

111TH CONGRESS  
2D SESSION

# S. 3835

To reinstate the increase in the surety bond guarantee limits for the Small Business Administration.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2010

Mr. CARDIN (for himself, Ms. LANDRIEU, and Mr. BAUCUS) 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 reinstate the increase in the surety bond guarantee limits for the Small Business Administration.

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. SURETY BONDS.**

4 (a) MAXIMUM BOND AMOUNT.—Section 411(a)(1) of  
5 the Small Business Investment Act of 1958 (15 U.S.C.  
6 694b(a)(1)) is amended by striking “(1)” and all that fol-  
7 lows and inserting the following: “(1)(A) The Administra-  
8 tion may, upon such terms and conditions as it may pre-  
9 scribe, guarantee and enter into commitments to guar-  
10 antee any surety against loss resulting from a breach of

1 the terms of a bid bond, payment bond, performance bond,  
 2 or bonds ancillary thereto, by a principal on any total work  
 3 order or contract amount at the time of bond execution  
 4 that does not exceed \$5,000,000.

5 “(B) The Administrator may guarantee a surety  
 6 under subparagraph (A) for a total work order or contract  
 7 amount that does not exceed \$10,000,000, if a contracting  
 8 officer of a Federal agency certifies that such a guarantee  
 9 is necessary.”.

10 (b) DENIAL OF LIABILITY.—Section 411 of the Small  
 11 Business Investment Act of 1958 (15 U.S.C. 694b) is  
 12 amended—

13 (1) by striking subsection (e) and inserting the  
 14 following:

15 “(e) REIMBURSEMENT OF SURETY; CONDITIONS.—  
 16 Pursuant to any such guarantee or agreement, the Admin-  
 17 istration shall reimburse the surety, as provided in sub-  
 18 section (c) of this section, except that the Administration  
 19 shall be relieved of liability (in whole or in part within  
 20 the discretion of the Administration) if—

21 “(1) the surety obtained such guarantee or  
 22 agreement, or applied for such reimbursement, by  
 23 fraud or material misrepresentation;

24 “(2) the total contract amount at the time of  
 25 execution of the bond or bonds exceeds \$5,000,000;

1           “(3) the surety has breached a material term or  
2           condition of such guarantee agreement; or

3           “(4) the surety has substantially violated the  
4           regulations promulgated by the Administration pur-  
5           suant to subsection (d).”;

6           (2) by striking subsection (k); and

7           (3) by adding after subsection (i) the following:

8           “(j) DENIAL OF LIABILITY.—For bonds made or exe-  
9           cuted with the prior approval of the Administration, the  
10          Administration shall not deny liability to a surety based  
11          upon material information that was provided as part of  
12          the guaranty application.”.

13          (c) SIZE STANDARDS.—Section 410 of the Small  
14          Business Investment Act of 1958 (15 U.S.C. 694a) is  
15          amended—

16               (1) by striking paragraph (9); and

17               (2) adding after paragraph (8) the following:

18           “(9) Notwithstanding any other provision of law or  
19          any rule, regulation, or order of the Administration, for  
20          purposes of sections 410, 411, and 412 the term ‘small  
21          business concern’ means a business concern that meets the  
22          size standard for the primary industry in which such busi-  
23          ness concern, and the affiliates of such business concern,  
24          is engaged, as determined by the Administrator in accord-

1   ance with the North American Industry Classification Sys-  
2   tem.”.

3       (d) CONFORMING AMENDMENT.—Section 508(f) of  
4   division A of the American Recovery and Reinvestment  
5   Act of 2009 (15 U.S.C. 694a note) is repealed.

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