

April 18, 2007

### **H.R. 1361 - RECOVER Act**

#### **Floor Situation**

H.R. 1361 is being considered on the floor under a structured rule that provides for one hour of general debate equally divided and controlled by the Chairman and Ranking Member of the Committee on Small Business.

#### The Rule:

- Waives all points of order against consideration of the bill except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI.
- Provides that the amendment in the nature of a substitute recommended by the Committee on Small Business now printed in the bill is considered as adopted, and self-enacts a manager's amendment.
- Waives all points of order against the provisions in the bill as amended.
- Makes in order 3 additional amendments and waives all points of order against the amendments except for clauses 9 (earmarks) and 10 (PAYGO) of Rule XXI. (See Amendments section below for details)

H.R. 1361 was introduced by Representative Nydia Velazquez (D-NY) on March 6, 2007. The Committee on Small Business reported the bill as amended, by a vote of 17 - 9, on March 30, 2007.

*\*Note: Of the Members present at the mark up, every Republican Member voted Nay and every Democrat Member voted Yea. There were significant concerns from the Republicans about Sections 210 and 211.*

The bill is expected to be considered on the floor on April 18, 2007.

#### **Amendments**

(Below are the summaries as submitted to the Rules Committee)

**Manager's Amendment, Velázquez (D-NY)** This amendment would narrow the scope of Section 211 by eliminating any retroactive authority to alter existing disaster loans and preserving only the Administrator's prospective authority to provide victims of Hurricanes Katrina, Rita, or Wilma with grants to replace compensation that has been

taken by the SBA as a duplication of benefits. The provision would also amend Section 218 of H.R. 1361 to require that the SBA conduct a study assessing the need and ability of the agency to provide economic injury disaster loans for businesses affected by a lack of snowfall.

**Chabot (R-OH) #1** This amendment would strike section 211, thereby requiring anyone receiving both a grant and a disaster loan to use the grant to repay the disaster loan thereby preventing the government from compensating the same person twice for the same disaster.

**Chabot (R-OH) #2** This amendment would strike section 210, thereby eliminating the authority of the Administrator of the Small Business Administration to offer grants to certain small businesses that were severely affected by Hurricanes Katrina, Rita, or Wilma but that were denied disaster loans.

**Jindal (R-LA)** This amendment would provide Hurricanes Katrina, Rita, and Wilma disaster victims with an option of receiving an increased four year deferment period for disaster loans. Section 204 of the underlying bill extends this option to future disaster victims; this amendment simply makes it retroactive to the 2005 hurricanes.

## **Summary**

### Disaster Response Plan

H.R. 1361 requires the Administrator of the Small Business Administration (SBA) to develop a comprehensive disaster response plan which is to include an assessment of:

- what disasters are most likely to occur in which areas of the country;
- the likely demand for assistance from the SBA in the aftermath of any possible disasters;
- the resources the SBA will need to properly respond to any possible disasters; and,
- how to acquire the additional office space needed to accommodate an expanded workforce in times of disaster. (Sec. 104)

H.R. 1361 directs the SBA to complete the comprehensive disaster relief plan within 180 days of the enactment of this legislation and the plan is to be updated annually. (Sec. 101)

*\*Note: All SBA disaster assistance programs are to be coordinated with FEMA's disaster assistance programs. (Sec. 105)*

### Disaster Reserve Corps

H.R. 1361 requires the SBA to form a corps of disaster responders from amongst their personnel of at least 1,000 individuals, who will receive annual training in disaster response and can be activated in the event of a disaster. (Sec. 103)

H.R. 1361:

- Requires the SBA to conduct an annual disaster simulation exercise that utilizes at least half of the disaster reserve corps in testing SBA disaster response procedures and systems. (Sec. 102)
- Creates a new position within the SBA for an Associate Administrator for Disaster Assistance, who will be appointed by the President and confirmed by the Senate and will oversee the SBA disaster response program, including two additional positions created for a Director of Disaster Planning and a Director of Disaster Lending. (Sec. 106)
- Permits the SBA to offer disaster loans, after the President has declared an incident of national significance, to communities inside and outside of the designated disaster area, permitting that loan applicants outside of the designated disaster area can demonstrate that they were adversely affected by the disaster. (Sec. 201)
- Authorizes the SBA to offer disaster mitigation loans in addition to personal injury loans to allow loan applicants to both recover from the damage sustained during a disaster and take precautions and make preparations for the event of future disasters. (Sec. 201)
- Authorizes the SBA to offer disaster mitigation loans in addition to personal injury loans to non-profit organizations that are located in the areas affected by Hurricanes Katrina, Rita, and Wilma. (Sec. 201)
- Requires the SBA to establish an information system to track communications with applicants for disaster assistance to ensure that applicants are kept informed of their status throughout the application process. (Sec. 202)
- Creates a new loan program for disaster assistance loans of \$25,000 or less where the loan applicant will receive loan approval or rejection within 36 hours after the SBA receives the loan application. (Sec. 203)
- Extends the amount of time disaster loan recipients can defer payment on disaster assistance loans from one year to four years from the date of the final loan disbursement. (Sec. 204)
- Requires the SBA to calculate the loan repayment strictly on the amount of money that was disbursed to the loan recipient as opposed to the amount that was approved for the disaster loan. (Sec. 205)
- Requires that SBA disaster relief loans are disbursed gradually in stages wherein the loan recipient must “produce satisfactory receipts to demonstrate the proper use” of the previous disbursement before receiving the next installment. The disbursements are proportional to the size of the loan, smaller loans (\$150,000 or

less) are distributed over 3 stages, and larger loans (\$150,000 - \$500,000) are distributed over 4 stages and so on. (Sec. 206)

- Prevents applicants seeking SBA disaster relief loans totaling less than \$100,000 from having to use their home as collateral to secure the loan. (Sec. 207)
- Permits private lenders to process, approve, close, and service SBA disaster assistance loans in times of either national significance as declared by the President, or; any time when the average time required by the SBA to approve disaster assistance loans is 30 days or more. (Sec. 208)

*\*Note: Private lenders' fees may not exceed two percent of the total loan amount, and if the SBA determines that the private lenders have an inordinate amount of defaults on disaster assistance loans the SBA may exclude those private lenders from participating in the program in the future.*

- Authorizes such sums as may be necessary to establish an alternate facility for processing disaster loans in the event that the primary loan processing facility becomes unavailable. (Sec. 209)

#### Grants to Disaster-Affected Small Businesses

H.R. 1361 authorizes such sums as may be necessary to provide grants of \$100,000 or less for small business concerns that are located in disaster areas created by Hurricanes Katrina, Rita, or Wilma of 2005.

The grants are to be awarded to business concerns in the specified disaster affected areas that:

- certify that they will reestablish their business within the same county or parish in which the business was originally located;
- has applied for, and was rejected for, a conventional disaster assistance loan; and,
- was in existence for at least two years before the disaster declaration.

H.R. 1361 requires the SBA to give priority to small business concerns that are determined to be economically viable but are unable to meet short-term financial obligations in making grants. (Sec. 210)

*\*Note: CBO estimates that this grant program will cost \$180 million over the 2008-2012 period. (See Cost section below for more details) Committee Republicans were opposed to this provision in that it offers grants to individuals and businesses that do not qualify for disaster loans.*

H.R. 1361 further:

- Grants the SBA discretion to fully or partially waive the requirement that borrowers prepay disaster loans upon receipt of other funds that are considered to be a duplication of the benefits of the SBA disaster loan. (Sec. 211)

*\*Note: CBO estimates that under this provision, loans will remain outstanding for longer period of time and will cost \$215 million over the 2007 – 2009 period. (See Cost section below for more details) Committee Republicans were opposed to this provision in that it (1) allows individuals and businesses to receive double compensation in the way of disaster assistance, and (2) it mandates direct spending for the SBA to cover the added cost of making loans, without an offset, thereby violating PAYGO rules.*

- Raises the allowable combined loan total for a physical and economic injury loan for one individual or business from \$1.5 million to \$3 million. (Sec. 212)
- Prohibits the SBA from imposing an accelerated prepayment plan on loan recipients that have higher than expected earnings. (Sec. 213)
- Expands the ability of private nonprofit organizations to qualify for SBA disaster assistance loans. (Sec. 214)
- Authorizes the SBA to extend its program to make exceptions in exceeding the normal loan limits for businesses that are major employers in disaster affected areas to businesses that did not qualify as major employers before the disaster but may qualify as a major employer after the disaster. (Sec. 215)
- Permits businesses to apply in advance of an employee's departure for SBA assistance loans to compensate for essential employees that are ordered to active duty in the armed services. (Sec. 216)
- Extends eligibility for economic injury disaster loans to include loan applicants affected by ice storms, blizzards, or lack of snowfall. (Sec. 217 & 218)
- Requires the SBA to submit an annual report to Congress on the status of the disaster assistance programs including the effectiveness of the SBA in responding to disasters during that fiscal year; and, detailing the SBA's plans to prepare for responding to disasters in the next fiscal year.
- Requires that during an incident of national significance, the SBA must submit monthly reports to Congress on the status of disaster assistance programs, including the number of loans requested and approved and the details of those loans. (Sec. 301)

## **Background**

Since it was created in the early 1950's, the SBA has provided disaster assistance to U.S. businesses of all sizes, homeowners, renters, and nonprofits. The SBA offers disaster loans that are designed to be affordable with low interest and long terms. The loans are geared to aid qualified recipients in replacing property destroyed in a disaster and helping loan recipients cope with operating expenses that they would have otherwise been able to afford if there had not been a disaster.

### **Cost**

The Congressional Budget Office (CBO) estimates that H.R. 1361 will cost the Federal government \$562 million over the next six years (2007-2012). Of that amount, \$215 million is derived from Section 211, which grants the SBA discretion to fully or partially waive the requirement that borrowers prepay disaster loans upon receipt of other funds that are considered to be a duplication of the benefits of the SBA disaster loan and would come in the 2007-2009 period. Additionally, Section 210, establishing a grant program for the areas affected by Hurricanes Katrina, Rita, and Wilma is estimated to cost \$180 million over the next 5 years.

For more information the text of the CBO report on H.R. 1361 can be found at:

<http://www.cbo.gov/ftpdocs/79xx/doc7973/hr1361.pdf>

### **Staff Contact**

For questions or further information contact Matt Lakin at (202) 226-2302.