

CDFI BOND GUARANTEE PROGRAM IMPROVEMENT ACT
OF 2022

JUNE 7, 2022.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 7733]

The Committee on Financial Services, to whom was referred the bill (H.R. 7733) to amend the Community Development Banking and Financial Institutions Act of 1994 to reauthorize and improve the community development financial institutions bond guarantee program, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “CDFI Bond Guarantee Program Improvement Act of 2022”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that the authority to guarantee bonds under section 114A of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4713a) (commonly referred to as the “CDFI Bond Guarantee Program”) provides community development financial institutions with a sustainable source of long-term capital and furthers the mission of the Community Development Financial Institutions Fund (established under section 104(a) of such Act (12 U.S.C. 4703(a)) to increase economic opportunity and promote community development investments for underserved populations and distressed communities in the United States.

SEC. 3. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

Section 114A of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4713a) is amended—

- (1) in subsection (c)(2), by striking “, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds”;
- (2) in subsection (e)(2)(B), by striking “\$100,000,000” and inserting “\$25,000,000”; and
- (3) in subsection (k), by striking “September 30, 2014” and inserting “the date that is 4 years after the date of enactment of the CDFI Bond Guarantee Program Improvement Act of 2022”.

SEC. 4. REPORT ON THE CDFI BOND GUARANTEE PROGRAM.

Not later than 1 year after the date of enactment of this Act, and not later than 3 years after such date of enactment, the Secretary of the Treasury shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the effectiveness of the CDFI bond guarantee program established under section 114A of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4713a).

PURPOSE AND SUMMARY

On May 12, 2022, Representative Cleaver introduced H.R. 7733, the “CDFI Bond Guarantee Program Improvement Act of 2022,” which would reduce the CDFI Bond Guarantee Program (BGP) minimum issuance threshold from \$100 million to \$25 million and make the program permanent. It would also activate a re-lending account, which allows any amounts remaining after bonds are repaid for use to fund additional loans.

BACKGROUND AND NEED FOR LEGISLATION

The BGP, authorized by the Small Business Jobs Act of 2010, is a federal credit program of the U.S. Department of the Treasury’s (Treasury) Community Development Financial Institutions Fund (CDFI Fund). The program provides CDFIs with long-term capital at fixed, below-market interest rates through federally-guaranteed bonds that are issued by approved bond issuers. Qualified issuers, which may be certified CDFIs or entities the CDFIs designate to issue bonds on their behalf approved by the CDFI Fund, apply to the CDFI Fund for authorization to issue bonds worth a minimum of \$100 million, and the CDFI Fund provides a 100% guarantee on those bonds. The bond issuers then sell those bonds to the Federal Financing Bank and use the proceeds to make loans to CDFIs to finance or refinance new or existing community development projects in low-income urban, rural, and Native communities throughout the country. Under the law, Treasury provides a 100% guarantee on up to 10 bonds annually. Since its inception, the

CDFI Fund has completed nine rounds of the program and guaranteed nearly \$1.7 billion in bonds, and 35 CDFIs have deployed about \$1.3 billion in loans to develop small businesses, commercial real estate, housing units, charter schools, day care or health care centers, and rural infrastructure.

In January 2022, the Community Reinvestment Fund, USA, testified before the Senate Banking Committee, noting that the current threshold “makes it difficult for small and medium sized CDFIs to participate in the BGP as they are generally seeking smaller bond loans, in the \$10 million to \$25 million range. Based on data from the CDFI Fund of 35 CDFI Bond Loans, “[s]ixty-five percent of the loans are for \$50 million or less, 44% of the loans are \$25 million or less, and 24% of the loans to date are for \$15 million or less”. While authorization for BGP lapsed in 2014, the program has been extended on a year-by-year basis in annual appropriations bills. CDFI advocates also note that “[t]he BGP is a sound, well managed program and to date there have been no delinquencies or defaults on any payment under this program.” When Congress created the BGP, it authorized the use of an account designed to hold any proceeds remaining after bond repayments have been made, so they may be available for funding additional loans. According to the CDFI Fund, the account has never been used in the history of the BGP, in part because of an unintended term in the formula for calculating the relending fund amount.

By lowering the minimum bond loan threshold to \$25 million, the H.R. 7733 would allow more eligible CDFIs, especially those seeking smaller loan bond amounts, to access the capital needed to spur community and economic development projects in communities across the nation. It would also make the program permanent, and correct the formula used for the program’s relending account to allow it to function for the first time, making any amounts remaining after bonds have been repaid, available for issuing additional loans.

This bill was considered at the House Financial Services Committee hearing on February 16, 2022, and a previous version of the bill was included in Section 5 of the “Promoting and Advancing Communities of Color Through Inclusive Lending Act,” introduced by Chairwoman Waters and Representative Meeks in August 2020. This bill is the House companion to a bipartisan bill in the Senate, S. 3411, which is sponsored by Senators Smith (D-MN) and Rounds (R-SD) and was introduced on January 5, 2022.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

- This section establishes the short title of the bill as the “CDFI Bond Guarantee Program Improvement Act of 2022.”

Section 2. Sense of Congress

- This section provides that it is the sense of Congress that the CDFI Bond Guarantee Program provides CDFIs with a sustainable source of long-term capital and furthers the mission of the CDFI Fund to increase economic opportunity and promote community development investments for underserved populations and distressed communities.

Section 3. Guarantees for bonds and notes issued for community or economic development purposes

- This section would amend Section 114A of the Community Development Banking and Financial Institutions Act of 1994, to remove certain restrictions on the amount of bonds or notes that may be made available for new eligible community or economic development purposes, and sets the minimum guarantee amount to \$25 million. This section would also make the program permanent four years after the bill's enactment.

Section 4. Report on the CDFI Bond Guarantee Program

- This section would require that Secretary of the Treasury submit two reports to Congress on the effectiveness of the CDFI Bond Guarantee Program, with the first within 1 year after the enactment of this bill, and the second within the 3rd year of the bill's enactment.

HEARINGS

For the purposes of section 3(c)(6) of House rule XIII, the Committee on Financial Services' Full Committee a hearing on February 16, 2022, to consider H.R. 7733 entitled, "An Unprecedented Investment for Historic Results: How Federal Support for MDIs and CDFIs Have Launched a New Era for Disadvantaged Communities."

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 18, 2022 and accepted an amendment to H.R. 7733 offered by Rep. Timmons by a voice vote. Subsequently, the Committee on Financial Services ordered H.R. 7733 to be reported favorably to the House with an amendment in the nature of a substitute by a voice vote, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no roll call votes occurred during consideration of H.R. 7733.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 7733 are to reduce the CDFI Bond Guarantee Program (BGP) minimum issuance threshold from \$100 million to \$25 million and make the program permanent and to activate a re-lending account, which allows any amounts remaining after bonds are repaid for use to fund additional loans.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested an estimate from the Director of the Congressional Budget Office. CBO was unable to provide an estimate in a timely manner.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 7733. After careful review, including discussions with the Congressional Budget Office, the Committee estimates that H.R. 7733 would have an insignificant impact on spending.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 7733, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104-1, H.R. 7733, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 7733 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 7733 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 7733, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

**COMMUNITY DEVELOPMENT BANKING AND FINANCIAL
INSTITUTIONS ACT OF 1994**

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**TITLE I—COMMUNITY DEVELOPMENT
AND CONSUMER PROTECTION**

**Subtitle A—Community Development
Banking and Financial Institutions Act**

* * * * *

**SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COM-
MUNITY OR ECONOMIC DEVELOPMENT PURPOSES.**

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term “eligible community development financial institution” means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

(2) ELIGIBLE COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSE.—The term “eligible community or economic development purpose”—

(A) means any purpose described in section 108(b); and

(B) includes the provision of community or economic development in low-income or underserved rural areas.

(3) GUARANTEE.—The term “guarantee” means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

(4) LOAN.—The term “loan” means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

(5) MASTER SERVICER.—

(A) IN GENERAL.—The term “master servicer” means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

(B) APPROVAL CRITERIA FOR MASTER SERVICERS.—The Secretary shall approve or deny any application to become a master servicer under the Program not later than 90 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

- (i) loan administration, servicing, and loan monitoring;
- (ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;
- (iii) managing regional or national originator communication systems and infrastructure;
- (iv) developing and implementing training and other risk management strategies on a regional or national basis; and
- (v) compliance monitoring, investor relations, and reporting.

(6) PROGRAM.—The term “Program” means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

(7) PROGRAM ADMINISTRATOR.—The term “Program administrator” means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

(8) QUALIFIED ISSUER.—

(A) IN GENERAL.—The term “qualified issuer” means a community development financial institution (or any entity designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

(B) APPROVAL CRITERIA FOR QUALIFIED ISSUERS.—

(i) IN GENERAL.—The Secretary shall approve a qualified issuer for a guarantee under the Program in accordance with the requirements of this paragraph, and such additional requirements as the Secretary may establish, by regulation.

(ii) TERMS AND QUALIFICATIONS.—A qualified issuer shall—

(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

(II) provide to the Secretary—

(aa) an acceptable statement of the proposed sources and uses of the funds; and

(bb) a capital distribution plan that meets the requirements of subsection (c)(1); and

(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

(C) DEPARTMENT OPINION; TIMING.—

(i) DEPARTMENT OPINION.—Not later than 30 days after the date of a request by a qualified issuer for approval of a guarantee under the Program, the Secretary shall provide an opinion regarding compliance by the issuer with the requirements of the Program under this section.

(ii) TIMING.—The Secretary shall approve or deny a guarantee under this section after consideration of the opinion provided to the Secretary under clause (i), and in no case later than 90 days after receipt of all required information by the Secretary with respect to a request for such guarantee.

(9) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(10) SERVICER.—The term “servicer” means an entity designated by the issuer to perform various servicing duties, as provided in subsection (f)(3).

(b) GUARANTEES AUTHORIZED.—The Secretary shall guarantee payments on bonds or notes issued by any qualified issuer, if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions—

(1) for eligible community or economic development purposes;

or

(2) to refinance loans or notes issued for such purposes.

(c) GENERAL PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A capital distribution plan meets the requirements of this subsection, if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than costs of issuance fees) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the 1-year period beginning on the issuance date of such guaranteed bonds or notes.

(2) RELENDING ACCOUNT.—Not more than 10 percent of the principal amount of guaranteed bonds or notes[, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds], minus the risk-share pool amount under subsection (d), may be held in a relending account and may be made available for new eligible community or economic development purposes.

(3) LIMITATIONS ON UNPAID PRINCIPAL BALANCES.—The proceeds of guaranteed bonds or notes under the Program may not be used to pay fees (other than costs of issuance fees), and shall be held in—

(A) community or economic development loans;

(B) a relending account, to the extent authorized under paragraph (2); or

(C) a risk-share pool established under subsection (d).

(4) REPAYMENT.—If a qualified issuer fails to meet the requirements of paragraph (1) by the end of the 90-day period beginning at the end of the annual measurement period, repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such

repayment into compliance with the 90 percent requirement of paragraph (1).

(5) PROHIBITED USES.—The Secretary shall, by regulation—

(A) prohibit, as appropriate, certain uses of amounts from the guarantee of a bond or note under the Program, including the use of such funds for political activities, lobbying, outreach, counseling services, or travel expenses; and

(B) provide that the guarantee of a bond or note under the Program may not be used for salaries or other administrative costs of—

(i) the qualified issuer; or

(ii) any recipient of amounts from the guarantee of a bond or note.

(d) RISK-SHARE POOL.—Each qualified issuer shall, during the term of a guarantee provided under the Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants an amount equal to 3 percent of the guaranteed amount outstanding on the subject notes and bonds.

(e) GUARANTEES.—

(1) IN GENERAL.—A guarantee issued under the Program shall—

(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

(B) be fully assignable and transferable to the capital market, on terms and conditions that are consistent with comparable Government-guaranteed bonds, and satisfactory to the Secretary;

(C) represent the full faith and credit of the United States; and

(D) not exceed 30 years.

(2) LIMITATIONS.—

(A) ANNUAL NUMBER OF GUARANTEES.—The Secretary shall issue not more than 10 guarantees in any calendar year under the Program.

(B) GUARANTEE AMOUNT.—The Secretary may not guarantee any amount under the Program equal to less than **[\$100,000,000]** \$25,000,000, but the total of all such guarantees in any fiscal year may not exceed \$1,000,000,000.

(f) SERVICING OF TRANSACTIONS.—

(1) IN GENERAL.—To maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified Program administrators, bond servicers, and a master servicer.

(2) DUTIES OF PROGRAM ADMINISTRATOR.—The duties of a Program administrator shall include—

(A) approving and qualifying eligible community development financial institution applications for participation in the Program;

(B) compliance monitoring;

(C) bond packaging in connection with the Program; and

(D) all other duties and related services that are customarily expected of a Program administrator.

(3) DUTIES OF SERVICER.—The duties of a servicer shall include—

- (A) billing and collecting loan payments;
- (B) initiating collection activities on past-due loans;
- (C) transferring loan payments to the master servicing accounts;
- (D) loan administration and servicing;
- (E) systematic and timely reporting of loan performance through remittance and servicing reports;
- (F) proper measurement of annual outstanding loan requirements; and
- (G) all other duties and related services that are customarily expected of servicers.

(4) DUTIES OF MASTER SERVICER.—The duties of a master servicer shall include—

- (A) tracking the movement of funds between the accounts of the master servicer and any other servicer;
- (B) ensuring orderly receipt of the monthly remittance and servicing reports of the servicer;
- (C) monitoring the collection comments and foreclosure actions;
- (D) aggregating the reporting and distribution of funds to trustees and investors;
- (E) removing and replacing a servicer, as necessary;
- (F) loan administration and servicing;
- (G) systematic and timely reporting of loan performance compiled from all bond servicers' reports;
- (H) proper distribution of funds to investors; and
- (I) all other duties and related services that are customarily expected of a master servicer.

(g) FEES.—

(1) IN GENERAL.—A qualified issuer that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary, in an amount equal to 10 basis points of the amount of the unpaid principal of the bond or note guaranteed.

(2) PAYMENT.—A qualified issuer shall pay the fee required under this subsection on an annual basis.

(3) USE OF FEES.—Fees collected by the Secretary under this subsection shall be used to reimburse the Department of the Treasury for any administrative costs incurred by the Department in implementing the Program established under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out this section.

(2) USE OF FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use the fees collected under subsection (g) for the cost of providing guarantees of bonds and notes under this section.

(i) INVESTMENT IN GUARANTEED BONDS INELIGIBLE FOR COMMUNITY REINVESTMENT ACT PURPOSES.—Notwithstanding any other provision of law, any investment by a financial institution in bonds

or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901).

(j) ADMINISTRATION.—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall implement this section.

(k) TERMINATION.—This section is repealed, and the authority provided under this section shall terminate, on **September 30, 2014** *the date that is 4 years after the date of enactment of the CDFI Bond Guarantee Program Improvement Act of 2022.*

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