

113TH CONGRESS
2D SESSION

H. R. 5600

To amend the Small Business Act to establish rules for franchisee eligibility for financial assistance under certain small business programs.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2014

Mr. GRAVES of Missouri introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to establish rules for franchisee eligibility for financial assistance under certain small business programs.

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 “Franchise Financing
5 Improvement Act of 2014”.

6 **SEC. 2. ELIGIBILITY FOR FINANCIAL ASSISTANCE.**

7 Section 2 of the Small Business Act (15 U.S.C. 631)
8 is amended by adding at the end the following new sub-
9 section:

1 “(k) The Administrator shall make financial assist-
 2 ance available to franchisees under this Act or titles III
 3 and V of the Small Business Investment Act of 1958 if
 4 the franchisee is not affiliated with the franchisor pursu-
 5 ant to section 3 of this Act.”.

6 **SEC. 3. AFFILIATION RULES FOR FRANCHISEES.**

7 Section 3(a)(5) of the Small Business Act (15 U.S.C.
 8 632(a)(5)) is amended by adding at the end the following
 9 new subparagraphs:

10 “(C) ELIGIBILITY OF FRANCHISEES.—For
 11 purposes of determining eligibility of
 12 franchisees for financial assistance under this
 13 Act or titles III and V of the Small Business
 14 Act, a franchisee shall not be considered affili-
 15 ated with the franchisor if—

16 “(i) the franchisor has filed a disclo-
 17 sure document pursuant to—

18 “(I) part 436 of title 16, Code of
 19 Federal Regulations (or any successor
 20 regulation); or

21 “(II) any law or regulation of a
 22 State or territory that mandates dis-
 23 closure of information to a franchisee;
 24 and

1 “(ii) the franchisee, upon default on a
2 loan (whether guaranteed by the Adminis-
3 trator or not) has no ability to obtain fi-
4 nancial assistance from the franchisor to
5 repay such loan. For purposes of this
6 clause, a franchisor’s authority to repur-
7 chase the franchise for failure to comply
8 with the terms and conditions of the fran-
9 chise agreement or have the right of first
10 refusal to purchase the franchise from the
11 franchisee shall not be considered financial
12 assistance to repay loans issued to the
13 franchisee.

14 “(D) DEFINITIONS.—For the purposes of
15 subparagraph (C), the terms ‘franchisor’ and
16 ‘franchisee’ have the meaning given those terms
17 in section 436.1 of title 16, Code of Federal
18 Regulations as of January 1, 2014, or any suc-
19 cessor regulation.”.

20 **SEC. 4. ISSUANCE OF REGULATIONS.**

21 (a) The Administrator, after the opportunity for no-
22 tice and comment, shall issue regulations to implement
23 this Act within 120 days of enactment.

24 (b) If the Administrator fails to promulgate such reg-
25 ulations, the Administrator shall, unless there is clear and

1 convincing evidence of fraud, honor the terms and condi-
2 tions of any guarantee issued by the Administrator pursu-
3 ant to the Small Business Act (15 U.S.C. 631 et seq.)
4 or titles III and V of the Small Business Investment Act
5 of 1958 (15 U.S.C. 661 et seq.) without regard to whether
6 the entity complied with any Standard Operating Proce-
7 dure issued by the Administrator until such time as the
8 Administrator issues regulations under subsection (a).

9 (c) For purposes of subsection (b), the term “Stand-
10 ard Operating Procedure” shall have the meaning given
11 the term “SOPs” in section 120.10 of title 13, Code of
12 Federal Regulations as in effect on January 1, 2014, or
13 any successor regulation.

○