

111TH CONGRESS  
1ST SESSION

# S. 2765

To amend the Small Business Act to authorize loan guarantees for health information technology.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2009

Mr. KERRY 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 amend the Small Business Act to authorize loan guarantees for health information technology.

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 Health  
5 Information Technology Financing Act of 2009”.

6 **SEC. 2. SMALL BUSINESS HEALTH INFORMATION TECH-**  
7 **NOLOGY FINANCING PROGRAM.**

8 The Small Business Act (15 U.S.C. 631 et seq.) is  
9 amended—

1 (1) by redesignating section 44 as section 45;

2 and

3 (2) by inserting after section 43 the following:

4 **“SEC. 44. LOAN GUARANTEES FOR HEALTH INFORMATION**  
5 **TECHNOLOGY.**

6 “(a) DEFINITIONS.—In this section—

7 “(1) the term ‘cost’ has the meaning given that  
8 term in section 502 of the Federal Credit Reform  
9 Act of 1990 (2 U.S.C. 661a);

10 “(2) the term ‘eligible professional’ means—

11 “(A) a physician (as defined in section  
12 1861(r) of the Social Security Act (42 U.S.C.  
13 1395x(r)));

14 “(B) a practitioner described in section  
15 1842(b)(18)(C) of the Social Security Act (42  
16 U.S.C. 1395u(b)(18)(C));

17 “(C) a physical or occupational therapist;

18 “(D) a qualified speech-language patholo-  
19 gist (as defined in section 1861(ll)(4)(A) of the  
20 Social Security Act (42 U.S.C.  
21 1395x(ll)(4)(A));

22 “(E) a qualified audiologist (as defined in  
23 section 1861(ll)(4)(B) of the Social Security  
24 Act (42 U.S.C. 1395x(ll)(4)(B));

25 “(F) a qualified medical transcriptionist;

1           “(G) a State-licensed pharmacist;

2           “(H) a State-licensed supplier of durable  
3 medical equipment, prosthetics, orthotics, or  
4 supplies; and

5           “(I) a State-licensed, a State-certified, or a  
6 nationally accredited home health care provider;

7           “(3) the term ‘health information technology’—

8           “(A) means computer hardware, software,  
9 and related technology that—

10           “(i) supports the requirements for  
11 being treated as a meaningful EHR user  
12 (as described in section 1848(o)(2)(A) of  
13 the Social Security Act (42 U.S.C. 1395w-  
14 4(o)(2)(A))) and is purchased by an eligi-  
15 ble professional to aid in the provision of  
16 health care in a health care setting, includ-  
17 ing electronic medical records; and

18           “(ii) provides for—

19           “(I) enhancement of continuity of  
20 care for patients through electronic  
21 storage, transmission, and exchange  
22 of relevant personal health data and  
23 information, such as ensuring that  
24 this information is accessible at the

1 times and places where clinical deci-  
2 sions will be or are likely to be made;

3 “(II) enhancement of commu-  
4 nication between patients and health  
5 care providers;

6 “(III) improvement of quality  
7 measurement by eligible professionals  
8 enabling the eligible professionals to  
9 collect, store, measure, and report on  
10 the processes and outcomes of indi-  
11 vidual and population performance  
12 and quality of care;

13 “(IV) improvement of evidence-  
14 based decision support; or

15 “(V) enhancement of consumer  
16 and patient empowerment; and

17 “(B) does not include information tech-  
18 nology the sole use of which is financial man-  
19 agement, maintenance of inventory of basic  
20 supplies, or appointment scheduling;

21 “(4) the term ‘qualified eligible professional’  
22 means an eligible professional whose office is a small  
23 business concern; and

24 “(5) the term ‘qualified medical  
25 transcriptionist’ means a specialist in medical lan-

1 guage and the healthcare documentation process  
2 who—

3 “(A) interprets and transcribes dictation  
4 by physicians and other healthcare professionals  
5 to ensure accurate, complete, and consistent  
6 documentation of healthcare encounters; and

7 “(B) is certified by or registered with the  
8 Association for Healthcare Documentation In-  
9 tegrity, or a successor association thereto.

10 “(b) LOAN GUARANTEES FOR QUALIFIED ELIGIBLE  
11 PROFESSIONALS.—

12 “(1) IN GENERAL.—Subject to paragraph (2),  
13 the Administrator may guarantee not more than 90  
14 percent of a loan made to a qualified eligible profes-  
15 sional for the acquisition of health information tech-  
16 nology for use in the medical practice of the quali-  
17 fied eligible professional and for the costs associated  
18 with the installation of the health information tech-  
19 nology. Except as otherwise provided in this section,  
20 a loan guaranteed under this section shall be made  
21 on the same terms and conditions as a loan made  
22 under section 7(a).

23 “(2) LIMITATIONS ON GUARANTEE AMOUNTS.—  
24 The maximum amount of loan principal guaranteed  
25 under this subsection may not be more than—

1           “(A) \$350,000 with respect to any 1 quali-  
2           fied eligible professional; and

3           “(B) \$2,000,000 with respect to 1 group  
4           of affiliated qualified eligible professionals.

5           “(c) FEES.—

6           “(1) IN GENERAL.—The Administrator may—

7           “(A) impose a guarantee fee on a qualified  
8           eligible professional for the purpose of reducing  
9           the cost of the guarantee to zero in an amount  
10          not to exceed 2 percent of the total guaranteed  
11          portion of any loan guaranteed under this sec-  
12          tion; and

13          “(B) impose an annual servicing fee on a  
14          lender making a loan guaranteed under this  
15          section of not more 0.5 percent of the out-  
16          standing balance of the guaranteed portion of  
17          loans by the lender guaranteed under this sec-  
18          tion.

19          “(2) NO FEES BY LENDERS.—No service fees,  
20          processing fees, origination fees, application fees,  
21          points, brokerage fees, bonus points, or other fees  
22          may be charged to a loan applicant or recipient by  
23          a lender relating to a loan guaranteed under this  
24          section.

1       “(d) DEFERRAL PERIOD.—A loan guaranteed under  
2 this section shall carry a deferral period of not less than  
3 1 year and not more than 3 years. The Administrator may  
4 subsidize interest during the period for which a loan guar-  
5 anteed under this section is deferred.

6       “(e) EFFECTIVE DATE.—The Administrator may not  
7 guarantee a loan under this section until the meaningful  
8 EHR use requirements have been determined by the Sec-  
9 retary of Health and Human Services.

10       “(f) SUNSET.—The Administrator may not guar-  
11 antee a loan under this section after the date that is 7  
12 years after meaningful EHR use requirements have been  
13 determined by the Secretary of Health and Human Serv-  
14 ices.

15       “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
16 are authorized to be appropriated such sums as are nec-  
17 essary for the cost of guaranteeing \$10,000,000,000 in  
18 loans under this section. The Administrator shall deter-  
19 mine the cost of guaranteeing loans under this section sep-  
20 arately and distinctly from other programs operated by the  
21 Administrator.”.

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