NADCO Members –

On Tuesday May 12th, the House of Representatives released the “Health and Economic Recovery Omnibus Emergency Solutions Act” or the “HEROES Act” which included many of NADCO’s legislative priorities for CDCs and the SBA 504 Loan Program. The House is expected to vote on the bill on Friday, May 15th and if approved, will send it to the Senate for its consideration.

The HEROES Act includes benefits to small businesses and CDCs, including many of NADCO’s legislative priorities –

**Temporary Fee Elimination for the 504 Loan Program** for 1-year period following enactment of the law, including the elimination of 0.5% SBA Participation Fee and the 1.5% CDC Fee both of which are in normally included in the calculation of the gross debenture amount. The CDC will be fully reimbursed for the eliminated CDC Fee through an offsetting appropriation.

**Permanent changes to the 504 Debt Refinancing without Expansion Program** to encourage getting much needed, affordable capital to small businesses. Changes include –

- Elimination of prohibition on refinance of any government-guaranteed debt
- Elimination of requirement that 504 Debt Refinance without Expansion be suspended if the 504 Loan Program goes on subsidy
- Elimination of the 50% cap – CDC’s volume of new refinance approvals cannot exceed 50% of the dollars the CDC provides under the 504 Loan Program during the previous fiscal year
- Reduction from 2 years to 6 months in the required time that Qualified Debt must be in place to be eligible for refinance
- Elimination of requirement that the debt to be refinanced must have been current for not less than 1 year prior to application date
- Reinstatement of Alternate Job Retention Goal – all existing jobs may be counted as jobs retained (full-time and full-time equivalent jobs allowed)

**Refinancing Senior Project Debt** – during the 1-year period following enactment of the law, a CDC can process a subordination of an existing 504 loan to re-leverage the Third Party Lender (TPL) loan to a total 90% loan to value (LTV) when combined with the outstanding balance on the existing 504 loan. The borrower will be allowed to use new loan proceeds to fund business operating expenses.

**Increase in the Maximum 504 Loan Amount** – the maximum 504 loan size is increased to $10 million for all 504 loans approved and authorized by 9/30/2021; effective 10/1/2021 the maximum 504 loan size for manufacturers is permanently increased from $5.5 million to $10 million.

**Taxability of CARES Act Section 1112 Payment Subsidies** – any payment subsidy made would be exempt from federal taxes.
Paycheck Protection Program (PPP) Amendments
The bill also includes amendments to the Paycheck Protection Program (PPP) that are beneficial to CDCs and their small business clients —

- Extends the covered period from June 30 to December 31, 2020;
- Extends eligibility to all nonprofits, clarifies the eligibility of housing coops, and small, local news broadcast entities;
- Clarifies that PPP terms extend through the end of the covered period;
- Establishes a minimum maturity on PPP loans of 5 years to enable borrowers to amortize loans over a longer period of time, which lowers monthly payments;
- Clarifies that PPP loans cannot be calculated on a compound basis, saving borrowers money over the long term;
- Modifications to Distribution of PPP Funds Remaining:
  - Establishes a carve out of 25% of the existing funds on the date of enactment to be used specifically for small businesses with 10 or fewer employees;
  - Establishes a carve out of 25% of the existing funds on the date of enactment solely for loans to nonprofits, no matter their size or type but requiring that at least half this amount go to small nonprofits under the 500-employee threshold;
  - Establishes an additional set aside of existing funds - 25% of the remaining or $10 billion whichever is less - specifically for community financial institutions, such as Community Development Financial Institutions (CDFIs), Minority Development Institutions (MDIs), SBA microlenders, and SBA Certified Development Companies (CDCs); and
  - Mandates that any returned amounts due to the cancellation of a covered loan shall be redistributed through loans to small businesses with 10 or fewer employees
- Amendments to PPP Loan Forgiveness
  - Adds flexibility in the covered period for borrowers by extending the 8-week period to 24 weeks and extends covered period from June 30 to December 31;
  - Mandates forgiveness data collection and reporting;
  - Creates a safe harbor for borrowers who cannot rehire in the prescribed timeframe;
  - Eliminates the 75%/25% rule on use of loan proceeds; and
  - Clarifies the hold harmless provision for lenders.

Technical Assistance for Community Financial Institutions — a total of $1 billion is provided for grants to community financial institutions, such as Community Development Financial Institutions (CDFIs), Minority Development Institutions (MDIs), SBA microlenders, and SBA Certified Development Companies (CDCs) with assets of less than $10 billion; to update systems and increase efficiency as PPP lenders.

SBA 7a Loan Program –

- The bill bifurcates the SBA’s traditional 7(a) program authority from that of the PPP authority and clarifies that 7(a) lending program continues operation after PPP appropriations run out.
- The bill would increase the annual lending limit for the 7(a) program from $30 billion to $75 billion.
- The bill would temporarily increase the guarantee on 7(a) loans (including Community Advantage loans) to 90% for loans approved through September 30, 2021. Afterwards, guarantee percentages revert to prior authorized levels.
- The bill would temporarily increase the guarantee on 7(a) Express loans from 50% to 90% for loans of $350,000 or less and to 75% on loans greater than $350,000 through January 1, 2021.
- The maximum 7(a) loan size is temporarily increased to $10 million for loans approved and authorized through September 30, 2021.
Main Street Lending Program – The bill would mandate that the Federal Reserve’s Main Street Lending Program, which was established utilizing CARES Act funds and is backstopped by the Treasury Department, include non-profit organizations as eligible borrowers, and stipulates that the Fed immediately offer a low-cost loan option tailored to the unique needs of non-profit organizations with deferred payments, and the loan may be forgiven solely for nonprofits predominantly serving low-income communities that are ineligible for a PPP loan.

Options for small businesses and non-profits under the Main Street Lending Program – The bill would mandate that the Federal Reserve, through the Main Street Lending Program, shall provide at least one low-cost loan option that small businesses and small non-profits are eligible for that does not have a minimum loan size, overriding the current $500,000 minimum loan size to participate in the program.

NADCO continues to advocate for the following items Not currently included in the HEROS Act

- **Debt Refinance with Expansion** – increase in the maximum amount of debt eligible for refinance from 50% of expansion costs to 100% of expansion costs; and elimination of the requirement that the debt to be refinanced must have been current for not less than 1 year prior to application date
- **Express Loan Authority for Accredited Lenders – 504 Express Loan Program** – grant ALP-CDCs with delegated authority to approve, authorize, close, and service 504 loans of $500,000 or less
- **Permanent Adjustment in Occupancy Ratio** – for projects involving acquisition or renovation of an existing building, reduce the minimum occupancy requirement from 51% to 50% (permanent change, not a temporary change during the COVID-19 crisis)

NADCO will continue to keep the industry abreast of legislative efforts on Capitol Hill.

Please stay well and safe.

Wayne Williams
EVP, Regulatory Affairs & Training