

108TH CONGRESS
2D SESSION

H. R. 4062

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2004

Mr. MANZULLO (for himself and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through June 4, 2004, 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. ADDITIONAL TEMPORARY EXTENSION OF AU-**
4 **THORIZATION OF PROGRAMS UNDER SMALL**
5 **BUSINESS ACT AND SMALL BUSINESS INVEST-**
6 **MENT ACT OF 1958.**

7 The authorization for any program, authority, or pro-
8 vision, including any pilot program, that was extended

1 through April 2, 2004, by section 1 of Public Law 108–
 2 205 is further extended through June 4, 2004, under the
 3 same terms and conditions.

4 **SEC. 2. EXTENSION OF CERTAIN FEE AUTHORIZATIONS.**

5 Section 503(f) of the Small Business Investment Act
 6 of 1958 (15 U.S.C. 697 (f)), as amended by section 2 of
 7 Public Law 108–205, is further amended by striking
 8 “May 21, 2004” and inserting “October 1, 2004”.

9 **SEC. 3. FISCAL YEAR 2004 PURCHASE AND GUARANTEE AU-**
 10 **THORITY UNDER TITLE III OF SMALL BUSI-**
 11 **NESS INVESTMENT ACT OF 1958.**

12 Section 20 of the Small Business Act (15 U.S.C. 631
 13 note) is amended by adding at the end the following new
 14 subsection:

15 “(j) FISCAL YEAR 2004 PURCHASE AND GUARANTEE
 16 AUTHORITY UNDER TITLE III OF SMALL BUSINESS IN-
 17 VESTMENT ACT OF 1958.—For fiscal year 2004, for the
 18 programs authorized by title III of the Small Business In-
 19 vestment Act of 1958 (15 U.S.C. 681 et seq.), the Admin-
 20 istration is authorized to make—

21 “(1) \$4,000,000,000 in purchases of partici-
 22 pating securities; and

23 “(2) \$3,000,000,000 in guarantees of deben-
 24 tures.”.

1 **SEC. 4. COMBINATION FINANCING.**

2 (a) IN GENERAL.—During the period beginning on
 3 the date of the enactment of this section and ending on
 4 September 30, 2004, subsection (a) of section 7 of the
 5 Small Business Act (15 U.S.C. 636(a)) shall be applied
 6 as if the paragraph set forth in subsection (b) were added
 7 at the end of that subsection (a).

8 (b) PARAGRAPH SPECIFIED.—The paragraph re-
 9 ferred to in subsection (a) is as follows:

10 “(31) COMBINATION FINANCING.—

11 “(A) DEFINITIONS.—In this paragraph—

12 “(i) the term ‘combination financing’
 13 means financing comprised of a loan guaran-
 14 teed under this subsection and a commercial
 15 loan; and

16 “(ii) the term ‘commercial loan’ means a
 17 loan which is part of a combination financing
 18 and no portion of which is guaranteed by the
 19 Federal Government.

20 “(B) APPLICABILITY.—This paragraph applies
 21 to a loan guarantee obtained by a small business
 22 concern under this subsection, if the small business
 23 concern also obtains a commercial loan.

24 “(C) COMMERCIAL LOAN AMOUNT.—In the case
 25 of any combination financing, the amount of the
 26 commercial loan which is part of such financing

1 shall not exceed the gross amount of the loan guar-
2 anteed under this subsection which is part of such
3 financing.

4 “(D) COMMERCIAL LOAN PROVISIONS.—The
5 commercial loan obtained by the small business con-
6 cern—

7 “(i) may be made by the participating
8 lender that is providing financing under this
9 subsection or by a different lender;

10 “(ii) may be secured by a senior lien; and

11 “(iii) may be made by a lender in the Pre-
12 ferred Lenders Program, if applicable.

13 “(E) COMMERCIAL LOAN FEE.—A one-time fee
14 in an amount equal to 0.7 percent of the amount of
15 the commercial loan shall be paid by the lender to
16 the Administration if the commercial loan has a sen-
17 ior credit position to that of the loan guaranteed
18 under this subsection. Paragraph (23)(B) shall
19 apply to the fee established by this paragraph.

20 “(F) DEFERRED PARTICIPATION LOAN SECUR-
21 ITY.—A loan guaranteed under this subsection may
22 be secured by a subordinated lien.

23 “(G) COMPLETION OF APPLICATION PROC-
24 ESSING.—The Administrator shall complete proc-
25 essing of an application for combination financing

1 under this paragraph pursuant to the program au-
2 thorized by this subsection as it was operating on
3 October 1, 2003.

4 “(H) BUSINESS LOAN ELIGIBILITY.—Any
5 standards prescribed by the Administrator relating
6 to the eligibility of small business concerns to obtain
7 combination financing under this subsection which
8 are in effect on the date of the enactment of this
9 paragraph shall apply with respect to combination
10 financings made under this paragraph. Any modi-
11 fications to such standards by the Administrator
12 after such date shall not unreasonably restrict the
13 availability of combination financing under this
14 paragraph relative to the availability of such financ-
15 ing before such modifications.”.

16 **SEC. 5. LOAN GUARANTEE FEES.**

17 (a) IN GENERAL.—During the period beginning on
18 the date of the enactment of this section and ending on
19 September 30, 2004, subparagraph (A) of paragraph (23)
20 of subsection (a) of section 7 of the Small Business Act
21 (15 U.S.C. 636(a)(23)(A)) shall be applied as if that sub-
22 paragraph consisted of the language set forth in sub-
23 section (b).

24 (b) LANGUAGE SPECIFIED.—The language referred
25 to in subsection (a) is as follows:

1 “(A) PERCENTAGE.—

2 “(i) IN GENERAL.—With respect to each
3 loan guaranteed under this subsection, the Ad-
4 ministrator shall, in accordance with such terms
5 and procedures as the Administrator shall es-
6 tablish by regulation, assess and collect an an-
7 nual fee in an amount equal to 0.5 percent of
8 the outstanding balance of the deferred partici-
9 pation share of the loan.

10 “(ii) TEMPORARY PERCENTAGE.—With re-
11 spect to loans approved during the period be-
12 ginning on the date of enactment of this clause
13 and ending on September 30, 2004, the annual
14 fee assessed and collected under clause (i) shall
15 be equal to 0.36 percent of the outstanding bal-
16 ance of the deferred participation share of the
17 loan.”.

18 (c) RETENTION OF CERTAIN FEES.—Subparagraph
19 (B) of paragraph (18) of subsection (a) of section 7 of
20 the Small Business Act (15 U.S.C. 636(a)(18)(B)) shall
21 not be effective during the period beginning on the date
22 of the enactment of this section and ending on September
23 30, 2004.

24 **SEC. 6. EXPRESS LOAN PROVISIONS.**

25 (a) DEFINITIONS.—For the purposes of this section:

1 (1) The term “express lender” shall mean any
2 lender authorized by the Administrator to partici-
3 pate in the Express Loan Pilot Program.

4 (2) The term “Express Loan” shall mean any
5 loan made pursuant to section 7(a) of the Small
6 Business Act (15 U.S.C. 636(a)) in which a lender
7 utilizes to the maximum extent practicable its own
8 loan analyses, procedures, and documentation.

9 (3) The term “Express Loan Pilot Program”
10 shall mean the program established by the Adminis-
11 trator prior to the date of enactment of this section
12 under the authority granted in section 7(a)(25)(B)
13 of the Small Business Act (15 U.S.C. 636(a)(25)(B))
14 with a guaranty rate not to exceed 50 percent.

15 (4) The term “Administrator” means the Ad-
16 ministrator of the Small Business Administration.

17 (5) The term “small business concern” has the
18 same meaning given such term under section 3(a) of
19 the Small Business Act (15 U.S.C. 632(a)).

20 (b) RESTRICTION TO EXPRESS LENDER.—The au-
21 thority to make an Express Loan shall be limited to those
22 lenders deemed qualified to make such loans by the Ad-
23 ministrator. Designation as an express lender for purposes
24 of making an Express Loan shall not prohibit such lender
25 from taking any other action authorized by the Adminis-

1 trator for that lender pursuant to section 7(a) of the Small
2 Business Act (15 U.S.C. 636(a)).

3 (c) GRANDFATHERING OF EXISTING LENDERS.—Any
4 express lender shall retain such designation unless the Ad-
5 ministrator determines that the express lender has vio-
6 lated the law or regulations promulgated by the Adminis-
7 trator or modifies the requirements to be an express lender
8 and the lender no longer satisfies those requirements.

9 (d) TEMPORARY EXPANSION OF EXPRESS LOAN
10 PILOT PROGRAM.—

11 (1) AUTHORIZATION.—As of the date of enact-
12 ment of this section, the maximum loan amount in
13 the Express Loan Pilot Program shall be increased
14 to a maximum loan amount of \$2,000,000 as set
15 forth in section 7(a)(3)(A) of the Small Business
16 Act (15 U.S.C. 636(a)(3)(A)).

17 (2) TERMINATION DATE.—The authority set
18 forth in paragraph (1) shall terminate on September
19 30, 2004.

20 (3) SAVINGS PROVISION.—Nothing in this sec-
21 tion shall be interpreted to modify or alter the au-
22 thority of the Administrator to continue to operate
23 the Express Loan Pilot Program on or after October
24 1, 2004.

1 (e) OPTION TO PARTICIPATE.—Except as otherwise
2 provided in this section, the Administrator shall take no
3 regulatory, policy, or administrative action, without regard
4 to whether such action requires notification pursuant to
5 section 7(a)(24) of the Small Business Act (15 U.S.C.
6 636(a)(24)), that has the effect of—

7 (1) requiring a lender to make an Express Loan
8 pursuant to subsection (d);

9 (2) limiting or modifying any term or condition
10 of deferred participation loans made under such sec-
11 tion (other than Express Loans) unless the Adminis-
12 trator imposes the same limit or modification on Ex-
13 press Loans;

14 (3) transferring or re-allocating staff, staff re-
15 sponsibilities, resources, or funding, if the result of
16 such transfer or re-allocation would be to increase
17 the average loan processing, approval, or disburse-
18 ment time above the averages for those functions as
19 of October 1, 2003, for loan guarantees approved
20 under such section by employees of the Administra-
21 tion or through the Preferred Lenders Program; or

22 (4) otherwise providing any incentive or dis-
23 incentive which encourages lenders or borrowers to
24 make or obtain loans under the Express Loan Pilot
25 Program instead of under the general loan authority

1 of section 7(a) of the Small Business Act (15 U.S.C.
2 636(a)).

3 (f) COLLECTION AND REPORTING OF DATA.—For all
4 loans in excess of \$250,000 made pursuant to the author-
5 ity set forth in subsection (d)(1), the Administrator shall,
6 to the extent practicable, collect data on the purpose for
7 each such loan. The Administrator shall report monthly
8 to the Committee on Small Business and Entrepreneur-
9 ship of the Senate and the Committee on Small Business
10 of the House of Representatives on the number of such
11 loans and their purposes.

12 (g) TERMINATION.—Subsections (b), (c), (e), and (f)
13 shall not apply after September 30, 2004.

14 **SEC. 7. FISCAL YEAR 2004 DEFERRED PARTICIPATION**
15 **STANDARDS.**

16 Deferred participation loans made during the period
17 beginning on the date of the enactment of this Act and
18 ending on September 30, 2004, under section 7(a) of the
19 Small Business Act (15 U.S.C. 636(a)) shall have the
20 same terms and conditions (including maximum gross loan
21 amounts and collateral requirements) as were applicable
22 to loans made under such section on October 1, 2003, ex-
23 cept as otherwise provided in this Act. This section shall
24 not preclude the Administrator of the Small Business Ad-
25 ministration from taking such action as necessary to

1 maintain the loan program carried out under such section,
2 subject to appropriations.

3 **SEC. 8. TEMPORARY INCREASE IN LOAN LIMIT UNDER**
4 **BUSINESS LOAN AND INVESTMENT FUND AND**
5 **IN ASSOCIATED GUARANTEE FEES.**

6 (a) TEMPORARY INCREASE IN AMOUNT PERMITTED
7 TO BE OUTSTANDING AND COMMITTED.—During the pe-
8 riod beginning on the date of the enactment of this Act
9 and ending on September 30, 2004, section 7(a)(3)(A) of
10 the Small Business Act (15 U.S.C. 636(a)(3)(A)) shall be
11 applied as if the first dollar figure were \$1,500,000.

12 (b) TEMPORARY GUARANTEE FEE ON DEFERRED
13 PARTICIPATION SHARE OVER \$1,000,000.—With respect
14 to loans made during the period referred to in subsection
15 (a) to which section 7(a)(18) of the Small Business Act
16 (15 U.S.C. 636(a)(18)) applies, the Administrator of the
17 Small Business Administration shall collect an additional
18 guarantee fee equal to 0.25 percent of the amount (if any)
19 by which the deferred participation share of the loan ex-
20 ceeds \$1,000,000.

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