

104TH CONGRESS
1ST SESSION

S. 895

AN ACT

To amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, 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 “Small Business Lend-
5 ing Enhancement Act of 1995”.

1 **SEC. 2. REDUCED LEVEL OF PARTICIPATION IN GUARAN-**
2 **TEED LOANS.**

3 Section 7(a)(2) of the Small Business Act (15 U.S.C.
4 636(a)(2)) is amended to read as follows:

5 “(2) LEVEL OF PARTICIPATION IN GUARAN-
6 TEED LOANS.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), in an agreement to partici-
9 pate in a loan on a deferred basis under this
10 subsection (including a loan made under the
11 Preferred Lenders Program), such participation
12 by the Administration shall be equal to—

13 “(i) 75 percent of the balance of the
14 financing outstanding at the time of dis-
15 bursement of the loan, if such balance ex-
16 ceeds \$100,000; or

17 “(ii) 80 percent of the balance of the
18 financing outstanding at the time of dis-
19 bursement of the loan, if such balance is
20 less than or equal to \$100,000.

21 “(B) REDUCED PARTICIPATION UPON RE-
22 QUEST.—

23 “(i) IN GENERAL.—The guarantee
24 percentage specified by subparagraph (A)
25 for any loan under this subsection may be

1 reduced upon the request of the participat-
2 ing lender.

3 “(ii) PROHIBITION.—The Administra-
4 tion shall not use the guarantee percentage
5 requested by a participating lender under
6 clause (i) as a criterion for establishing
7 priorities in approving loan guarantee re-
8 quests under this subsection.

9 “(C) INTEREST RATE UNDER PREFERRED
10 LENDERS PROGRAM.—

11 “(i) IN GENERAL.—The maximum in-
12 terest rate for a loan guaranteed under the
13 Preferred Lenders Program shall not ex-
14 ceed the maximum interest rate, as deter-
15 mined by the Administration, applicable to
16 other loans guaranteed under this sub-
17 section.

18 “(ii) PREFERRED LENDERS PROGRAM
19 DEFINED.—For purposes of this subpara-
20 graph, the term ‘Preferred Lenders Pro-
21 gram’ means any program established by
22 the Administrator, as authorized under the
23 proviso in section 5(b)(7), under which a
24 written agreement between the lender and

1 the Administration delegates to the lend-
2 er—

3 “(I) complete authority to make
4 and close loans with a guarantee from
5 the Administration without obtaining
6 the prior specific approval of the Ad-
7 ministration; and

8 “(II) authority to service and liq-
9 uidate such loans.”.

10 **SEC. 3. GUARANTEE FEES.**

11 (a) AMOUNT OF FEES.—Section 7(a)(18) of the
12 Small Business Act (15 U.S.C. 636(a)(18)) is amended
13 to read as follows:

14 “(18) GUARANTEE FEES.—

15 “(A) IN GENERAL.—With respect to each
16 loan guaranteed under this subsection (other
17 than a loan that is repayable in 1 year or less),
18 the Administration shall collect a guarantee fee,
19 which shall be payable by the participating
20 lender and may be charged to the borrower, in
21 an amount equal to the sum of—

22 “(i) 2.5 percent of the amount of the
23 deferred participation share of the loan
24 that is less than or equal to \$250,000;

1 “(ii) if the deferred participation
2 share of the loan exceeds \$250,000, 3 per-
3 cent of the difference between—

4 “(I) \$500,000 or the total de-
5 ferred participation share of the loan,
6 whichever is less; and

7 “(II) \$250,000; and

8 “(iii) if the deferred participation
9 share of the loan exceeds \$500,000, 3.5
10 percent of the difference between—

11 “(I) \$750,000 or the total de-
12 ferred participation share of the loan,
13 whichever is less; and

14 “(II) \$500,000.

15 “(B) EXCEPTION FOR CERTAIN LOANS.—

16 Notwithstanding subparagraph (A), if the total
17 deferred participation share of a loan guaran-
18 teed under this subsection is less than or equal
19 to \$80,000, the guarantee fee collected under
20 subparagraph (A) shall be in an amount equal
21 to 2 percent of the total deferred participation
22 share of the loan.

23 “(C) DISCRETIONARY INCREASE.—Not-
24 withstanding subparagraphs (A) and (B), dur-
25 ing the 90-day period beginning on the first day

1 of any fiscal year, the Administration may in-
2 crease the guarantee fee collected under this
3 paragraph by an amount not to exceed 0.375
4 percent of the total deferred participation share
5 of the loan, if the Administration—

6 “(i) determines that such action is
7 necessary to meet projected borrower de-
8 mand for loans under this subsection dur-
9 ing that fiscal year, based on the subsidy
10 cost of the loan program under this sub-
11 section and amounts provided in advance
12 for such program in appropriations Acts;
13 and

14 “(ii) not less than 15 days prior to
15 imposing any such increase, notifies the
16 Committees on Small Business of the Sen-
17 ate and the House of Representatives of
18 the determination made under clause (i).”.

19 (b) REPEAL OF PROVISIONS ALLOWING RETENTION
20 OF FEES BY LENDERS.—Section 7(a)(19) of the Small
21 Business Act (15 U.S.C. 636(a)(19)) is amended—

22 (1) in subparagraph (B)—

23 (A) by striking “shall (i) develop” and in-
24 serting “shall develop”; and

1 (B) by striking “, and (ii)” and all that
2 follows through the end of the subparagraph
3 and inserting a period; and
4 (2) by striking subparagraph (C).

5 **SEC. 4. ESTABLISHMENT OF ANNUAL FEE.**

6 (a) IN GENERAL.—Section 7(a) of the Small Busi-
7 ness Act (15 U.S.C. 636(a)) is amended by adding at the
8 end the following new paragraph:

9 “(23) ANNUAL FEE.—

10 “(A) IN GENERAL.—With respect to each
11 loan guaranteed under this subsection, the Ad-
12 ministration shall, in accordance with such
13 terms and procedures as the Administration
14 shall establish by regulation, assess and collect
15 an annual fee in an amount equal to 0.5 per-
16 cent of the outstanding balance of the deferred
17 participation share of the loan.

18 “(B) PAYER.—The annual fee assessed
19 under subparagraph (A) shall be payable by the
20 participating lender and shall not be charged to
21 the borrower.”.

22 (b) CONFORMING AMENDMENT.—Section 5(g)(4)(A)
23 of the Small Business Act (15 U.S.C. 634(g)(4)(A)) is
24 amended—

1 (1) by striking the first sentence and inserting
2 the following: “The Administration may collect a fee
3 for any loan guarantee sold into the secondary mar-
4 ket under subsection (f) in an amount equal to not
5 more than 50 percent of the portion of the sale price
6 that exceeds 110 percent of the outstanding prin-
7 cipal amount of the portion of the loan guaranteed
8 by the Administration.”; and

9 (2) by striking “fees” each place such term ap-
10 pears and inserting “fee”.

11 **SEC. 5. NOTIFICATION REQUIREMENT.**

12 (a) IN GENERAL.—Section 7(a) of the Small Busi-
13 ness Act (15 U.S.C. 636(a)) is amended by adding at the
14 end the following new paragraph:

15 “(24) NOTIFICATION REQUIREMENT.—The Ad-
16 ministration shall notify the Committees on Small
17 Business of the Senate and the House of Represent-
18 atives not later than 15 days before making any sig-
19 nificant policy or administrative change affecting the
20 operation of the loan program under this sub-
21 section.”.

22 **SEC. 6. DEVELOPMENT COMPANY DEBENTURES.**

23 Section 503(b) of the Small Business Investment Act
24 of 1958 (15 U.S.C. 697(b)) is amended—

1 (1) in paragraph (5), by striking “and” at the
2 end;

3 (2) in paragraph (6), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(7) with respect to each loan made from the
8 proceeds of such debenture, the Administration—

9 “(A) assesses and collects a fee, which
10 shall be payable by the borrower, in an amount
11 equal to 0.0625 percent per year of the out-
12 standing balance of the loan; and

13 “(B) uses the proceeds of such fee to offset
14 the cost (as such term is defined in section 502
15 of the Federal Credit Reform Act of 1990) to
16 the Administration of making guarantees under
17 subsection (a).”.

18 **SEC. 7. PILOT PREFERRED SURETY BOND GUARANTEE**

19 **PROGRAM EXTENSION.**

20 Section 207 of the Small Business Administration
21 Reauthorization and Amendment Act of 1988 (15 U.S.C.

- 1 694b note) is amended by striking “September 30, 1995”
- 2 and inserting “September 30, 1997”.

Passed the Senate August 11 (legislative day, July 10), 1995.

Attest:

Secretary.

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