

117TH CONGRESS
1ST SESSION

H. R. 2206

To amend title 23, United States Code, to modify the transportation finance infrastructure and innovation program with respect to community development financial institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2021

Mr. DESAULNIER introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 23, United States Code, to modify the transportation finance infrastructure and innovation program with respect to community development financial institutions, 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 “Equitable Transit Ori-
5 ented Development Support Act”.

6 **SEC. 2. INFRASTRUCTURE FINANCE.**

7 (a) **GENERALLY APPLICABLE PROVISIONS.**—Section
8 601(a) of title 23, United States Code, is amended—

1 (1) by inserting “and section 611” after “609”;

2 (2) in paragraph (2)—

3 (A) in subparagraph (C) by striking “;
4 and” and inserting a semicolon;

5 (B) in subparagraph (D) by striking the
6 period and inserting “; and”; and

7 (C) by adding at the end the following:

8 “(E) capitalizing a CDFI TOD account.”;

9 (3) in paragraph (12)—

10 (A) in subparagraph (E) by striking “;
11 and” and inserting a semicolon;

12 (B) in subparagraph (F) by striking the
13 period and inserting “; and”; and

14 (C) by adding at the end the following:

15 “(G) the capitalization of a CDFI TOD
16 account.”; and

17 (4) by adding at the end the following:

18 “(23) CDFI.—The term ‘CDFI’ has the mean-
19 ing given the term ‘community development financial
20 institution’ under section 103 of the Riegle Commu-
21 nity Development and Regulatory Improvement Act
22 of 1994 (12 U.S.C. 4702).

23 “(24) CDFI TOD ACCOUNT.—The term ‘CDFI
24 TOD account’ means an account—

1 “(A) established within a CDFI under sec-
 2 tion 611(c);

3 “(B) capitalized with the proceeds of a se-
 4 cured loan made to a CDFI in accordance with
 5 sections 602 and 603;

6 “(C) for the purpose of making loans to
 7 sponsors of transit-oriented development
 8 projects in accordance with section 611.”.

9 (b) DETERMINATION OF ELIGIBILITY AND PROJECT
 10 SELECTION.—Section 602 of title 23, United States Code,
 11 is amended—

12 (1) in subsection (a)—

13 (A) in paragraph (2) by adding at the end
 14 the following:

15 “(C) CDFI.—Notwithstanding subpara-
 16 graphs (A) and (B), in a case in which the Fed-
 17 eral credit instrument is provided to a CDFI,
 18 the Secretary may rely upon a credit assess-
 19 ment of the CDFI by the Secretary of Treasury
 20 in lieu of investment grade ratings and credit
 21 opinions from rating agencies.”;

22 (B) in paragraph (4) by inserting “CDFI,”
 23 after “partnership,”;

24 (C) in paragraph (5)(B) by inserting at
 25 the end the following:

1 “(v) CDFI TOD ACCOUNTS.—In the
 2 case of a project capitalizing a CDFI TOD
 3 account, eligible project costs shall not ex-
 4 ceed \$100,000,000.”;

5 (D) in paragraph (6)—

6 (i) in subparagraph (C) by striking
 7 “or”;

8 (ii) in subparagraph (D) by striking
 9 the period and inserting “; or”; and

10 (iii) by adding at the end the fol-
 11 lowing:

12 “(E) in the case of a CDFI TOD account,
 13 the unconditional promissory obligation of a
 14 CDFI.”;

15 (E) in paragraph (7)—

16 (i) by striking “State or local govern-
 17 ment or” and inserting “State or local gov-
 18 ernment,”; and

19 (ii) by inserting “or a CDFI,” before
 20 “the project”;

21 (F) in paragraph (9)—

22 (i) by striking “The Secretary” and
 23 inserting “(A) IN GENERAL—The Sec-
 24 retary”;

1 (ii) by redesignating subparagraphs
2 (A), (B), and (C) as clauses (i), (ii), and
3 (iii); and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(B) CDFI TOD ACCOUNTS.—With respect
7 to financial assistance provided to a CDFI
8 under the TIFIA program, the Secretary shall
9 deem that the project generates beneficial ef-
10 fects.”; and

11 (G) in paragraph (10)—

12 (i) in subparagraph (A) by striking
13 “subparagraph (B)” and inserting “sub-
14 paragraphs (B) and (C)”; and

15 (ii) by adding at the end the fol-
16 lowing:

17 “(C) CDFI TOD ACCOUNT.—In the case of
18 a project capitalizing a CDFI TOD account,
19 the CDFI shall demonstrate to the Secretary,
20 not later than two years after the date on which
21 a secured loan is obligated for the project under
22 the TIFIA program, that the CDFI has exe-
23 cuted a loan agreement with a project sponsor
24 in accordance with section 611. After the dem-
25 onstration is made, the CDFI may draw upon

the secured loan. At the end of the 2-year period, to the extent the CDFI has not used the loan commitment, the Secretary may extend the time period for using the loan commitment or withdraw the loan commitment.”; and

(2) in subsection (b)(3)—

(A) by striking “The Secretary” and inserting “(A) IN GENERAL—The Secretary”;

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(C) by adding at the end the following:

“(B) CDFI TOD ACCOUNT.—Notwithstanding subparagraph (A), in the case of an applicant that is a CDFI, in lieu of a preliminary rating opinion letter, the Secretary may rely upon a letter from the Secretary of the Treasury that verifies the applicant is a CDFI certified by the Community Development Financial Institutions Fund of the Department of the Treasury.”.

(c) SECURED LOANS.—Section 603 of title 23, United States Code, is amended—

(1) in subsection (a)(3) by striking “section 602(b)(3)(B)” and inserting “section 603(b)(3)(A)(ii) or, with respect to a CDFI, the let-

ter of the Secretary of Treasury under section
602(b)(3)(B)”;

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A) by striking
“subparagraph (B)” and inserting “sub-
paragraphs (B) and (C)”; and

(ii) by adding at the end the fol-
lowing:

“(C) CDFI TOD ACCOUNT.—In the case of
a project capitalizing a CDFI TOD account,
the maximum amount of a secured loan made
to a CDFI shall be determined in accordance
with section 602(a)(5)(B)(v).”;

(B) in paragraph (3)(A)(i)—

(i) in subclause (IV) by striking “; or”
and inserting “;”;

(ii) in subclause (V) by striking “;
and” and inserting “; or”; and

(iii) by adding at the end the fol-
lowing:

“(VI) in the case of a secured
loan for a project capitalizing a CDFI
TOD account, any other revenue
sources available to a CDFI, including

1 repayments from loans made for
 2 projects in accordance with section
 3 611; and”;

4 (C) in paragraph (4)(B)—

5 (i) in the header by inserting “and
 6 CDFI TOD accounts” after “infrastruc-
 7 ture projects”;

8 (ii) in clause (i) by striking “or a
 9 rural projects fund” and inserting “, a
 10 rural projects fund, or a CDFI TOD ac-
 11 count”;

12 (iii) in clause (ii) by striking “and
 13 rural project funds” and inserting “, rural
 14 projects funds, and CDFI TOD accounts”;

15 (D) in paragraph (5)(B)—

16 (i) in the header by inserting “and
 17 CDFI TOD account” after “Rural projects
 18 fund”;

19 (ii) by inserting “or CDFI TOD ac-
 20 count” after “rural projects fund”;

21 (E) in paragraph (9) by adding at the end
 22 the following:

23 “(C) CDFI TOD ACCOUNT.—A project cap-
 24 italizing a CDFI TOD account shall satisfy
 25 subparagraph (A) through compliance with the

1 Federal share requirement described in section
2 611(c)(3)(A).”.

3 (d) PROGRAM ADMINISTRATION.—Section 605 of
4 title 23, United States Code, is amended—

5 (1) in subsection (d) by inserting “, community
6 development,” after “field of municipal”;

7 (2) by redesignating subsections (e) and (f) as
8 subsections (g) and (h), respectively;

9 (3) by inserting after subsection (d) the fol-
10 lowing:

11 “(e) ASSISTANCE FROM THE SECRETARY OF TREAS-
12 URY.—The Secretary shall consult with the Secretary of
13 the Treasury in assessing the creditworthiness of CDFI
14 applicants and shall enter into a memorandum of under-
15 standing pursuant to section 611(b) of this chapter
16 through which the Secretary of the Treasury provides as-
17 sistance in the credit underwriting, servicing, and moni-
18 toring of Federal credit instruments provided to CDFI
19 TOD accounts.

20 “(f) IMPLEMENTATION.—Not later than 180 days
21 after enactment of Section 611, the Secretary shall imple-
22 ment this section by releasing program guidance and solie-
23 iting applications.”; and

24 (4) in subsection (h) (as so redesignated)—

1 (A) in the heading by inserting “and CDFI
2 TOD accounts” after “small projects”; and

3 (B) in paragraph (1)—

4 (i) by striking “608(a)(5)” and insert-
5 ing “608(a)(6)”;

6 (ii) by striking “\$2,000,000” and in-
7 serting “\$4,000,000”; and

8 (iii) by striking “\$75,000,000” and
9 inserting “\$100,000,000”.

10 (e) FUNDING.—Section 608(a) of title 23, United
11 States Code, is amended—

12 (1) by redesignating paragraphs (4) and (5) as
13 paragraphs (5) and (6), respectively;

14 (2) by inserting after paragraph (3) the fol-
15 lowing:

16 “(4) CDFI SET ASIDE.—

17 “(A) IN GENERAL.—Of the total amount
18 of funds made available to carry out the TIFIA
19 program for each fiscal year, not more than 10
20 percent shall be set aside for CDFI TOD ac-
21 counts.

22 “(B) REOBLIGATION.—Any amounts set
23 aside under subparagraph (A) that remain un-
24 obligated by June 1 of the fiscal year for which
25 the amounts were set aside shall be available

1 for obligation by the Secretary on projects other
 2 than CDFI TOD accounts.”; and

3 (3) by adding at the end the following:

4 “(7) REIMBURSEMENTS TO THE SECRETARY OF
 5 THE TREASURY.—Of the amounts authorized for the
 6 administration of the TIFIA program under para-
 7 graph (6), the Secretary may use not more than 10
 8 percent for each fiscal year to reimburse the Sec-
 9 retary of the Treasury for assistance provided pur-
 10 suant to a memorandum of understanding under
 11 section 611(b).”.

12 (f) COMMUNITY DEVELOPMENT FINANCIAL INSTITU-
 13 TION TRANSIT-ORIENTED DEVELOPMENT.—

14 (1) IN GENERAL.—Chapter 6 of title 23, United
 15 States Code, is amended by adding at the end the
 16 following:

17 “§ 611. **Community development financial institution**
 18 **transit-oriented development**

19 “(a) DEFINITIONS.—In this section:

20 “(1) CDFI TOD PROJECT.—The term ‘CDFI
 21 TOD project’ means a project located within one-
 22 half mile in an urban area or three-fourths of a mile
 23 in a rural area of a fixed guideway transit facility,
 24 passenger rail station, intercity bus station or inter-
 25 modal facility that supports—

1 “(A) commercial facilities or businesses
2 that are located in low-income communities and
3 are—

4 “(i) owned by low-income persons;

5 “(ii) principally serve low-income per-
6 sons or low-income community residents;
7 or

8 “(iii) principally employ low-income
9 persons;

10 “(B) community facilities that are located
11 in low-income communities or principally serve
12 low-income persons; or

13 “(C) housing that is principally affordable
14 to low-income persons.

15 “(2) INVESTMENT AREA.—The term ‘Invest-
16 ment Area’ has the meaning given the term in sec-
17 tion 1805.201(b)(3)(B)(ii) of title 12, Code of Fed-
18 eral Regulations (as in effect on the date of enact-
19 ment of this section).

20 “(3) LOAN.—The term ‘loan’ means any form
21 of direct financial assistance that is required to be
22 repaid over a period of time provided by a CDFI to
23 a project sponsor for all or part of the costs of a
24 CDFI TOD project.

1 “(4) LOW-INCOME COMMUNITY.—The term
2 ‘low-income community’ means a community that is
3 located in an Investment Area.

4 “(5) LOW-INCOME PERSON.—The term ‘low-in-
5 come person’ means a person whose income does not
6 exceed the level established for low-income (as such
7 term is defined in section 1805.104 of title 12, Code
8 of Federal Regulations, as in effect on the date of
9 enactment of this section).

10 “(6) PROJECT SPONSOR.—The term ‘project
11 sponsor’ means a public or private entity approved
12 by a CDFI and developing a CDFI TOD project in
13 accordance with this section.

14 “(b) MEMORANDUM OF UNDERSTANDING.—The Sec-
15 retary shall enter into a memorandum of understanding
16 with the Secretary of Treasury to support consultation
17 with the Community Development Financial Institutions
18 Fund to provide the necessary credit underwriting, serv-
19 icing, and monitoring of CDFI applicants and participants
20 in the TIFIA program.

21 “(c) CDFI TOD ACCOUNTS.—

22 “(1) IN GENERAL.—The Secretary shall require
23 any CDFI participating in the program authorized
24 in this section to establish a CDFI TOD account
25 into which the proceeds of a secured loan made to

1 the CDFI in accordance with sections 602 and 603
2 and any loan repayments from public or private enti-
3 ties receiving loans made to fund CDFI TOD
4 projects will be deposited.

5 “(2) AMOUNTS IN ACCOUNT.—Any principal
6 loan repayments and any investment income derived
7 from funds deposited to a CDFI TOD account shall
8 be—

9 “(A) credited to the account;

10 “(B) available for providing loans to
11 project sponsors;

12 “(C) available for repaying the secured
13 loan made to the CDFI in accordance with sec-
14 tions 602 and 603; and

15 “(D) invested in such financing instru-
16 ments as the Secretary may approve to earn in-
17 terest to augment the lending capacity of the
18 account.

19 “(3) LOANS.—Any loan to a project sponsor
20 funded from the account shall—

21 “(A) be in an amount determined by the
22 CDFI, but in any case not exceed 80 percent of
23 eligible project costs;

24 “(B) commence repayment not later than
25 5 years after the project has been completed;

1 “(C) have a final maturity not later than
2 30 years after the date of the first payment on
3 the loan;

4 “(D) be set at a rate not greater than the
5 level needed to fully reimburse the CDFI’s ad-
6 ministrative, monitoring, servicing, and capital
7 charges associated with the loan; and

8 “(E) be secured and have a priority of pay-
9 ment as determined by the CDFI.

10 “(4) REVOLVING LOAN STRUCTURE.—The
11 CDFI may apply loan repayments to fund additional
12 loans provided such relending does not impair the
13 ability of the CDFI to repay its secured loan in full
14 and timely fashion.

15 “(5) DELEGATED LENDING MODEL.—The
16 CDFI is authorized to provide loans for CDFI TOD
17 projects under a delegated lending model. No provi-
18 sion of this section shall restrict the ability of the
19 CDFI to establish the terms and conditions of loans
20 to project sponsors under this section.

21 “(d) DISCONTINUANCE OF FUNDING.—If the Sec-
22 retary determines that a CDFI is not implementing the
23 CDFI TOD account in accordance with the application of
24 such account, the Secretary may prohibit the CDFI from

1 drawing down any additional proceeds from a secured loan
2 commitment.

3 “(e) FORMS OF ASSISTANCE FROM A CDFI.—

4 “(1) IN GENERAL.—A CDFI may, using funds
5 deposited into the CDFI TOD account, make loans
6 to a public or private entity to carry out a CDFI
7 TOD project.

8 “(2) SUBORDINATION OF LOAN.—The amount
9 of a loan or other form of credit assistance provided
10 for a project described in subsection (c)(3) may be
11 subordinated to any other debt financing for the
12 project.

13 “(f) ANNUAL REPORT TO THE SECRETARY.—Any
14 CDFI participating in this program shall make an annual
15 report to the Secretary not later than September 30 of
16 each year and such other reports as the Secretary may
17 require under guidelines issued to carry out this section.

18 “(g) APPLICABILITY OF FEDERAL LAW.—The re-
19 quirements of this title and title 49 that would otherwise
20 apply to funds made available under this chapter or such
21 title and projects assisted with those funds shall apply to
22 CDFI TOD projects assisted by the CDFI under this
23 chapter, except to the extent the Secretary determines that
24 any requirement of such title is not applicable or is not
25 consistent with the objectives of this section.

1 “(h) UNITED STATES NOT OBLIGATED.—The de-
 2 posit of Federal funds into a CDFI under this section
 3 shall not be construed as a commitment, guarantee, or ob-
 4 ligation on the part of the United States to any third
 5 party, nor shall any third party have any right against
 6 the United States for payment solely by virtue of the con-
 7 tribution. Any security or debt financing instrument
 8 issued by the CDFI shall expressly state that the security
 9 or instrument does not constitute a commitment, guar-
 10 antee, or obligation of the United States.

11 “(i) PROGRAM ADMINISTRATION.—For each fiscal
 12 year, a CDFI may not expend more than 2 percent of the
 13 Federal assistance received under this chapter to pay the
 14 reasonable costs of administering a CDFI TOD account
 15 pursuant to this section.”.

16 (2) CLERICAL AMENDMENT.—The analysis for
 17 chapter 6 of title 23, United States Code, is amend-
 18 ed by adding at the end the following:

“611. Community development financial institution transit-oriented develop-
 ment.”.

