

111TH CONGRESS
2D SESSION

S. 3432

To establish a temporary Working Capital Express loan guarantee program for small business concerns, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27 (legislative day, MAY 26), 2010

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

A BILL

To establish a temporary Working Capital Express loan guarantee program for 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 “Working Capital Ex-
5 press Act of 2010”.

6 **SEC. 2. WORKING CAPITAL EXPRESS PROGRAM.**

7 (a) PROGRAM ESTABLISHED.—

8 (1) WORKING CAPITAL EXPRESS PROGRAM.—

9 Section 7(a)(31) of the Small Business Act (15

1 U.S.C. 636(a)(31)) is amended by adding at the end
2 the following:

3 “(G) WORKING CAPITAL EXPRESS PRO-
4 GRAM IN RESPONSE TO ECONOMIC CRISIS.—

5 “(i) LOAN GUARANTEES.—The Ad-
6 ministrator may guarantee loans for work-
7 ing capital under the Express Loan Pro-
8 gram made by lenders designated in ac-
9 cordance with clause (iii)(I) to small busi-
10 ness concerns that have been in business
11 for not less than 2 years before the date on
12 which the small business concern submits
13 an application for a loan under this sub-
14 paragraph.

15 “(ii) LOAN TERMS.—

16 “(I) AMOUNT.—Notwithstanding
17 subparagraph (D), the Administrator
18 may guarantee a loan of not more
19 than \$750,000 under this subpara-
20 graph.

21 “(II) GUARANTEE RATE.—Not-
22 withstanding subparagraph (A)(iii),
23 the guarantee rate for a loan under
24 this subparagraph shall be 80 percent.

25 “(iii) PROGRAM SAFEGUARDS.—

1 “(I) ELIGIBILITY.—The Adminis-
2 trator shall, by rule, establish criteria
3 for the designation of lenders that are
4 eligible to make a loan guaranteed
5 under this subparagraph.

6 “(II) UNDERWRITING STAND-
7 ARDS.—The Administrator shall, by
8 rule, establish underwriting standards
9 for loans guaranteed under this sub-
10 paragraph, to ensure that the Admin-
11 istrator may guarantee new loans
12 under this subparagraph until Decem-
13 ber 1, 2011. The standards estab-
14 lished under this subclause shall re-
15 quire the borrower to submit income
16 tax returns to provide verification of
17 business income.

18 “(III) DEFAULT AND DELIN-
19 QUENCY RATES.—The Administrator
20 shall—

21 “(aa) by rule establish max-
22 imum default and delinquency
23 rates permissible for loans made
24 under this subparagraph; and

1 “(bb) suspend the eligibility
2 to make a loan guaranteed under
3 this subparagraph of any lender
4 that has a default or delinquency
5 rate grater than the rate estab-
6 lished under item (aa).

7 “(IV) PENALTIES FOR FRAUD.—
8 Notwithstanding section 16, a lender
9 that knowingly makes a false state-
10 ment with respect to the income, as-
11 sets, or other qualifications of a small
12 business concern in connection with a
13 loan or application for a loan guaran-
14 teed under this subparagraph shall be
15 fined not more than \$500,000, impris-
16 oned for not more than 5 years, or
17 both.

18 “(iv) AUTHORITY OF PARTICIPATING
19 LENDERS.—A lender designated in accord-
20 ance with clause (iii) shall have the same
21 authority with respect to the underwriting
22 and liquidation of a loan guaranteed under
23 this subparagraph as a lender participating
24 in the Certified Lenders Program under
25 paragraph (19).

1 “(v) PAYMENT OF CLAIMS BY THE
2 ADMINISTRATOR.—The Administrator shall
3 pay a claim by a lender on a guarantee of
4 a loan by the Administrator under this
5 subparagraph, unless the Administrator
6 determines that—

7 “(I) the lender has committed
8 fraud with respect to the loan; or

9 “(II) there is a material error in
10 the loan origination, servicing, or liq-
11 uidation process.

12 “(vi) TOTAL AMOUNT OF LOANS.—
13 Not more than 20 percent of the total dol-
14 lar amount of all loans guaranteed under
15 this subsection in any fiscal year may be
16 loan guarantees under this subparagraph.

17 “(vii) DEFAULT RATE.—The Adminis-
18 trator shall calculate the default rate for
19 loans guaranteed under this subparagraph
20 separately from the default rate for any
21 other loans made or guaranteed by the Ad-
22 ministration.

23 “(viii) SELF-SCREENING WEBSITE.—
24 The Administrator shall establish a website
25 to allow the owners and operators of small

1 business concerns to assess their eligibility
 2 to obtain loans guaranteed under this sub-
 3 paragraph.”.

4 (2) CONFORMING AMENDMENT.—Section
 5 7(a)(25)(B) of the Small Business Act (15 U.S.C.
 6 636(a)(25)(B)) is amended by inserting “, and does
 7 not include loans under paragraph (31)(G)” after
 8 “by law”.

9 (b) PROSPECTIVE REPEAL.—

10 (1) IN GENERAL.—Effective December 1, 2011,
 11 section 7(a) of the Small Business Act (15 U.S.C.
 12 636(a)) is amended—

13 (A) in paragraph (25)(B), by striking “,
 14 and does not include loans under paragraph
 15 (31)(G)”;

16 (B) in paragraph (31), by striking sub-
 17 paragraph (G).

18 (2) PENALTIES.—Notwithstanding paragraph
 19 (1), subclause (IV) of section 7(a)(31)(G)(iii) of the
 20 Small Business Act, as added by this Act, shall con-
 21 tinue to apply on and after December 1, 2011, to
 22 loans guaranteed under section 7(a)(31)(G) of the
 23 Small Business Act.

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