

SMALL BUSINESS ACCESS TO CAPITAL AND EFFICIENCY
 ACT

SEPTEMBER 12, 2018.—Committed to the Committee of the Whole House on the
 State of the Union and ordered to be printed

Mr. CHABOT, from the Committee on Small Business,
 submitted the following

R E P O R T

[To accompany H.R. 6348]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill
 (H.R. 6348) to adjust the real estate appraisal thresholds under the
 section 504 program to bring them into line with the thresholds
 used by the Federal banking regulators, and for other purposes,
 having considered the same, report favorably thereon without
 amendment and recommend that the bill do pass.

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I. PURPOSE AND BILL SUMMARY

Although the economy continues to improve, small businesses, entrepreneurs, and startups regularly face challenges accessing capital. To assist creditworthy small businesses, the Small Business Administration (SBA) offers numerous lending programs, including the 504/Certified Development Company (504/CDC) Loan Program. With a focus on long-term and fixed-rate terms, the 504/CDC Loan Program supports small businesses with numerous lending needs, including financing related to real estate.

While not all property transactions are the same, most commercial real estate transactions require a formal appraisal above a certain dollar value. Set in 1994 by financial regulators, all commercial real estate transactions above \$250,000 require a formal appraisal. Likewise, SBA's 504/CDC appraisal threshold level is also \$250,000.

After 24 years, the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation updated their threshold level in the spring of 2018 from \$250,000 to \$500,000.

With an ever-growing list of burdens impacting small businesses, an outdated SBA appraisal threshold level will produce confusion and uncertainty for small businesses, and the very institutions that strive to serve them.

To similarly modernize the SBA 504/CDC Loan Program threshold, H.R. 6348, the Small Business Access to Capital Efficiency (ACE) Act, was introduced to benchmark the SBA threshold with the value set by financial regulators.

II. BACKGROUND AND NEED FOR LEGISLATION

To assist creditworthy small businesses that cannot access traditional lending sources, the SBA offers the 504/CDC Loan Program. The 504/CDC Loan Program provides long-term and fixed-rate financing to small businesses. Originally created in the Small Business Investment Act of 1958¹, the 504/CDC Loan Program assists small businesses with the acquisition of major fixed assets, such as real estate or machinery or for equipment purchases that expand or update their small businesses.

In order to operate the program and cover any losses, the SBA charges fees to protect the American taxpayer in accordance to the 1990 Federal Credit Reform Act (FCRA).² Because fees have been sufficient, the 504/CDC Loan Program has not needed an appropriation of funds from Congress for the last three fiscal years, and SBA has requested a zero subsidy for FY 2019.³

Unique to the 504/CDC Loan Program is the role of the certified development company, or CDC, which must be a non-profit corporation that is certified and regulated by SBA to participate in the

¹ 15 U.S.C. § 695.

² For any government loan program, FCRA requires an agency to collect an appropriation or fee to cover the cost of the program. 2 U.S.C. § 661.

³ For FY 2016, SBA requested zero subsidy. SBA, FY 2016 CONGRESSIONAL BUDGET JUSTIFICATION AND FY 2014 ANNUAL PERFORMANCE REPORT at 41. For FY 2017, SBA requested zero subsidy. SBA, FY 2017 CONGRESSIONAL BUDGET JUSTIFICATION AND FY 2015 ANNUAL PERFORMANCE REPORT at 39. For FY 2018, SBA requested zero subsidy. FY 2018 CONGRESSIONAL BUDGET JUSTIFICATION AND FY 2016 ANNUAL PERFORMANCE REPORT at 31. For FY 2019, SBA requested zero subsidy. FY 2019 CONGRESSIONAL BUDGET JUSTIFICATION AND FY 2017 ANNUAL PERFORMANCE REPORT at 34.

program.⁴ Along with the small businesses and the financial institutions that are involved in the credit transaction, CDCs also play a major role in the cost structure of the loan program. A standard loan is organized where the small business or borrower is responsible for 10 percent of the project. The financial institution is in the senior lien position and is responsible for 50 percent of the value of the project, and the remaining balance of 40 percent belongs to the CDC, which is in the second lien position, through a federal government guaranteed debenture. Importantly, funds are not lent by SBA; rather SBA guarantees the loans made by the CDC.

A hallmark of the 504/CDC Loan Program, and a differentiating characteristic among SBA's many loan products, is the focus on economic development. Eligibility in the loan program and the size of the loan is determined based on the borrower either meeting a job creation or job retention requirement. Job creation is defined as creating or retaining at least one job for every \$65,000 spent on the project. If meeting the job creation or retention requirement cannot be achieved, a borrower can still qualify if they meet either one community development goal or a number of public policy goals.⁵

With a concentration on long-term and fixed-rate loans, the 504/CDC Loan Program is an important small business lending tool for real estate transactions. When the transaction is above a certain dollar value, a formal real estate appraisal is required before the transaction can be completed. In 1994, federal banking regulators, including the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, set the appraisal threshold at \$250,000.⁶ Although the limit for the 504/CDC Loan Program is set at the same value, the SBA's appraisal threshold is set in statute within the Small Business Investment Act.⁷

After more than two decades, federal banking regulators decided to update and modernize the real estate appraisal threshold from \$250,000 to \$500,000.⁸ Due to the 504/CDC Loan Program threshold value being codified in statute, H.R.6348 was introduced to modernize SBA's real estate appraisal threshold.

III. HEARINGS

While one hearing has been held by the Committee in the 115th Congress exploring SBA's 504/CDC loan program, the hearing did not specifically examine reforming the program's real estate threshold.

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on July 18, 2018, and ordered H.R. 6348 be

⁴ SOP 50 10 5(I). Subpart A., Ch. 3(I)(B).

⁵ The community development goals are: improving, diversifying, or stabilizing the local economy; stimulating business development; generating new income; helping manufacturing firms; or assisting the labor supply. The public policy goals are: revitalizing a business district with a redevelopment plan; increase of exports; increase of women owned small businesses, veteran owned small businesses, or minority owned businesses; assisting with rural development; increasing productivity or competitiveness; modernizing facilities to meet health, safety and environmental requirements; helping businesses in areas impacted by Federal budget reductions or base closings; or reducing the unemployment rate. 13 § CFR 120.862.

⁶ 59 Fed. Reg. 29,482 (June 7, 1994).

⁷ 15 U.S.C. 696(3)(E)(ii).

⁸ 83 Fed. Reg. 15,019 (Apr. 9, 2018)

favorably reported, as amended, to the House via voice vote at 11:18 A.M. During the markup, no amendments were offered.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. The Committee voted via voice vote to report H.R. 6348 to the House at 11:18 A.M.

COMMITTEE ON SMALL BUSINESS
TALLY SHEET

DATE: 7/18
 BILL NUMBER: 6348
 ROLL CALL:
 AMENDMENT NUMBER:
 VOTE: (AYE) (NO)

QUORUM: 13
 PRESENT:

11:18 ✓✓

MEMBER	AYE	NO	NOT VOTING
Mr. Chabot, Chairman			
Mr. King			
Mr. Luetkemeyer			
Mr. Brat			
Ms. Radewagen			
Mr. Knight			
Mr. Kelly			
Mr. Blum			
Mr. Comer			
Ms. González-Colón			
Mr. Fitzpatrick			
Dr. Marshall			
Mr. Norman			
Mr. Curtis			
Ms. Velázquez, Ranking Member			
Mr. Evans			
Ms. Murphy			
Mr. Lawson, Jr.			
Ms. Clarke			
Ms. Chu			
Ms. Adams			
Mr. Espaillat			
Mr. Schneider			
VACANT			
TOTALS			

On this vote there were _____ ayes and _____ nos.

VI. SECTION-BY-SECTION ANALYSIS OF H.R. 6348

Section 1. Short title

This section designates the bill as the “Small Business Access to Capital and Efficiency Act” or the “Small Business ACE Act.”

Section 2. Appraisal thresholds

This section amends sections 502(3)(E)(ii) of the Small Business Investment Act of 1958 (15 U.S.C. 696(3)(E)(ii)) by updating the SBA’s 504/CDC Loan Program commercial real estate appraisal threshold to correspond with the level set by federal banking regulators.

H.R. 6348 does not set a specific dollar value; rather, it matches the level set by the federal banking regulators. Additionally, if one federal banking regulator has a different value compared to the others, the SBA 504/CDC Loan Program appraisal value will match the regulator with the lowest threshold. Federal banking regulator exemptions do not apply, as the 504/CDC Loan Program’s appraisal threshold follows the Small Business Investment Act.

Mirroring the value set by federal banking regulators, instead of codifying a value in statute, will remove uncertainty for SBA 504/CDC loans when federal banking regulators set their own value. As federal banking regulators update their value, the SBA value will move as well. This is important because many SBA lending partners, which include community banks and credit unions, are also regulated by federal banking regulators because of their conventional lending products. H.R. 6348 will remove the uncertainty lenders now have juggling two different real estate appraisal thresholds.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Congressional Budget Office, pursuant to § 402 of the Congressional Budget Act of 1974, submitted a cost estimate for H.R. 6348 that stated enacting the legislation would not increase net direct spending or on budget deficits in any of the four 10-year periods beginning in 2029.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 13, 2018.

Hon. STEVE CHABOT,
*Chairman, Committee on Small Business,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6348, the Small Business ACE Act.

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

Sincerely,

MARK P. HADLEY
(For Keith Hall, Director).

Enclosure.

H.R. 6348—Small Business ACE Act

Under current law, small businesses that receive loans under the Small Business Administration's (SBA's) 504/Certified Development Company Loan program are required to receive an appraisal on commercial real property used as collateral in securing those loans if the estimated value of the property is \$250,000 or greater. H.R. 6348 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 is subject to appropriation, would also be insignificant.

Enacting H.R. 6348 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 6348 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 6348 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VIII. UNFUNDED MANDATES

H.R. 6348 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act, Pub. L. No. 104-4, and would impose no costs on state, local or tribal governments.

IX. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. The Committee adopts the cost estimate prepared by the Director of the Congressional Budget Office pursuant to § 402 of the Congressional Budget Act of 1974.

X. OVERSIGHT FINDINGS

In accordance with clause 2(b)(1) of rule X of the Rules of the House, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 6348 are incorporated into the descriptive portions of this report.

XI. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the Committee finds that the authority for this legislation in Art. I, §8, cl. 3 of the Constitution of the United States.

XII. CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 6348 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of § 102(b)(3) of Pub. L. No. 104-1.

XIII. FEDERAL ADVISORY COMMITTEE ACT STATEMENT

H.R. 6348 does not establish or authorize the establishment of any new advisory committees as that term is defined in the Federal Advisory Committee Act, 5 U.S.C. App. 2.

XIV. STATEMENT OF NO EARMARKS

Pursuant to clause 9 of rule XXI, H.R. 6348 does not contain any congressional earmarks, limited tax benefits or limited tariff benefits as defined in subsections (d), (e) or (f) of clause 9 of rule XXI of the Rules of the House.

XV. STATEMENT OF DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c) of the rule XIII of the Rules of the House, no provision of H.R. 6348 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 United States Government Accountability Office pursuant to § 21 of Pub. L. No. 111-139, or a program related to a program identified in the most recent catalog of federal domestic assistance.

XVI. DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House, H.R. 6348 does not direct any rule making.

XVII. PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House, the Committee establishes the following performance-related goals and objectives in this legislation:

H.R. 6348 would update SBA's 504/CDC Loan Program's commercial real estate appraisal threshold to match the level set by federal financial regulators.

XVIII. 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 italic, and existing law in which no change is proposed is shown in roman):

SMALL BUSINESS INVESTMENT ACT OF 1958

* * * * *

**TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT
COMPANIES**

* * * * *

**LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION, AND
EXPANSION**

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant acquisition, construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) USE OF PROCEEDS.—The proceeds of any such loan shall be used solely by the borrower to assist 1 or more identifiable small business concerns and for a sound business purpose approved by the Administration.

(2) MAXIMUM AMOUNT.—

(A) IN GENERAL.—Loans made by the Administration under this section shall be limited to—

(i) \$5,000,000 for each small business concern if the loan proceeds will not be directed toward a goal or project described in clause (ii), (iii), (iv), or (v);

(ii) \$5,000,000 for each small business concern if the loan proceeds will be directed toward 1 or more of the public policy goals described under section 501(d)(3);

(iii) \$5,500,000 for each project of a small manufacturer;

(iv) \$5,500,000 for each project that reduces the borrower's energy consumption by at least 10 percent; and

(v) \$5,500,000 for each project that generates renewable energy or renewable fuels, such as biodiesel or ethanol production.

(B) DEFINITION.—As used in this paragraph, the term "small manufacturer" means a small business concern—

(i) the primary business of which is classified in sector 31, 32, or 33 of the North American Industrial Classification System; and

(ii) all of the production facilities of which are located in the United States.

(3) CRITERIA FOR ASSISTANCE.—

(A) IN GENERAL.—Any development company assisted under this section or section 503 of this title must meet the criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(B) COMMUNITY INJECTION FUNDS.—

(i) SOURCES OF FUNDS.—Community injection funds may be derived, in whole or in part, from—

- (I) State or local governments;
- (II) banks or other financial institutions;
- (III) foundations or other not-for-profit institutions; or
- (IV) the small business concern (or its owners, stockholders, or affiliates) receiving assistance through a body authorized by this title.

(ii) FUNDING FROM INSTITUTIONS.—Not less than 50 percent of the total cost of any project financed pursuant to clauses (i), (ii), or (iii) of subparagraph (C) shall come from the institutions described in subclauses (I), (II), and (III) of clause (i).

(C) FUNDING FROM A SMALL BUSINESS CONCERN.—The small business concern (or its owners, stockholders, or affiliates) receiving assistance through a body authorized by this title shall provide—

- (i) at least 15 percent of the total cost of the project financed, if the small business concern has been in operation for a period of 2 years or less;
- (ii) at least 15 percent of the total cost of the project financed if the project involves the construction of a limited or single purpose building or structure;
- (iii) at least 20 percent of the total cost of the project financed if the project involves both of the conditions set forth in clauses (i) and (ii); or
- (iv) at least 10 percent of the total cost of the project financed, in all other circumstances, at the discretion of the development company.

(D) SELLER FINANCING.—Seller-provided financing may be used to meet the requirements of subparagraph (B), if the seller subordinates the interest of the seller in the property to the debenture guaranteed by the Administration.

(E) COLLATERALIZATION.—

(i) IN GENERAL.—The collateral provided by the small business concern shall generally include a subordinate lien position on the property being financed under this title, and is only 1 of the factors to be evaluated in the credit determination. Additional collateral shall be required only if the Administration determines, on a case-by-case basis, that additional security is necessary to protect the interest of the Government.

(ii) APPRAISALS.—**[With respect to]**

(I) IN GENERAL.—With respect to commercial real property provided by the small business concern as collateral, an appraisal of the property by a State licensed or certified appraiser—

[(I)] *(aa) shall be required by the Administration before disbursement of the loan if the estimated value of that property [is more than \$250,000] is more than the Federal banking regulator appraisal threshold; or*

[(II)] (bb) may be required by the Administration or the lender before disbursement of the loan if the estimated value of that property [is \$250,000 or less] is equal to or less than the Federal banking regulator appraisal threshold, and such appraisal is necessary for appropriate evaluation of creditworthiness.

(II) FEDERAL BANKING REGULATOR APPRAISAL THRESHOLD DEFINED.—For purposes of this clause, 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.

(4) If the project is to construct a new facility, up to 33 percent of the total project may be leased, if reasonable projections of growth demonstrate that the assisted small business concern will need additional space within three years and will fully utilize such additional space within ten years.

(5) LIMITATION ON LEASING.—In addition to any portion of the project permitted to be leased under paragraph (4), not to exceed 20 percent of the project may be leased by the assisted small business to 1 or more other tenants, if the assisted small business occupies permanently and uses not less than a total of 60 percent of the space in the project after the execution of any leases authorized under this section.

(6) OWNERSHIP REQUIREMENTS.—Ownership requirements to determine the eligibility of a small business concern that applies for assistance under any credit program under this title 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.

(7) PERMISSIBLE DEBT REFINANCING.—

(A) IN GENERAL.—Any financing approved under this title may include a limited amount of debt refinancing.

(B) EXPANSIONS.—If the project involves expansion of a small business concern, any amount of existing indebtedness that does not exceed 50 percent of the project cost of the expansion may be refinanced and added to the expansion cost, if—

(i) the proceeds of the indebtedness were used to acquire land, including a building situated thereon, to construct a building thereon, or to purchase equipment;

(ii) the existing indebtedness is collateralized by fixed assets;

(iii) the existing indebtedness was incurred for the benefit of the small business concern;

(iv) the financing under this title will be used only for refinancing existing indebtedness or costs relating to the project financed under this title;

(v) the financing under this title will provide a substantial benefit to the borrower when prepayment penalties, financing fees, and other financing costs are accounted for;

(vi) the borrower has been current on all payments due on the existing debt for not less than 1 year preceding the date of refinancing; and

(vii) the financing under section 504 will provide better terms or rate of interest than the existing indebtedness at the time of refinancing.

[Note: Section 521(a) of division E of Public Law 114–113 provides: Subparagraph (C) of section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)), as in effect on September 25, 2012, shall be in effect in any fiscal year during which the cost to the Federal Government of making guarantees under such subparagraph (C) and section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is zero, except that subclause (I)(bb) and subclause (II) of clause (iv) of such subparagraph (C) shall not be in effect; unless, upon application by a development company and after determining that the refinance loan is needed for good cause, the Administrator of the Small Business Administration waives this paragraph, a development company shall limit its financings under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) so that, during any fiscal year, new financings under such subparagraph (C) shall not exceed 50 percent of the dollars loaned under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) during the previous fiscal year; and clause (iv)(I)(aa) of such subparagraph (C) shall be applied by substituting “job creation and retention” for “job creation”. Effective on September 27, 2012, subparagraph (C) of section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) was repealed by section 1122(b) of Public Law 111–240. Prior to such amendment having taken effect, subparagraph (C) read as follows:]

(C) *REFINANCING NOT INVOLVING EXPANSIONS.*—

(i) *DEFINITIONS.*—*In this subparagraph—*

(I) *the term “borrower” means a small business concern that submits an application to a development company for financing under this subparagraph;*

(II) *the term “eligible fixed asset” means tangible property relating to which the Administrator may provide financing under this section; and*

(III) *the term “qualified debt” means indebtedness—*

(aa) that—

(AA) was incurred not less than 2 years before the date of the application for assistance under this subparagraph;

(BB) is a commercial loan;

(CC) is not subject to a guarantee by a Federal agency;

(DD) the proceeds of which were used to acquire an eligible fixed asset;

(EE) was incurred for the benefit of the small business concern; and

(FF) is collateralized by eligible fixed assets; and

(bb) for which the borrower has been current on all payments for not less than 1 year before the date of the application.

(ii) AUTHORITY.—A project that does not involve the expansion of a small business concern may include the refinancing of qualified debt if—

(I) the amount of the financing is not more than 90 percent of the value of the collateral for the financing, except that, if the appraised value of the eligible fixed assets serving as collateral for the financing is less than the amount equal to 125 percent of the amount of the financing, the borrower may provide additional cash or other collateral to eliminate any deficiency;

(II) the borrower has been in operation for all of the 2-year period ending on the date of the loan; and

(III) for a financing for which the Administrator determines there will be an additional cost attributable to the refinancing of the qualified debt, the borrower agrees to pay a fee in an amount equal to the anticipated additional cost.

(iii) FINANCING FOR BUSINESS EXPENSES.—

(I) FINANCING FOR BUSINESS EXPENSES.—The Administrator may provide financing to a borrower that receives financing that includes a refinancing of qualified debt under clause (ii), in addition to the refinancing under clause (ii), to be used solely for the payment of business expenses.

(II) APPLICATION FOR FINANCING.—An application for financing under subclause (I) shall include—

(aa) a specific description of the expenses for which the additional financing is requested; and

(bb) an itemization of the amount of each expense.

(III) CONDITION ON ADDITIONAL FINANCING.—A borrower may not use any part of the financing under this clause for non-business purposes.

(iv) LOANS BASED ON JOBS.—

(I) JOB CREATION AND RETENTION GOALS.—

(aa) IN GENERAL.—The Administrator may provide financing under this subparagraph for a borrower that meets the job creation goals under subsection (d) or (e) of section 501.

(bb) *ALTERNATE JOB RETENTION GOAL.*—The Administrator may provide financing under this subparagraph to a borrower that does not meet the goals described in item (aa) in an amount that is not more than the product obtained by multiplying the number of employees of the borrower by \$65,000.

(II) *NUMBER OF EMPLOYEES.*—For purposes of subclause (I), the number of employees of a borrower is equal to the sum of—

(aa) the number of full-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; and

(bb) the product obtained by multiplying—

(AA) the number of part-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; by

(BB) the quotient obtained by dividing the average number of hours each part time employee of the borrower works each week by 40.

(v) *NONDELEGATION.*—Notwithstanding section 508(e), the Administrator may not permit a premier certified lender to approve or disapprove an application for assistance under this subparagraph.

(vi) *TOTAL AMOUNT OF LOANS.*—The Administrator may provide not more than a total of \$7,500,000,000 of financing under this subparagraph for each fiscal year.

* * * * *

