

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 895

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 8 (legislative day, JUNE 5), 1995

Mr. BOND introduced the following bill; which was read twice and referred to the Committee on Small Business

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## A BILL

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  
2 lender—

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

21 “(A) 3 percent of the amount of the de-  
22 ferred participation share of the loan that is  
23 less than or equal to \$250,000;

1           “(B) if the deferred participation share of  
2 the loan exceeds \$250,000, 4 percent of the dif-  
3 ference between—

4                   “(i) \$500,000 or the total deferred  
5 participation share of the loan, whichever  
6 is less; and

7                   “(ii) \$250,000; and

8           “(C) if the deferred participation share of  
9 the loan exceeds \$500,000, 5 percent of the dif-  
10 ference between—

11                   “(i) the total deferred participation  
12 share of the loan; and

13                   “(ii) \$500,000.”.

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

17                   (1) in subparagraph (B)—

18                           (A) by striking “shall (i) develop” and in-  
19 serting “shall develop”; and

20                           (B) by striking “, and (ii)” and all that  
21 follows through the end of the subparagraph  
22 and inserting a period; and

23                   (2) by striking subparagraph (C).

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

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

5 “(23) ANNUAL FEE.—In carrying out this sub-  
6 section, the Administration shall, in accordance with  
7 such terms and procedures as the Administration  
8 shall establish by regulation, assess and collect an  
9 annual fee, which shall be payable by the participat-  
10 ing lender, in an aggregate amount equal to not  
11 more than 0.4 percent of the outstanding balance of  
12 the deferred participation share of the loan.”.

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

16 (1) by striking the first sentence and inserting  
17 the following: “The Administration may collect a fee  
18 for any loan guarantee sold into the secondary mar-  
19 ket under subsection (f) in an amount equal to not  
20 more than 50 percent of the portion of the sale price  
21 that exceeds 110 percent of the outstanding prin-  
22 cipal amount of the portion of the loan guaranteed  
23 by the Administration.”; and

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

1 **SEC. 5. TECHNICAL AMENDMENT.**

2 Section 3 of the Small Business Act (15 U.S.C. 632)  
3 is amended by adding at the end the following new sub-  
4 section:

5 “(o) PARTICIPATING LENDER.—For purposes of this  
6 Act, the term ‘participating lender’ means any bank or  
7 other financial institution that enters into an agreement  
8 with the Administration described section 7(a) to provide  
9 financing in accordance with that section.”.

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