

## Calendar No. 632

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SENATE

{ REPORT  
115-437

### 7(a) REAL ESTATE APPRAISAL HARMONIZATION ACT

DECEMBER 19, 2018.—Ordered to be printed

Mr. RISCH, from the Committee on Small Business and  
Entrepreneurship, submitted the following

### R E P O R T

[To accompany S. 3552]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 3552) to amend the Small Business Act of 1953 to align the real estate appraisal threshold under the section 7(a) program of the Small Business Administration with the threshold used by the Federal banking regulators, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### I. INTRODUCTION

The 7(a) Real Estate Appraisal Harmonization Act was introduced by Chairman James E. Risch on October 5, 2018.

The bill amends the Small Business Act of 1953 to align the appraisal threshold amount for the Small Business Administration's 7(a) Loan Guaranty program to the Federal banking regulators' threshold amount for commercial real estate transactions, or the lesser amount of the three Federal banking regulators' (Federal Reserve System, Federal Deposit Insurance Corporation and Comptroller of the Currency) threshold for commercial real estate transactions, if there is a discrepancy.

The bill was approved unanimously by a roll call vote as part of a six-bill manager's package.

#### II. HISTORY (PURPOSE & NEED FOR LEGISLATION)

The Small Business Administration (SBA) administers a number of loan programs to provide access to capital to entrepreneurs and

small businesses who are unable to obtain financing “on reasonable terms and conditions.”<sup>1</sup> One of these programs, the 7(a) Loan Guaranty program, is the SBA’s flagship loan program and is named for Section 7(a) of the Small Business Act of 1953, which authorizes the SBA to guarantee business loans to entrepreneurs and small businesses.

7(a) loans may be used to establish a new business or to assist in the operation, acquisition, or expansion of an existing business. Permissible uses include acquiring land; improving a site; purchasing, expanding, or renovating existing buildings; constructing new buildings; acquiring and installing fixed assets; purchasing inventory, supplies, and raw materials; financing working capital; and refinancing certain outstanding debts. In FY 2018, the SBA approved 60,353 7(a) loans totaling nearly \$25.4 billion with an average approved 7(a) loan amount of \$420,401.<sup>2</sup>

Because borrowers are allowed to use the loan for a variety of uses related to purchasing, expanding, or renovating existing buildings and land, 7(a) loans provide a critical avenue for small businesses seeking real estate. Since 2000, the SBA loan programs have required appraisals for commercial real estate transactions consistent with the appraisal threshold level set by the Federal banking regulators for conventional commercial real estate loans in 1994.<sup>3</sup> While the threshold level for conventional commercial real estate loans is set by regulation, the threshold level for 7(a) commercial real estate loans is set by statute under the Small Business Act of 1953.

On April 9, 2018, and after a year of dialogue with industry stakeholders, the Board of Governors of the Federal Reserve (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) together issued a final rule increasing the appraisal threshold for commercial real estate loans from \$250,000 to \$500,000.<sup>4</sup> Part of the impetus for this change stems from the increase in commercial property values since the threshold was established in 1994; due to these increased values, financial institutions were required to get formal appraisals on a larger proportion of transactions than when the standard was originally set. Additionally, through the rulemaking process, regulators determined that the increase in the number of appraisals required may contribute to a higher burden and cost to financial institutions. Regulators concluded that increasing this threshold would reduce the burden for both rural and non-rural institutions while posing no threat to the safety and soundness of financial institutions.

Because the threshold for SBA’s 7(a) Loan Guaranty program is set at \$250,000 in statute, legislation is required to harmonize and modernize SBA’s loan program requirements with the threshold set by Federal banking regulators.

<sup>1</sup>Dilger, Robert Jay. Updated November 7, 2018. Small Business Administration 7(a) Loan Guaranty Program. Retrieved from: <http://www.crs.gov/Reports/R41146>.

<sup>2</sup>Id.

<sup>3</sup>OCC: 12 CFR 34.42(d); Federal Reserve: 12 CFR 225.62(d); and FDIC: 12 CFR 323.2(d).

<sup>4</sup>83 FR 15019.

## III. DESCRIPTION OF BILL

The bill amends the Small Business Act of 1953 to align the appraisal threshold amount for the Small Business Administration's 7(a) Loan Guaranty program to the Federal banking regulators' threshold amount for commercial real estate transactions, or the lesser amount of the three Federal banking regulators' (Federal Reserve System, Federal Deposit Insurance Corporation and Comptroller of the Currency) threshold for commercial real estate transactions, if there is a discrepancy.

## IV. COMMITTEE VOTE

In compliance with rule XXVI (7)(b) of the Standing Rules of the Senate, the following vote was recorded on October 11, 2018.

A motion to adopt the 7(a) Real Estate Appraisal Harmonization Act, a bill to amend the Small Business Act to align real estate appraisal threshold for the 7(a) program of the Small Business Administration to bring those thresholds into line with the threshold used by the Federal banking regulators, and for other purposes, was approved unanimously, by a roll call vote of 19–0, as part of a six-bill manager's package.<sup>5</sup> Senators Risch, Cardin, Rubio, Paul, Scott, Ernst, Inhofe, Young, Enzi, Rounds, Kennedy, Cantwell, Shaheen, Heitkamp, Markey, Booker, Coons, Hirono, and Duckworth voted for the bill.

## V. COST ESTIMATE

In compliance with rule XXVI (11)(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts discussed in the following letter from the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 15, 2018.*

Hon. JAMES E. RISCH,  
*Chairman, Committee on Small Business and Entrepreneurship,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3552, the 7(a) Real Estate Harmonization Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

Under current law, small businesses that receive loans under the Small Business Administration's (SBA's) 7(a) Loan Guaranty program are required to receive an appraisal on any commercial real

<sup>5</sup>The manager's package included: the substitute amendment for S. 2679, the Veterans Small Business Enhancement Act; S. 3552, the 7(a) Real Estate Appraisal Harmonization Act; S. 3553, the Small Business Access to Capital and Efficiency Act; S. 3554, a bill to extend the effective date for the sunset for collateral requirements for Small Business Administration disaster loans; S. 3561, the National Guard and Reserve Entrepreneurship Support Act; and S. 3562, the Small Business Runway Extension Act of 2018.

property used as collateral in securing those loans if the estimated value of the property is \$250,000 or greater. S. 3552 would raise that threshold to the lowest of the thresholds used by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation to determine when a commercial real estate transaction requires an appraisal. The threshold for all three agencies is currently \$500,000.

Using information from the SBA on the costs of similar activities, CBO estimates that implementing the bill would cost less than \$500,000 for the agency to update its program rules; such spending would be subject to the availability of appropriated funds. CBO also estimates that any change in the subsidy cost of SBA loans, which are subject to appropriation, would be insignificant.

Enacting S. 3552 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 3552 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 3552 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On August 13, 2018, CBO transmitted a cost estimate for H.R. 6347, the 7(a) Real Estate Appraisal Harmonization Act, as ordered reported by the House Committee on Small Business on July 18, 2018. The two pieces of legislation are similar and CBO's estimates of their budgetary effects is the same.

## VI. EVALUATION OF REGULATORY IMPACT

In compliance with rule XXVI (11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation.

## VII. SECTION-BY-SECTION ANALYSIS

### *Section 1: Short title*

This section provides the short title for the Act, the “7(a) Real Estate Appraisal Harmonization Act.”

### *Section 2: Appraisal thresholds*

This section amends section 7(a)(29) of the Small Business Act, 15 U.S.C. 636(a)(29), by adjusting the commercial real estate appraisal threshold for the 7(a) Loan Guaranty program to align with the threshold set by Federal banking regulators. This section does not specify a dollar amount for the 7(a) commercial real estate loan appraisal threshold, but rather modernizes the statute to match the threshold to the lowest level set by the Federal banking regulators, should they differ. Currently, the regulators have together set this level at \$500,000 as of April 9, 2018. This language is important to ensure that lenders who provide SBA products along with their conventional products—most of whom are federally regulated—do not have an added layer of complexity managing two different appraisal thresholds, while guaranteeing small business borrowers who cannot obtain credit elsewhere are not required to get an appraisal on loans that conventional borrowers do not have to obtain. This language also provides long-term clarity and certainty

to lenders and borrowers by unifying the 7(a) program's appraisal threshold with the Federal banking regulators threshold moving forward.

