

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 230

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a program to provide regulatory compliance assistance to small business concerns, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. SWEENEY introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a program to provide regulatory compliance assistance to small business concerns, 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 “National Small Busi-  
5 ness Regulatory Assistance Act of 2005”.

6 **SEC. 2. PURPOSE.**

7       The purpose of this Act is to establish a program  
8 to—

1           (1) provide confidential assistance to small  
2 business concerns;

3           (2) provide small business concerns with the in-  
4 formation necessary to improve their rate of compli-  
5 ance with Federal and State regulations;

6           (3) create a partnership among Federal agen-  
7 cies to increase outreach efforts to small business  
8 concerns with respect to regulatory compliance;

9           (4) provide a mechanism for unbiased feedback  
10 to Federal agencies on the regulatory environment  
11 for small business concerns; and

12           (5) utilize the service delivery network of Small  
13 Business Development Centers to improve access of  
14 small business concerns to programs to assist them  
15 with regulatory compliance.

16 **SEC. 3. DEFINITIONS.**

17       In this Act, the definitions set forth in section 36(a)  
18 of the Small Business Act (as added by section 4 of this  
19 Act) shall apply.

20 **SEC. 4. SMALL BUSINESS REGULATORY ASSISTANCE PRO-**  
21 **GRAM.**

22       The Small Business Act (15 U.S.C. 637 et seq.) is  
23 amended—

24           (1) by redesignating section 36 as section 37;  
25       and

1           (2) by inserting after section 35 the following  
2           new section:

3   **“SEC. 36. SMALL BUSINESS REGULATORY ASSISTANCE PRO-**  
4                           **GRAM.**

5           “(a) DEFINITIONS.—In this section, the following  
6           definitions apply:

7                   “(1) ADMINISTRATOR.—The term ‘Adminis-  
8                   trator’ means the Administrator of the Small Busi-  
9                   ness Administration, acting through the Associate  
10                  Administrator for Small Business Development Cen-  
11                  ters.

12                  “(2) ASSOCIATION.—The term ‘Association’  
13                  means the association recognized by the Adminis-  
14                  trator of the Small Business Administration under  
15                  section 21(a)(3)(A).

16                  “(3) PARTICIPATING SMALL BUSINESS DEVEL-  
17                  OPMENT CENTER.—The term ‘participating Small  
18                  Business Development Center’ means a Small Busi-  
19                  ness Development Center participating in the pro-  
20                  gram.

21                  “(4) PROGRAM.—The term ‘program’ means  
22                  the regulatory assistance program established under  
23                  this section.

24                  “(5) REGULATORY COMPLIANCE ASSISTANCE.—  
25                  The term ‘regulatory compliance assistance’ means

1 assistance provided by a Small Business Develop-  
2 ment Center to a small business concern to enable  
3 the concern to comply with Federal regulatory re-  
4 quirements.

5 “(6) SMALL BUSINESS DEVELOPMENT CEN-  
6 TER.—The term ‘Small Business Development Cen-  
7 ter’ means a Small Business Development Center  
8 described in section 21.

9 “(7) STATE.—The term ‘State’ means each of  
10 the several States, the District of Columbia, the  
11 Commonwealth of Puerto Rico, the Virgin Islands,  
12 and Guam.

13 “(b) AUTHORITY.—In accordance with this section,  
14 the Administrator shall establish a program to provide  
15 regulatory compliance assistance to small business con-  
16 cerns through participating Small Business Development  
17 Centers, the Association, and Federal compliance partner-  
18 ship programs.

19 “(c) SMALL BUSINESS DEVELOPMENT CENTERS.—

20 “(1) IN GENERAL.—In carrying out the pro-  
21 gram, the Administrator shall enter into arrange-  
22 ments with participating Small Business Develop-  
23 ment Centers under which such centers will pro-  
24 vide—

1           “(A) access to information and resources,  
2 including current Federal and State nonpuni-  
3 tive compliance and technical assistance pro-  
4 grams similar to those established under section  
5 507 of the Clean Air Act Amendments of 1990;

6           “(B) training and educational activities;

7           “(C) confidential, free-of-charge, one-on-  
8 one, in-depth counseling to the owners and op-  
9 erators of small business concerns regarding  
10 compliance with Federal and State regulations,  
11 provided that such counseling is not considered  
12 to be the practice of law in a State in which a  
13 Small Business Development Center is located  
14 or in which such counseling is conducted;

15           “(D) technical assistance; and

16           “(E) referrals to experts and other pro-  
17 viders of compliance assistance who meet such  
18 standards for educational, technical, and profes-  
19 sional competency as are established by the Ad-  
20 ministrator.

21           “(2) REPORTS.—

22           “(A) IN GENERAL.—Each participating  
23 Small Business Development Center shall trans-  
24 mit to the Administrator a quarterly report that  
25 includes—

1           “(i) a summary of the regulatory com-  
2           pliance assistance provided by the center  
3           under the program; and

4           “(ii) any data and information ob-  
5           tained by the center from a Federal agency  
6           regarding regulatory compliance that the  
7           agency intends to be disseminated to small  
8           business concerns.

9           “(B) ELECTRONIC FORM.—Each report re-  
10          ferred to in subparagraph (A) shall be trans-  
11          mitted in electronic form.

12          “(C) INTERIM REPORTS.—A participating  
13          Small Business Development Center may trans-  
14          mit to the Administrator such interim reports  
15          as the center considers appropriate.

16          “(D) LIMITATION ON DISCLOSURE RE-  
17          QUIREMENTS.—The Administrator may not re-  
18          quire a Small Business Development Center to  
19          disclose the name or address of any small busi-  
20          ness concern that received or is receiving assist-  
21          ance under the program, except that the Ad-  
22          ministrator shall require such a disclosure if or-  
23          dered to do so by a court in any civil or crimi-  
24          nal action.

25          “(d) DATA REPOSITORY AND CLEARINGHOUSE.—

1           “(1) IN GENERAL.—In carrying out the pro-  
2           gram, the Administrator shall—

3                   “(A) act as the repository of and clearing-  
4           house for data and information submitted by  
5           Small Business Development Centers; and

6                   “(B) transmit to the President, the Com-  
7           mittee on Small Business and Entrepreneurship  
8           of the Senate, and the Committee on Small  
9           Business of the House of Representatives an  
10          annual report that includes—

11                   “(i) a description of the types of as-  
12          sistance provided by participating Small  
13          Business Development Centers under the  
14          program;

15                   “(ii) data regarding the number of  
16          small business concerns that contacted  
17          participating Small Business Development  
18          Centers regarding assistance under the  
19          program;

20                   “(iii) data regarding the number of  
21          small business concerns assisted by partici-  
22          pating Small Business Development Cen-  
23          ters under the program;

24                   “(iv) data and information regarding  
25          outreach activities conducted by partici-

1           pating Small Business Development Cen-  
2           ters under the program, including any ac-  
3           tivities conducted in partnership with Fed-  
4           eral agencies;

5           “(v) data and information regarding  
6           each case known to the Administrator in  
7           which one or more Small Business Devel-  
8           opment Centers offered conflicting advice  
9           or information regarding compliance with a  
10          Federal or State regulation to one or more  
11          small business concerns;

12          “(vi) any recommendations for im-  
13          provements in the regulation of small busi-  
14          ness concerns; and

15          “(vii) a list of regulations identified  
16          by the Administrator, after consultation  
17          with the Small Business and Agriculture  
18          Regulatory Enforcement Ombudsman, as  
19          being most burdensome to small business  
20          concerns, and recommendations to reduce  
21          or eliminate the burdens of such regula-  
22          tions.

23          “(e) ELIGIBILITY.—

24                  “(1) IN GENERAL.—A Small Business Develop-  
25          ment Center shall be eligible to receive assistance

1 under the program only if the center is certified  
2 under section 21(k)(2).

3 “(2) WAIVER.— With respect to a Small Busi-  
4 ness Development Center seeking assistance under  
5 the program, the administrator may waive the cer-  
6 tification requirement set forth in paragraph (1) if  
7 the Administrator determines that the center is  
8 making a good faith effort to obtain such certifi-  
9 cation.

10 “(3) EFFECTIVE DATE.—The restriction de-  
11 scribed in paragraph (1) shall not apply to any  
12 Small Business Development Center before October  
13 1, 2005.

14 “(f) SELECTION OF PARTICIPATING STATE PRO-  
15 GRAMS.—

16 “(1) ESTABLISHMENT OF PROGRAM.—In con-  
17 sultation with the Association and giving substantial  
18 weight to the Association’s recommendations, the  
19 Administrator shall select the Small Business Devel-  
20 opment Center programs of 2 States from each of  
21 the following groups of States to participate in the  
22 program:

23 “(A) Group 1: Maine, Massachusetts, New  
24 Hampshire, Connecticut, Vermont, and Rhode  
25 Island.

1           “(B) Group 2: New York, New Jersey,  
2           Puerto Rico, and the Virgin Islands.

3           “(C) Group 3: Pennsylvania, Maryland,  
4           West Virginia, Virginia, the District of Colum-  
5           bia, and Delaware.

6           “(D) Group 4: Georgia, Alabama, North  
7           Carolina, South Carolina, Mississippi, Florida,  
8           Kentucky, and Tennessee.

9           “(E) Group 5: Illinois, Ohio, Michigan, In-  
10          diana, Wisconsin, and Minnesota.

11          “(F) Group 6: Texas, New Mexico, Arkan-  
12          sas, Oklahoma, and Louisiana.

13          “(G) Group 7: Missouri, Iowa, Nebraska,  
14          and Kansas.

15          “(H) Group 8: Colorado, Wyoming, North  
16          Dakota, South Dakota, Montana, and Utah.

17          “(I) Group 9: California, Guam, Hawaii,  
18          Nevada, and Arizona.

19          “(J) Group 10: Washington, Alaska,  
20          Idaho, and Oregon.

21          “(2) DEADLINE FOR INITIAL SELECTIONS.—

22          The Administrator shall make selections under para-  
23          graph (1) not later than 60 days after promulgation  
24          of regulations under section 5 of the National Small  
25          Business Regulatory Assistance Act of 2005.

1           “(3) ADDITIONAL SELECTIONS.—Not earlier  
2 than the date 3 years after the date of the enact-  
3 ment of this paragraph, the Administrator may se-  
4 lect Small Business Development Center programs  
5 of States in addition to those selected under para-  
6 graph (1). The Administrator shall consider the ef-  
7 fect on the programs selected under paragraph (1)  
8 before selecting additional programs under this  
9 paragraph.

10           “(4) COORDINATION TO AVOID DUPLICATION  
11 WITH OTHER PROGRAMS.—In selecting programs  
12 under this subsection, the Administrator shall give a  
13 preference to Small Business Development Center  
14 programs that have a plan for consulting with Fed-  
15 eral and State agencies to ensure that any assist-  
16 ance provided under this section is not duplicated by  
17 an existing Federal or State program.

18           “(g) MATCHING NOT REQUIRED.—Subparagraphs  
19 (A) and (B) of section 21(a)(4) shall not apply to assist-  
20 ance made available under the program.

21           “(h) DISTRIBUTION OF GRANTS.—

22           “(1) IN GENERAL.—Except as provided in para-  
23 graph (2), each State program selected to receive a  
24 grant under subsection (f) in a fiscal year shall be

1 eligible to receive a grant in an amount not to ex-  
2 ceed the product obtained by multiplying—

3 “(A) the amount made available for grants  
4 under this section for the fiscal year; and

5 “(B) the ratio that—

6 “(i) the population of the State; bears  
7 to

8 “(ii) the population of all the States  
9 with programs selected to receive grants  
10 under subsection (f) for the fiscal year.

11 “(2) MINIMUM AMOUNT.—The minimum  
12 amount that a State program selected to receive a  
13 grant under subsection (f) shall be eligible to receive  
14 under this section for any fiscal year shall be  
15 \$200,000. The Administrator shall reduce the  
16 amount described in paragraph (1) as appropriate to  
17 carry out the purposes of this paragraph and sub-  
18 section (j)(2).

19 “(i) EVALUATION AND REPORT.—Not later than 3  
20 years after the establishment of the program, the Comp-  
21 troller General of the United States shall conduct an eval-  
22 uation of the program and shall transmit to the Adminis-  
23 trator, the Committee on Small Business and Entrepre-  
24 neurship of the Senate, and the Committee on Small Busi-  
25 ness of the House of Representatives a report containing

1 the results of the evaluation along with any recommenda-  
2 tions as to whether the program, with or without modifica-  
3 tion, should be extended to include the participation of all  
4 Small Business Development Centers.

5 “(j) AUTHORIZATION OF APPROPRIATIONS.—

6 “(1) IN GENERAL.—There are authorized to be  
7 appropriated to carry out this section \$5,000,000 for  
8 fiscal year 2005 and each fiscal year thereafter.

9 “(2) LIMITATION ON USE OF OTHER FUNDS.—

10 The Administrator may carry out the program only  
11 with amounts appropriated in advance specifically to  
12 carry out this section.”.

13 **SEC. 5. PROMULGATION OF REGULATIONS.**

14 After providing notice and an opportunity for com-  
15 ment and after consulting with the Association (but not  
16 later than 180 days after the date of the enactment of  
17 this Act), the Administrator shall promulgate final regula-  
18 tions to carry out this Act, including regulations that es-  
19 tablish—

20 (1) priorities for the types of assistance to be  
21 provided under the program;

22 (2) standards relating to educational, technical,  
23 and support services to be provided by participating  
24 Small Business Development Centers;

1           (3) standards relating to any national service  
2 delivery and support function to be provided by the  
3 Association under the program;

4           (4) standards relating to any work plan that  
5 the Administrator may require a participating Small  
6 Business Development Center to develop; and

7           (5) standards relating to the educational, tech-  
8 nical, and professional competency of any expert or  
9 other assistance provider to whom a small business  
10 concern may be referred for compliance assistance  
11 under the program.

12 **SEC. 6. PRIVACY REQUIREMENTS APPLICABLE TO SMALL**  
13 **BUSINESS DEVELOPMENT CENTERS.**

14           Section 21(c) of the Small Business Act (15 U.S.C.  
15 648(c)) is amended by adding at the end the following:

16           “(9) PRIVACY REQUIREMENTS.—

17           “(A) IN GENERAL.—No Small Business  
18 Development Center, consortium of Small Busi-  
19 ness Development Centers, or contractor or  
20 agent of a Small Business Development Center  
21 shall disclose the name or address of any indi-  
22 vidual or small business concern receiving as-  
23 sistance under this section without the consent  
24 of such individual or small business concern, ex-  
25 cept that—

1           “(i) the Administrator shall require  
2           such disclosure if ordered to do so by a  
3           court in any civil or criminal action; and

4           “(ii) if the Administrator considers it  
5           necessary while undertaking a financial  
6           audit of a Small Business Development  
7           Center, the Administrator shall require  
8           such disclosure for the sole purpose of un-  
9           dertaking such audit.

10           “(B) REGULATIONS.— The Administrator  
11           shall issue regulations to establish standards for  
12           requiring disclosures during a financial audit  
13           under subparagraph (a)(ii).”.

○