

106TH CONGRESS
1ST SESSION

S. 364

To improve certain loan programs of the Small Business Administration,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 1999

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

A BILL

To improve certain loan programs of the Small Business
Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Invest-
5 ment Improvement Act of 1999”.

6 **SEC. 2. SBIC PROGRAM.**

7 (a) IN GENERAL.—Section 308(i)(2) of the Small
8 Business Investment Act of 1958 (15 U.S.C. 687(i)(2))
9 is amended by adding at the end the following: “In this
10 paragraph, the term ‘interest’ includes only the maximum

1 mandatory sum, expressed in dollars or as a percentage
2 rate, that is payable with respect to the business loan
3 amount received by the small business concern, and does
4 not include the value, if any, of contingent obligations, in-
5 cluding warrants, royalty, or conversion rights, granting
6 the small business investment company an ownership in-
7 terest in the equity or increased future revenue of the
8 small business concern receiving the business loan.”.

9 (b) FUNDING LEVELS.—Section 20 of the Small
10 Business Act (15 U.S.C. 631 note) is amended—

11 (1) in subsection (d)(1)(C)(i), by striking
12 “\$800,000,000” and inserting “\$1,200,000,000”;
13 and

14 (2) in subsection (e)(1)(C)(i), by striking
15 “\$900,000,000” and inserting “\$1,500,000,000”.

16 (c) DEFINITIONS.—

17 (1) SMALL BUSINESS CONCERN.—Section
18 103(5) of the Small Business Investment Act of
19 1958 (15 U.S.C. 662(5)) is amended—

20 (A) by redesignating subparagraphs (A)
21 through (C) as clauses (i) through (iii), and in-
22 denting appropriately;

23 (B) in clause (iii), as redesignated, by add-
24 ing “and” at the end;

1 (C) by striking “purposes of this Act, an
2 investment” and inserting the following: “pur-
3 poses of this Act—

4 “(A) an investment”; and

5 (D) by adding at the end the following:

6 “(B) in determining whether a business
7 concern satisfies net income standards estab-
8 lished pursuant to section 3(a)(2) of the Small
9 Business Act, if the business concern is not re-
10 quired by law to pay Federal income taxes at
11 the enterprise level, but is required to pass in-
12 come through to the shareholders, partners,
13 beneficiaries, or other equitable owners of the
14 business concern, the net income of the busi-
15 ness concern shall be determined by allowing a
16 deduction in an amount equal to the sum of—

17 “(i) if the business concern is not re-
18 quired by law to pay State (and local, if
19 any) income taxes at the enterprise level,
20 the net income (determined without regard
21 to this subparagraph), multiplied by the
22 marginal State income tax rate (or by the
23 combined State and local income tax rates,
24 as applicable) that would have applied if

1 the business concern were a corporation;
2 and

3 “(ii) the net income (so determined)
4 less any deduction for State (and local) in-
5 come taxes calculated under clause (i),
6 multiplied by the marginal Federal income
7 tax rate that would have applied if the
8 business concern were a corporation;”.

9 (2) SMALLER ENTERPRISE.—Section
10 103(12)(A)(ii) of the Small Business Investment Act
11 of 1958 (15 U.S.C. 662(12)(A)(ii)) is amended by
12 inserting before the semicolon at the end the follow-
13 ing: “except that, for purposes of this clause, if the
14 business concern is not required by law to pay Fed-
15 eral income taxes at the enterprise level, but is re-
16 quired to pass income through to the shareholders,
17 partners, beneficiaries, or other equitable owners of
18 the business concern, the net income of the business
19 concern shall be determined by allowing a deduction
20 in an amount equal to the sum of—

21 “(I) if the business concern is
22 not required by law to pay State (and
23 local, if any) income taxes at the en-
24 terprise level, the net income (deter-
25 mined without regard to this clause),

1 multiplied by the marginal State in-
2 come tax rate (or by the combined
3 State and local income tax rates, as
4 applicable) that would have applied if
5 the business concern were a corpora-
6 tion; and

7 “(II) the net income (so deter-
8 mined) less any deduction for State
9 (and local) income taxes calculated
10 under subclause (I), multiplied by the
11 marginal Federal income tax rate that
12 would have applied if the business
13 concern were a corporation”.

14 (d) TECHNICAL CORRECTIONS.—

15 (1) REPEAL.—Section 303(g) of the Small
16 Business Investment Act of 1958 (15 U.S.C.
17 683(g)) is amended by striking paragraph (13).

18 (2) ISSUANCE OF GUARANTEES AND TRUST
19 CERTIFICATES.—Section 320 of the Small Business
20 Investment Act of 1958 (15 U.S.C. 687m) is amend-
21 ed by striking “6” and inserting “12”.

22 (3) ELIMINATION OF TABLE OF CONTENTS.—
23 Section 101 of the Small Business Investment Act
24 of 1958 (15 U.S.C. 661 note) is amended to read as
25 follows:

1 **“SEC. 101. SHORT TITLE.**

2 “**This Act may be cited as the ‘Small Business Invest-**
3 **ment Act of 1958’.**”.

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