

116TH CONGRESS
2D SESSION

H. R. 6790

To prohibit the enforcement of certain loan covenants during the COVID–19 national emergency, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2020

Mr. SHERMAN (for himself and Ms. WATERS) introduced the following bill;
which was referred to the Committee on Financial Services

A BILL

To prohibit the enforcement of certain loan covenants during the COVID–19 national emergency, 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 “Business Borrowers
5 Protection Act”.

6 **SEC. 2. ENFORCEMENT OF LOAN COVENANTS.**

7 (a) LOANS RECEIVED UNDER COVID–19 RELIEF
8 PROGRAMS.—Any loan that a borrower receives under a
9 COVID–19 relief program may not be taken into ac-
10 count—

1 (1) in determining whether—

2 (A) the borrower is in violation of any loan
3 covenant of a covered loan; or

4 (B) a lender may accelerate the due date
5 of any covered loan agreement; or

6 (2) in calculating the debts or liabilities of the
7 borrower for purposes of determining whether such
8 borrower is in conformity with any covered loan
9 agreement.

10 (b) LOAN COVENANTS NOT ENFORCEABLE DURING
11 COVID–19 NATIONAL EMERGENCY.—

12 (1) IN GENERAL.—A lender may not enforce
13 any loan covenant during the period beginning on
14 the date of enactment of this Act and ending on the
15 day that is 1 year after the termination of the na-
16 tional emergency declared by the President on
17 March 13, 2020, under the National Emergencies
18 Act (50 U.S.C. 1601 et seq.) relating to the
19 COVID–19 pandemic.

20 (2) RULEMAKING.—Not later than the end of
21 the 60-day period beginning on the date of enact-
22 ment of this Act, the Secretary of the Treasury shall
23 issue such regulations and guidance as may be nec-
24 essary to ensure that any lender who complies with
25 the requirements described in paragraph (1) is not

1 deemed to be in violation of any law or regulation
2 relating to the enforcement of loan covenants.

3 (c) TRUSTEE OR PERSON WITH FIDUCIARY DUTY
4 NOT LIABLE.—

5 (1) IN GENERAL.—No trustee or other person
6 with a fiduciary duty to the holders of any debt se-
7 curity shall be liable for any decision made not to
8 enforce a loan covenant related to such debt secu-
9 rity.

10 (2) APPLICABILITY.—Paragraph (1) shall only
11 apply during the period beginning on March 12,
12 2020, and ending on March 13, 2022.

13 (d) DEFINITIONS.—In this Act, the following defini-
14 tions apply:

15 (1) COVERED LOAN.—The term “covered loan”
16 means a loan entered into on or before the date of
17 the enactment of this Act.

18 (2) COVID–19 RELIEF PROGRAM.—The term
19 “COVID–19 relief program” means any program
20 created by—

21 (A) the Coronavirus Preparedness and Re-
22 sponse Supplemental Appropriations Act, 2020
23 (Public Law 116–123);

24 (B) the Families First Coronavirus Re-
25 sponse Act (Public Law 116–127);

1 (C) the CARES Act (Public Law 116–
2 136); or

3 (D) the Federal Government or any State,
4 local, Tribal, or territorial government for the
5 purpose of reducing the financial losses of busi-
6 nesses caused by the spread of COVID–19.

7 (3) LOAN COVENANT.—The term “loan cov-
8 enant” means any provision in a covered loan agree-
9 ment that allows or requires the acceleration of re-
10 payments due under any loan agreement or that re-
11 duces the availability of funds under a line of cred-
12 it—

13 (A) due to any act or omission of a bor-
14 rower or any entity related to the borrower; or

15 (B) because the total liabilities or current
16 liabilities of a borrower exceed—

17 (i) any benchmark; or

18 (ii) any percentage of the assets of the
19 borrower, revenues, equity, or any other
20 benchmark.

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