

108TH CONGRESS  
2D SESSION

# S. 2186

To temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 9, 2004

Mr. DASCHLE for Mr. KERRY (for himself) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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## A BILL

To temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, 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 “SBA Emergency Au-  
5 thorization Extension Act of 2004”.

### 6 **SEC. 2. SBA PROGRAM AUTHORIZATIONS.**

7 (a) IN GENERAL.—Section 1 of Public Law 108–172  
8 (117 Stat. 2065) is amended—

1 (1) in subsection (a), by striking “March 15”  
 2 each place that term appears and inserting “May  
 3 15”; and

4 (2) by adding at the end the following:

5 “(c) EXCEPTION FOR OTHER PROGRAMS.—Notwith-  
 6 standing subsection (a), title V of the Small Business In-  
 7 vestment Act of 1958 (15 U.S.C. 661 et seq.) and section  
 8 29 of the Small Business Act (15 U.S.C. 656), including  
 9 any pilot program, shall remain authorized through Sep-  
 10 tember 30, 2004.”.

11 (b) CONFORMING AMENDMENT.—Section 503(f) of  
 12 the Small Business Investment Act of 1958 (15 U.S.C.  
 13 697(f)) is amended by striking “October 1, 2003” and in-  
 14 serting “October 1, 2004”.

15 **SEC. 3. WOMEN’S BUSINESS CENTERS.**

16 (a) IN GENERAL.—Section 29(k) of the Small Busi-  
 17 ness Act (15 U.S.C. 656(k)) is amended—

18 (1) in paragraph (2), by adding at the end the  
 19 following:

20 “(C) FUNDING PRIORITY.—Subject to  
 21 available funds, and reservation of funds, the  
 22 Administration shall, for each fiscal year, allo-  
 23 cate—

24 “(i) \$150,000 for each women’s busi-  
 25 ness center established under subsection

1 (b), except for any center that requests a  
 2 lesser amount;

3 “(ii) from the remaining funds, not  
 4 more than \$125,000, in equal amounts, to  
 5 each women’s business center established  
 6 under subsection (l), to the extent such  
 7 funds are reserved under subsection  
 8 (k)(4)(A), except for any center that re-  
 9 quests a lesser amount; and

10 “(iii) any funds remaining after allo-  
 11 cations are made under clauses (i) and (ii)  
 12 to new eligible women’s business centers  
 13 and eligible women’s business centers that  
 14 did not receive funding in the prior fiscal  
 15 year under subsection (b).”; and

16 (2) in paragraph (4)(A), by adding at the end  
 17 the following:

18 “(v) For fiscal year 2004, 48 per-  
 19 cent.”.

20 (b) SUNSET DATE.—The amendments made by this  
 21 section are repealed on October 1, 2004.

22 **SEC. 4. 7(a) LOAN GUARANTEE PROGRAM.**

23 (a) COMBINATION LOANS.—

(1) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

“(31) COMBINATION LOANS.—

“(A) DEFINED TERM.—As used in this paragraph, the term ‘combination loan’ means a financing comprised of a loan guaranteed under this subsection and a loan not guaranteed by Federal, State, or local government.

“(B) AUTHORITY.—

“(i) IN GENERAL.—A small business concern may combine a loan guaranteed under this subsection with a loan that is not guaranteed by Federal, State, or local government.

“(ii) LENDER.—The nonguaranteed loan under clause (i) may be made by—

“(I) the lender that provided the financing under this subsection or a different lender; or

“(II) a lender in the Preferred Lenders Program.

“(iii) SECURITY.—The nonguaranteed loan under clause (i) may be secured by a senior lien and the guaranteed loan under

1           this subsection may be secured by a subor-  
2           dinated lien.

3           “(iv) APPLICATION.—A loan guar-  
4           antee under this subsection on behalf of a  
5           small business concern, which is approved  
6           within 120 days of the date on which a  
7           nonguaranteed loan is obtained by the  
8           same small business concern, shall be sub-  
9           ject to the provisions of this paragraph.

10          “(C) FEE ON COMBINATION LOAN.—The  
11          lender shall pay a one-time fee of 0.5 percent  
12          of the amount of the nonguaranteed loan if the  
13          nonguaranteed portion of the loan has a senior  
14          credit position to the guaranteed portion of the  
15          loan. This fee shall be in addition to any other  
16          lender fees and shall not be charged to the bor-  
17          rower.

18          “(D) LOAN SIZE.—

19                 “(i) PREFERRED LENDERS PRO-  
20                 GRAM.—If the loan guaranteed under this  
21                 subsection is processed under delegated au-  
22                 thority under the Preferred Lenders Pro-  
23                 gram, the maximum amount of the non-  
24                 guaranteed loan may not exceed—

25                         “(I) \$1,000,000; or

1 “(II) a combination of  
 2 \$2,000,000 gross loan amount of a  
 3 loan guaranteed by the Administra-  
 4 tion and an additional nonguaranteed  
 5 loan of \$1,000,000.

6 “(ii) SMALL BUSINESS ADMINISTRA-  
 7 TION.—If the loan guaranteed under this  
 8 subsection is processed and approved by  
 9 Administration staff, the amount of the  
 10 nonguaranteed loan may not exceed—

11 “(I) \$2,000,000; or

12 “(II) a combination of  
 13 \$2,000,000 gross loan amount of a  
 14 loan guaranteed by the Administra-  
 15 tion and an additional nonguaranteed  
 16 loan of \$2,000,000.

17 “(E) USE OF PROCEEDS.—All proceeds  
 18 from the fee collected under this subparagraph  
 19 shall be used to offset the cost (as defined in  
 20 section 502 of the Credit Reform Act of 1990)  
 21 to the Administration of guaranteeing loans  
 22 under this subsection.”.

23 (b) TERMINATION OF LENDER AUTHORITY TO RE-  
 24 TAIN GUARANTEE FEES.—Section 7(a)(18)(B) of the

1 Small Business Act (15 U.S.C. 636(a)(18)(B)) is amend-  
 2 ed to read as follows:

3 “(B) RETENTION OF CERTAIN FEES.—

4 “(i) IN GENERAL.—Except as pro-  
 5 vided under clause (ii), lenders partici-  
 6 pating in the programs established under  
 7 this subsection may retain not more than  
 8 25 percent of a fee collected under sub-  
 9 paragraph (A)(i).

10 “(ii) FISCAL YEAR 2004.—Beginning  
 11 on the date of enactment of this clause and  
 12 ending on September 30, 2004, the Admin-  
 13 istration or its agent shall collect all fees  
 14 under subparagraph (A)(i). All proceeds  
 15 from fees collected under this paragraph  
 16 shall be used to offset the cost (as defined  
 17 in section 502 of the Credit Reform Act of  
 18 1990) to the Small Business Administra-  
 19 tion of guaranteeing loans under this sub-  
 20 section.”.

21 (c) TEMPORARY MODIFICATION OF ANNUAL LENDER  
 22 FEE.—Section 7(a)(23) of the Small Business Act (15  
 23 U.S.C. 636(a)) is amended—

24 (1) by striking “0.25 percent” and inserting  
 25 “0.35 percent”; and

1           (2) by adding at the end the following: “All  
 2       proceeds from the fee collected under this paragraph  
 3       shall be used to offset the cost (as defined in section  
 4       502 of the Credit Reform Act of 1990) to the Ad-  
 5       ministration of guaranteeing loans under this sub-  
 6       section.”.

7       (d) LIFTING LOAN RESTRICTIONS AND PRIORITY  
 8 PROCESSING OF REJECTED APPLICATIONS.—

9           (1) IN GENERAL.—The Small Business Admin-  
 10       istration shall—

11           (A) eliminate the program restrictions im-  
 12       posed by policy notices 5000–902 and 0000–  
 13       1709 to allow for the processing and approval  
 14       of loan applications cancelled or returned be-  
 15       cause of the program shutdown or restrictions  
 16       imposed by policy notices 5000–902, 0000–  
 17       1707, or 0000–1709;

18           (B) permit a small business or lender to  
 19       resubmit any loan application that was not con-  
 20       sidered or approved because of the program  
 21       shutdown or restrictions imposed by policy no-  
 22       tices 5000–902, 0000–1707, or 0000–1709;

23           (C) give priority to processing any applica-  
 24       tion submitted before January 8, 2004, that  
 25       was not considered because of the program



1 shutdown or loan restrictions imposed by policy  
2 notices 5000–902, 0000–1707, or 0000–1709;

3 (D) give priority, to the extent possible, to  
4 approving all eligible loans that were cancelled  
5 or returned because of the program shutdown  
6 or restrictions imposed by policy notices 5000–  
7 902, 0000–1707, or 0000–1709, in the order in  
8 which the applications were originally sub-  
9 mitted; and

10 (E) give priority to processing all eligible  
11 loans to any small business that has received fi-  
12 nancing under section 7(a)(14) of the Small  
13 Business Act (15 U.S.C. 636(a)(14) and re-  
14 quests a renewal of such financing, regardless  
15 of temporary restrictions imposed by the Small  
16 Business Administration through the policy no-  
17 tices referred to in this paragraph, and approve  
18 such loans, if the small business is otherwise el-  
19 igible for such financing under that section.

20 (2) PROOF OF APPLICATION.—An application  
21 shall not be denied consideration or approval be-  
22 cause the Small Business Administration failed to  
23 retain a record of receiving an application if the  
24 lender or borrower supplies proof that the applica-

1       tion was submitted by mail, fax, or electronic means  
2       before January 8, 2004.

3               (3) RESERVATION AND APPLICATION OF FEE  
4       PROCEEDS.—All proceeds from fees authorized  
5       under section 7(a) of the Small Business Act (15  
6       U.S.C. 636(a)) shall be combined with any amounts  
7       appropriated to carry out such section and used—

8               (A) first, to process and fund loan guaran-  
9       tees approved pursuant to paragraph (d)(1);  
10       and

11              (B) second, to process and fund other loan  
12       guarantees under section 7(a) of the Small  
13       Business Act.

14              (4) NOTIFICATION REQUIREMENT.—The Small  
15       Business Administration shall not make any signifi-  
16       cant policy or administrative changes affecting the  
17       operation of the loan program authorized under sec-  
18       tion 7(a) of the Small Business Act (15 U.S.C.  
19       636(a)) unless, not later than 15 business days be-  
20       fore such change, the Administrator of the Small  
21       Business Administration submits, under the Admin-  
22       istrator's signature, a report that specifically de-  
23       scribes the proposed changes and the duration of  
24       those changes to—

1 (A) the chairman and ranking member of  
2 the Committee on Small Business and Entre-  
3 preneurship of the Senate; and

4 (B) the chairman and ranking member of  
5 the Committee on Small Business of the House  
6 of Representatives.

7 (e) SUNSET DATE.—This section and the amend-  
8 ments made by this section are repealed on October 1,  
9 2004.

10 **SEC. 5. RESUBMISSION OF DISASTER LOAN APPLICATIONS**  
11 **FOR CERTAIN BUSINESSES.**

12 (a) RESUBMISSION OF APPLICATIONS.—During the  
13 30-day period beginning on the date of enactment of this  
14 Act, a small business concern may resubmit an application  
15 for a loan that was not approved under section 7(b)(2)  
16 of the Small Business Act (15 U.S.C. 636(b)(2)) if the  
17 following conditions are met:

18 (1) ORIGINAL APPLICATION.—The small busi-  
19 ness concern originally submitted an application be-  
20 fore January 1, 2003, in response to the events as-  
21 sociated with Small Business Administration Dis-  
22 aster Declaration 3364.

23 (2) LOCATION.—On the date of the original  
24 submission of the application and on the date of the  
25 resubmission, the applicant operates a facility in

1 Bronx, Kings, Nassau, New York, Queens, Rich-  
2 mond, or Westchester county in the State of New  
3 York.

4 (3) INABILITY TO OPERATE.—Without regard  
5 to physical damage to a facility, the applicant was  
6 unable to operate at a facility because of a prohibi-  
7 tion on the use of the facility, in whole or in part,  
8 by an order or other action of a Federal, State, or  
9 local government (or any instrumentality of any of  
10 the foregoing) for 20 or more consecutive days, oc-  
11 ccurring as a result of the events associated with  
12 Small Business Administration Disaster Declaration  
13 3364.

14 (b) STANDARD FOR APPROVAL.—The Administrator  
15 shall approve (without regard to any requirements applica-  
16 ble under section 7(b) of the Small Business Act (15  
17 U.S.C. 636(b))), a loan with respect to any application  
18 resubmitted under subsection (a) if the applicant has a  
19 debt coverage ratio, as attested to by a qualified, inde-  
20 pendent, third-party auditor, of not less than 1.15 for the  
21 applicant's last taxable year ending before the date of the  
22 submission of the original application. For purposes of de-  
23 termining the debt coverage ratio under this subsection,  
24 the Administrator shall not take into account any Federal  
25 or State tax lien or obligation other than a judgment lien.

1       (c) MINIMUM LOAN AMOUNT.—The Administrator  
2 shall not approve a loan under this section for an amount  
3 that is less than 80 percent of the documented losses  
4 shown on the application submitted under subsection (a).

5       (d) COORDINATION WITH OTHER LOAN LIMITS.—No  
6 loan made under this section shall be taken into account  
7 under section 7(b)(3)(E) of the Small Business Act (15  
8 U.S.C. 636(b)(3)(E)).

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