

Date of Hearing: May 11, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 2314 (Petrie-Norris) – As Amended May 2, 2022

Policy Committee:	Banking and Finance	Vote:	12 - 0
	Jobs, Economic Development, and the Economy		6 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill establishes standards, intended to align with the Small Business Borrowers' Bill of Rights, for loans provided under the Small Business Loan Guarantee Program (SBLGP), administered by the California Infrastructure and Economic Development Bank (I-Bank), and the California Capital Access Loan Program (CalCAP), administered by the California Pollution Control Financing Authority (CPCFA). This bill also requires, as part of the application process, a CalCAP participating financial institution to commit to specified disclosure practices.

FISCAL EFFECT:

- 1) Costs of an unknown, but potentially significant amount, to I-Bank to implement and enforce new verification processes with lending partners. To the extent such processes cause delays in I-Bank's ability to issue loans quickly, this bill may also cause the SBLGP to miss federal deployment targets and new rounds of funding, since a state cannot receive its second or third tranches of funding until it expends, transfers or obligates 80% of the preceding allocation.
- 2) Costs of an unknown, but potentially significant amount to CPCFA, similar to I-Bank. CPCFA notes costs for additional staffing and training, likely from specialized technical experts such as bank auditors, to implement and enforce new lending verification processes would exceed federal allowable percentages for administrative costs. CPCFA would also likely incur costs to update program database systems.

COMMENTS:

- 1) **Purpose.** According to the author:

This bill requires any commercial financing that leverages state funding – such as loan guarantee programs – to include several financing rights and protections for borrowers.

Thanks to new and innovative online financial products, many small businesses in California have a new lifeline that provides smaller yet vital cashflow that banks often cannot provide. However, due to a lack of regulation, many bad actors purposely hid critical information that small businesses rely on to raise capital, unexpectedly leaving them

mired in debt. Borrowers deserve transparent information to make educated decisions that are important to their cashflow and lifeline.

This bill is sponsored by CAMEO (California Association for Micro Enterprise Opportunity) and supported by other small business partners and the Consumer Federation of California.

- 2) **Efforts to Boost Small Business Lending.** Generally speaking, small businesses, especially minority-owned and women-owned businesses, have less access to credit and low-cost loans than larger, more established companies with longer credit histories and greater cashflows. The federal State Small Business Credit Initiative (SSBCI) allocated \$168 million to California to help address inequities in commercial lending, which was split equally between I-Bank's Small Business Finance Center (SBFC) and CPCFA to support two programs:

- (a) I-Bank's SBFC SBLGP – Under this program, SBFC works with seven financial development corporations to guarantee up to 80% of qualified loans, up to \$2.5 million, ensuring the lender is paid the portion of an outstanding balance in case the small business borrower defaults. As of March 2022, 121 lenders participate in the program, and in 2019-20, 470 loans were guaranteed, totaling \$24 million.
- (b) CPCFA's CalCAP – Under this program, CPCFA provides up to 100% coverage to participating lenders on losses resulting from certain kinds of small business loan defaults, insured through a loan loss reserve fund. As of March 2022, 20 lenders participate in the program, and in 2020, 5,312 loans were made, totaling \$362 million.

The federal American Rescue Plan Act of 2021 includes an additional \$10 billion to support state programs that facilitate small business financing, with California slated to receive an estimated \$1.1 billion, shared between I-Bank and CPCFA.

- 3) **Small Business Borrowers' Bill of Rights (SBBBR).** SB 1235 (Glazer), Chapter 1011, Statutes of 2018, required a commercial lender providing a financing offer of \$500,000 or less to provide the borrower certain disclosures related to the cost and terms of financing. This bill further requires standards specifically for lenders participating in the SBLGP and CalCAP around credit reporting, prepayment charges and right-size financing. These additional standards stem, in part, from the SBBBR, a product of the Responsible Business Lending Coalition advertised to be the "first cross-sector consensus" on the rights that small business owners deserve and how financial services providers can uphold such rights. Although well intended, removing some flexibility and imposing additional standards on participants may lead to some lenders exiting the programs altogether. As noted in the Assembly Banking and Finance Committee's analysis of this bill, "Since these programs exist in large part to encourage lenders to engage in lending activity they may not otherwise engage in, any changes to these programs that impose additional compliance costs onto lenders may make participating unfeasible." Even if lenders do comply with this bill's provisions, requiring state agencies to enforce lending standards may lead to delays in access to capital for both lenders and borrowers.
- 4) **Related Legislation.** AB 2400 (Cervantes) modifies CalCAP to better utilize new incoming federal SSBCI funds. AB 2400 is pending hearing in this committee.