



H.R. 1332 - Small Business Lending Improvements Act of 2007

Floor Situation

H.R. 1332 is being considered on the floor pursuant to a structured rule. The rule:

- Provides one hour of general debate equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Small Business;
- Waives all points of order against consideration of the bill except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI;
- Makes in order only those amendments printed in the Rules Committee report;
- Notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker; and,
- Provides one motion to recommit with or without instructions.

This legislation was introduced by Representative Melissa Bean (D-IL) on March 6, 2007. The bill was ordered to be reported from the Committee on Small Business, by voice vote, on March 15, 2007.

H.R. 1332 is expected to be considered on the floor on April 25, 2007.

Background

In 1952, President Dwight Eisenhower sought the creation of a small business agency to replace the Reconstruction Finance Corporation that was created in the 1930s to deal with the effects of the Great Depression. Congress created the Small Business Administration (SBA) by passing the Small Business Act on July 30, 1953. The SBA's mission is to "aid, counsel, assist and protect, insofar as is possible, the interests of small business concerns."

The SBA's primary loan program is the 7(a) loan program. This program provides loan guarantees for borrowers who may have trouble procuring a loan. These loans may be used for business acquisition, expansion, construction, recapitalization, refinance, business buyout, start-ups, working capital, and machinery and equipment purchase. 7(a) loans may be borrowed up to \$2 million.

The guaranty which SBA provides for 7(a) loans is only available to the lender. It guarantees the lender that if the borrower does not repay their debt and a payment default occurs, the Government will reimburse the lender for its loss, up to the percentage of SBA's guaranty. However, the borrower remains obligated for the full amount due.

The 504 loan program is a long-term lending tool for the development of a community's economy. These loans are designed for the purchase of long term assets such as owner-user commercial real estate or heavy machinery and equipment.

Summary

H.R. 1332 makes changes to the 7(a) (business start-up loan) and the 504 (certified development company economic development loan) programs of the Small Business Administration (SBA). This legislation also allows the SBA to use appropriated funds instead of charging lenders and borrowers fees to cover the cost of 7(a) loan guarantees. The bill provides certified development companies with greater opportunities to provide economic activities to small businesses through the 504 loan program.

H.R. 1332:

- Allows the Small Business Administration Administrator (“the Administrator”) to assess and collect fees from lenders and borrowers up to the maximum limit. This will allow the Administrator to reduce fees to lenders and borrowers while still maintaining a zero subsidy rate (and not requiring an appropriation).
- Permits the Administrator to reduce the fees to borrowers first, and then reduce the fees to lenders, if funds are made available for the purpose of reducing fees.
- Requires the Administrator to carry out a rural lending outreach program (SBA Low-Doc) to provide loans of up to \$250,000 (increased from \$150,000) with a guaranty of up to 85%. The Low-Doc program will be carried out only through lenders located in rural areas and:
 - The administrator must approve or deny the loan within 36 hours;
 - The program must use abbreviated application and documentation requirements; and,
 - Minimum credit standards will apply (to limit the rate of default on loans made under the program).
- Makes the Community Express Program pilot program permanent for loans under \$250,000. For these loans:

- The loan must be made to a business:
 - That the majority ownership interest of which is directly held by individuals who are women, socially or economically disadvantaged individuals as determined by the Administrator, or veterans of the armed forces; or,
 - That is located in a low- or moderate-income area, as determined by the Administrator.
- The loan must comply with the collateral policy of the SBA; and,
- The Administrator must approve or deny the loan within 36 hours.
- Creates Medical Professionals in Designated Shortage Areas Program in the SBA. These loans:
 - Will be made to businesses that provide properly licensed medical, dental, or psychiatric services to the public;
 - Will be for the purpose of opening a business in a health professional shortage area;
 - Will provide 7(a) loans to medical providers (including pharmacies) at a 90% guarantee; and,
 - Reduce the fee that the lender and borrower pay by half.
- Creates an Increased Veteran Participation Program in the SBA for recent veterans. These loans:
 - Will be made to businesses that veterans hold a majority ownership interest;
 - Will provide 7(a) loans to veterans at a 90% guarantee (without regard to the size of the loans); and,
 - Eliminate fees to borrowers and lenders.
- Requires the Administrator to create a size standard based on the net worth and net income of the small businesses to obtain loans. Until this is completed, the Administrator will use the net worth and net income standards used to obtain a loan pursuant to Title V of the Small Business Investment Act of 1958.
- Requires the Administrator to create a program within each of its 10 regional offices to assist SBA small bank lenders to utilize the guaranteed loan program of

the SBA.

- Renames the 504 Loan Program the “Certified Development Company Economic Development Loan Program.”
- Defines “development company” as an entity incorporated under State law with the authority to promote and assist the growth and development of small-business concerns in the areas in which it is authorized to operate by the SBA.
- Defines “certified development companies” as a development company, which the SBA had determined meets the criteria of section 506.
- Establishes rules for the Administrator to qualify development companies as certified development companies. These rules include:
 - Size, purpose, primary function, non-profit status, good standing, membership, board of directors, and professional management and staff.
- Defines the term “rural area” as any area other than:
 - A city or town that has a population greater than 50,000 inhabitants; and,
 - The urbanized area contiguous and adjacent to such a town or city.

Note: this is the same definition used by the Department of Agriculture.

- Permits the expansion of businesses in low-income communities to the public policy goals that allow the Administrator to guarantee up to 50% of the cost of the project.
- Makes a technical correction that clarifies that a business concern is deemed to achieve a public policy goal if a combined ownership share of at least 51% is held by individuals who are minorities, women, or veterans of the Armed Services.
- Permits the borrowers to use the proceeds of the guaranteed loan to refinance existing debt on a project, as long as the debt does not exceed one-half of the project cost and was not issued by the Federal government.
- Requires all certified development companies to conduct their own liquidations.
- Allows the borrower to capitalize closing costs related to a certified development company.

- Permits a borrower to combine the maximum loan amounts under the 7(a) loan program and the certified development company loan program.
- Makes certified development companies eligible for financing of energy efficient programs that reduce energy consumption by at least 10%.
- Allows for loans up to \$4 million for each project that reduces the borrower's energy consumption by at least 10%.
- Extends through 2008 certified lenders ability to make financing decisions without the need for the Administrator's approval.
- Extends through 2008 the pilot program that reduces the amount lenders keep in loan loss reserves.

Amendments Made in Order Pursuant to the Rule

#1 Matheson (D-UT) The amendment makes "members of reserve components of the armed forces" eligible to receive loans of up to \$250,000 under the Community Express Program and the Increased Veteran Participation Program. The amendment is debatable for 10 minutes.

#2 Matheson (D-UT) The amendment makes "members of Indian tribes" eligible to receive loans of up to \$250,000 in the Community Express Program. The amendment is debatable for 10 minutes.

#3 Cuellar (D-TX) The amendment would allow rural small business owners, who do not have a rural lender located within 30 miles, to receive the benefits of the Rural Lending Outreach Program through loans issued by any lender enrolled in the 7(a) loan program. The amendment is debatable for 10 minutes.

#4 Inslee (D-WA) The amendment would require SBA, when considering loans under section 7(a) of Small Business Lending program for capital construction, to give preference to projects that use sustainable design or low-impact design to reduce the use of non-renewable resources, minimize environmental impact, and relate people with the natural environment. The amendment is debatable for 10 minutes.

Additional View

The Administration does not support House passage of H.R. 1332 unless "it is amended to delete provisions that would increase these subsidies and the need for appropriations and/or increased fees on other loan applicants. The Administration also opposes provisions in the bill that would: (1) duplicate rural lending activities currently performed by the Department of Agriculture; (2) have SBA refinance private debt, as Federally-backed credit should not supplant private loans; and (3) raise constitutional questions by establishing race or gender-based preferences without presenting a strong basis in

evidence that these preferences meet constitutional standards. The Administration urges Congress to strike these provisions.” Statement of Administration Policy issued on April 24, 2007.

Cost

“Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 1332 would cost \$316 million in 2008 and \$2.3 billion over the 2008-2012 period. CBO estimates that enacting the bill would not affect revenues and would have no significant effect on direct spending.” Congressional Budget Office
<http://www.cbo.gov/ftpdocs/80xx/doc8019/hr1332.pdf>

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