

108TH CONGRESS  
2D SESSION

# H. R. 5408

To provide emergency relief to small businesses affected by significant increases in the prices of electricity, heating oil, natural gas, propane, and kerosene, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2004

Mr. LARSON of Connecticut introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide emergency relief to small businesses affected by significant increases in the prices of electricity, heating oil, natural gas, propane, and kerosene, 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 and  
5 Farm Energy Emergency Relief Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1           (1) a significant number of small businesses in  
2 the United States, non-farm as well as agricultural  
3 producers, use heating oil, natural gas, propane, ker-  
4 osene, or electricity to heat their facilities and for  
5 other purposes;

6           (2) a significant number of small businesses in  
7 the United States sell, distribute, market, or other-  
8 wise engage in commerce directly related to heating  
9 oil, natural gas, propane, and kerosene; and

10          (3) sharp and significant increases in the price  
11 of heating oil, natural gas, propane, or kerosene—

12           (A) disproportionately harm small busi-  
13 nesses dependent on those fuels or that use,  
14 sell, or distribute those fuels in the ordinary  
15 course of their business, and can cause them  
16 substantial economic injury;

17           (B) can negatively affect the national econ-  
18 omy and regional economies;

19           (C) have occurred in the winters of 1983–  
20 1984, 1988–1989, 1996–1997, and 1999–2000;  
21 and

22           (D) can be caused by a host of factors, in-  
23 cluding global or regional supply difficulties,  
24 weather conditions, insufficient inventories, re-  
25 finery capacity, transportation, and competitive

1 structures in the markets, causes that are often  
2 unforeseeable to those who own and operate  
3 small businesses.

4 **SEC. 3. SMALL BUSINESS ENERGY EMERGENCY DISASTER**  
5 **LOAN PROGRAM.**

6 Section 7(b) of the Small Business Act (15 U.S.C.  
7 636(b)) is amended by inserting after paragraph (3) the  
8 following:

9 “(4)(A) In this paragraph—

10 “(i) the term ‘heating fuel’ means heating  
11 oil, natural gas, propane, or kerosene; and

12 “(ii) the term ‘sharp and significant in-  
13 crease’ shall have the meaning given that term  
14 by the Administrator, in consultation with the  
15 Secretary of Energy.

16 “(B) The Administration may make such loans,  
17 either directly or in cooperation with banks or other  
18 lending institutions through agreements to partici-  
19 pate on an immediate or deferred basis, to assist a  
20 small business concern that has suffered or that is  
21 likely to suffer substantial economic injury as the re-  
22 sult of a sharp and significant increase in the price  
23 of heating fuel or electricity.

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

15           “(E) For purposes of assistance under this  
16 paragraph—

17                   “(i) in lieu of the requirement of the  
18 declaration of a disaster area, a declaration  
19 that an area is affected by a sharp and  
20 significant increase in the price of heating  
21 fuel or electricity shall be required and  
22 shall be made by the President or the Ad-  
23 ministrator; or

24                   “(ii) if no declaration has been made  
25 pursuant to clause (i), the Governor of a

1 State in which a sharp and significant in-  
2 crease in the price of heating fuel or elec-  
3 tricity has occurred may certify to the Ad-  
4 ministration that small business concerns  
5 have suffered economic injury as a result  
6 of such increase and are in need of finan-  
7 cial assistance which is not available on  
8 reasonable terms in that State, and upon  
9 receipt of such certification, the Adminis-  
10 tration may make such loans as would  
11 have been available under this paragraph if  
12 a declaration under clause (i) had been  
13 issued.

14 “(F) Notwithstanding any other provision of  
15 law, loans made under this paragraph may be used  
16 by a small business concern described in subpara-  
17 graph (B) to convert from the use of heating fuel or  
18 electricity to a renewable or alternative energy  
19 source, including agriculture and urban waste, geo-  
20 thermal energy, cogeneration, solar energy, wind en-  
21 ergy, and fuel cells.”.

22 **SEC. 4. AGRICULTURAL PRODUCER EMERGENCY LOANS.**

23 (a) IN GENERAL.—Section 321(a) of the Consoli-  
24 dated Farm and Rural Development Act (7 U.S.C.  
25 1961(a)) is amended—

1 (1) in the first sentence—

2 (A) by striking “operations have” and in-  
3 serting “operations (i) have”; and

4 (B) by inserting before “: *Provided*,” the  
5 following: “, or (ii)(I) are owned or operated by  
6 such an applicant that is also a small business  
7 concern (as defined in section 3 of the Small  
8 Business Act (15 U.S.C. 632)), and (II) have  
9 suffered or are likely to suffer substantial eco-  
10 nomic injury on or after November 1, 2004, as  
11 the result of a sharp and significant increase in  
12 energy costs or input costs from energy sources  
13 occurring on or after November 1, 2004, in  
14 connection with an energy emergency declared  
15 by the President or the Secretary”;

16 (2) in the third sentence, by inserting before  
17 the period at the end the following: “or by an energy  
18 emergency declared by the President or the Sec-  
19 retary”; and

20 (3) in the fourth sentence—

21 (A) by inserting “or energy emergency”  
22 after “natural disaster” each place it appears;  
23 and

24 (B) by inserting “or declaration” after  
25 “emergency designation”.

1 (b) FUNDING.—Funds available on the date of enact-  
2 ment of this Act for emergency loans under subtitle C of  
3 the Consolidated Farm and Rural Development Act (7  
4 U.S.C. 1961 et seq.) made to meet the needs resulting  
5 from natural disasters shall be available to carry out the  
6 amendments made by subsection (a).

7 **SEC. 5. GUIDELINES.**

8 Not later than 30 days after the date of enactment  
9 of this Act, the Administrator of the Small Business Ad-  
10 ministration and the Secretary of Agriculture shall each  
11 issue such guidelines as the Administrator and the Sec-  
12 retary, as applicable, determines to be necessary to carry  
13 out this Act and the amendments made by this Act.

14 **SEC. 6. REPORTS.**

15 (a) SMALL BUSINESS.—Not later than 18 months  
16 after the date of final publication by the Administrator  
17 of the Small Business Administration of the guidelines  
18 issued under section 5, the Administrator shall submit to  
19 the Committee on Small Business and Entrepreneurship  
20 of the Senate and the Committee on Small Business of  
21 the House of Representatives, a report on the effectiveness  
22 of the program established under section 7(b)(4) of the  
23 Small Business Act, as added by this Act, including—

1           (1) the number of small businesses that applied  
2           to participate in the program and the number of  
3           those that received loans under the program;

4           (2) the dollar value of those loans;

5           (3) the States in which the small business con-  
6           cerns that participated in the program are located;

7           (4) the type of heating fuel or energy that  
8           caused the sharp and significant increase in the cost  
9           for the participating small business concerns; and

10          (5) recommendations for improvements to the  
11          program, if any.

12          (b) AGRICULTURE.—Not later than 18 months after  
13          the date of final publication by the Secretary of Agri-  
14          culture of the guidelines issued under section 5, the Sec-  
15          retary shall submit to the Committees on Small Business  
16          and Entrepreneurship and Agriculture, Nutrition, and  
17          Forestry of the Senate and the Committees on Small Busi-  
18          ness and Agriculture of the House of Representatives, a  
19          report on the effectiveness of loans made available as a  
20          result of the amendments made by section 4, together with  
21          recommendations for improvements to the loans, if any.

22          **SEC. 7. EFFECTIVE DATE.**

23          The amendments made by this Act shall apply with  
24          respect to economic injuries suffered or likely to be suf-



1 fered as the result of sharp and significant increases in  
2 energy prices which occur on or after November 1, 2004.

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