



**U.S. SMALL BUSINESS ADMINISTRATION**  
WASHINGTON, DC 20416

March 30, 2007

The Honorable John F. Kerry  
Chairman, Committee on Small Business and Entrepreneurship  
United States Senate  
Washington, DC 20510

Dear Chairman Kerry:

On behalf of the U.S. Small Business Administration (SBA), I am pleased to formally submit a proposed legislative package for your consideration. The package is divided into two parts: (1) the Statement of Needs and Purposes; and (2) the proposed statutory text which amends the Small Business Act and the Small Business Investment Act, to improve existing SBA programs, clarify authorities and implement new SBA initiatives consistent with the President's Fiscal Year 2008 Budget.

The proposed changes to the Small Business Act and the Small Business Investment Act include:

- Authorizations for SBA programs through 2010.
- Increased penalties for certain violations of the Small Business Act.
- A subsidy fee to offset the cost of the Secondary Market guarantee.
- Allowing 504 debentures to establish a monthly payment schedule.
- Repealing certain obsolete programs, like the "tree planting" program.

The Office of Management and Budget advises that there is no objection to the submission of these proposals to the Congress, and that its enactment would be in accordance with the President's agenda.

Sincerely,

A handwritten signature in black ink, appearing to read "C. E. Rowe".

C.E. "Tee" Rowe  
Associate Administrator  
Congressional and Legislative Affairs

## **SBA's FY 2008 Legislative Package Statement of Needs and Purposes**

The following are descriptions and rationale for the legislative proposals.

### **TITLE I. REAUTHORIZATION OF SMALL BUSINESS PROGRAMS.**

#### **Sec. 101. Reauthorization of Small Business Programs**

- Reauthorizes Programs levels through FY 2010.

#### **Sec. 102. Additional Authorizations**

- Reauthorizes the Paul D. Coverdell Drug-Free Workplace Program through FY 2010.
- Small Business Development Center Services
- Cosponsorship and Gift Acceptance Authority
- HUBZone

### **TITLE II- AMENDMENTS TO THE SMALL BUSINESS ACT.**

#### **Sec. 201. Repeals**

- Repeals the following programs:
  - SBIR/STTR Rural Outreach Grants
  - BusinessLinc Grants and Cooperative Agreements
  - LowDoc Loan Program
  - MicroEnterprise Technical Assistance and Capacity Building Program
  - Tree Planting
  - Central European Enterprise Development
  - Federal and State Technology Partnership Program

#### **Sec. 202. Supervisory and Enforcement Authority for Small Business Lending Companies Technical Correction**

- Section 23(h) requires a technical correction because it cross-references provisions that do not exist in the statute. The technical correction amends the section consistent with both SBA's legislative proposal and Congress' receivership framework for SBICs (as set forth in the Small Business Investment Act Section 311(a-c)), which served as a model for Section 23(h). The amendment adds paragraph (1), which SBA believes was inadvertently left out of the Act. This is the text to which the cross-reference in Section 23(h) was intended to refer.

**Sec. 203. Supervisory and Enforcement Authority for Small Business Lending Companies Definition.**

- This proposed language provides a critical clarification to the definition for small business lending company (SBLC) as contained in Small Business Act subsection 3(r). The clarification is necessary to reinforce that SBA maintains the authority to regulate, supervise, and examine all 14 of its SBLCs. SBLCs are an SBA licensed financial institution that can only make SBA Section 7(a) guaranteed loans.
- Though the number of SBLCs is small, because they have this exclusive SBA SBLC license, as a group they originate a high volume of SBA guaranteed loans. Consequently, SBA's risk exposure is great with regard to this group of lenders and it must be clear that SBA has the authority to regulate, supervise, and examine all 14. To the extent that a few of the SBLCs may have an affiliation to or become affiliated with a financial entity that is regulated by a Federal or State financial institution regulator, SBA will provide written notice to that regulator of any proposed enforcement action taken with regard to the affiliated SBLC.

**Sec. 204. Paul D. Coverdell Drug-Free Workplace Program**

- Technical Correction

**Sec. 205. HUBZone Definition Correction**

- Technical Correction

**Sec. 206. Loan Policy Board**

- Modifies the language in Section (4)(d) to reflect the current activity of the Management Board. This would eliminate obsolete references to the Loan Policy Board.

**Sec. 207. Authority of Administration to Require Identification of Referral Agents and Packagers**

- OIG investigations have identified numerous fraudulent schemes perpetrated by loan agents and loan packagers. These schemes often involve multiple loans and have resulted in millions of dollars of losses to SBA and participating lenders. This amendment would enable SBA to collect social security numbers and other personal identifying information in order to help identify patterns of fraud and prosecute offenders where appropriate.

**Sec. 208. Changes to Penalty Provisions in Small Business Act**

- Increase criminal fines for fraud under SBA's financial assistance programs to \$250,000 (consistent with fines imposed under 18 U.S.C. § 3571), which will help deter fraud.
- Revises the scope of certain penalty provisions to include fraud by loan packagers and agents who cause a borrower to make a false statement to the Agency, and to include fraud under the 504 Certified Development Company (CDC) program under the Small Business Investment Act of 1958 (provisions currently only apply to programs under the Small Business Act).
- Revises language in certain provisions to cover fraud against lenders participating in SBA financial assistance programs. This clarifies existing language which only applies to fraud against SBA and makes the provision more consistent with the increased responsibilities delegated to lenders. The Department of Justice has declined several prosecutions based upon the currently limited language.
- Clarifies that the Agency can undertake debarment and suspension actions under its own regulations if a party has misrepresented its status to obtain a contract set aside for small businesses, HUBZone firms, women-owned businesses and other disadvantaged contractors.
- In Title 18, increases from five to ten years the statute of limitations for fraud committed against Small Business Lending Companies (SBLCs) under the 7(a) program and CDCs under the 504 program. Although fraud against SBA itself and most financial institutions are subject to the 10-year statute, a 5-year period applies for fraud against SBLCs and CDCs. Given the length of time it takes to discover and investigate fraud, a 5-year period is often insufficient. The OIG is strongly believes that the longer statute is needed for effective fraud prosecution and deterrence (several pending cases may, in fact, be lost due to the 5-year term).

**Sec. 209. Changes to Fee Provisions**

- This change provides authority for a secondary market Guaranty Fee. This fee is not used in SBA's FY07 or FY08 Budget. This fee would cover the subsidy cost of insuring the payment of pool certificates. The fee is payable by the investor.
- SBA has programmatic responsibility to oversee and review the SBA operations of all SBA lenders, including Certified Development Companies (CDCs). The ability to charge CDCs and retain fees for the cost of reviews provides SBA with the means to conduct these reviews, take necessary follow-up actions, and generally carry out SBA's programmatic responsibilities in this regard. This change parallels the Small Business Investment Company (SBIC) and 7(a) examination/review fee language found in the Small Business Investment Act and Small Business Act, respectively.

**Sec. 210. Misuse of Agency name, initials, seals and logo; authority of United States Attorney to enjoin.**

- Prohibits the intentional misuse of the Agency's name, initials, seal and logo. Prevents individuals from using the Agency's name, initials, seal and logo in a manner that falsely conveys to others (i.e. small businesses, entrepreneurs and the public) that the person has some relationship with, or authorization or endorsement by the Agency, which in fact does not exist. This section was modeled after statutory provisions which protect the use of the name and initials of other government agencies.

**Sec. 211. Maximizing use of electronic technologies in the delivery of SBA's programs and services.**

- Increasing use of such technologies will enable SBA and its partners to reach small business clients at the times and in the places that are most convenient to them, and will help to make the delivery of services more efficient and cost-effective. If the statute explicitly mandates the use of electronic technologies, SBA will have greater leverage to require its resource partners to make their services available on-line or through other electronic media. Such language will also support SBA's effort to use Agency resources to develop E-products and to provide services in an electronic environment. In addition, since services can be provided in a virtual environment without any geographical limitations, current constraints on SBA's partners' abilities to provide services across state lines will become irrelevant.

**Sec. 212. Real Estate Appraisals**

- Harmonizes the appraisal policy between Section 7(a) of the Small Business Act and Section 504 of the Small Business Investment Act so that an appraisal by a state licensed or certified appraiser is required when the commercial real property being financed is worth more than \$250,000.
- The base of \$250,000 will be increased periodically in \$50,000 increments to adjust for inflation.

**Sec. 213. Leasing Policy**

- Harmonizes the leasing policy between Section 7(a) of the Small Business Act and Section 504 of the Small Business Investment Act, and sets a common standard by allowing up to 40% of a facility be leased for a new or existing building. This would eliminate the current distinction between new construction and existing property and address ambiguity in the current legislation.

**Sec. 214. Use of Systematic Alien Verification for Entitlement Programs**

- Provides specific legislative authority for SBA to charge lenders a fee to cover the cost of using the Systematic Alien Verification for Entitlement (SAVE) program for the verification of alien status. This will eliminate the current verification process, and would speed loan transactions by using the SAVE program.

**Sec. 215. Microloan Program Amendments**

- Provides that existing SBA resource partners will take on the role of providing technical assistance to microloan recipients and applicants.
- Repeals the current microloan technical assistance program.
- Requires the loans to intermediaries be made at zero subsidy.

**TITLE III. AMENDMENTS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958.****Sec. 301. Technical Correction.**

- Technical Correction.

**Sec. 302. Debenture Monthly Payment Schedule.**

- Allows the issuance of debentures that use a monthly payment schedule rather than the current schedule of semiannual payments. Using a monthly payment schedule will allow borrowers to reduce the principal balance each month and therefore reduce the amount of interest paid on a 504 loan.

**TITLE IV. WOMEN'S BUSINESS PROGRAMS.****Sec. 401. National Women's Business Council Reauthorization.**

- Reauthorizes the National Women's Business Council through FY 2010.

**Sec. 402. Women's Business Center Program.**

- Reauthorizes the Women's Business Center Program through FY 2010.

**Sec. 403. Women's Business Center sustainability pilot.**

- Repeals expired pilot language.

**TITLE V. ENTREPRENEURIAL DEVELOPMENT.****Sec. 501. Small Business Development Center Authorization of Appropriations.**

- Reauthorizes the Small Business Development Centers through FY 2010.

**Sec. 502. Multiple awards in a state.**

- Gives the Administration authority to determine the number of SBDC lead centers that are funded in each state based on the individual circumstances in the state and on how the small business community can be served best.

**Sec. 503. Expansion of eligible applicants for SBDC Lead Centers.**

- Currently, the only eligible applicants for a new SBDC are institutions of higher education, Women's Business Centers. This provision opens up eligible entities to include and public or private non-profit organization or institutions of higher learning.

**Sec. 504. State director.**

- This provision would require that the State director be a full-time employee of the host institution and to mandate that the SBA district director and the AA/SBDC concur with the director selection.

**Sec. 505. Privacy requirements.**

- Authorizes SBA to have full access to client information obtained by the SBDCs as part of their SBA-SBDC program administration. Such access will allow SBA to most effectively manage the program and to measure the program impact through client surveys. Such information will be fully protected by the privacy standards that govern all SBA client information.

**Sec. 506. Administrative costs.**

- Increase to 1% of the total SBDC appropriation, the amount that can be used for administrative costs. Some administrative costs are currently authorized – the clearinghouse (“information sharing system”), certification reviews, and the SBDC Advisory Board. However, this proposal would allow SBDC funds to also be used for travel for examiners and program reviews, systems development, needs assessments, economic development data collection, and policy development. Currently, those costs come from the OSBDC operating budget.

**Sec. 507. Sharing of information.**

- Authorize SBA to have full access to client information obtained by the SBDCs as part of their SBA-SBDC program administration. Such access will allow SBA to most effectively manage the program and to measure the program impact through client surveys. Such information will be fully protected by the privacy standards that govern all SBA client information.

**Sec. 508. Performance-based incentives for individual SBDCs.**

- Authorize the Agency to set-aside a portion of its line-item funding to use as performance-based incentives for the program’s participants. Incentives would be available to participants that demonstrate outstanding performance or exceptional need. This would implement the President’s initiative to link budget to performance.

**Sec. 509. SBDC National Advisory Board membership.**

- Allows for ten members to be appointed to the SBDC Advisory Board. The proposed change would allow for each director to be assigned to one of SBA’s ten regions. The SBA would recommend the SBDC Advisory Board address the issue of the chance of a tied vote.

**Sec. 510. SCORE conforming change.**

- Delete references to the *Service Corps of Retired Executives (SCORE)* and the *Active Corps of Retired Executive (ACE)* and replace them with the word *SCORE*. This change is necessary to conform the legislation to the program name now being used.

**Title VI. DISASTER LOANS**

**Sec. 601. Economic Injury Disaster Loans to Nonprofits.**

- Makes nonprofit organizations eligible for EIDL loans.

**Sec. 602. Disaster Loan Term.**

- Allows for the term of loans made with credit available elsewhere to be extended from three years to twenty years.



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**FY 2008 REAUTHORIZATION AND LEGISLATIVE PACKAGE****TITLE I—REAUTHORIZATION OF SMALL BUSINESS PROGRAMS.****Section 101. Reauthorization of Small Business Programs.**

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended as follows:

- (a) subsections (b) and (c) are deleted;
- (b) subsections (d) and (e) are redesignated as (b) and (c), respectively;
- (c) new subsections (d) through (f) are added as follows:

“(d) FISCAL YEAR 2008.—

“(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2008:

“(A) For the programs authorized by this Act, the Administration is authorized to make \$25,000,000 in direct loans, as provided in section 7(m).

“(B) For the programs authorized by this Act, the Administration is authorized to make \$25,000,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

“(i) \$17,500,000,000 in general business loans, as provided in section 7(a);

“(ii) \$7,500,000,000 in certified development company financings, as provided in section 7(a)(13) and as provided in section 504 of the Small Business Investment Act of 1958.

“(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$3,000,000,000 in guarantees of debentures.

“(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$6,000,000,000, of which not more than 50 percent may be in bonds approved pursuant to section 411(a)(3) of that Act.

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“(E) The Administration is authorized to make grants or enter into cooperative agreements for a total amount of \$4,950,000 for the SCORE program authorized by section 8(b)(1).

“(2) ADDITIONAL AUTHORIZATIONS.—There are authorized to be appropriated to the Administration for fiscal year 2008 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

“(e) FISCAL YEAR 2009.—

“(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2009:

“(A) For the programs authorized by this Act, the Administration is authorized to make \$30,000,000 in direct loans, as provided in section 7(m).

“(B) For the programs authorized by this Act, the Administration is authorized to make \$26,000,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

“(i) \$18,000,000,000 in general business loans, as provided in section 7(a);

“(ii) \$8,000,000,000 in certified development company financings, as provided in section 7(a)(13) and as provided in section 504 of the Small Business Investment Act of 1958.

“(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$3,000,000,000 in guarantees of debentures.

“(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$6,000,000,000, of which not more than 50 percent may be in bonds approved pursuant to section 411(a)(3) of that Act.

“(E) The Administration is authorized to make grants or enter into cooperative agreements for a total amount of \$5,500,000 for the SCORE program authorized by section 8(b)(1).

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“(2) **ADDITIONAL AUTHORIZATIONS.**—There are authorized to be appropriated to the Administration for fiscal year 2009 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

“(f) **FISCAL YEAR 2010.**—

“(1) **PROGRAM LEVELS.**—The following program levels are authorized for fiscal year 2010:

“(A) For the programs authorized by this Act, the Administration is authorized to make \$35,000,000 in direct loans, as provided in section 7(m).

“(B) For the programs authorized by this Act, the Administration is authorized to make \$27,000,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

“(i) \$18,500,000,000 in general business loans, as provided in section 7(a);

“(ii) \$8,500,000,000 in certified development company financings, as provided in section 7(a)(13) and as provided in section 504 of the Small Business Investment Act of 1958.

“(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$3,000,000,000 in guarantees of debentures.

“(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$6,000,000,000, of which not more than 50 percent may be in bonds approved pursuant to section 411(a)(3) of that Act.

“(E) The Administration is authorized to make grants or enter into cooperative agreements for a total amount of \$6,000,000 for the SCORE program authorized by section 8(b)(1).

“(2) **ADDITIONAL AUTHORIZATIONS.**—There are authorized to be appropriated to the Administration for fiscal year 2010 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.”

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**Sec. 102. Additional Reauthorizations.****(a) PAUL D. COVERDELL DRUG-FREE WORKPLACE PROGRAM.—**

(1) Paragraph 27(g)(1) of the Small Business Act (15 U.S.C. 654(g)(1)) is amended by striking "2005 and 2006" and inserting "2007 through 2010"; and

(2) Paragraph 27(g)(2) (15 U.S.C. 654(g)(1)) is amended by striking "2005 and 2006" and inserting "2007 through 2010".

(b) SBDC SERVICES.—Subparagraph 21(c)(3)(T) of the Small Business Act (15 U.S.C. 648(c)(3)(T)) is amended by striking "2006" and inserting "2010."

(c) COSPONSORSHIP AND GIFT ACCEPTANCE AUTHORITY.—Subsection 132(e) of P.L. 108-447 (118 Stat. 2809-644) is amended by striking "2006 and inserting "2010."

(d) HUBZONE.—Section 31(d) of the Small Business Act (15 U.S.C. 657a(d)) is amended by deleting "2004 through 2006" and inserting "2007 through 2010".

**TITLE II. AMENDMENTS TO THE SMALL BUSINESS ACT.****Sec. 201. Repeals.**

(a) SBIR/STTR RURAL OUTREACH GRANTS.—Subsection 9(s) of the Small Business Act (15 U.S.C. 638(s)) is repealed.

(b) BUSINESSLINC GRANTS AND COOPERATIVE AGREEMENTS.—Subsection 8(n) of the Small Business Act (15 U.S.C. 637(n)) is repealed.

(c) MICROENTERPRISE TECHNICAL ASSISTANCE AND CAPACITY BUILDING PROGRAM (PRIME).—Sections 6901 through 6910 of Title 15, U.S. Code, are repealed.

(d) Subsections 7(h) and 7(i) of the Small Business Act (15 U.S.C. 636(h) and (i)) are repealed.

(e) TREE PLANTING.—Section 24 of the Small Business Act (15 U.S.C. 651) is repealed.

(f) CENTRAL EUROPEAN ENTERPRISE DEVELOPMENT.—Section 25 of the Small Business Act (15 U.S.C. 652) is repealed.

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**(g) FEDERAL AND STATE TECHNOLOGY PARTNERSHIP PROGRAM.—**

- (1) Section 34 of the Small Business Act (15 U.S.C. 657d) is repealed.
- (2) Section 35 of the Small Business Act (15 U.S.C. 657e) is amended by—
  - (A) deleting “; and” from the end of paragraph (a)(2) and inserting “.”;
  - (B) striking paragraph (a)(3); and
  - (C) deleting the reference to FAST in paragraph 35(d)(1).

**Sec. 202. Supervisory and Enforcement Authority for Small Business Lending Companies Technical Correction.**

Subsection 23(h) of the Small Business Act (15 U.S.C. 650(h)) is amended to read as follows:

**“(h) INJUNCTIONS AND APPOINTMENT OF RECEIVERS.—**

“(1) Whenever, in the judgment of the Administration, a small business lending company, a non-Federally regulated lender, or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or any rule or regulation under this Act, or of any order issued under this Act, the Administration may make application to the proper district court of the United States or a United States court of any place subject to the jurisdiction of the United States for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such small business lending company, non-Federally regulated lender, or other person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

“(2) In any such injunction proceeding the court may take exclusive jurisdiction of a small business lending company or a non-Federally regulated lender and appoint a receiver to hold and administer the assets of the company or lender.

“(3) Upon request of the Administrator, the court may appoint the Administrator as receiver under paragraph (2).”

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**Sec. 203. Supervisory and Enforcement Authority for Small Business Lending Companies Definition.**

Section 3(r)(1) of the Small Business Act (15 U.S.C. 632(r)(1)) is amended to read as follows:

“(1) **SMALL BUSINESS LENDING COMPANY.**—The term “small business lending company” means a nondepository financial institution which is organized solely to provide financial assistance under Section 7(a) of this Act and is approved by the Administration as a small business lending company.”

**Sec. 204. Paul D. Coverdell Drug-Free Workplace Program Technical Correction.**

Section 126 of Division K of P.L. 108-447 is amended by:

(a) deleting “27(c)” in the first sentence and replacing it with “27(d)” and

(b) deleting “(c)” and inserting instead “(d)”.

**Sec. 205. HUBZone Definition Correction.**

Section 3(p)(4)(D)(iv) of the Small Business Act (15 U.S.C. 632(p)(4)(D)(iv)) is amended by deleting “base closures of redevelopment” and inserting “base closures or redevelopment”.

**Sec. 206. Loan Policy Board.**

Section 4(d) of the Small Business Act (15 U.S.C. 633(d)) is amended to read as follows:

“(d) The Administration shall establish general policies (particularly with reference to the public interest involved in the granting and denial of applications for financial assistance by the Administration and with reference to the coordination of the functions of the Administration with other activities and policies of the Government) which shall govern the granting and denial of applications for financial assistance by the Administration.”

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**Sec. 207. Authority of Administration to Require Identification of Referral Agents and Packagers.**

Section 5 of the Small Business Act (15 U.S.C. 634) is amended as follows:

- (1) striking “; and” at the end of paragraph (b)(13);
- (2) inserting “; and” at the end of paragraph (b)(14); and
- (3) adding the following new paragraph (15):

“(15) require an individual who is a referral agent or packager, as those terms are defined by the Administration, who provide assistance to a small business concern that applies for a loan under section 7 of this Act, or a loan made under the authority of Title V of the Small Business Investment Act of 1958, to provide to the Administrator the individual’s name, date of birth and Social Security number.”

**Sec. 208. Changes to Penalty Provisions.**

(a) Section 16(a) of the Small Business Act (15 U.S.C. 645(a)) is amended by:

(1) inserting after the word “false” the following: “or knowingly causes another to make a false statement,”;

(2) inserting after the phrase “this Act,” the following: “or the Small Business Investment Act of 1958,”; and

(3) deleting “\$5,000” and inserting “\$250,000”.

(b) Section 16(b) of the Small Business Act (15 U.S.C. 645(b)) is amended by:

(1) inserting after “being” the following: “an officer, agent or employee of or”; and

(2) deleting “\$10,000” and inserting “\$250,000”.

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(c) Section 16(c) of the Small Business Act (15 U.S.C. 645(c)) is amended to read as follows:

“Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged as security for any promissory note, or other evidence of indebtedness, which has been given in order to obtain a loan under this Act or the Small Business Investment Act of 1958, shall be fined not more than \$250,000 or imprisoned not more than five years, or both; but if the value of such property does not exceed \$5,000, he shall be fined not more than \$10,000 or imprisoned not more than one year or both.”

(d) Section 16(d)(2)(C) of the Small Business Act (15 U.S.C. 645(d)(C)(2)) is amended by inserting after “(or any successor regulation)” the following: “, or as specified in Part 145 of Title 13, Code of Federal Regulations (or any successor regulation),”.

(e) Section 16 of the Small Business Act (15 U.S.C. 645) is amended by adding a new subsection (g) as follows:

“(g) Whoever knowingly makes a false statement for the purpose of obtaining payment of any money from any person in connection with such person’s application for assistance under this Act or the Small Business Investment Act of 1958 shall be punished by a fine of not more than \$250,000 or by imprisonment for not more than five years, or both.”

(f) Section 20 of Title 18 of the United States Code is amended by:

(1) amending paragraph (5) to read as follows:

“(5) a small business investment company or development company, as those terms are defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662);”.

(2) striking “or” after paragraph (8);

(3) inserting the word “or” after paragraph (9); and

(4) inserting new paragraph (10) as follows:

“(10) a small business lending company or non-Federally regulated SBA lender as these terms are defined in subsection 3(r) of the Small Business Act (15 U.S.C. 632(r))”.



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(g) Section 1014 of Title 18 of the United States Code (18 U.S.C. 1014) is amended by—

(1) striking “a small business investment company as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662)”, and inserting the words: “a small business investment company or a development company as these terms are defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), a small business lending company or non-Federally regulated SBA lender as these terms are defined in subsection 3(r) of the Small Business Act (15 U.S.C. 632(r))”; and

(2) striking, after the words “or the Small Business Administration in connection with any provision of”, the words “that Act” and inserting the words “those Acts”.

#### **Sec. 209. Changes to Fee Provisions.**

(a) **TIMELY PAYMENT OF 7(a) SECONDARY MARKET FEE.**—Section 5(g)(2) of the Small Business Act is amended by:

- (1) renumbering the present paragraph as subparagraph (A); and
- (2) adding a new subparagraph (B) to read as follows:

“(B) With respect to the Administration’s guarantee of the timely payment of the principal and interest on the trust certificates issued under this subsection, the Administration may assess, collect, and retain an annual fee, in an amount established once annually by the Administration in the Administration’s budget request to Congress, not to exceed 0.06 percent per year of the outstanding balance of such trust certificates. The fee shall reduce to zero the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of such guarantee. Provided, That the fee shall be payable solely by the holders of such trust certificates; and Provided further, that the fee shall not be charged to any borrower whose loan is represented in the secondary market by a trust certificate authorized under this subsection. The Administration may contract with an agent to carry out, on behalf of the Administration, the assessment and collection of this fee. The fee shall be deducted from the amounts otherwise payable to such holders of the trust certificates.”

(b) **LENDER OVERSIGHT EXAMINATION AND REVIEW FEES.**—Section 5(b)(14) of the Small Business Act (15 U.S.C. 634(b)(14)) is amended by inserting after the phrase “of this Act” the following: “and state and local development companies under Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.)”.

**Sec. 210. Misuse of agency name, initials, seal and logo; authority of United States Attorney to enjoin.**

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Section 16 of the Small Business Act (15 U.S.C. 645) is amended by adding at the end a new subsection (h) as follows:

**“(h) MISUSE OF AGENCY NAME, INITIALS, SEAL AND LOGO.—**

**“(1) No person or entity may—**

**“(A) knowingly use the words ‘Small Business Administration’ or the letters ‘SBA’, or any combination, variation, or colorable imitation of those words or letters, either alone or in combination with other words or letters, as a firm or business name in a manner reasonably calculated to convey the impression that such firm or business has some connection with, endorsement of, or authorization from, the United States Small Business Administration that does not, in fact, exist;**

**“(B) knowingly use those words or letters in combination, variation, or colorable imitation thereof either alone or in combination with other words or letters in connection with any product or service being offered or made available to the public in a manner reasonably calculated to convey the impression that such product or service has the authorization, support, sponsorship, or endorsement of, or the development, use, or manufacture by or on behalf of the United States Small Business Administration, that does not, in fact, exist; or**

**“(C) knowingly use the logo or seal of the United States Small Business Administration in connection with any business, firm, product or service being offered or made available to the public in a manner reasonably calculated to convey the impression that such business, firm, product or service has the authorization, support, sponsorship, or endorsement of the United States Small Business Administration that does not, in fact, exist.**

**“(2) A violation of this subsection may be enjoined under section 709 of title 18, United States Code, in the same manner as provided in that section.”**

**“(3) Whoever knowingly violates this subsection with the intent to commit fraud shall be punished in the same manner as provided in section 709 of title 18.”**

March 28, 2007

**Sec. 211. Maximizing use of electronic technologies in the delivery of SBA's programs and services.**

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended by—

- (a) deleting the period at the end of paragraph (14) and inserting “; and”; and
- (b) adding new paragraph (15) as follows:

“(15) require any organization receiving financial assistance from the Administration in the form of a contract, grant, or cooperative agreement for the purpose of providing assistance to small business concerns to maximize its use of electronic resources in the delivery of programs and services.”

**Sec. 212. Real Estate Appraisals.**

(a) Subparagraph 7(a)(29) of the Small Business Act (15 U.S.C. 636(a)(29)) is amended to read as follows:

“(29) REAL ESTATE APPRAISALS.—

“(A) IN GENERAL.—With respect to a loan under this subsection that is secured by commercial real property, an appraisal of such property by a State licensed or certified appraiser—

(1) shall be required by the Administration in connection with any such loan if the estimated value of the commercial property is more than \$250,000; or

(2) may be required by the Administration or the lender in connection with any such loan if the estimated value of the commercial property is \$250,000 or less, and such appraisal is necessary for appropriate evaluation of creditworthiness.

“(B) The Administration shall periodically adjust the \$250,000 amount in this paragraph to take into account the effects of inflation, but in no event will the amount of any adjustment be less than \$50,000.”

(b) Section 502(3)(E) of the Small Business Investment Act of 1958 (15 U.S.C. 696(3)(E)) is amended by adding at the end the following:

“(III) The Administration shall periodically adjust the \$250,000 amount in this paragraph to take into account the effects of inflation, but in no event will the amount of any adjustment be less than \$50,000.”

March 28, 2007

**Sec. 213. Leasing Policy.**

(a) Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696(3)(E)) is amended by—

- (1) deleting paragraph (5);
- (2) renumbering paragraph “(6)” as “(5)”; and
- (3) amending paragraph (4) to read as follows:

“(4) If the project is to acquire an existing facility or to construct a new facility, the small business concern that is being assisted must immediately use no less than 60 percent of the space in the project, and it may permanently lease to others no more than 40 percent of the facility’s space.”

(b) Paragraph 7(a)(28) of the Small Business Act (15 U.S.C. 636(a)(28)) is amended to read as follows:

“(28) If the loan guaranteed under this subsection is to be used to acquire an existing building or to construct a new building, the small business concern that is being assisted must immediately use no less than 60 percent of the space in the building, and it may permanently lease to others no more than 40 percent of the building’s space.”

**Sec. 214. Use of Systematic Alien Verification for Entitlement Program (SAVE).**

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

- (1) by striking “and” at the end of paragraph (12)(D);
- (2) by inserting “and” at the end of subparagraph 5(b)(12)(E) and adding the following new subparagraph after section 5(b)(12)(E) as follows:

“(F) With respect to any applicant for a loan guaranteed under section 7(a) of this Act, or any applicant for a loan made under title V of the Small Business Investment Act of 1958, for whom the Administration verifies the alien status of the applicant through the Systematic Alien Verification for Entitlement (SAVE) program, or any successor program, the Administration shall collect a fee, which shall be payable by the participating lender, or the development company, and may be charged to the borrower, to cover the expense of such program. This fee may be changed from time to time in order to cover the charges by such program and shall be deposited in the account for salaries and expenses of the Administration.”

March 28, 2007

**Sec. 215. Microloan Program Amendments.**

(a) Paragraph 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended to read as follows:

“(4) **MARKETING, MANAGEMENT AND TECHNICAL ASSISTANCE TO INTERMEDIARIES** - Existing entrepreneurial development programs, including SCORE, Small Business Development Centers, and Women’s Business Centers, shall provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.”

(b) Paragraph 7(m)(5) of the Small Business Act (15 U.S.C. 636(m)(5)) is repealed.

(c) Paragraph 7(m)(9) of the Small Business Act (15 U.S.C. 636(m)(9)) is repealed.

(d) Subparagraph 7(m)(3)(F) of the Small Business Act (15 U.S.C. 636(m)(3)(F)) is amended by—

(1) deleting clauses (ii) through (vii); and

(2) adding a new clause (ii) as follows:

“(ii) **INTEREST RATE.**— In order to reduce to zero the cost to the Administration of making loans under this subsection, loans to intermediaries made on or after October 1, 2007, shall bear an interest rate established by the Administration, not to exceed 1.5 percentage points over the rate determined by the Secretary of the Treasury for obligations of the United States with a maturity of 5 years. As used in this paragraph, the term ‘cost’ has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).”

**TITLE III. AMENDMENTS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958.**

**Sec. 301. Technical Correction.**

Section 308(b) of the Small Business Investment Act (15 USC 687(b)) is amended in the last sentence by striking, “is licensed before October 1, 2004 and”.

March 28, 2007

**Sec. 302. Debenture Monthly Payment Schedule.**

Subparagraph 503(a)(4) of the Small Business Investment Act of 1958 (15 U.S.C. 697(a)(4)) is amended by adding the following sentence at the end:

“Any such debenture that is issued may use a monthly payment schedule.”

**TITLE IV. WOMEN’S BUSINESS PROGRAMS.**

**Sec. 401. National Women’s Business Council Reauthorization.**

Subsection 411(a) of the Women’s Business Ownership Act of 1988 (15 U.S.C. 7110(a)) is amended by striking “2001 through 2003” and inserting “2007 through 2010.”

**Sec. 402. Women’s Business Center Program.**

Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended by:

(1) in paragraph (1), deleting subparagraphs (A) through (D) and adding new subparagraphs (A) through (D) as follows:

“(A) \$11,880,000 for fiscal year 2008;

“(B) \$12,500,000 for fiscal year 2009; and

“(C) \$13,000,000 for fiscal year 2010.”

(2) in subparagraph (2)(B), deleting clauses (i) through (iv) and adding new clauses (i) through (iii) as follows:

“(i) For fiscal year 2008, 1.6 percent.

“(ii) For fiscal year 2009, 1.6 percent.

“(iii) For fiscal year 2010, 1.6 percent.”

**Sec. 403. Women’s Business Center sustainability pilot.**

Section 29(l) of the Small Business Act (15 U.S.C. 656(l)) is repealed.

March 28, 2007

**TITLE V. ENTREPRENEURIAL DEVELOPMENT.****Sec. 501. Small Business Development Center Authorization of Appropriations.**

Section 21(a)(4)(C)(vii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(vii)) is amended by deleting subclauses (I) and (II) and inserting the following:

- “(I) \$135,000,000 for fiscal year 2008;
- “(II) \$135,000,000 for fiscal year 2009; and
- “(III) \$135,000,000 for fiscal year 2010.”

**Sec. 502. Multiple awards in a state.**

Section 21(b) of the Small Business Act (15 U.S.C. 648(b)) is amended by adding a new paragraph (4) as follows:

“(4) The Administration may, in its discretion, make multiple awards under subsection (a) above to any given State based upon its understanding of the individual circumstances present in that State and its determination that the small business community in that State will be best served by having several regional SBDC networks as opposed to a single network. In making multiple awards under this subsection, the Administration will take steps to guard against overlapping of service areas and competition among SBDC networks.”

**Sec. 503. Expansion of eligible applicants for SBDC Lead Centers.**

Section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)) is amended to read as follows:

“(a) (1) The Administration is authorized to make grants to (or enter into contracts or cooperative agreements with) any public or private non-profit organizations or institutions of higher learning for the purpose of conducting Small Business Development Center projects to perform research and provide counseling and training concerning the management, financing, and operation of small business enterprises. Provided, that any organization actively conducting an SBDC project on December 31, 2007, shall remain eligible to receive an award under this section.”

March 28, 2007

**Sec. 504. State director.**

Section 21(c)(2)(A) of the Small Business Act (15 U.S.C. 648(c)(2)(A)) is amended to read as follows:

“(A) a full-time staff, including a full-time director who shall be an employee of the organization receiving the SBDC award and whose hiring shall be reviewed and approved by the Administration. The director shall have the authority to make expenditures under the center’s budget and shall manage the program activities;”

**Sec. 505. Privacy requirements.**

(a) Section 21(a)(7)(A)(ii) of the Small Business Act (15 U.S.C. 648(a)(7)(A)(ii)) is amended to read as follows:

“(ii) the Administrator considers such a disclosure to be beneficial to the efficient administration of the SBDC program.”

(b) Section 21(a)(7)(C) of the Small Business Act (15 U.S.C. 648(a)(7)(C)) is amended by adding the following paragraph:

“(iv) NONCOMPLIANCE – The Administration is authorized to withhold funds, not to exceed \$50,000, pending compliance of any small business development center, or consortium of small business development centers that fails to provide information to the Administration for the purposes of section 21(a)(7)(A) or (B).”

**Sec. 506. Administrative costs.**

(a) Section 20(a)(1)(E) of the Small Business Act (15 U.S.C. 631 note) is amended to read as follows:

“(E) to pay expenses of the Administration related to the conduct of the Small Business Development Center Program;”

(b) Section 21(a)(4)(C)(v)(I)(bb) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(v)(I)(bb)) is amended to read as follows:

“(bb) not more than 1 percent may be used by the Administration to pay the expenses enumerated in section 20(a)(1)(E).”



March 28, 2007

**Sec. 507. Sharing of information.**

Section 21(c)(8) of the Small Business Act (15 U.S.C. 648(c)(8)) is amended by adding before "The system shall" the following:

"Nothing shall preclude the Administration from accessing, utilizing, or distributing information, materials, or programs developed or collected by the system established under this subparagraph."

**Sec. 508. Performance-based incentives for individual SBDCs.**

Section 21(a)(4)(C)(v)(I) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(v)(I)) is amended by—

- (a) deleting the period at the end of paragraph (bb) and inserting "; and"; and
- (b) adding new paragraph (cc) as follows:

"(cc) not more than \$500,000 may be used by the Administration to provide additional funding to recipient organizations that demonstrate outstanding performance or exceptional need."

**Sec. 509. SBDC National Advisory Board membership.**

Section 21(i)(1) of the Small Business Act (15 U.S.C. 648(i)(1)) is amended to read as follows:

"(1) There is established a National Small Business Development Center Advisory Board (herein referred to as 'Board') which shall consist of ten members (one from each region) appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar with and sympathetic to small business needs and problems. No more than four members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. Board members shall serve three-year terms with staggered appointments so that the entire composition of the Board completely turns over every three years."

March 28, 2007

**Sec. 510. SCORE conforming change.**

Section 8(b)(1)(B) of the Small Business Act (15 U.S.C. 637(b)(1)(B)) is amended to read as follows:

“(B) To enter into contracts, grants, or cooperative agreements with SCORE for the purposes of section 8(b)(1)(A) of this Act. The Administration shall pay the salaries, benefits, and expenses of SCORE’s non-volunteer, professional and support staff who manage and oversee the program. Any such payments made pursuant to this subparagraph shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts. Additionally, and as deemed appropriate, the Administration shall provide for the presence of such individuals at its headquarters location. Notwithstanding any other provision of law, SCORE may solicit cash and in-kind contributions from the private sector to be used to carry out its functions under this Act, and may use payments made by the Administration pursuant to this subparagraph for such solicitation and the management of the contributions received. Such contributions shall not be subject to regulation or oversight by the Administration.”

**TITLE VI. DISASTER LOANS****Sec. 601. Economic Injury Disaster Loans to Nonprofits.**

(a) Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended by—

(1) inserting after the phrase “small business concern” the following: “, private nonprofit organization,”;

(2) inserting after the phrase “the concern” the following: “, organization, “; and

(3) in subparagraph (D), after the phrase “small business concerns” the following: “, private nonprofit organizations,”.

(b) Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is amended in subparagraph (5)(C) by inserting “, organization” after “business”.