

107TH CONGRESS
2D SESSION

H. R. 4231

AN ACT

To improve small business advocacy, and for other purposes.

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To improve small business advocacy, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Small Business Advoca-
3 cacy Improvement Act of 2002”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Excessive regulations continue to burden
7 the Nation’s small businesses.

8 (2) Federal agencies continue to propose regu-
9 lations that impose disproportionate burdens on
10 small businesses.

11 (3) An independent office of small business ad-
12 vocacy will help to ensure that Federal agencies are
13 responsive to small businesses and that those agen-
14 cies comply with their statutory obligations with re-
15 spect to small businesses.

16 (4) The independence of an office that acts as
17 an advocate for small businesses is essential to en-
18 sure that it can serve as an effective advocate with-
19 out being restricted by the views or policies of the
20 Small Business Administration or any other Federal
21 executive branch agency.

22 (5) To be effective an office that acts as an ad-
23 vocate for small businesses needs sufficient resources
24 to conduct credible economic studies and research
25 which are necessary for the maintenance of small
26 business databases and for the accurate assessment

1 of the impact of regulations on small businesses, the
2 role of small business in the Nation's economy, and
3 the barriers to the growth of small businesses.

4 (6) The research, information, and expertise
5 provided by an independent office of small business
6 advocacy will be a valuable source of information
7 and advice for Congress and Federal agencies with
8 which the office will work on behalf of small busi-
9 nesses.

10 (b) PURPOSES.—The purposes of this Act are—

11 (1) to ensure that there exists an entity that
12 has the statutory independence and adequate finan-
13 cial resources to effectively advocate for and on be-
14 half of small business;

15 (2) to require that such an entity report to the
16 Chairmen and Ranking Members of the Committee
17 on Small Business of the House of Representatives
18 and the Committee on Small Business and Entrepre-
19 neurship of the Senate, and to the Administrator of
20 the Small Business Administration in order to keep
21 them fully and currently informed about issues and
22 regulations affecting small business concerns and the
23 necessity for corrective action by the regulatory
24 agency or Congress;

1 (3) to provide a separate authorization for ap-
2 propriations for such an entity; and

3 (4) to strengthen the role of the Small Business
4 and Agriculture Regulatory Enforcement Ombuds-
5 man by ensuring greater cooperation between the
6 Ombudsman and the Office of Advocacy of the
7 Small Business Administration.

8 **SEC. 3. APPOINTMENT OF CHIEF COUNSEL OF ADVOCACY.**

9 (a) IN GENERAL.—Section 201 of Public Law 94–
10 305 (15 U.S.C. 634a) is amended—

11 (1) by inserting “(a)” before “There is estab-
12 lished”;

13 (2) by striking the second sentence; and

14 (3) by adding at the end the following:

15 “(b) The management of the Office shall be vested
16 in a Chief Counsel for Advocacy who shall be appointed
17 from civilian life by the President, by and with the advice
18 and consent of the Senate, and who should be appointed
19 without regard to political affiliation and on the basis of
20 fitness to perform the duties of the office.

21 “(c) No individual may be appointed under sub-
22 section (b) if such individual has served as an officer or
23 employee of the Small Business Administration during the
24 5-year period preceding the date of such individual’s ap-
25 pointment.

1 “(d) Any Chief Counsel appointed after the date of
2 the enactment of this subsection shall be paid at a rate
3 not to exceed the rate of basic pay for level III of the
4 Executive Schedule.

5 “(e) After the expiration of the term of a President,
6 the Chief Counsel may continue to serve at the pleasure
7 of the President for a period of not to exceed one year
8 until such date as a successor to the Chief Counsel is nom-
9 inated.”.

10 (b) **INCUMBENT CHIEF COUNSEL FOR ADVOCACY.**—
11 The individual serving as the Chief Counsel for Advocacy
12 of the Small Business Administration on the date of the
13 enactment of this Act shall continue to serve in that posi-
14 tion after such date in accordance with section 201 of
15 Public Law 94–305 (15 U.S.C. 634a), as amended by this
16 section.

17 **SEC. 4. PRIMARY FUNCTIONS OF OFFICE OF ADVOCACY.**

18 Section 202 of Public Law 94–305 (15 U.S.C. 634b)
19 is amended—

20 (1) in paragraph (6) by striking “to minority
21 enterprises” and inserting “to small business con-
22 cerns owned and controlled by socially and economi-
23 cally disadvantaged individuals, to small business
24 concerns owned and controlled by women, and to

1 small business concerns owned and controlled by vet-
2 erans”;

3 (2) in paragraph (7) by striking “minority en-
4 terprises” and inserting “small business concerns
5 owned and controlled by socially and economically
6 disadvantaged individuals, small business concerns
7 owned and controlled by women, and small business
8 concerns owned and controlled by veterans”;

9 (3) in paragraph (8) by striking “minority and
10 other small business enterprises” and inserting
11 “small business concerns owned and controlled by
12 socially and economically disadvantaged individuals,
13 small business concerns owned and controlled by
14 women, small business concerns owned and con-
15 trolled by veterans, and other small businesses”;

16 (4) in paragraph (9) by striking “complete”
17 and inserting “compete”;

18 (5) by striking paragraph (11);

19 (6) by redesignating paragraph (12) as para-
20 graph (11);

21 (7) in paragraph (11) (as so redesignated)—

22 (A) by striking “serviced-disabled” and in-
23 serting “service-disabled”; and

24 (B) by striking the period at the end and
25 inserting “; and”; and

1 (8) by adding at the end the following:

2 “(12) make such recommendations and submit
3 such reports as the Chief Counsel determines appro-
4 priate to the President, to the Chairmen and Rank-
5 ing Members of the Committee on Small Business of
6 the House of Representatives and the Committee on
7 Small Business and Entrepreneurship of the Senate,
8 and to the Administrator of the Small Business Ad-
9 ministration, with respect to issues and regulations
10 affecting small businesses and the necessity for cor-
11 rective action by any Federal agency or by Con-
12 gress.”.

13 **SEC. 5. ADDITIONAL FUNCTIONS.**

14 (a) IN GENERAL.—Section 203 of Public Law 94—
15 305 (15 U.S.C. 634c) is amended—

16 (1) by inserting “(a)” before “The Office of Ad-
17 vocacy shall also perform”; and

18 (2) in subsection (a) (as so designated)—

19 (A) in paragraph (4) by striking “and” at
20 the end;

21 (B) in paragraph (5) by striking the period
22 at the end and inserting a semicolon; and

23 (C) by adding at the end the following:

24 “(6) maintain economic databases and make
25 the information contained therein available to the

1 Administrator of the Small Business Administration
2 and to Congress;

3 “(7) carry out the responsibilities of the Chief
4 Counsel under chapter 6 of title 5, United States
5 Code; and

6 “(8) enter into a memorandum of under-
7 standing with the Small Business and Agriculture
8 Regulatory Enforcement Ombudsman regarding
9 methods and procedures for cooperation between the
10 Ombudsman and the Office of Advocacy and trans-
11 mit a copy of such memorandum to the Committee
12 on Small Business of the House of Representatives
13 and the Committee on Small Business and Entrepre-
14 neurship of the Senate.”.

15 (b) APPROPRIATION REQUEST.—Section 203 of Pub-
16 lic Law 94–305 (15 U.S.C. 634c) is further amended by
17 adding at the end the following:

18 “(b)(1) For each fiscal year, the Chief Counsel shall
19 transmit the Office of Advocacy’s appropriation estimate
20 and request to the Office of Management and Budget, the
21 Committee on Small Business of the House of Representa-
22 tives, the Committee on Small Business and Entrepre-
23 neurship of the Senate, and the Committees on Appropria-
24 tions of the House of Representatives and the Senate.

1 “(2) Each budget of the United States Government
2 submitted by the President shall include a separate state-
3 ment of the amount of appropriations requested for the
4 Office of Advocacy.”.

5 **SEC. 6. DEPUTY CHIEF COUNSELS AND REGIONAL ADVOCATES.**
6

7 Section 204 of Public Law 94–305 (15 U.S.C. 634d)
8 is amended—

9 (1) by inserting “(a)” before “In carrying out”;
10 and

11 (2) by adding at the end the following:

12 “(b)(1) The Chief Counsel may appoint 2 individuals
13 to serve as Deputy Chief Counsels.

14 “(2) Notwithstanding any other provision of this sec-
15 tion, the pay rate for each Deputy Chief Counsel may not
16 exceed the rate of basic pay for level III of the Senior
17 Executive Service.

18 “(3) Individuals appointed to positions under this
19 subsection shall not be counted toward the limitation con-
20 tained in subsection (a)(1) regarding the number of indi-
21 viduals who may be compensated at a rate in excess of
22 the lowest rate for GS–15 of the General Schedule.

23 “(c) The Chief Counsel may appoint regional advo-
24 cates within each Standard Federal Region as appro-
25 priate. Such regional advocates shall—

1 “(1) assist in examining the role of small busi-
2 ness in the economy of the United States by identi-
3 fying academic and other research institutions that
4 focus on small business concerns and linking these
5 research resources to research activities conducted
6 by the Office of Advocacy;

7 “(2) assist in representing the views and inter-
8 ests of small business concerns before Federal agen-
9 cies whose policies and activities may affect small
10 business;

11 “(3) in coordination with the Small Business
12 and Agriculture Regulatory Enforcement Ombuds-
13 man, assist the functioning of regional small busi-
14 ness fairness boards;

15 “(4) assist in enlisting the cooperation and as-
16 sistance of public and private agencies, businesses,
17 and other organizations in disseminating information
18 about the programs and services provided by the
19 Federal Government that are of benefit to small
20 business concerns and the means by which small
21 business concerns can participate in or make use of
22 such programs and services; and

23 “(5) carry out such duties pursuant to the mis-
24 sion of the Office of Advocacy as the Chief Counsel
25 may assign.”.

1 **SEC. 7. OVERHEAD AND ADMINISTRATIVE SUPPORT.**

2 Section 205 of Public Law 94–305 (15 U.S.C. 634e)
3 is amended by inserting before “Each department” the
4 following:

5 “(a) The Administrator of the Small Business Ad-
6 ministration shall provide the Office of Advocacy with ap-
7 propriate and adequate office space at central and field
8 office locations of the Administration, together with such
9 equipment, office supplies, communications facilities, and
10 personnel and maintenance services as may be necessary
11 for the operation of such offices.

12 “(b)”.

13 **SEC. 8. REPORTS.**

14 Section 206 of Public Law 94–305 (15 U.S.C. 634f)
15 is amended by striking “The Chief Counsel may” and all
16 that follows through “on his activities.” and inserting the
17 following:

18 “(a) Not less than annually, the Chief Counsel shall
19 submit to the President, the Committee on Small Business
20 of the House of Representatives, the Committee on Small
21 Business and Entrepreneurship of the Senate, the Com-
22 mittee on Government Affairs of the Senate, the Com-
23 mittee on Government Reform of the House of Represent-
24 atives, and the Committees on the Judiciary of the Senate
25 and the House of Representatives, and the Administrator

1 of the Small Business Administration a report on agency
2 compliance with chapter 6 of title 5, United States Code.

3 “(b) In addition to the reports required by this title,
4 the Chief Counsel may prepare and publish such other re-
5 ports as the Chief Counsel determines appropriate.

6 “(c)”.

7 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

8 Section 207 of Public Law 94–305 (15 U.S.C. 634g)
9 is amended by striking “not to exceed \$1,000,000” and
10 inserting “\$10,000,000 for fiscal year 2003, \$12,000,000
11 for fiscal year 2004, and \$14,000,000 for fiscal year
12 2005”.

13 **SEC. 10. CONFORMING AMENDMENTS.**

14 (a) EXECUTIVE PAY SCHEDULE.—Title 5, United
15 States Code, is amended—

16 (1) in section 5314 by adding at the end the
17 following:

18 “Chief Counsel for Advocacy, Small Business
19 Administration.”; and

20 (2) in section 5315 by striking the following:

21 “Chief Counsel for Advocacy, Small Business
22 Administration.”.

23 (b) RURAL TOURISM TRAINING PROGRAM.—Section
24 311 of the Small Business Administration Reauthorization
25 and Amendments Act of 1990 (15 U.S.C. 653 note; 104

1 Stat. 2832) is amended by striking “Chief Counsel for Ad-
2 vocacy” and inserting “Administrator”.

3 (c) SMALL BUSINESS AND AGRICULTURE REGU-
4 LATORY ENFORCEMENT OMBUDSMAN.—Section 30(b)(2)
5 of the Small Business Act (15 U.S.C. 657(b)(2)) is
6 amended—

7 (1) in subparagraph (D), by striking “and” at
8 the end;

9 (2) in subparagraph (E), by striking the period
10 and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(F) enter into a memorandum of under-
13 standing with the Office of Advocacy regarding
14 methods and procedures for cooperation be-
15 tween the Ombudsman and the Office of Advo-
16 cacy.”.

Passed the House of Representatives May 21, 2002.

Attest:

Clerk.