

Public Law 96-302
96th Congress

An Act

To provide authorizations for the Small Business Administration, and for other purposes.

July 2, 1980
[S. 2698]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business
Administration,
authorizations.

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS
AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections:

15 USC 631 note.

“(h) The following program levels are authorized for fiscal year 1981:

“(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make \$300,000,000 in direct and immediate participation loans, and \$4,000,000,000 in deferred participation loans.

15 USC 636,
post, p. 852.

“(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make \$25,000,000 in direct and immediate participation loans and \$12,000,000 in guaranteed loans.

“(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make \$76,000,000 in direct and immediate participation loans and \$90,000,000 in guaranteed loans.

“(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make \$45,000,000 in direct and immediate participation loans and \$33,000,000 in guaranteed loans.

“(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make \$55,000,000 in direct and immediate participation loans and \$115,000,000 in guaranteed loans and guarantees of debentures.

15 USC 695, 696,
post, p. 837.

“(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$42,000,000 in direct purchase of debentures and preferred securities, and to make \$228,000,000 in guarantees of debentures.

15 USC 681.

“(7) For the programs authorized in part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$2,530,000,000.

15 USC 694a.

“(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into \$110,000,000 in loans, guarantees, and other obligations or commitments.

15 USC 636,
post, p. 843.

15 USC 694-1,
694-2.

93 Stat. 118.
15 USC 636,
post, p. 843.

Salaries and
expenses.

15 USC 694c,
post, p. 837.
15 USC 694.

90 Stat. 663.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$110,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1981, \$1,187,000,000. Of such sum, \$865,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); \$76,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; \$4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and \$242,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) \$13,200,000 shall be available for procurement and technical assistance; of which amount not less than \$2,000,000 shall be available for technical assistance, and of this amount not less than \$629,000 shall be used to pay for the continued development of a procurement automated source system, and not less than \$825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small businesses and not more than \$200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest products industry.

"(2) \$23,100,000 shall be available for management assistance, of which amount not less than \$880,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists, with each of the Administration's regional offices being assigned one such specialist.

"(3) \$8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than \$2,200,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than \$1,650,000 shall be used to develop an external small

business data bank and small business index; and not less than \$1,650,000 shall be used for research.

“(4) \$27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, \$12,414,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

15 USC 636.

“(5) \$9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than \$1,100,000 shall be used to pay for development of such indicative small business data base.

“(6) \$20,000,000 shall be available for matching grants to small business development centers, and an additional \$550,000 shall be available for the administration of the small business development center program.

“(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20(i) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

Funding transfers.

“(k) The following program levels are authorized for each of fiscal years 1982, 1983, and 1984:

“(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make \$330,000,000 in direct and immediate participation loans, and \$4,400,000,000 in deferred participation loans.

15 USC 636, post, p. 852.

“(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make \$28,000,000 in direct and immediate participation loans, and \$14,000,000 in guaranteed loans.

“(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make \$83,000,000 in direct and immediate participation loans, and \$99,000,000 in guaranteed loans.

“(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make \$45,000,000 in direct and immediate participation loans, and \$37,000,000 in guaranteed loans.

“(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make \$61,000,000 in direct and immediate participation loans, and \$125,000,000 in guaranteed loans and guarantees of debentures.

15 USC 695, 696, post, p. 837.

“(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make \$47,000,000 in direct purchases of debentures and preferred securities and to make \$251,000,000 in guarantees of debentures.

15 USC 681.

“(7) 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 \$2,780,000,000.

15 USC 694a.

15 USC 636,
post, p. 843.

15 USC 694-1,
694-2.

93 Stat. 118.
15 USC 636,
post, p. 843.

15 USC 694c,
post, p. 837.
15 USC 694.

90 Stat. 663.

15 USC 636.

“(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into \$121,000,000 in loans, guarantees, and other obligations or commitments.

“(9) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$125,000,000.

“(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses of sections 7(b) and 7(g), of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

“(1) There are authorized to be appropriated to the Administration for fiscal year 1982, \$1,375,000,000, and an identical amount for each of fiscal years 1983 and 1984. Of such sum, \$1,022,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraph (1) through (6); \$83,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; \$4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and \$266,000,000 shall be available for salaries and expenses of the Administration of which amount—

“(1) \$14,520,000 shall be available for procurement and technical assistance; of which amount not less than \$2,100,000 shall be available for technical assistance, and of this amount not less than \$692,000 shall be used to pay for the continued development of a procurement automated source system, and not less than \$907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

“(2) \$25,400,000 shall be available for management assistance of which amount not less than \$968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

“(3) \$9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than \$2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than \$1,815,000 shall be used to develop an external small business data bank and small business index; and not less than \$1,815,000 shall be used for research.

“(4) \$30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, \$13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

“(5) \$10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration’s document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than \$1,210,000 shall be used to pay for development of such indicative small business data base.

“(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(1) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.”.

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 110. Section 20(a) of the Small Business Act is amended to read as follows: “For fiscal years 1981, 1982, 1983 and 1984 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1985 and every year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.”.

15 USC 631 note.

INVESTMENT OF IDLE FUNDS

SEC. 111. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed.

15 USC 694c.

SEC. 112. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: “Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.”.

15 USC 694-2.

DEVELOPMENT COMPANY DEBENTURES

SEC. 113. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

“DEVELOPMENT COMPANY DEBENTURES

“SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company.

Guarantees.
15 USC 697.

“(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

“(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

“(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this

subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

“(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

15 USC 696.

“(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

“(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

15 USC 683.

“(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

“(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

“(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made; and

“(6) the Administration approves each loan to be made from such proceeds.

Administrative expenses, additional charge.

“(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

“Qualified State or local development company.”

“(d) For purposes of this section, the term ‘qualified State or local development company’ means any State or local development company which, as determined by the Administration, has—

“(1) a full-time professional staff;

“(2) professional management ability (including adequate accounting, legal, and business-servicing abilities); and

“(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.”.

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the following new item:

“Sec. 503. Development company debentures.”.

REGULAR BUSINESS LOAN REFORM

15 USC 634.

SEC. 114. Section 5(b)(7) of the Small Business Act is amended to read as follows:

“(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided*, That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he

may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation;”.

SURETY BOND GUARANTEE

SEC. 115. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows:

15 USC 694b.

“(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 percent of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).”.

PROCUREMENT SYSTEMS

SEC. 116. Section 15(c) of the Small Business Act is amended to read as follows:

15 USC 644.

“(c)(1) During fiscal years 1981, 1982, and 1983, public and private not-for-profit organizations eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed \$100,000,000 for each such year: *Provided*, That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses.

15 USC 636.

Participating organizations, monitoring and evaluation.

“(2) The Administration shall, not later than January 1, 1982, prepare and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.”.

Contract impact, report to congressional committees.

SEC. 117. (a) The first sentence of section 15(d) of the Small Business Act is amended by inserting “small business” before “concerns”.

15 USC 644.

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

“(e) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

Contract award, priorities.

“(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside;

“(2) concerns which are small business concerns, on the basis of a total set-aside;

“(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

“(4) concerns which are small business concerns, on the basis of a partial set-aside.

“(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

“(1) are not eligible under subsection (e);

“(2) are not small business concerns; and

“(3) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.”.

ASIAN PACIFIC AMERICANS

15 USC 631.

SEC. 118. (a) Section 2(e)(1)(C) of the Small Business Act is amended by inserting “Asian Pacific Americans,” after “Native Americans,”.

15 USC 637.

(b) The last sentence of subparagraph (C) of the clause contained in section 8(d)(3) of the Small Business Act is amended by inserting “Asian Pacific Americans,” after “Native Americans,”.

Applicability.
15 USC 631 note.

(c)(1) The amendment made by subsection (a) shall apply as if included in the amendment made by section 201 of the Act entitled “An Act to amend the Small Business Act and the Small Business Investment Act of 1958”, approved October 24, 1978 (Public Law 95-507).

15 USC 631.

Applicability.
15 USC 637 note.
15 USC 637.

(2) The amendment made by subsection (b) shall apply as if included in the amendment made by section 211 of the Act so entitled.

DISASTER LOAN INTEREST RATES

93 Stat. 118
15 USC 636.

SEC. 119. (a) Section 7(c) of the Small Business Act is amended by striking the period at the end and inserting in lieu thereof “; and” and by adding the following new paragraph:

“(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such a loan in sufficient amount to repay the Administration: *Provided further*, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed \$500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the \$500,000 limitation.”.

(b) Section 7(c) of the Small Business Act is further amended by striking "October 1, 1982" and inserting in lieu thereof "October 1, 1983". 93 Stat. 118.
15 USC 636.

(c) Section 18 of the Small Business Act is amended by— 93 Stat. 119.

(1) striking the comma after the phrase "agricultural related 15 USC 647.

industries" and inserting the following: "Provided, That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

7 USC 1961.

(2) striking subsection (b) and inserting in lieu thereof the following:

"(b) As used in this Act—

"(1) 'agricultural enterprises' means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and "Agricultural enterprises."

"(2) 'credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time." "Credit elsewhere."

(d) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act. Applicability.
15 USC 636 note.
Ante, p. 840.

AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 120. (a) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period. 7 USC 1961.

(b) Section 324(a) of the Consolidated Farm and Rural Development Act is amended by— Loan interest rates.
7 USC 1964.

(1) striking out the first sentence and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 percent per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent: *Provided*, That the total

amount outstanding and committed to the borrower under this paragraph (1) shall not exceed \$500,000 for each disaster; and

“(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary.”; and

(2) inserting in the second sentence after “*Provided, That*” the following: “for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the term of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: *Provided further, That*”.

**BORROWING AUTHORITY FOR SMALL BUSINESS ADMINISTRATION
REVOLVING FUNDS**

15 USC 633.

SEC. 121. Section 4(c)(5) of the Small Business Act is amended to read as follows:

“(5)(A) The Administration is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under the revolving funds created by section 4(c)(1) of this Act and for authorized expenditures out of the funds. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Administration with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administration under this paragraph. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administration issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administration. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

31 USC 774.

“(B)(i) Moneys in the funds established in subsection (c)(1) not needed for current operations may be paid into miscellaneous receipts of the Treasury.

“(ii) The Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest on the average of loan disbursements outstanding throughout the year providing such disbursements are made from amounts appropriated after October 1, 1980 or are made from repayments of principal of loans made from appropriated funds. This interest shall be calculated solely on the amount of loan disbursements net of losses at the rate provided under subsection (c)(5)(A).

“(C) Except on those loan disbursements on which interest is paid under subsection (B)(ii), the Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest received by the Administration on financing functions performed under this Act and titles III and V of the Small Business Investment Act of 1958 providing the capital used to perform such functions originated from appropriated funds. Such payments shall be treated by the Department of the Treasury as interest income, not as retirement of indebtedness.

15 USC 681, 695.

“(D) There are authorized to be appropriated, in any fiscal year, such sums as may be necessary for losses and interest subsidies incurred by the funds established by subsection (c)(1), but not previously reimbursed.”

Appropriation authorization.

ENERGY SHORTAGE LOANS

SEC. 122. Section 7(b)(8) of the Small Business Act is amended by inserting after “energy-producing resources,” the following: “including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern.”

93 Stat. 118.
15 USC 636.

PRODUCT DISASTER LOANS

SEC. 123. Section 7(b)(4) of the Small Business Act is amended by striking “undetermined causes” and inserting in lieu thereof “other causes: *Provided*, That any small business which intentionally adulterates its product in order to attempt to establish eligibility under this program shall not be eligible for loan assistance hereunder”.

DUPLICATION OF DISASTER BENEFITS

SEC. 124. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following: “(E) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1), (2), or (4) of this subsection.”

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

Small Business
Development
Center
Act of 1980.

SHORT TITLE

SEC. 201. This title may be cited as the “Small Business Development Center Act of 1980”.

15 USC 631 note.

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section: “SEC. 21. (a)(1) The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional entity, any State-chartered development, credit or finance corporation, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities (herein referred to as ‘applicants’) to assist in establishing small

15 USC 631 note.
Grants,
recipients
and purposes.
15 USC 648.

business development centers and to any such body for: small business oriented employment or natural resources development programs; studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; delivery or distribution of such services and information; and providing access to business analysts who can refer small business concerns to available experts.

Non-Federal
additional
amount.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall such indirect costs or in-kind contributions exceed 50 percent of the non-Federal additional amount: *Provided further*, That no recipient of funds under this section shall receive a grant which would exceed its pro-rata share of a \$65,000,000 program based upon the population to be served by the small business development center as compared to the total population in the United States, or \$200,000, whichever is greater.

"(b)(1) During fiscal years 1981, 1982, and 1983, financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

Plan, submittal
to SBA.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

Review.

Assistance to
out-of-State
businesses.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

Problem-solving
assistance.

"(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

“(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small business. A small business development center shall have—

Development center extension services.

“(A) a full-time staff, including a staff director to manage the program activities;

Staff and access requirements.

“(B) access to business analysts to counsel, assist, and inform small business clients;

“(C) access to technology transfer agents to provide state of art technology to small businesses through coupling with national and regional technology data sources;

“(D) access to information specialists to assist in providing information searches and referrals to small business;

“(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

“(F) access to laboratory and adaptive engineering facilities.

“(3) Services provided by a small business development center shall include, but shall not be limited to—

Assistance services.

“(A) furnishing one-to-one individual counseling to small businesses;

“(B) assisting in technology transfer, research, and coupling from existing sources to small businesses;

“(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

“(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

“(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

“(F) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

“(G) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

“(H) maintaining lists of local and regional private consultants to whom small businesses can be referred.

A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

“(4) In addition to the methods prescribed in section 21(c)(2), a small business development center shall utilize and compensate as one of its resources qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services as

Qualified small business vendors.

Laboratory
assistance.

described in this subsection to small businesses on behalf of such small business development center.

“(d) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

National Science
Foundation and
innovation
centers.
Report to SBA
and Congress.

“(e) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such innovation centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

NASA and
industrial
application
centers.

Report to SBA
and Congress.

“(f) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on the performance of such industrial application centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

Deputy
Associate
Administrator
for
Management
Assistance.
5 USC 5101 *et*
seq., 5381.
44 FR 58671.
Duties.

“(g)(1) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS-17 of the General Schedule.

“(2) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefore, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this subsection.

National Small
Business
Development
Center Advisory
Board,
establishment.

“(h)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as ‘Board’) which

shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

“(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

“(i)(1) Each small business development center may establish an advisory board.

“(2) Each small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

“(j) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine—

“(1) the impact of the small business development center program on small businesses, including private consultants, and the socio-economic base of the area served;

“(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

“(3) the extent to which various types of small businesses engaged in areas such as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January 31, 1983.

“(k) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriations Acts.”

Chairman.

Meetings.

Compensation.

44 FR 58671.

Advisory board.

Program evaluation plan.

Submittal to congressional committees.

Contract authority.

15 USC 636.

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

Ante, p. 843.

“(d)(1) On or after October 1, 1980, the Administration shall not fund any small business development center or any variation thereof, except as authorized in section 21 of this Act: *Provided*, That in fiscal year 1980 nothing in this section or in section 21 shall be deemed to affect the operation of any small business development center which was funded by the Administration prior to October 1, 1979: *Provided further*, That no small business development center which was funded in fiscal year 1979 may be funded in excess of \$300,000 in fiscal year 1980.”

Repeal.

Ante, p. 843.

15 USC 648 note.

SEC. 204. Sections 201 and 202 of this title are repealed effective October 1, 1984.

Small Business
Economic Policy
Act of 1980.

TITLE III—SMALL BUSINESS ECONOMIC POLICY

SHORT TITLE

15 USC 631 note.

SEC. 301. This title may be cited as the “Small Business Economic Policy Act of 1980”.

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

15 USC 631a.

SEC. 302. (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

Report to
Congress.
15 USC 631b.

SEC. 303. (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy on an industry-by-industry basis;

(2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities, including, but not limited to the Internal Revenue Code, the Employee Retirement Income Security Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, and regulations promulgated thereunder; identify problems generated by such policies, programs, and activities; and recommend legislative and administrative solutions to such problems; and

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

26 USC 1 *et seq.*
29 USC 1001
note,
15 USC 77a.
15 USC 78a.

(b) The President also shall transmit simultaneously as an appendix to such annual report, a report, by agency and department, on the total dollar value of all Federal contracts exceeding \$10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of \$10,000) awarded to small, minority-owned and female-owned businesses.

Appendix to
report,
transmittal to
Congress.

(c) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

Supplementary
reports,
transmittal to
Congress.

(d) The Report on Small Business and Competition and all supplementary reports transmitted under subsections (b) and (c) of this section shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

Referral to con-
gressional
committees.

TITLE IV—SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as subsection 4(b)(1) and inserting thereafter the following:

15 USC 633.

“(2) The Administrator also shall be responsible for—

“(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

Data base.

“(i) employment, layoffs, and new hires;

“(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

Economic
indices,
publication.

“(iii) number of business formations and failures;

“(iv) sales and new orders;

- “(v) back orders;
 “(vi) investment in plant and equipment;
 “(vii) changes in inventory and rate of inventory turnover;
 “(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;
 “(ix) debt to equity ratios;
 “(x) exports;
 “(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and
 “(xii) concentration ratios; and
 “(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to subparagraph (A) of this subsection.”
- Annual report, publication.
- 44 FR 58671.
5 USC 5315.
- Credit-need studies, report to Congress.
- Referral to congressional committees.
- SEC. 402. Section 634d(1) of title 15, United States Code, is amended by striking the word “Schedule;” and inserting in lieu thereof “Schedule: *Provided, however*, That not more than ten staff personnel at any one time may be employed and compensated at a rate not in excess of GS-15, step 10, of the General Schedule;”
- SEC. 403. Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:
 “(128) Chief Counsel for Advocacy, Small Business Administration.”
- SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by January 1, 1982, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

Small Business Employee Ownership Act of 1980.
15 USC 631 note.
Findings and declaration.
15 USC 636 note.

TITLE V—EMPLOYEE OWNERSHIP

SEC. 501. This title may be cited as the “Small Business Employee Ownership Act of 1980”.

SEC. 502. The Congress hereby finds and declares that—

(1) employee ownership of firms provides a means for preserving jobs and business activity;

(2) employee ownership of firms provides a means for keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(3) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large enterprise;

(4) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan guarantee programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated; and

(5) by guaranteeing loans to qualified employee trusts and similar employee organizations, the Small Business Administration can provide feasible and desirable methods for the transfer of all or part of the ownership of a small business concern to its employees.

SEC. 503. (a) The purposes of this title are—

(1) to provide that a qualified employee trust shall be eligible for loan guarantees under section 7(a) of the Small Business Act with respect to a small business concern, regardless of the percentage of stock of the concern held by the trust, and

(2) to provide in section 505 of this Act authority to address the specific case in which the Small Business Administration guarantees loans under section 7(a) of the Small Business Act for purposes of providing funds to a qualified employee trust (and other employee organizations which are treated as qualified employee trusts) for the purchase, by at least 51 percent of the employees, of at least 51 percent of the stock of a business which is operated for profit and which is—

(A) a small business concern, or

(B) a corporation which is controlled by another person if, after the plan for the purchase of such corporation is carried out, such corporation would be a small business concern.

(b) Nothing in this title shall be construed to prohibit the Small Business Administration from making loan guarantees under section 7(a) of the Small Business Act to qualified employee trusts which own less than 51 percent of the stock of a continuing business.

SEC. 504. Section 3 of the Small Business Act is amended by adding at the end thereof the following new subsection:

“(c)(1) For purposes of this Act, a qualified employee trust shall be eligible for any loan guarantee under section 7(a) with respect to a small business concern on the same basis as if such trust were the same legal entity as such concern.

“(2) For purposes of this Act, the term ‘qualified employee trust’ means, with respect to a small business concern, a trust—

“(A) which forms part of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954)—

“(i) which is maintained by such concern, and

“(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities (as defined in section 4975(e)(8) of such Code) which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of outstanding common shares voted; and

“(B) in the case of any loan guarantee under section 7(a), the trustee of which enters into an agreement with the Administrator which is binding on the trust and on such small business concern and which provides that—

“(i) the loan guaranteed under section 7(a) shall be used solely for the purchase of qualifying employer securities of such concern,

“(ii) all funds acquired by the concern in such purchase shall be used by such concern solely for the purposes for which such loan was guaranteed,

Purposes.
15 USC 636 note.
15 USC 636,
post, p. 852.

15 USC 632.

Loan guarantee
eligibility.
15 USC 636,
post, p. 852.

“Qualified
employee
trust.”

26 USC 4975.

“(iii) such concern will provide such funds as may be necessary for the timely repayment of such loan, and the property of such concern shall be available as security for repayment of such loan, and

“(iv) all qualifying employer securities acquired by such trust in such purchase shall be allocated to the accounts of participants in such plan who are entitled to share in such allocation, and each participant has a nonforfeitable right, not later than the date such loan is repaid, to all such qualifying employer securities which are so allocated to the participant’s account.

“(3) Under regulations which may be prescribed by the Administrator, a trust may be treated as a qualified employee trust with respect to a small business concern if—

“(A) the trust is maintained by an employee organization which represents at least 51 percent of the employees of such concern, and

“(B) such concern maintains a plan—

“(i) which is an employee benefit plan which is designed to invest primarily in qualifying employer securities (as defined in section 4975(e)(8) of the Internal Revenue Code of 1954),

26 USC 4975.

“(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of the outstanding common shares voted,

“(iii) which provides that each participant who is entitled to distribution from the plan has a right, in the case of qualifying employer securities which are not readily tradable on an established market, to require that the concern repurchase such securities under a fair valuation formula, and

“(iv) which meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Administrator may prescribe, and

15 USC 636.

“(C) in the case of a loan guarantee under section 7(a), such organization enters into an agreement with the Administration which is described in paragraph (2)(B).”

SEC. 505. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

Loan guarantee.

“(8)(A) The Administration may guarantee under subsection (a) a loan to a qualified employee trust with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 percent of the stock of the concern.

“(B) The plan requiring the Administrator’s approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that—

Plan, submittal to SBA.

“(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 percent of the total stock of such concern shall be allocated to the accounts of at least 51 percent of the employees of such concern who are entitled to share in such allocation,

26 USC 401.

“(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

Periodic review.

“(iii) there will be adequate management to assure management expertise and continuity.

“(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

Loan guarantee criteria, restriction.

“(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

“(E) The Administrator shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.”

Applications list; report to Congress.

SEC. 506. (a) The Administrator of the Small Business Administration shall enter into a contract with an independent consultant which provides for a study by such consultant of the feasibility of making loan guarantees under section 7(a) of the Small Business Act directly to the seller of a small business concern in connection with the installment sale of such concern. Such study shall include an analysis of at least the following:

Feasibility study by independent consultant.

(1) the extent and nature of the use of installment sales for the sale of small business concerns,

(2) the ability of the Small Business Administration to make credit judgments in connection with installment sales,

(3) the need for Small Business Administration loan guarantees to facilitate installment sales,

(4) the willingness of banks and other financial institutions to participate in the evaluation of installment sales, and

(5) the anticipated cost of such a guarantee program in comparison to other loan guarantee programs of the Small Business Administration.

Feasibility study, transmittal to congressional committees.

Effective date.
15 USC 631 note.

Nothing in this section shall be construed as authorizing the Administrator to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriations Acts.

(b) Not later than April 1, 1981, the Administrator of the Small Business Administration shall transmit the findings of such study, along with his recommendations, to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

SEC. 507. This Act shall take effect October 1, 1980.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-998 accompanying H.R. 7297 (Comm. on Small Business) and No. 96-1087 (Comm. of Conference).

SENATE REPORT No. 96-703 (Comm. on Small Business).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 28, considered and passed Senate.

June 3, H.R. 7297 considered and passed House; passage vacated and S. 2698, amended, passed in lieu.

June 17, Senate agreed to conference report.

June 19, House agreed to conference report; receded from its amendment to title of bill.

[See also the following bills and their accompanying reports: H.R. 7250, H.R. 7259, H.R. 7288, H.R. 7289, H.R. 7298]

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 27:
July 2, Presidential statement.