

110TH CONGRESS
1ST SESSION

S. 1960

To amend the Small Business Investment Act of 1958 to improve surety bond guarantees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2007

Ms. SNOWE (for herself and Mr. KERRY) 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 Investment Act of 1958 to improve surety bond guarantees, 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 “Surety Bond Improve-
5 ment Act of 2007”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the terms “Administrator” and “Admin-
8 istration” mean the Small Business Administration and
9 the Administrator thereof, respectively.

1 **SEC. 3. SURETY BONDS.**

2 (a) RATES.—Section 411(a) of the Small Business
3 Investment Act of 1958 (15 U.S.C. 694b(a)) is amend-
4 ed—

5 (1) in paragraph (1), by striking “\$2,000,000”
6 and inserting “\$3,000,000”; and

7 (2) by adding at the end the following:

8 “(6) The Administrator shall authorize a surety that
9 issues, monitors, or services bonds under paragraph (3)
10 to use rates approved by the insurance commissioner in
11 the State in which such contract will be performed.”.

12 (b) PAYMENT OF GUARANTEES.—Section 411(b) of
13 the Small Business Investment Act of 1958 (15 U.S.C.
14 694b(b)) is amended—

15 (1) by redesignating paragraphs (1) through
16 (3) as subparagraphs (A) through (C), respectively,
17 and adjusting the margins accordingly;

18 (2) by striking “Subject to the provisions” and
19 inserting the following: “INDEMNIFICATION.—

20 “(1) IN GENERAL.—Subject to the provisions”;

21 (3) by striking “: *Provided, however*” and in-
22 serting “.

23 “(2) CONDITIONS.—For a guarantee under this
24 subsection—”;

25 (4) by striking “In no event shall” and insert-
26 ing the following:

1 “(3) MAXIMUM AMOUNT.—In no event shall”;
 2 and

3 (5) by adding at the end the following:

4 “(4) PAYMENT OF GUARANTEES.—The Admin-
 5 istrator may not refuse to make payment on a guar-
 6 antee under this subsection based on facts, cir-
 7 cumstances, or defects that the Administrator rea-
 8 sonably should have identified during the process of
 9 making the guarantee.”.

10 (c) REPORTS TO CONGRESS.—

11 (1) IN GENERAL.—On the date on which the
 12 Administrator provides notice of a proposed change
 13 in fees under section 411(h) of the Small Business
 14 Investment Act of 1958 (15 U.S.C. 694b(h)), the
 15 Administrator shall submit to the Committee on
 16 Small Business and Entrepreneurship of the Senate
 17 and the Committee on Small Business of the House
 18 of Representatives, and make publically available, a
 19 report regarding the basis for the change in fees.

20 (2) CONTENTS.—Each report submitted under
 21 paragraph (1) shall include—

22 (A) the contents of any study used by the
 23 Administrator in determining whether to
 24 change fees under section 411(h) of the Small
 25 Business Investment Act of 1958; and

1 (B) the total amount of fees received under
2 such section 411(h) and the total cost of the
3 program under part B of title IV of the Small
4 Business Investment Act of 1958 (15 U.S.C.
5 694a et seq.)—

6 (i) for the first report submitted
7 under paragraph (1), during the 3-year pe-
8 riod ending on the date of the submission
9 of the report; and

10 (ii) for each subsequent report, during
11 the period beginning on the date of the
12 submission of the prior report submitted
13 under paragraph (1) and ending on the
14 date of submission of such subsequent re-
15 port.

16 (d) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that the program under part B of title IV of the
18 Small Business Investment Act of 1958 (15 U.S.C. 694a
19 et seq.) is not required to be self-funding and, therefore,
20 the program may at times operate at a loss.

21 **SEC. 4. MEDIATION.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of enactment of this Act, and in accordance with sub-
24 chapter IV of chapter 5 of title 5, United States Code,
25 the Administrator shall promulgate regulations estab-

1 lishing a nonbinding, neutral, third party alternative dis-
 2 pute resolution procedure for mediating an issue in con-
 3 troversy between a participating surety and the Adminis-
 4 tration.

5 (b) CONTENTS.—The regulations promulgated under
 6 subsection (a) shall—

7 (1) permit either a participating surety or the
 8 Administration to request alternative dispute resolu-
 9 tion proceedings; and

10 (2) establish—

11 (A) a process for selecting a neutral, third
 12 party mediator;

13 (B) a reasonable time frame for the con-
 14 clusion of any mediation under this section; and

15 (C) a method for sharing the costs of any
 16 mediation under this section between a partici-
 17 pating surety and the Administration.

18 (c) DEFINITIONS.—In this section—

19 (1) the term “issue in controversy” has the
 20 meaning given that term in section 571 of title 5,
 21 United States Code;

22 (2) the term “participating surety” means a
 23 surety participating in a program under part B of
 24 title IV of the Small Business Investment Act of
 25 1958 (15 U.S.C. 694a et seq.); and

1 (3) the term “surety” has the meaning given
2 that term in section 410 of the Small Business In-
3 vestment Act of 1958 (15 U.S.C. 694a).

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