

Final Congressional Passage of HR 5297

President Obama signed into law HR 5297, the Small Business Jobs and Credit Act, on Monday, September 27th, 2010. SBA implementation of the Congressional appropriation of about \$500 million for 504 and 7a fee waivers is critical, given the 10/01/2010 borrower fee increase to 0.749%. We believe SBA should have sufficient time to apply this new appropriation to clear the roughly 575 504 loans from its loan queue and apply the current borrower fee of 0.389%. This action will give small business borrowers the benefit of both the lower FY 2010 fee, and the fee waivers in the HR 5297.

It is clear that some provisions, for example the new maximum debenture size, could be implemented more quickly than others. We have received indications that, while SBA has already been working on the debt refinancing provisions, OMB will be heavily involved in the final regulations. SBA will have to be the advocate for small businesses, as OMB appears to be skeptical of the provision. This will lead to a give and take between SBA and OMB, which could result in slower implementation than for other provisions.

The final bill contains the following program enhancements for SBA programs:

- **Fee Reductions**- - - extends the authority for 504 and 7(a) fee reductions and the 90% 7(a) guarantees through December 31st, or until \$505 million in appropriations to support them is used.
- **Maximum Loan Amounts**- - - permanently increases the loan maximum on 504 loans, including public policy loans, to \$5 million, except small manufacturer loans and energy loans are increased to \$5.5 million. Also increases the maximum amount of 7(a) loans to \$5 million gross and \$3.75 million net (or guaranteed amount).
- **Alternative Size Standard** - - - pending SBA establishment of an alternative applicable to both 504 and 7(a), establishes a standard of maximum tangible net worth of \$15 million and 2-year average net income after Federal income tax of \$5 million, which will apply to both programs.
- **Debt Refinancing**- - - establishes a temporary 2-year program of business debt refinancing through the 504 program independent of the usually required job creation/preservation goals of one job for \$65,000. This enables 504 to be used for refinancing of qualified existing debt without business expansion.
- **Guarantees of 1st mortgage loans**- - - extends the sunset on the new temporary program for partial guarantees of the third party loan of a 504 financing. The program will expire two years after the date the first pool sale occurs.
- **Microloans**- - - permanently increases the maximum per small business borrower to \$50,000 and per intermediary to \$5 million. Also authorizes SBA to waive intermediary match requirements during fiscal years 2011 and 2012.
- **Intermediary Lending Pilot** - - - establishes a 3-year pilot program to provide capital to 20 non-profit intermediaries annually to make loans targeted to startup, newly established and growing small business concerns. CDCs should be eligible to participate.

Clearly, implementation of HR 5297 is a substantial and complex undertaking by SBA that will require any number of regulation changes and policy notices. Agency officials are well aware that the "clock is ticking" on the funding of the fee waivers and other major enhancements. They also know that hundreds of small businesses are seeking access to 504 capital now. The pressure to produce implementing language is enormous at every level of SBA.