

107TH CONGRESS
2D SESSION

S. 2455

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2002

Mr. ENSIGN introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, 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 “National Small Busi-
5 ness Regulatory Assistance Act of 2002”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to establish a pilot pro-
8 gram to—

1 (1) provide confidential assistance to small
2 business concerns;

3 (2) provide small business concerns with the in-
4 formation necessary to improve their rate of compli-
5 ance with Federal and State regulations;

6 (3) create a partnership among Federal agen-
7 cies to increase outreach efforts to small business
8 concerns with respect to regulatory compliance;

9 (4) provide a mechanism for unbiased feedback
10 to Federal agencies on the regulatory environment
11 for small business concerns; and

12 (5) utilize the service delivery network of Small
13 Business Development Centers to improve access of
14 small business concerns to programs to assist them
15 with regulatory compliance.

16 **SEC. 3. DEFINITIONS.**

17 In this Act, the definitions set forth in section 36(a)
18 of the Small Business Act (as added by section 4 of this
19 Act) shall apply.

20 **SEC. 4. SMALL BUSINESS REGULATORY ASSISTANCE PILOT**
21 **PROGRAM.**

22 The Small Business Act (15 U.S.C. 637 et seq.) is
23 amended—

24 (1) by redesignating section 36 as section 37;
25 and

1 (2) by inserting after section 35 the following
 2 new section:

3 **“SEC. 36. SMALL BUSINESS REGULATORY ASSISTANCE**
 4 **PILOT PROGRAM.**

5 “(a) DEFINITIONS.—In this section, the following
 6 definitions apply:

7 “(1) ADMINISTRATOR.—The term ‘Adminis-
 8 trator’ means the Administrator of the Small Busi-
 9 ness Administration, acting through the Associate
 10 Administrator for Small Business Development Cen-
 11 ters.

12 “(2) ASSOCIATION.—The term ‘Association’
 13 means the association, established pursuant to sec-
 14 tion 21(a)(3)(A), representing a majority of Small
 15 Business Development Centers.

16 “(3) PARTICIPATING SMALL BUSINESS DEVEL-
 17 OPMENT CENTER.—The term ‘participating Small
 18 Business Development Center’ means a Small Busi-
 19 ness Development Center participating in the pilot
 20 program.

21 “(4) PILOT PROGRAM.—The term ‘pilot pro-
 22 gram’ means the pilot program established under
 23 this section.

24 “(5) REGULATORY COMPLIANCE ASSISTANCE.—
 25 The term ‘regulatory compliance assistance’ means

1 assistance provided by a Small Business Develop-
 2 ment Center to a small business concern to enable
 3 the concern to comply with Federal regulatory re-
 4 quirements.

5 “(6) SMALL BUSINESS DEVELOPMENT CEN-
 6 TER.—The term ‘Small Business Development Cen-
 7 ter’ means a Small Business Development Center
 8 described in section 21.

9 “(7) STATE.—The term ‘State’ means each of
 10 the several States, the District of Columbia, the
 11 Commonwealth of Puerto Rico, the Virgin Islands,
 12 and Guam.

13 “(b) AUTHORITY.—In accordance with this section,
 14 the Administrator shall establish a pilot program to pro-
 15 vide regulatory compliance assistance to small business
 16 concerns through participating Small Business Develop-
 17 ment Centers, the Association, and Federal compliance
 18 partnership programs.

19 “(c) SMALL BUSINESS DEVELOPMENT CENTERS.—

20 “(1) IN GENERAL.—In carrying out the pilot
 21 program, the Administrator shall enter into arrange-
 22 ments with participating Small Business Develop-
 23 ment Centers under which such centers will
 24 provide—

1 “(A) access to information and resources,
2 including current Federal and State nonpuni-
3 tive compliance and technical assistance pro-
4 grams similar to those established under section
5 507 of the Clean Air Act Amendments of 1990
6 (42 U.S.C. 7661f);

7 “(B) training and educational activities;

8 “(C) confidential, free-of-charge, one-on-
9 one, in-depth counseling to the owners and op-
10 erators of small business concerns regarding
11 compliance with Federal and State regulations,
12 provided that such counseling is not considered
13 to be the practice of law in a State in which a
14 Small Business Development Center is located
15 or in which such counseling is conducted;

16 “(D) technical assistance; and

17 “(E) referrals to experts and other pro-
18 viders of compliance assistance who meet such
19 standards for educational, technical, and profes-
20 sional competency as are established by the Ad-
21 ministrator.

22 “(2) REPORTS.—

23 “(A) IN GENERAL.—Each participating
24 Small Business Development Center shall trans-

mit to the Administrator a quarterly report that includes—

“(i) a summary of the regulatory compliance assistance provided by the center under the pilot program; and

“(ii) any data and information obtained by the center from a Federal agency regarding regulatory compliance that the agency intends to be disseminated to small business concerns.

“(B) ELECTRONIC FORM.—Each report referred to in subparagraph (A) shall be transmitted in electronic form.

“(C) INTERIM REPORTS.—During any time period falling between the transmittal of quarterly reports, a participating Small Business Development Center may transmit to the Administrator any interim report containing data or information considered by the center to be necessary or useful.

“(D) LIMITATION ON DISCLOSURE REQUIREMENTS.—The Administrator may not require a Small Business Development Center to disclose the name or address of any small business concern that received or is receiving assist-

1 ance under the pilot program, except that the
2 Administrator shall require such a disclosure if
3 ordered to do so by a court in any civil or
4 criminal enforcement action commenced by a
5 Federal or State agency.

6 “(d) DATA REPOSITORY AND CLEARINGHOUSE.—

7 “(1) IN GENERAL.—In carrying out the pilot
8 program, the Administrator shall—

9 “(A) act as the repository of and clearing-
10 house for data and information submitted by
11 Small Business Development Centers; and

12 “(B) transmit to the President and to the
13 Committees on Small Business of the Senate
14 and House of Representatives an annual report
15 that includes—

16 “(i) a description of the types of as-
17 sistance provided by participating Small
18 Business Development Centers under the
19 pilot program;

20 “(ii) data regarding the number of
21 small business concerns that contacted
22 participating Small Business Development
23 Centers regarding assistance under the
24 pilot program;

1 “(iii) data regarding the number of
2 small business concerns assisted by partici-
3 pating Small Business Development Cen-
4 ters under the pilot program;

5 “(iv) data and information regarding
6 outreach activities conducted by partici-
7 pating Small Business Development Cen-
8 ters under the pilot program, including any
9 activities conducted in partnership with
10 Federal agencies;

11 “(v) data and information regarding
12 each case known to the Administrator in
13 which one or more Small Business Devel-
14 opment Centers offered conflicting advice
15 or information regarding compliance with a
16 Federal or State regulation to one or more
17 small business concerns;

18 “(vi) any recommendations for im-
19 provements in the regulation of small busi-
20 ness concerns; and

21 “(vii) a list of regulations identified
22 by the Administrator, after consultation
23 with the Small Business and Agriculture
24 Regulatory Enforcement Ombudsman, as
25 being most burdensome to small business

1 concerns, and recommendations to reduce
2 or eliminate the burdens of such regula-
3 tions.

4 “(e) ELIGIBILITY.—

5 “(1) IN GENERAL.—A Small Business Develop-
6 ment Center shall be eligible to receive assistance
7 under the pilot program only if the center is certified
8 under section 21(k)(2).

9 “(2) WAIVER.—With respect to a Small Busi-
10 ness Development Center seeking assistance under
11 the pilot program, the Administrator may waive the
12 certification requirement set forth in paragraph (1)
13 if the Administrator determines that the center is
14 making a good faith effort to obtain such certifi-
15 cation.

16 “(3) EFFECTIVE DATE.—This subsection shall
17 take effect on October 1, 2002.

18 “(f) SELECTION OF PARTICIPATING STATE PRO-
19 GRAMS.—

20 “(1) IN GENERAL.—In consultation with the
21 Association and giving substantial weight to the As-
22 sociation’s recommendations, the Administrator shall
23 select the Small Business Development Center pro-
24 grams of 2 States from each of the following groups

1 of States to participate in the pilot program estab-
2 lished by this section:

3 “(A) Group 1: Maine, Massachusetts, New
4 Hampshire, Connecticut, Vermont, and Rhode
5 Island.

6 “(B) Group 2: New York, New Jersey,
7 Puerto Rico, and the Virgin Islands.

8 “(C) Group 3: Pennsylvania, Maryland,
9 West Virginia, Virginia, the District of Colum-
10 bia, and Delaware.

11 “(D) Group 4: Georgia, Alabama, North
12 Carolina, South Carolina, Mississippi, Florida,
13 Kentucky, and Tennessee.

14 “(E) Group 5: Illinois, Ohio, Michigan, In-
15 diana, Wisconsin, and Minnesota.

16 “(F) Group 6: Texas, New Mexico, Arkan-
17 sas, Oklahoma, and Louisiana.

18 “(G) Group 7: Missouri, Iowa, Nebraska,
19 and Kansas.

20 “(H) Group 8: Colorado, Wyoming, North
21 Dakota, South Dakota, Montana, and Utah.

22 “(I) Group 9: California, Guam, Hawaii,
23 Nevada, and Arizona.

24 “(J) Group 10: Washington, Alaska,
25 Idaho, and Oregon.

1 “(2) DEADLINE FOR SELECTION.—The Admin-
 2 istrator shall make selections under this subsection
 3 not later than 60 days after promulgation of regula-
 4 tions under section 5 of the National Small Business
 5 Regulatory Assistance Act of 2002.

6 “(g) MATCHING NOT REQUIRED.—Subparagraphs
 7 (A) and (B) of section 21(a)(4) shall not apply to assist-
 8 ance made available under the pilot program.

9 “(h) DISTRIBUTION OF GRANTS.—

10 “(1) IN GENERAL.—Each State program se-
 11 lected to receive a grant under subsection (f) in a
 12 fiscal year shall be eligible to receive a grant in an
 13 amount not to exceed the product obtained by
 14 multiplying—

15 “(A) the amount made available for grants
 16 under this section for the fiscal year; and

17 “(B) the ratio that—

18 “(i) the population of the State; bears
 19 to

20 “(ii) the population of all the States
 21 with programs selected to receive grants
 22 under subsection (f) for the fiscal year.

23 “(2) MINIMUM AMOUNT.—Notwithstanding
 24 paragraph (1), the minimum amount that a State
 25 program selected to receive a grant under subsection

1 (f) shall be eligible to receive under this section in
 2 the fiscal year shall be \$200,000.

3 “(i) EVALUATION AND REPORT.—Not later than 3
 4 years after the establishment of the pilot program, the
 5 Comptroller General of the United States shall conduct
 6 an evaluation of the pilot program and shall transmit to
 7 the Administrator and to the Committees on Small Busi-
 8 ness of the Senate and House of Representatives a report
 9 containing the results of the evaluation along with any rec-
 10 ommendations as to whether the pilot program, with or
 11 without modification, should be extended to include the
 12 participation of all Small Business Development Centers.

13 “(j) AUTHORIZATION OF APPROPRIATIONS.—

14 “(1) IN GENERAL.—There are authorized to be
 15 appropriated to carry out this section \$5,000,000 for
 16 fiscal year 2003 and each fiscal year thereafter.

17 “(2) LIMITATION ON USE OF OTHER FUNDS.—
 18 The Administrator may carry out the pilot program
 19 only with amounts appropriated in advance specifi-
 20 cally to carry out this section.”.

21 **SEC. 5. PROMULGATION OF REGULATIONS.**

22 After providing notice and an opportunity for com-
 23 ment and after consulting with the Association (but not
 24 later than 180 days after the date of the enactment of
 25 this Act), the Administrator shall promulgate final regula-

1 tions to carry out this Act, including regulations that
2 establish—

3 (1) priorities for the types of assistance to be
4 provided under the pilot program;

5 (2) standards relating to educational, technical,
6 and support services to be provided by participating
7 Small Business Development Centers;

8 (3) standards relating to any national service
9 delivery and support function to be provided by the
10 Association under the pilot program;

11 (4) standards relating to any work plan that
12 the Administrator may require a participating Small
13 Business Development Center to develop; and

14 (5) standards relating to the educational, tech-
15 nical, and professional competency of any expert or
16 other assistance provider to whom a small business
17 concern may be referred for compliance assistance
18 under the pilot program.

19 **SEC. 6. PRIVACY REQUIREMENTS APPLICABLE TO SMALL**
20 **BUSINESS DEVELOPMENT CENTERS.**

21 Section 21(c) of the Small Business Act (15 U.S.C.
22 648(c)) is amended by adding at the end the following:

23 “(9) PRIVACY REQUIREMENTS.—

24 “(A) IN GENERAL.—No Small Business
25 Development Center, consortium of Small Busi-

1 ness Development Centers, or contractor or
2 agent of a Small Business Development Center
3 shall disclose the name or address of any indi-
4 vidual or small business concern receiving as-
5 sistance under this section without the consent
6 of such individual or small business concern, ex-
7 cept that—

8 “(i) the Administrator shall require
9 such disclosure if ordered to do so by a
10 court in any civil or criminal enforcement
11 action commenced by a Federal or State
12 agency; and

13 “(ii) if the Administrator considers it
14 necessary while undertaking a financial
15 audit of a Small Business Development
16 Center, the Administrator shall require
17 such disclosure for the sole purpose of un-
18 dertaking such audit.

19 “(B) REGULATIONS.—The Administrator
20 shall issue regulations to establish standards for
21 requiring disclosures during a financial audit
22 under subparagraph (A)(ii).”.

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