

111TH CONGRESS  
1ST SESSION

# S. 2731

To improve disaster assistance provided by the Small Business Administration, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 5, 2009

Ms. LANDRIEU (for herself and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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## A BILL

To improve disaster assistance provided by the Small Business Administration, 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 “Small Business Admin-  
5       istration Disaster Recovery and Reform Act of 2009”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act—

8               (1) the terms “Administration” and “Adminis-  
9       trator” mean the Small Business Administration  
10       and the Administrator thereof, respectively;

1           (2) the term “approved State Bridge Loan Pro-  
 2           gram” means a State Bridge Loan Program ap-  
 3           proved under section 203(b);

4           (3) the term “small business concern” has the  
 5           meaning given that term under section 3 of the  
 6           Small Business Act; and

7           (4) the term “State” means any State of the  
 8           United States, the District of Columbia, the Com-  
 9           monwealth of Puerto Rico, the Northern Mariana Is-  
 10          lands, the Virgin Islands, Guam, American Samoa,  
 11          and any territory or possession of the United States.

12 **SEC. 3. TABLE OF CONTENTS.**

13          The table of contents for this Act is as follows:

Sec. 1. Short title.  
 Sec. 2. Definitions.  
 Sec. 3. Table of contents.

**TITLE I—GULF COAST RECOVERY AND ASSISTANCE FOR HOME-  
 OWNERS IMPACTED BY DRYWALL MANUFACTURED IN THE  
 PEOPLE’S REPUBLIC OF CHINA**

Sec. 101. Report on the Gulf Coast Disaster Loan Refinancing Program.  
 Sec. 102. Extension of participation term for victims of Hurricane Katrina or  
                 Hurricane Rita.  
 Sec. 103. Assistance for homeowners impacted by drywall manufactured in the  
                 People’s Republic of China.

**TITLE II—IMPROVEMENTS TO ADMINISTRATION DISASTER  
 ASSISTANCE PROGRAMS**

Sec. 201. Improvements to the Pioneer Business Recovery Program.  
 Sec. 202. Increased limits.  
 Sec. 203. State bridge loan guarantee.  
 Sec. 204. Modified collateral requirements.  
 Sec. 205. Aquaculture business disaster assistance.  
 Sec. 206. Regional outreach on disaster assistance programs.  
 Sec. 207. Duplication of benefits.  
 Sec. 208. Administration coordination on economic injury disaster declarations.  
 Sec. 209. Coordination between Small Business Administration and Depart-  
                 ment of Agriculture disaster programs.  
 Sec. 210. Technical and conforming amendment.

1 **TITLE I—GULF COAST RECOV-**  
 2 **ERY AND ASSISTANCE FOR**  
 3 **HOMEOWNERS IMPACTED BY**  
 4 **DRYWALL MANUFACTURED**  
 5 **IN THE PEOPLE’S REPUBLIC**  
 6 **OF CHINA**

7 **SEC. 101. REPORT ON THE GULF COAST DISASTER LOAN**  
 8 **REFINANCING PROGRAM.**

9 Section 12086 of the Food, Conservation, and En-  
 10 ergy Act of 2008 (Public Law 110–246; 122 Stat. 2184)  
 11 is amended by adding at the end the following:

12 “(g) REPORT TO CONGRESS.—

13 “(1) IN GENERAL.—Not later than 30 days  
 14 after the date of enactment of this subsection, 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 a report making recommenda-  
 19 tions regarding improvements to the program.

20 “(2) CONTENTS.—The report under paragraph  
 21 (1) may include recommendations relating to—

22 “(A) modifying the end of the deferment  
 23 date of Gulf Coast disaster loans;

1           “(B) reducing interest payments on Gulf  
2           Coast disaster loans, subject to the availability  
3           of appropriations;

4           “(C) extending the term of Gulf Coast dis-  
5           aster loans to 35 years; and

6           “(D) any other modification to the pro-  
7           gram determined appropriate by the Adminis-  
8           trator.”.

9   **SEC. 102. EXTENSION OF PARTICIPATION TERM FOR VIC-**  
10           **TIMS OF HURRICANE KATRINA OR HURRI-**  
11           **CANE RITA.**

12       (a) **RETROACTIVITY.**—If a small business concern,  
13 while participating in any program or activity under the  
14 authority of paragraph (10) of section 7(j) of the Small  
15 Business Act (15 U.S.C. 636(j)), was located in a parish  
16 or county described in subsection (b) of this section and  
17 was affected by Hurricane Katrina of 2005 or Hurricane  
18 Rita of 2005, the period during which that small business  
19 concern is permitted continuing participation and eligi-  
20 bility in that program or activity shall be extended for 24  
21 months after the date such participation and eligibility  
22 would otherwise terminate.

23       (b) **PARISHES AND COUNTIES COVERED.**—Sub-  
24 section (a) applies to any parish in the State of Louisiana,  
25 or any county in the State of Mississippi or in the State

1 of Alabama, that has been designated by the Adminis-  
 2 trator as a disaster area by reason of Hurricane Katrina  
 3 of 2005 or Hurricane Rita of 2005 under disaster declara-  
 4 tion 10176, 10177, 10178, 10179, 10180, 10181, 10205,  
 5 or 10206.

6 (c) REVIEW AND COMPLIANCE.—The Administrator  
 7 shall ensure that the case of every small business concern  
 8 participating before the date of enactment of this Act in  
 9 a program or activity covered by subsection (a) is reviewed  
 10 and brought into compliance with this section.

11 **SEC. 103. ASSISTANCE FOR HOMEOWNERS IMPACTED BY**  
 12 **DRYWALL MANUFACTURED IN THE PEOPLE’S**  
 13 **REPUBLIC OF CHINA.**

14 (a) DEFINITIONS.—In this section, the term “defec-  
 15 tive drywall” means drywall board that the Administrator  
 16 determines—

17 (1) was manufactured in the People’s Republic  
 18 of China;

19 (2) was imported into the United States during  
 20 the period beginning on January 1, 2004, and end-  
 21 ing on December 31, 2008; and

22 (3) is directly responsible for substantial metal  
 23 corrosion or other property damage in the dwelling  
 24 in which the drywall is installed.

1       (b) DISASTER ASSISTANCE FOR HOMEOWNERS IM-  
2   PACTED BY DEFECTIVE DRYWALL.—

3           (1) IN GENERAL.—The Administrator may,  
4       upon request by a Governor that has declared a dis-  
5       aster as a result of property loss or damage as a re-  
6       sult of defective drywall, declare a disaster under  
7       section 7(b) of the Small Business Act (15 U.S.C.  
8       636(b)) relating to the defective drywall.

9           (2) USES.—Assistance under a disaster de-  
10      clared under paragraph (1) may be used only for the  
11      repair or replacement of defective drywall.

12          (3) LIMITATION.—Assistance under a disaster  
13      declared under paragraph (1) may not—

14           (A) provide compensation for losses or  
15           damage compensated for by insurance or other  
16           sources; and

17           (B) exceed more than 25 percent of the  
18           funds appropriated to the Administration for  
19           disaster assistance during any fiscal year.

1 **TITLE II—IMPROVEMENTS TO**  
 2 **ADMINISTRATION DISASTER**  
 3 **ASSISTANCE PROGRAMS**

4 **SEC. 201. IMPROVEMENTS TO THE PIONEER BUSINESS RE-**  
 5 **COVERY PROGRAM.**

6 (a) IN GENERAL.—Section 12085 of the Food, Con-  
 7 servation, and Energy Act of 2008 (15 U.S.C. 636j) is  
 8 amended—

9 (1) in the section heading, by striking “**EXPE-**  
 10 **DITED DISASTER ASSISTANCE LOAN PRO-**  
 11 **GRAM**” and inserting “**PIONEER BUSINESS RE-**  
 12 **COVERY PROGRAM**”;

13 (2) by striking “expedited disaster assistance  
 14 business loan program” each place it appears and  
 15 inserting “Pioneer Business Recovery Program”;

16 (3) in subsection (b) by striking “paragraph  
 17 (9)” and all that follows and inserting “section 7(b)  
 18 of the Small Business Act (15 U.S.C. 636(b)).”; and

19 (4) in subsection (d)(3)(A), by striking  
 20 “\$150,000” and inserting “\$250,000”.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 22 The table of contents in section 1(b) of the Food, Con-  
 23 servation, and Energy Act of 2008 (Public Law 110–246;

1 122 Stat. 1651) is amended by striking the item relating  
 2 to section 12085 and inserting the following:

“Sec. 12085. Pioneer Business Recovery Program.”.

3 **SEC. 202. INCREASED LIMITS.**

4 Section 7 of the Small Business Act (15 U.S.C. 636)  
 5 is amended—

6 (1) in subsection (d)(6)—

7 (A) by striking “\$100,000” and inserting  
 8 “\$400,000”; and

9 (B) by striking “\$20,000” and inserting  
 10 “\$80,000”;

11 (2) by striking “(e) [RESERVED].”; and

12 (3) by striking “(f) [RESERVED].”.

13 **SEC. 203. STATE BRIDGE LOAN GUARANTEE.**

14 (a) AUTHORIZATION.—After issuing guidelines under  
 15 subsection (c), the Administrator may guarantee loans  
 16 made under an approved State Bridge Loan Program.

17 (b) APPROVAL.—

18 (1) APPLICATION.—A State desiring approval  
 19 of a State Bridge Loan Program shall submit an ap-  
 20 plication to the Administrator at such time, in such  
 21 manner, and accompanied by such information as  
 22 the Administrator may require.

23 (2) CRITERIA.—The Administrator may ap-  
 24 prove an application submitted under paragraph (1)



1 based on such criteria as the Administrator may es-  
2 tablish under this section.

3 (c) GUIDELINES.—

4 (1) IN GENERAL.—Not later than 180 days  
5 after the date of enactment of this Act, the Adminis-  
6 trator shall issue to the appropriate economic devel-  
7 opment officials in each State, the Committee on  
8 Small Business and Entrepreneurship of the Senate,  
9 and the Committee on Small Business of the House  
10 of Representatives, guidelines regarding approved  
11 State Bridge Loan Programs.

12 (2) CONTENTS.—The guidelines issued under  
13 paragraph (1) shall—

14 (A) identify appropriate uses of funds  
15 under an approved State Bridge loan Program;

16 (B) set terms and conditions for loans  
17 under an approved State Bridge loan Program;

18 (C) address whether—

19 (i) an approved State Bridge Loan  
20 Program may charge administrative fees;  
21 and

22 (ii) loans under an approved State  
23 Bridge Loan Program shall be disbursed  
24 through local banks and other financial in-  
25 stitutions; and

1 (D) establish the percentage of a loan the  
 2 Administrator will guarantee under an approved  
 3 State Bridge Loan Program.

4 **SEC. 204. MODIFIED COLLATERAL REQUIREMENTS.**

5 Section 7(d)(6) of the Small Business Act (15 U.S.C.  
 6 636(d)(6)) is amended by inserting after “which are made  
 7 under paragraph (1) of subsection (b)” the following: “:  
 8 *Provided further*, That the Administrator shall not require  
 9 collateral for a loan of not more than \$200,000 under  
 10 paragraph (1) or (2) of subsection (b) relating to damage  
 11 to or destruction of property of, or economic injury to,  
 12 a small business concern”.

13 **SEC. 205. AQUACULTURE BUSINESS DISASTER ASSISTANCE.**

14 Section 18(b)(1) of the Small Business Act (15  
 15 U.S.C. 647(b)(1)) is amended—

16 (1) by striking “aquaculture,”; and

17 (2) by inserting before the semicolon “, and  
 18 does not include aquaculture”.

19 **SEC. 206. REGIONAL OUTREACH ON DISASTER ASSISTANCE**  
 20 **PROGRAMS.**

21 (a) REPORT.—In accordance with sections 7(b)(4)  
 22 and 40(a) of the Small Business Act (15 U.S.C. 636(b)(4)  
 23 and 657l(a)) and not later than 60 days after the date  
 24 of enactment of this Act, the Administrator shall submit  
 25 to the Committee on Small Business and Entrepreneur-

1 ship of the Senate and the Committee on Small Business  
2 of the House of Representatives, a report detailing—

3 (1) information on the disasters, manmade or  
4 natural, most likely to occur in each region of the  
5 Administration and likely scenarios for each disaster  
6 in each region;

7 (2) information on plans of the Administration,  
8 if any, to conduct annual disaster outreach semi-  
9 nars, including events with resource partners of the  
10 Administration, in each region before periods of pre-  
11 dictable disasters described in paragraph (1);

12 (3) information on plans of the Administration  
13 for satisfying the requirements under section 40(a)  
14 of the Small Business Act not satisfied on the date  
15 of enactment of this Act; and

16 (4) such additional information as determined  
17 necessary by the Administrator.

18 (b) AVAILABILITY OF INFORMATION.—The Adminis-  
19 trator shall—

20 (1) post the disaster information provided  
21 under subsection (a) on the website of the Adminis-  
22 tration; and

23 (2) make the information provided under sub-  
24 section (a) available, upon request, at each regional  
25 and district office of the Administration.

1 **SEC. 207. DUPLICATION OF BENEFITS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) Section 312 of the Robert T. Stafford Dis-  
4 aster Relief and Emergency Assistance Act (42  
5 U.S.C. 5155) states the following:

6 (A) “The President, in consultation with  
7 the head of each Federal agency administering  
8 any program providing financial assistance to  
9 persons, business concerns, or other emergency,  
10 shall assure that no such person, business con-  
11 cern, or other entity will receive such assistance  
12 with respect to any part of such loss as to  
13 which he has received financial assistance under  
14 any other program or from insurance or any  
15 other source.”.

16 (B) “Receipt of partial benefits for a  
17 major disaster or emergency shall not preclude  
18 provision of additional Federal assistance for  
19 any part of a loss or need for which benefits  
20 have not been provided.”.

21 (C) A recipient of Federal assistance will  
22 be liable to the United States “to the extent  
23 that such assistance duplicates benefits avail-  
24 able to the person for the same purpose from  
25 another source.”.

1           (2) The Administrator should make every effort  
2       to ensure that disaster recovery needs unmet by  
3       Federal and private sources are not overlooked in  
4       determining duplication of benefits for disaster vic-  
5       tims.

6       (b) REVISED DUPLICATION OF BENEFITS CALCULA-  
7       TIONS.—The Administrator may, after consultation with  
8       other relevant Federal agencies, determine whether bene-  
9       fits are duplicated after a person receiving assistance  
10      under section 7(b) of the Small Business Act (15 U.S.C.  
11      636(b)) receives other Federal disaster assistance by a dis-  
12      aster victim.

13      **SEC. 208. ADMINISTRATION COORDINATION ON ECONOMIC**  
14                              **INJURY DISASTER DECLARATIONS.**

15      Not later than 180 days after the date of enactment  
16      of this Act, the Administrator shall submit to the Com-  
17      mittee on Small Business and Entrepreneurship of the  
18      Senate and the Committee on Small Business of the  
19      House of Representatives, a report providing—

20           (1) information on economic injury disaster  
21      declarations under section 7(b)(2) of the Small Busi-  
22      ness Act (15 U.S.C. 636(b)(2)) made by the Admin-  
23      istrator during the 10-year period ending on the  
24      date of enactment of this Act based on a natural  
25      disaster declaration by the Secretary of Agriculture;

(2) information on economic injury disaster declarations under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) made by the Administrator during the 10-year period ending on the date of enactment of this Act based on a fishery resource disaster declaration from the Secretary of Commerce;

(3) information on whether the disaster response plan of the Administration under section 40 of the Small Business Act (15 U.S.C. 657l) adequately addresses coordination with the Secretary of Agriculture and the Secretary of Commerce on economic injury disaster assistance under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2));

(4) recommended legislative changes, if any, for improving agency coordination on economic injury disaster declarations under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)); and

(5) such additional information as determined necessary by the Administrator.

**SEC. 209. COORDINATION BETWEEN SMALL BUSINESS ADMINISTRATION AND DEPARTMENT OF AGRICULTURE DISASTER PROGRAMS.**

(a) DEFINITIONS.—In this section—

1           (1) the term “agricultural small business con-  
2           cern” means a small business concern that is an ag-  
3           ricultural enterprise, as defined in section 18(b)(1)  
4           of the Small Business Act (15 U.S.C. 647(b)(1)), as  
5           amended by this Act; and

6           (2) the term “rural small business concern”  
7           means a small business concern located in a rural  
8           area, as that term is defined in section 1393(a)(2)  
9           of the Internal Revenue Code of 1986.

10          (b) REPORT.—Not later than 120 days after the date  
11 of enactment of this Act, the Administrator, in consulta-  
12 tion with the Secretary of Agriculture, shall submit to the  
13 Committee on Small Business and Entrepreneurship of  
14 the Senate and the Committee on Small Business of the  
15 House of Representatives, a report detailing—

16           (1) information on disaster assistance programs  
17           of the Administration for rural small business con-  
18           cerns and agricultural small business concerns;

19           (2) information on industries or small business  
20           concerns excluded from programs described in para-  
21           graph (1);

22           (3) information on disaster assistance programs  
23           of the Department of Agriculture to rural small  
24           business concerns and agricultural small business  
25           concerns;

1           (4) information on industries or small business  
2       concerns excluded from programs described in para-  
3       graph (3);

4           (5) information on disaster assistance programs  
5       of the Administration that are duplicative of disaster  
6       assistance programs of the Department of Agri-  
7       culture;

8           (6) information on coordination between the  
9       two agencies on implementation of disaster assist-  
10      ance provisions of the Food, Conservation, and En-  
11      ergy Act of 2008 (Public Law 110–246; 122 Stat.  
12      1651), and the amendments made by that Act;

13          (7) recommended legislative or administrative  
14      changes, if any, for improving coordination of dis-  
15      aster assistance programs, in particular relating to  
16      removing gaps in eligibility for disaster assistance  
17      programs by rural small business concerns and agri-  
18      cultural small business concerns; and

19          (8) such additional information as determined  
20      necessary by the Administrator.

21 **SEC. 210. TECHNICAL AND CONFORMING AMENDMENT.**

22       Section 7(b) of the Small Business Act (15 U.S.C.  
23   636(b)) is amended in the matter following paragraph (9),  
24   by striking “section 312(a) of the Disaster Relief and  
25   Emergency Assistance Act” and inserting “section 312(a)



- 1 of the Robert T. Stafford Disaster Relief and Emergency
- 2 Assistance Act (42 U.S.C. 5155(a))”.

