)Community financial institutions, small insured depository institutions, and credit unions.—In making loan guarantees under this paragraph after April 24, 2020, the Administrator shall guarantee not less than \$30,000,000,000 in loans made by—

(I)community financial institutions;

(II)insured depository institutions with consolidated assets of less than \$10,000,000,000; and

(III)credit unions with consolidated assets of less than \$10,000,000,000.

(b)Disaster loans; authorization, scope, terms and conditions, etc.Except as to agricultural enterprises as defined in section 647(b)(1) of this title, the Administration also is empowered to the extent and in such amounts as provided in advance in appropriation Acts—

(1)

(A)to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to repair, rehabilitate or replace property, real or personal, damaged or destroyed by or as a result of natural or other disasters: Provided, That such damage or destruction is not compensated for by insurance or otherwise: And provided further, That the Administration may increase the amount of the loan by up to an additional 20 per centum of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise) if it determines such increase to be necessary or appropriate in

order to protect the damaged or destroyed property from possible future disasters by taking mitigating measures, including—

(i) construction of retaining walls and sea walls;

(ii) grading and contouring land; and

(iii) relocating utilities and modifying structures, including construction of a safe room or similar storm shelter designed to protect property and occupants from tornadoes or other natural disasters, if such safe room or similar storm shelter is constructed in accordance with applicable standards issued by the Federal Emergency Management Agency;

(B) to refinance any mortgage or other lien against a totally destroyed or substantially damaged home or business concern: Provided, That no loan or guarantee shall be extended unless the Administration finds that (i) the applicant is not able to obtain credit elsewhere; (ii) such property is to be repaired, rehabilitated, or replaced; (iii) the amount refinanced shall not exceed the amount of physical loss sustained; and (iv) such amounts shall be reduced to the extent such mortgage or lien is satisfied by insurance or otherwise; and

(C) during fiscal years 2000 through 2004, to establish a predisaster mitigation program to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis), as the Administrator may determine to be necessary or appropriate, to enable small businesses to use mitigation techniques in support of a formal mitigation program established by the Federal Emergency Management Agency, except that no loan or guarantee may be extended to a small business under this subparagraph unless the Administration finds that the small business is otherwise unable to obtain credit for the purposes described in this subparagraph;

(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) as the Administration may determine to be necessary or appropriate to any small business concern, private nonprofit organization, or small agricultural cooperative located in an area affected by a disaster,^[7] (including drought), with respect to both farm-related and nonfarm-related small business concerns, if the Administration determines that the concern, the organization, or the cooperative has suffered a substantial economic injury as a result of such disaster and if such disaster constitutes—

(A) a major disaster, as determined by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

(B) a natural disaster, as determined by the Secretary of Agriculture pursuant to section 1961 of title 7, in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph;

(C) a disaster, as determined by the Administrator of the Small Business Administration;

(D)an emergency involving Federal primary responsibility determined to exist by the President under the section 5191(b) of title 42; or

(E)if no disaster or emergency declaration has been issued pursuant to subparagraph (A), (B), (C), or (D), the Governor of a State in which a disaster or emergency has occurred may certify to the Small Business Administration that small business concerns, private nonprofit organizations, or small agricultural cooperatives (1) have suffered economic injury as a result of such disaster or emergency, and (2) are in need of financial assistance which is not available on reasonable terms in the disaster- or emergency-stricken area. Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefor,[8] and may then make such loans as would have been available under this paragraph if a disaster or emergency declaration had been issued.

Provided, That no loan or guarantee shall be extended pursuant to this paragraph (2) unless the Administration finds that the applicant is not able to obtain credit elsewhere: Provided further, That for purposes of subparagraph (D), the Administrator shall deem that such an emergency affects each State or subdivision thereof (including counties), and that each State or subdivision has sufficient economic damage to small business concerns to qualify for assistance under this paragraph and the Administrator shall accept applications for such assistance immediately.

(3)

(A)In this paragraph—

(i)the term “active service” has the meaning given that term in section 101(d)(3) of title 10;

(ii)the term “essential employee” means an individual who is employed by a small business concern and whose managerial or technical expertise is critical to the successful day-to-day operations of that small business concern; and

(iii)the term “substantial economic injury” means an economic harm to a business concern that results in the inability of the business concern—

(I)to meet its obligations as they mature;

(II)to pay its ordinary and necessary operating expenses; or

(III)to market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern.

(B)The Administration may make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of an essential employee of such small business concern being ordered to perform active service for a period of more than 30 consecutive days.

(C) A small business concern described in subparagraph (B) shall be eligible to apply for assistance under this paragraph during the period beginning on the date on which the essential employee is ordered to active service and ending on the date that is 1 year after the date on which such essential employee is discharged or released from active service. The Administrator may, when appropriate (as determined by the Administrator), extend the ending date specified in the preceding sentence by not more than 1 year.

(D) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

(E) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such applicant constitutes, or have [9] become due to changed economic circumstances, a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the \$1,500,000 limitation.

(F) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.

(G)

(i) Notwithstanding any other provision of law, the Administrator may make a loan under this paragraph of not more than \$50,000 without collateral.

(ii) The Administrator may defer payment of principal and interest on a loan described in clause (i) during the longer of—

(I) the 1-year period beginning on the date of the initial disbursement of the loan; and

(II) the period during which the relevant essential employee is on active service.

(H) The Administrator shall give priority to any application for a loan under this paragraph and shall process and make a determination regarding such applications prior to processing or making a determination on other loan applications under this subsection, on a rolling basis.

(4) Coordination with fema.—

(A) In general.—

Notwithstanding any other provision of law, for any disaster declared under this subsection or major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all

application periods for disaster relief under this chapter correspond with application deadlines established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.

(B)Deadlines.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

(i)the deadline for submitting applications for assistance under this chapter relating to that major disaster;

(ii)information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that major disaster was declared and ending on the date of that report; and

(iii)an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.

(5)Public awareness of disasters.—If a disaster is declared under this subsection or the Administrator declares eligibility for additional disaster assistance under paragraph (9), the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

(A)the date of such declaration;

(B)cities and towns within the area of such declaration;

(C)loan application deadlines related to such disaster;

(D)all relevant contact information for victim services available through the Administration (including links to small business development center websites);

(E)links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;

(F)information on eligibility criteria for Administration loan programs, including where such applications can be found; and

(G)application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.

(6)Authority for qualified private contractors.—

(A)Disaster loan processing.—

The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the contractor a fee for each loan processed.

(B)Loan loss verification services.—

The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.

(7)Disaster assistance employees.—

(A)In general.—In carrying out this section, the Administrator may, where practicable, ensure that the number of full-time equivalent employees—

(i)in the Office of the Disaster Assistance is not fewer than 800; and

(ii)in the Disaster Cadre of the Administration is not fewer than 1,000.

(B)Report.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

(i)detailing staffing levels on that date;

(ii)requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and

(iii)containing such additional information, as determined appropriate by the Administrator.

(8)Increased loan caps.—

(A)Aggregate loan amounts.—

Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed \$2,000,000.

(B)Waiver authority.—

The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.

(9)Declaration of eligibility for additional disaster assistance.—

(A)In general.—

If the President declares a major disaster, the Administrator may declare eligibility for additional disaster assistance in accordance with this paragraph.

(B)Threshold.—A major disaster for which the Administrator declares eligibility for additional disaster assistance under this paragraph shall—

(i)have resulted in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

(ii)be comparable to the description of a catastrophic incident in the National Response Plan of the Administration, or any successor thereto, unless there is no successor to such plan, in which case this clause shall have no force or effect; and

(iii)be of such size and scope that—

(I)the disaster assistance programs under the other paragraphs under this subsection are incapable of providing adequate and timely assistance to individuals or business concerns located within the disaster area; or

(II)a significant number of business concerns outside the disaster area have suffered disaster-related substantial economic injury as a result of the incident.

(C)Additional economic injury disaster loan assistance.—

(i)In general.—

If the Administrator declares eligibility for additional disaster assistance under this paragraph, the Administrator may make such loans under this subparagraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator

determines appropriate to eligible small business concerns located anywhere in the United States.

(ii)Processing time.—

(I)In general.—

If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 15 days, the Administrator shall give priority to the processing of such applications submitted by eligible small business concerns located inside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

(II)Suspension of applications from outside disaster area.—

If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 30 days, the Administrator shall suspend the processing of such applications submitted by eligible small business concerns located outside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

(iii)Loan terms.—

A loan under this subparagraph shall be made on the same terms as a loan under paragraph (2).

(D)Definitions.—In this paragraph—

(i)the term “disaster area” means the area for which the applicable major disaster was declared;

(ii)the term “disaster-related substantial economic injury” means economic harm to a business concern that results in the inability of the business concern to—

(I)meet its obligations as it matures;

(II)meet its ordinary and necessary operating expenses; or

(III)market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern because the business concern relies on materials from the disaster area or sells or markets in the disaster area; and

(iii)the term “eligible small business concern” means a small business concern—

(I)that has suffered disaster-related substantial economic injury as a result of the applicable major disaster; and

(II)

(aa)for which not less than 25 percent of the market share of that small business concern is from business transacted in the disaster area;

(bb)for which not less than 25 percent of an input into a production process of that small business concern is from the disaster area; or

(cc)that relies on a provider located in the disaster area for a service that is not readily available elsewhere.

(10)Reducing closing and disbursement delays.—

The Administrator shall provide a clear and concise notification on all application materials for loans made under this subsection and on relevant websites notifying an applicant that the applicant may submit all documentation necessary for the approval of the loan at the time of application and that failure to submit all documentation could delay the approval and disbursement of the loan.

(11)Increasing transparency in loan approvals.—

The Administrator shall establish and implement clear, written policies and procedures for analyzing the ability of a loan applicant to repay a loan made under this subsection.

(12)Additional awards to small business development centers, women’s business centers, and score for disaster recovery.—

(A)In general.—

The Administration may provide financial assistance to a small business development center, a women’s business center described in section 656 of this title, the Service Corps of Retired Executives, or any proposed consortium of such individuals or entities to spur disaster recovery and growth of small business concerns located in an area for which the President has declared a major disaster.

(B)Form of financial assistance.—

Financial assistance provided under this paragraph shall be in the form of a grant, contract, or cooperative agreement.

(C)No matching funds required.—

Matching funds shall not be required for any grant, contract, or cooperative agreement under this paragraph.

(D)Requirements.—

A recipient of financial assistance under this paragraph shall provide counseling, training, and other related services, such as promoting long-term resiliency, to small business concerns and entrepreneurs impacted by a major disaster.

(E)Performance.—

(i)In general.—

The Administrator, in cooperation with the recipients of financial assistance under this paragraph, shall establish metrics and goals for performance of grants, contracts, and cooperative agreements under this paragraph, which shall include recovery of sales, recovery of employment, reestablishment of business premises, and establishment of new small business concerns.

(ii)Use of estimates.—

The Administrator shall base the goals and metrics for performance established under clause (i), in part, on the estimates of disaster impact prepared by the Office of Disaster Assistance for purposes of estimating loan-making requirements.

(F)Term.—

(i)In general.—

The term of any grant, contract, or cooperative agreement under this paragraph shall be for not more than 2 years.

(ii)Extension.—

The Administrator may make 1 extension of a grant, contract, or cooperative agreement under this paragraph for a period of not more than 1 year, upon a showing of good cause and need for the extension.

(G)Exemption from other program requirements.—

Financial assistance provided under this paragraph is in addition to, and wholly separate from, any other form of assistance provided by the Administrator under this chapter.

(H)Competitive basis.—

The Administration shall award financial assistance under this paragraph on a competitive basis.

(13)Supplemental assistance for contractor malfeasance.—

(A)In general.—

If a contractor or other person engages in malfeasance in connection with repairs to, rehabilitation of, or replacement of real or personal property relating to which a loan was made under this subsection and the malfeasance results in substantial economic damage to the recipient of the loan or substantial risks to health or safety, upon receiving documentation of the substantial economic damage or the substantial risk to health and safety from an independent loss verifier, and subject to subparagraph (B), the Administrator may increase the amount of the loan under this subsection, as necessary for the cost of repairs, rehabilitation, or replacement needed to address the cause of the economic damage or health or safety risk.

(B)Requirements.—

The Administrator may only increase the amount of a loan under subparagraph (A) upon receiving an appropriate certification from the borrower and person performing the mitigation attesting to the reasonableness of the mitigation costs and an assignment of any proceeds received from the person engaging in the malfeasance. The assignment of proceeds recovered from the person engaging in the malfeasance shall be equal to the amount of the loan under this section. Any mitigation activities shall be subject to audit and independent verification of completeness and cost reasonableness.

(14)Business recovery centers.—

(A)In general.—

The Administrator, acting through the district offices of the Administration, shall identify locations that may be used as recovery centers by the Administration in the event of a disaster declared under this subsection or a major disaster.

(B)Requirements for identification.—Each district office of the Administration shall—

(i)identify a location described in subparagraph (A) in each county, parish, or similar unit of general local government in the area served by the district office; and

(ii)ensure that the locations identified under subparagraph (A) may be used as a recovery center without cost to the Government, to the extent practicable.

(15)Increased oversight of economic injury disaster loans.—The Administrator shall increase oversight of entities receiving loans under paragraph (2), and may consider—

(A)scheduled site visits to ensure borrower eligibility and compliance with requirements established by the Administrator; and

(B)reviews of the use of the loan proceeds by an entity described in paragraph (2) to ensure compliance with requirements established by the Administrator.

No loan under this subsection, including renewals and extensions thereof, may be made for a period or periods exceeding thirty years: Provided, That the Administrator may consent to a suspension in the payment of principal and interest charges on, and to an extension in the

maturity of, the Federal share of any loan under this subsection for a period not to exceed five years, if (A) the borrower under such loan is a homeowner or a small business concern, (B) the loan was made to enable (i) such homeowner to repair or replace his home, or (ii) such concern to repair or replace plant or equipment which was damaged or destroyed as the result of a disaster meeting the requirements of clause (A) or (B) of paragraph (2) of this subsection, and (C) the Administrator determines such action is necessary to avoid severe financial hardship: Provided further, That the provisions of paragraph (1) of subsection (d) of this section shall not be applicable to any such loan having a maturity in excess of twenty years. Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b) shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum: Provided, however, That the interest rate for loans made under paragraphs (1) and (2) hereof shall not exceed the rate of interest which is in effect at the time of the occurrence of the disaster. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement. Notwithstanding any other provision of law, the interest rate on the Administration's share of any loan made pursuant to paragraph (1) of this subsection to repair or replace a primary residence and/or replace or repair damaged or destroyed personal property, less the amount of compensation by insurance or otherwise, with respect to a disaster occurring on or after July 1, 1976, and prior to October 1, 1978, shall be: 1 per centum on the amount of such loan not exceeding \$10,000, and 3 per centum on the amount of such loan over \$10,000 but not exceeding \$40,000. The interest rate on the Administration's share of the first \$250,000 of all other loans made pursuant to paragraph (1) of this subsection, with respect to a disaster occurring on or after July 1, 1976, and prior to October 1, 1978, shall be 3 per centum. All repayments of principal on the Administration's share of any loan made under the above provisions shall first be applied to reduce the principal sum of such loan which bears interest at the lower rates provided in this paragraph. The principal amount of any loan made pursuant to paragraph (1) in connection with a disaster which occurs on or after April 1, 1977, but prior to January 1, 1978, may be increased by such amount, but not more than \$2,000, as the Administration determines to be reasonable in light of the amount and nature of loss, damage, or injury sustained in order to finance the installation of insulation in the property which was lost, damaged, or injured, if the uninsured, damaged portion of the property is 10 per centum or more of the market value of the property at the time of the disaster. Not later than June 1, 1978, the Administration shall prepare and transmit to the Select Committee on Small Business of the Senate, the Committee on Small Business of the House of Representatives, and the Committees of the Senate and House of Representatives having jurisdiction over measures relating to energy conservation, a report on its activities under this paragraph, including therein an evaluation of the effect of such activities on encouraging the installation of insulation in property which is repaired or replaced after a disaster which is subject to this paragraph, and its recommendations with respect to the continuation, modification, or termination of such activities.

In the administration of the disaster loan program under paragraphs (1) and (2) of this subsection, in the case of property loss or damage or injury resulting from a major disaster as determined by the President or a disaster as determined by the Administrator which occurs on or after January 1, 1971, and prior to July 1, 1973, the Small Business Administration, to the extent such loss or damage or injury is not compensated for by insurance or otherwise—

(A) may make any loan for repair, rehabilitation, or replacement of property damaged or destroyed without regard to whether the required financial assistance is otherwise available from private sources;

(B) may, in the case of the total destruction or substantial property damage of a home or business concern, refinance any mortgage or other liens outstanding against the destroyed or damaged property if such property is to be repaired, rehabilitated, or replaced, except that (1) in the case of a business concern, the amount refinanced shall not exceed the amount of the physical loss sustained, and (2) in the case of a home, the amount of each monthly payment of principal and interest on the loan after refinancing under this clause shall not be less than the amount of each such payment made prior to such refinancing;

(C) may, in the case of a loan made under clause (A) or a mortgage or other lien refinanced under clause (B) in connection with the destruction of, or substantial damage to, property owned and used as a residence by an individual who by reason of retirement, disability, or other similar circumstances relies for support on survivor, disability, or retirement benefits under a pension, insurance, or other programs, consent to the suspension of the payments of the principal of that loan, mortgage, or lien during the lifetime of that individual and his spouse for so long as the Administration determines that making such payments would constitute a substantial hardship;

(D) shall notwithstanding the provisions of any other law and upon presentation by the applicant of proof of loss or damage or injury and a bona fide estimate of cost of repair, rehabilitation, or replacement, cancel the principal of any loan made to cover a loss or damage or injury resulting from such disaster, except that—

(i) with respect to a loan made in connection with a disaster occurring on or after January 1, 1971 but prior to January 1, 1972, the total amount so canceled shall not exceed \$2,500, and the interest on the balance of the loan shall be at a rate of 3 per centum per annum; and

(ii) with respect to a loan made in connection with a disaster occurring on or after January 1, 1972 but prior to July 1, 1973, the total amount so canceled shall not exceed \$5,000 and the interest on the balance of the loan shall be at a rate of 1 per centum per annum.

(E) [10] A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of section 312(a) of the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5155(a)] to a disaster loan under paragraph (1) (2) [11] of this subsection.

With respect to any loan referred to in clause (D) which is outstanding on August 16, 1972, the Administrator shall—

(i) make such change in the interest rate on the balance of such loan as is required under that clause effective as of August 16, 1972; and

(ii) in applying the limitation set forth in that clause with respect to the total amount of such loan which may be canceled, consider as part of the amount so

canceled any part of such loan which was previously canceled pursuant to section 231 of the Disaster Relief Act of 1970 [15 U.S.C. 636a].

Whoever wrongfully misapplies the proceeds of a loan obtained under this subsection shall be civilly liable to the Administrator in an amount equal to one-and-one half times the original principal amount of the loan.

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