

Calendar No. 166

106TH CONGRESS
1ST Session

S. 918

[Report No. 106-84]

A BILL

To authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes.

JUNE 23, 1999

Reported with an amendment

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To authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 1999

Mr. KERRY (for himself, Mr. BOND, Mr. BINGAMAN, Ms. LANDRIEU, Mr. HARKIN, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. KOHL, Mr. BURNS, Mr. ROBB, Mr. EDWARDS, Mr. LEVIN, Mr. GRAHAM, Ms. SNOWE, Mr. AKAKA, Mrs. MURRAY, Mr. CLELAND, Mr. KENNEDY, Mr. JEFFORDS, Ms. COLLINS, Mr. ABRAHAM, Mr. LEAHY, Mr. BAUCUS, Mr. KERREY, Mr. GRASSLEY, Mr. MOYNIHAN, Mrs. LINCOLN, Mr. BAYH, Mr. CHAFEE, Mr. LAUTENBERG, Mr. COCHRAN, Mr. DASCHLE, Mr. GORTON, Mr. HELMS, Mr. SANTORUM, Mr. THURMOND, Mr. HOLLINGS, Mr. BREAUX, Mr. DEWINE, Mr. ROCKEFELLER, Mr. INHOFE, Mr. GREGG, Mr. DODD, Ms. MIKULSKI, Mr. SARBANES, Mr. SMITH of Oregon, Mr. BENNETT, Mr. ENZI, Mr. TORRICELLI, Mr. HATCH, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Small Business

JUNE 23, 1999

Reported by Mr. BOND, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To authorize the Small Business Administration to provide

financial and business development assistance to military reservists' small businesses, 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 “Military Reservists
 5 Small Business Relief Act of 1999”.

6 **SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERV-**
 7 **ISTS.**

8 Section 7 of the Small Business Act (15 U.S.C. 636)
 9 is amended by adding at the end the following:

10 “(n) REPAYMENT DEFERRED FOR ACTIVE DUTY RE-
 11 SERVISTS.—

12 “(1) DEFINITIONS.—In this subsection:

13 “(A) ELIGIBLE RESERVIST.—The term ‘el-
 14 igible reservist’ means a member of a reserve
 15 component of the Armed Forces ordered to ac-
 16 tive duty during a period of military conflict.

17 “(B) OWNER, MANAGER, OR KEY EM-
 18 PLOYEE.—An owner, manager, or key employee
 19 described in this subparagraph is an individual
 20 who—

21 “(i) has not less than a 20 percent
 22 ownership interest in the small business
 23 concern described in subparagraph (D)(ii);

1 “(ii) is a manager responsible for the
2 day-to-day operations of such small busi-
3 ness concern; or

4 “(iii) is a key employee (as defined by
5 the Administration) of such small business
6 concern.

7 “(C) PERIOD OF MILITARY CONFLICT.—

8 The term ‘period of military conflict’ means—

9 “(i) a period of war declared by Con-
10 gress;

11 “(ii) a period of national emergency
12 declared by Congress or by the President;
13 or

14 “(iii) a period of a contingency oper-
15 ation, as defined in section 101(a) of title
16 10, United States Code.

17 “(D) QUALIFIED BORROWER.—The term
18 ‘qualified borrower’ means—

19 “(i) an individual who is an eligible
20 reservist and who, received a direct loan
21 under subsection (a) or (b) before being
22 ordered to active duty; or

23 “(ii) a small business concern that re-
24 ceived a direct loan under subsection (a) or
25 (b) before an eligible reservist, who is an

1 owner, manager, or key employee described
2 in subparagraph (B), was ordered to active
3 duty.

4 “(2) DEFERRAL OF DIRECT LOANS.—

5 “(A) IN GENERAL.—The Administration
6 shall, upon written request, defer repayment of
7 principal and interest due on a direct loan made
8 under subsection (a) or (b), if such loan was in-
9 curred by a qualified borrower.

10 “(B) PERIOD OF DEFERRAL.—The period
11 of deferral for repayment under this paragraph
12 shall begin on the date on which the eligible re-
13 servist is ordered to active duty and shall termi-
14 nate on the date that is 180 days after the date
15 such eligible reservist is discharged or released
16 from active duty.

17 “(C) INTEREST RATE REDUCTION DURING
18 DEFERRAL.—Notwithstanding any other provi-
19 sion of law, during the period of deferral de-
20 scribed in subparagraph (B), the Administra-
21 tion may, in its discretion, reduce the interest
22 rate on any loan qualifying for a deferral under
23 this paragraph.

24 “(3) DEFERRAL OF LOAN GUARANTEES AND
25 OTHER FINANCINGS.—The Administration shall—

1 “(A) encourage intermediaries partici-
2 pating in the program under subsection (m) to
3 defer repayment of a loan made with proceeds
4 made available under that subsection; if such
5 loan was incurred by a small business concern
6 that is eligible to apply for assistance under
7 subsection (b)(3); and

8 “(B) not later than 30 days after the date
9 of enactment of this subsection, establish guide-
10 lines to—

11 “(i) encourage lenders and other
12 intermediaries to defer repayment of, or
13 provide other relief relating to, loan guar-
14 antees under subsection (a) and financings
15 under section 504 of the Small Business
16 Investment Act of 1958 that were incurred
17 by small business concerns that are eligible
18 to apply for assistance under subsection
19 (b)(3); and loan guarantees provided under
20 subsection (m) if the intermediary provides
21 relief to a small business concern under
22 this paragraph; and

23 “(ii) implement a program to provide
24 for the deferral of repayment or other re-
25 lief to any intermediary providing relief to

1 a small business borrower under this para-
 2 graph.”.

3 **SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RE-**
 4 **SERVISTS’ SMALL BUSINESSES.**

5 (a) IN GENERAL.—Section 7(b) of the Small Busi-
 6 ness Act (15 U.S.C. 636(b)) is amended by inserting after
 7 the undesignated paragraph that begins with “*Provided,*
 8 That no loan”, the following:

9 “(3)(A) In this paragraph—

10 “(i) the term ‘economic injury’ means an
 11 economic harm to a business concern that re-
 12 sults in the inability of the business concern—

13 “(I) to meet its obligations as they
 14 mature;

15 “(II) to pay its ordinary and nec-
 16 essary operating expenses; or

17 “(III) to market, produce, or provide
 18 a product or service ordinarily marketed,
 19 produced, or provided by the business con-
 20 cern;

21 “(ii) the term ‘owner, manager, or key em-
 22 ployee’ means an individual who—

23 “(I) has not less than a 20 percent
 24 ownership in the small business concern;

1 “(H) is a manager responsible for the
2 day-to-day operations of such small busi-
3 ness concern; or

4 “(III) is a key employee (as defined
5 by the Administration) of such small busi-
6 ness concern; and

7 “(iii) the term ‘period of military conflict’
8 has the meaning given the term in subsection
9 (n)(1).

10 “(B) The Administration may make such dis-
11 aster loans (either directly or in cooperation with
12 banks or other lending institutions through agree-
13 ments to participate on an immediate or deferred
14 basis) to assist a small business concern (including
15 a small business concern engaged in the lease or
16 rental of real or personal property) that has suffered
17 or that is likely to suffer economic injury as the re-
18 sult of the owner, manager, or key employee of such
19 small business concern being ordered to active mili-
20 tary duty during a period of military conflict.

21 “(C) A small business concern described in sub-
22 paragraph (B) shall be eligible to apply for assist-
23 ance under this paragraph during the period begin-
24 ning on the date on which the owner, manager, or
25 key employee is ordered to active duty and ending

1 on the date that is 180 days after the date on which
2 such owner, manager, or key employee is discharged
3 or released from active duty.

4 “(D) Any loan or guarantee extended pursuant
5 to this paragraph shall be made at an annual inter-
6 est rate of 4 percent, without regard to the ability
7 of the small business concern to secure credit else-
8 where.

9 “(E) No loan may be made under this para-
10 graph, either directly or in cooperation with banks
11 or other lending institutions through agreements to
12 participate on an immediate or deferred basis, if the
13 total amount outstanding and committed to the bor-
14 rower under this subsection would exceed
15 \$1,500,000, unless such applicant constitutes a
16 major source of employment in its surrounding area,
17 as determined by the Administration, in which case
18 the Administration, in its discretion, may waive the
19 \$1,500,000 limitation.

20 “(F) For purposes of assistance under this
21 paragraph, no declaration of a disaster area shall be
22 required.”

23 (b) CONFORMING AMENDMENTS.—Section 4(e) of
24 the Small Business Act (15 U.S.C. 633(e)) is amended—

1 (1) in paragraph (1), by striking “7(b)(4),”;
 2 and
 3 (2) in paragraph (2), by striking “7(b)(4),
 4 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8),”.

5 **SEC. 4. BUSINESS DEVELOPMENT AND MANAGEMENT AS-**
 6 **SISTANCE FOR MILITARY RESERVISTS’**
 7 **SMALL BUSINESSES.**

8 (a) IN GENERAL.—Section 8 of the Small Business
 9 Act (15 U.S.C. 637) is amended by adding at the end the
 10 following:

11 “(1) MANAGEMENT ASSISTANCE FOR SMALL BUSI-
 12 NESSES AFFECTED BY MILITARY OPERATIONS.—The Ad-
 13 ministration shall utilize, as appropriate, its entrepre-
 14 neurial development and management assistance pro-
 15 grams, including programs involving State or private sec-
 16 tor partners, to provide business counseling and training
 17 to any small business concern adversely affected by the
 18 deployment of units of the Armed Forces of the United
 19 States in support of a period of military conflict (as de-
 20 fined in section 7(n)(1)).”.

21 (b) ENHANCED PUBLICITY DURING OPERATION AL-
 22 LIED FORCE.—For the duration of Operation Allied Force
 23 and for 120 days thereafter, the Administration shall en-
 24 hance its publicity of the availability of assistance provided
 25 pursuant to the amendments made by this Act, including

1 information regarding the appropriate local office at which
 2 affected small businesses may seek such assistance.

3 **SEC. 5. GUIDELINES.**

4 Not later than 30 days after the date of enactment
 5 of this Act, the Administrator of the Small Business Ad-
 6 ministration shall issue such guidelines as the Adminis-
 7 trator determines to be necessary to carry out this Act
 8 and the amendments made by this Act.

9 **SEC. 6. EFFECTIVE DATES.**

10 (a) **IN GENERAL.**—Except as provided in subsection
 11 (b), the amendments made by this Act shall take effect
 12 on the date of the enactment of this Act.

13 (b) **DISASTER LOANS.**—The amendments made by
 14 section 3 shall apply to economic injury suffered or likely
 15 to be suffered as the result of a period of military conflict
 16 occurring on or after March 24, 1999.

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Military Reservists*
 19 *Small Business Relief Act of 1999”.*

20 **SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERV-**
 21 **ISTS.**

22 *Section 7 of the Small Business Act (15 U.S.C. 636)*
 23 *is amended by adding at the end the following:*

24 *“(n) REPAYMENT DEFERRED FOR ACTIVE DUTY RE-*
 25 *SERVISTS.—*

1 “(1) *DEFINITIONS.*—*In this subsection:*

2 “(A) *ELIGIBLE RESERVIST.*—*The term ‘eli-*
3 *gible reservist’ means a member of a reserve com-*
4 *ponent of the Armed Forces ordered to active*
5 *duty during a period of military conflict.*

6 “(B) *ESSENTIAL EMPLOYEE.*—*The term ‘es-*
7 *sential employee’ means an individual who is*
8 *employed by a small business concern and whose*
9 *managerial or technical expertise is critical to*
10 *the successful day-to-day operations of that small*
11 *business concern.*

12 “(C) *PERIOD OF MILITARY CONFLICT.*—*The*
13 *term ‘period of military conflict’ means—*

14 “(i) *a period of war declared by Con-*
15 *gress;*

16 “(ii) *a period of national emergency*
17 *declared by Congress or by the President; or*

18 “(iii) *a period of a contingency oper-*
19 *ation, as defined in section 101(a) of title*
20 *10, United States Code.*

21 “(D) *QUALIFIED BORROWER.*—*The term*
22 *‘qualified borrower’ means—*

23 “(i) *an individual who is an eligible*
24 *reservist and who received a direct loan*

1 *under subsection (a) or (b) before being or-*
2 *dered to active duty; or*

3 “(ii) *a small business concern that re-*
4 *ceived a direct loan under subsection (a) or*
5 *(b) before an eligible reservist, who is an es-*
6 *sential employee, was ordered to active*
7 *duty.*

8 “(2) *DEFERRAL OF DIRECT LOANS.—*

9 “(A) *IN GENERAL.—The Administration*
10 *shall, upon written request, defer repayment of*
11 *principal and interest due on a direct loan made*
12 *under subsection (a) or (b), if such loan was in-*
13 *curred by a qualified borrower.*

14 “(B) *PERIOD OF DEFERRAL.—The period of*
15 *deferral for repayment under this paragraph*
16 *shall begin on the date on which the eligible re-*
17 *servist is ordered to active duty and shall termi-*
18 *nate on the date that is 180 days after the date*
19 *such eligible reservist is discharged or released*
20 *from active duty.*

21 “(C) *INTEREST RATE REDUCTION DURING*
22 *DEFERRAL.—Notwithstanding any other provi-*
23 *sion of law, during the period of deferral de-*
24 *scribed in subparagraph (B), the Administration*
25 *may, in its discretion, reduce the interest rate on*

1 *any loan qualifying for a deferral under this*
2 *paragraph.*

3 “(3) *DEFERRAL OF LOAN GUARANTEES AND*
4 *OTHER FINANCINGS.—The Administration shall—*

5 “(A) *encourage intermediaries participating*
6 *in the program under subsection (m) to defer re-*
7 *payment of a loan made with proceeds made*
8 *available under that subsection, if such loan was*
9 *incurred by a small business concern that is eli-*
10 *gible to apply for assistance under subsection*
11 *(b)(3); and*

12 “(B) *not later than 30 days after the date*
13 *of enactment of this subsection, establish guide-*
14 *lines to—*

15 “(i) *encourage lenders and other inter-*
16 *mediaries to defer repayment of, or provide*
17 *other relief relating to, loan guarantees*
18 *under subsection (a) and financings under*
19 *section 504 of the Small Business Invest-*
20 *ment Act of 1958 that were incurred by*
21 *small business concerns that are eligible to*
22 *apply for assistance under subsection (b)(3),*
23 *and loan guarantees provided under sub-*
24 *section (m) if the intermediary provides re-*

1 *lief to a small business concern under this*
 2 *paragraph; and*

3 “(ii) *implement a program to provide*
 4 *for the deferral of repayment or other relief*
 5 *to any intermediary providing relief to a*
 6 *small business borrower under this para-*
 7 *graph.”.*

8 **SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RE-**
 9 **SERVISTS’ SMALL BUSINESSES.**

10 *Section 7(b) of the Small Business Act (15 U.S.C.*
 11 *636(b)) is amended by inserting after the undesignated*
 12 *paragraph that begins with “Provided, That no loan”, the*
 13 *following:*

14 “(3)(A) *In this paragraph—*

15 “(i) *the term ‘essential employee’ means an*
 16 *individual who is employed by a small business*
 17 *concern and whose managerial or technical ex-*
 18 *pertise is critical to the successful day-to-day op-*
 19 *erations of that small business concern;*

20 “(ii) *the term ‘period of military conflict’*
 21 *has the meaning given the term in subsection*
 22 *(n)(1); and*

23 “(iii) *the term ‘substantial economic injury’*
 24 *means an economic harm to a business concern*

1 *that results in the inability of the business*
2 *concern—*

3 “(I) *to meet its obligations as they ma-*
4 *ture;*

5 “(II) *to pay its ordinary and nec-*
6 *essary operating expenses; or*

7 “(III) *to market, produce, or provide a*
8 *product or service ordinarily marketed, pro-*
9 *duced, or provided by the business concern.*

10 “(B) *The Administration may make such dis-*
11 *aster loans (either directly or in cooperation with*
12 *banks or other lending institutions through agree-*
13 *ments to participate on an immediate or deferred*
14 *basis) to assist a small business concern that has suf-*
15 *fered or that is likely to suffer substantial economic*
16 *injury as the result of an essential employee of such*
17 *small business concern being ordered to active mili-*
18 *tary duty during a period of military conflict.*

19 “(C) *A small business concern described in sub-*
20 *paragraph (B) shall be eligible to apply for assistance*
21 *under this paragraph during the period beginning on*
22 *the date on which the essential employee is ordered to*
23 *active duty and ending on the date that is 90 days*
24 *after the date on which such essential employee is dis-*
25 *charged or released from active duty.*

1 “(D) Any loan or guarantee extended pursuant
2 to this paragraph shall be made at the same interest
3 rate as economic injury loans under paragraph (2).

4 “(E) No loan may be made under this para-
5 graph, either directly or in cooperation with banks or
6 other lending institutions through agreements to par-
7 ticipate on an immediate or deferred basis, if the
8 total amount outstanding and committed to the bor-
9 rower under this subsection would exceed \$1,500,000,
10 unless such applicant constitutes a major source of
11 employment in its surrounding area, as determined
12 by the Administration, in which case the Administra-
13 tion, in its discretion, may waive the \$1,500,000 lim-
14 itation.

15 “(F) For purposes of assistance under this para-
16 graph, no declaration of a disaster area shall be re-
17 quired.”.

18 **SEC. 4. BUSINESS DEVELOPMENT AND MANAGEMENT AS-**
19 **SISTANCE FOR MILITARY RESERVISTS' SMALL**
20 **BUSINESSES.**

21 (a) *IN GENERAL.*—Section 8 of the Small Business Act
22 (15 U.S.C. 637) is amended by adding at the end the fol-
23 lowing:

24 “(l) *MANAGEMENT ASSISTANCE FOR SMALL BUSI-*
25 *NESSES AFFECTED BY MILITARY OPERATIONS.*—The Ad-

1 *ministration shall utilize, as appropriate, its entrepre-*
2 *neurial development and management assistance programs,*
3 *including programs involving State or private sector part-*
4 *ners, to provide business counseling and training to any*
5 *small business concern adversely affected by the deployment*
6 *of units of the Armed Forces of the United States in support*
7 *of a period of military conflict (as defined in section*
8 *7(n)(1)).”.*

9 **(b) ENHANCED PUBLICITY DURING OPERATION AL-**
10 *LIED FORCE.—For the duration of Operation Allied Force*
11 *and for 120 days thereafter, the Administration shall en-*
12 *hance its publicity of the availability of assistance provided*
13 *pursuant to the amendments made by this Act, including*
14 *information regarding the appropriate local office at which*
15 *affected small businesses may seek such assistance.*

16 **SEC. 5. GUIDELINES.**

17 *Not later than 30 days after the date of enactment of*
18 *this Act, the Administrator of the Small Business Adminis-*
19 *tration shall issue such guidelines as the Administrator de-*
20 *termines to be necessary to carry out this Act and the*
21 *amendments made by this Act.*

22 **SEC. 6. EFFECTIVE DATES.**

23 **(a) IN GENERAL.—***Except as provided in subsection*
24 *(b), the amendments made by this Act shall take effect on*
25 *the date of the enactment of this Act.*

1 **(b) DISASTER LOANS.**—*The amendments made by sec-*
2 *tion 3 shall apply to economic injury suffered or likely to*
3 *be suffered as the result of a period of military conflict oc-*
4 *curring or ending on or after March 24, 1999.*