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RECOVERY IMPROVEMENTS FOR SMALL ENTITIES AFTER DISASTER ACT OF 2015

JULY 6, 2016.—Ordered to be printed

Mr. VITTER, from the Committee on Small Business and
Entrepreneurship, submitted the following

R E P O R T

[To accompany S. 1470]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 1470) to amend the Small Business Act to provide additional assistance to small business concerns for disaster recovery, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

I. INTRODUCTION

The Recovery Improvements for Small Entities (RISE) After Disaster Act of 2015 (S. 1470) was introduced by Chairman Vitter, on May 31, 2015. The bill incorporates language from Senator Heitkamp's Small Business Disaster Reform Act of 2015 (S. 956), providing clarification of collateral requirements for disaster loans. The purpose of the RISE Act is to provide additional assistance to small business concerns for disaster recovery. In order to achieve this, the RISE Act seeks to provide long-term recovery loans to small businesses through community banks after their opportunities to receive SBA disaster assistance are no longer available. The bill will also direct Federal agencies to utilize local contractors in recovery efforts for disaster affected areas as well as authorize counseling and technical assistance to help small businesses in their recovery efforts and resume operations as quickly as possible.

During the markup of the bill, the bill was approved unanimously by voice vote.

II. HISTORY (PURPOSE AND NEED FOR LEGISLATION)

Hurricane Katrina struck Louisiana, Alabama, Florida, and Mississippi in 2005, with residual effects going on to impact much of the Northeast United States. New Orleans, Louisiana was particularly hard hit by the storm. In the aftermath of a disaster of this scale, the recovery process is extensive. Unfortunately, recovery efforts were prolonged, in part, because small businesses remained closed.

The primary provider of Federal disaster assistance loans for private sector, non-agricultural, disaster victims is the Small Business Administration's Office of Disaster Assistance. Following Hurricane Katrina, a series of hearings and roundtables highlighted shortcomings in the recovery process following particularly large disasters, and found that small businesses require additional help to aid in their recovery.

III. HEARINGS AND ROUNDTABLES

In the 109th Congress:

In the 109th Congress, the Senate Committee on Small Business and Entrepreneurship held a hearing entitled "The impact of Hurricane Katrina on small businesses" on September 22, 2005 to assess the current relief programs of various federal agencies. Despite significant efforts by FEMA and the SBA to rapidly increase the size of their disaster programs to maximize aid, witnesses expressed the need for a more comprehensive system to handle duplicate payments so that business owners with insurance could receive additional aid faster. Other ideas presented at the hearing included a greater emphasis on local contracting in disaster recovery projects as well as a grant program, in addition to the SBA's loan program, to account for the difficulties in repaying loans after disasters. The presiding Chair of the committee expressed a desire to see certain bureaucratic barriers eliminated from the process, such as agencies being unable to help business owners that were outside of their jurisdiction.

The Committee also held a hearing entitled "Strengthening hurricane recovery efforts for small businesses" on November 8, 2005, in which they discussed the failures of the SBA's loan disaster program in quickly distributing aid after Hurricanes Katrina and Rita. Business owners and members expressed extreme frustration with the SBA's loan approval process, which left business owners waiting for several months to receive any form of notification regarding their request. The SBA Administrator at the time introduced the GO Loans program, which was intended to temporarily expedite the loan process following a disaster, as he stated that the current loan program was intended for long-term recovery and not equipped to handle the immediate after-effects of such a large-scale disaster.

In the 110th Congress:

In the 110th Congress, the Senate Committee on Small Business and Entrepreneurship held a hearing entitled "Oversight: Gulf Coast disaster loans and the future of the disaster assistance program" on July 25, 2007. The hearing assessed the SBA's disaster assistance program and its shortcomings after Hurricanes Katrina and Rita. An SBA employee testified that the organization was so

overwhelmed by and unequipped to handle the volume of loan applications that it created a system centered on declining as many loans as possible to take them out of the system. Witnesses repeatedly expressed the need for a better, expedited loan process.

The Committee held a field hearing in Lake Charles, LA entitled “Rebuilding the Gulf Coast: small business recovery in south Louisiana” on February 20, 2008 to assess how federal agencies were continuing to provide aid several years after the disasters. Witnesses again expressed the need for an SBA grant program to supplement the disaster loan program. The GO Loans, temporarily implemented by the SBA in 2005 after Hurricanes Katrina and Rita, were discussed favorably by Gulf Coast business owners.

In the 111th Congress:

In the 111th Congress, the Senate Committee on Small Business and Entrepreneurship held a hearing entitled “A year later: lessons learned, progress made, and challenges that remain from Hurricane Ike” on September 25, 2009 to discuss the SBA and FEMA’s responses to Hurricane Ike. Again, witnesses expressed the need to expedite the loan approval process at the SBA. Business owners also emphasized the importance of local leaders having the ability to respond to disasters immediately, rather than waiting for federal action.

The Committee also held a hearing entitled “Impact of the Deepwater Horizon oil spill on small business” on May 27, 2010. The hearing analyzed the effects of and responses to the Gulf oil spill. Witness reiterated the difficulties of paying back the interest on SBA disaster loans as well as expressed the need to change collateral requirements on loans. Because of the influx of disaster loans in the Gulf region following the series of disasters over several years, many businesses did not have the collateral to secure loans, as it had already been used to secure other outstanding loans.

In the 112th Congress:

In the 112th Congress, the Senate Committee on Small Business and Entrepreneurship held a hearing entitled “Hurricane Sandy: assessing the Federal response and small business recovery efforts” on December 13, 2012 to assess the federal response to Hurricane Sandy. Witnesses reiterated the need for an SBA grant program as well as an improved application process. Although the SBA claimed it had significantly decreased processing time, there were still very few processed, approved, and distributed loans from the disaster. The SBA also attempted to pull resources from various offices as part of its “One SBA” approach; however, this was only regional and did not utilize resources outside of the immediate disaster area.

In the 114th Congress:

Several sections from this bill were later amended into, and became law as part of, the RISE After Disaster Act of 2015, H.R. 208 (Public Law No. 114–88).

IV. DESCRIPTION OF BILL

The bill works to address small business’s access to capital, as well as prioritize funding and assistance for small business and streamlining federal involvement. The RISE After Disaster Act of 2015 provides long-term recovery loans to small businesses through community banks when opportunities to receive SBA disaster as-

sistance are no longer available. The bill instructs federal agencies to utilize local contractors for response and recovery efforts. Counseling and technical assistance to help small businesses recover and resume operations is also made available through the bill. The RISE After Disaster Act also seeks to address contractor malfeasance by allowing homeowners and businesses to increase the size of their loans from the SBA to remediate their property. Small businesses affected by major disasters are able to access federal government surplus property in order to aid in their recovery.

Additional provisions of the RISE After Disaster Act of 2015 include coordinating duplicative benefit reviews between agencies; allowing for nation-wide assistance from Small Business Development Centers; fast-tracking SBIC applications to quickly return investment dollars to disaster areas; allowing physical damage disaster loans to be used for preventative measures; planning ahead for Business Recovery Centers in order to prevent confusion and delay in delivering services; and reducing paperwork so small businesses are not further burdened while already struggling after a disaster.

V. COMMITTEE VOTE

In compliance with rule XXVI (7)(b) of the Standing Rules of the Senate, the following vote was recorded on June 3, 2015.

A motion to adopt the Recovery Improvements for Small Entities After Disaster Act of 2015, a bill to amend the Small Business Act to provide for increased assistance to small businesses affected by disaster, was favorably reported by voice vote.

VI. COST ESTIMATE

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

VII. EVALUATIONS OF REGULATORY IMPACT

In compliance with rule XXVI (11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation. There will be no additional impact on the personal privacy of companies or individuals who utilize the services provided.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1: Short title and table of contents

This section provides the title, the “Recovery Improvements for Small Entities After Disaster Act of 2015” of the “RISE After Disaster Act of 2015”.

Section 2: Definitions

Section 101: Use of data sharing

Amends section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Section 102: Additional awards to small business development centers, women's business centers, Score, and Fast recipients for disaster recovery

Amends section 7(b) of the Small Business Act to allow the Small Business Administration to provide financial assistance to a small business that receives an award from the administration to spur recovery after a disaster. This section also specifies the form of financial assistance as well as requirements for those receiving the funds. This section also sets down a term for any form of financial aid given.

Section 103: Collateral requirements for disaster loans

Amends section 7(d)(6) of the Small Business Act by increasing the amount of money given for disasters from \$14,000 to \$25,000. The section also sets down an expiration date for the previous change, and mandates that a report be made to gauge the benefits of the previous change.

Section 104: Assistance to out-of-state business concerns to aid in disaster recovery

This section allows the Small Business Association to provide services, such as development centers, to small business concerns located outside of the State if the area of the small business has been declared a major disaster. This section also sets down a term for which this aid may be provided, and guidelines regarding extensions to this aid.

This section states that the Administrator should try to ensure that the small business center is reimbursed for any legitimate expenses incurred.

Section 105: SBIC program

Amends section 301(c)(2) of the Small Business Investment Act of 1958 by giving priority to applications for a license to operate as a small business investment company that is from an applicant within a disaster area.

The section also sets down rules for calculating the outstanding leverage of a company licensed under section 301(c) and the time limit for which these calculations shall be used.

Section 106: Fast program

Amends section 34(a) of the Small Business Act by giving special consideration to applications located in an area affected by a catastrophic disaster. This section also provides for giving additional assistance to applicants in catastrophic disaster areas.

It also amends section 34 of the Small Business Act by changing "2005" to "2017" in subsection (h) and "September 30, 2005" to "September 30, 2017" in subsection (i).

Section 107: Use of federal surplus property in disaster areas

Section 107 amends the Small Business Act section 7(j)(13)(F) by allowing the Administrator to transfer technology or surplus property to small business in a disaster area on a priority basis. This section also sets down regulations for the small businesses receiving a transfer.

Section 108: Recovery opportunity loans

This section amends section 7(a)(31) of the Small Business Act by allowing the Administrator to guarantee an express loan to a small business concern located in a disaster area. It also specifies that the maximum for these loans is to be \$150,000 and the guarantee rate shall not be more than 85 percent. This section also states that the small business concern receiving a guaranteed loan had to be in operation at the time of the disaster. These guaranteed loans may only be made to small business concerns that demonstrate sufficient capacity to repay the loan. According to this section, the administrator shall have 90 days after receiving an application to determine whether to pay the guaranteed loan. The section also sets down the procedure for fees concerning the guaranteed loans.

Section 109: Contractor malfeasance

Section 7(b) of the Small Business Act is amended by allowing the Administrator to increase the amount of the loan to a small business concern if a contractor engages in malfeasance that results in substantial economic damage to the recipient. The Administrator may increase the amount of the loan as necessary to cover the cost of repairs, rehabilitation, or replacement needed to address the cause of the economic damage.

This section also sets down requirements that must be met in order for the Administrator to increase the amount of the loan. These include proper certification from the borrower and the person performing the mitigation.

Section 110: Local contracting preferences and incentives

This section of the RISE After Disaster Act of 2015 amends section 15 of the Small Business Act. This section states that a contracting preference should be given to a small business concern in the disaster area if the small business concern will perform the work required in the disaster area. This section also states that if preference is given to a small business concern, the value of the contract should be doubled.

Section 111: Clarification of collateral requirements

This section amends the Small Business Act section 7(d)(6), so that the owner of a small business concern is not required to use his primary residence as collateral for a loan if the Administrator determines that the owner has assets of equal quality with equal or greater value. In this case, those other assets may be used as collateral for a loan.

Section 201: Use of physical damage disaster loans

Amends section 7(b)(1)(A) by allowing loans used to modify structures to include the construction of safe rooms and storm shelters designed to protect property and occupants from natural disasters.

Section 202: Business recovery centers

Section 202 amends section 7(b) of the Small Business Act in order to identify locations that may be used as recovery centers in the event of a disaster. This section also sets down the requirements for identification of these recovery areas.

Section 301: Increased oversight of economic injury disaster loans

Section 7(b) of the Small Business Act is amended in this section. Oversight of entities receiving loans shall be increased. This increased oversight includes scheduled site visits and reviews of the use of loan proceeds in order to ensure compliance with requirements. This section states that no additional funds should be used to carry out the requirements of this section.

Section 302: Reduction of paperwork

This section states that it is the sense of Congress that paperwork burdens on small business concerns should be reduced when applying for disaster assistance. The application for disaster assistance should deter and detect possibilities of waste, fraud, and abuse.

Section 303: Report on web portal for disaster loan applicants

This section amends the Small Business Act to provide for a report relating to the creation of a web portal to be used to track the status of applications for disaster assistance. This section also stipulates what information this report should include.

Section 304: Local disaster contracting fairness

This section stipulates that when possible, local subcontractors should be used to carry out contracts for debris removal or demolition services in connection with natural disaster reconstruction efforts. Preference should be given to prime contractors who certify that any work that is to be performed by subcontractors will be performed by local subcontractors.