

115TH CONGRESS
1ST SESSION

H. R. 3968

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

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2017

Mr. SCHNEIDER (for himself, Mr. FITZPATRICK, Mr. EVANS, Ms. VELÁZQUEZ, Mr. KRISHNAMOORTHY, and Miss RICE of New York) introduced the following bill; which was referred to the Committee on Small Business

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Cyber-
5 security Enhancement Act”.

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

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

1 (1) by redesignating section 47 as section 48;

2 and

3 (2) by inserting the following new section after

4 section 46:

5 **“SEC. 47. LOAN GUARANTEES FOR CYBERSECURITY TECH-**
6 **NOLOGY AND SERVICES.**

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

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

11 “(A) means—

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

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

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

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

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

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

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

20 “(iii) services related to—

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

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

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

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

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

13 “(A) has 100 or fewer employees;

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

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

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

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

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

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

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

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

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

24 “(d) INTEREST RATES.—

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

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

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

9 “(2) VARIABLE RATE LOANS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(C) if—

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

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

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

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

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

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

5 “(g) PAYMENT OF LOSSES.—

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

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

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

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

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

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall take effect on the date that is 30 days
16 after the date on which the Small Business Development
17 Center Cyber Strategy developed under section 1841(a) of
18 the National Defense Authorization Act for Fiscal Year
19 2017 (Public Law 114–328; 130 Stat. 2662) is submitted
20 to the Committees on Homeland Security and Small Busi-
21 ness of the House of Representatives and the Committees
22 on Homeland Security and Governmental Affairs and
23 Small Business and Entrepreneurship of the Senate.

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