

SEPTEMBER 2010

The 20-year effective rate for loans sold this month is 4.622%* (all-time record low)

The 10-year effective rate for loans sold this month is 3.69 %*

This is a pivotal week for small business finance. Tomorrow, September 14, at 11AM the U.S. Senate has scheduled a vote on moving forward HR5297, The Small Business Jobs and Credit Act of 2010. This vote will be to terminate debate on the bill and allow it to proceed to the floor for consideration. This “cloture” vote requires the affirmative vote of 60 Senators. On two occasions before the Senate adjourned for its August recess cloture votes were held, and failed on a party-line basis with 59 Democrats voting affirmatively and 49 Republicans voting against. Although the outcome of tomorrow’s scheduled vote is anything but certain, we expect that at least one Republican Senator, Senator Voinovich from Ohio, may vote Aye. If so, then other Republicans may also switch to a yes, to show there truly is bi-partisan support. If 60 votes do indeed terminate debate, the bill will likely move to the Senate floor this week where only 51 affirmative votes will approve the measure.

If HR5297 is passed by the Senate, the bill will move back to the House. A version of HR5297 was passed in the House in the spring, but the Senate has made several major modifications to the bill. The Speaker will either bring the bill as passed by the Senate directly to the House floor for a vote, or could refer the bill to committee. If any amendments are made by the House, then a conference committee between Senate and House members is convened to reconcile differences, and if agreed, the modified measure returns to each chamber for approval. Clearly, we are hoping that the Senate passes the Bill and that the Speaker will take it directly to the floor for vote; and if passed in the House, the bill would go to the President for signature and enactment.

Time is of the essence. The SBA currently holds over 1000 loan applications in “queue.” These loans have been “approved “by SBA but not yet formally “authorized”. This is a financing Limbo where these business loan requests are waiting to see whether HR 5297 is passed. The stimulus bill of February 2009 provided for a subsidy for small businesses where the US Treasury will pay borrower fees on SBA 504 and 7a loans. This subsidy is valid until September 30, 2010. A second requirement to be eligible for the fee subsidy is adequate appropriation of funding. Although the subsidy period was designed to run until the end of this month, the funding ran out in November of 2009. A series of subsequent funding extensions were passed through June 30, 2010. Since then loans have been processed by SBA and approved, but the borrower has been given a choice of having their loan immediately authorized, which would require the borrower to forego any possible Treasury funding for fees, or wait in line for an additional appropriation that would allow the Federal fee subsidy to be applied. At any time, a business that is in the “queue” can pull out and opt to pay the fees directly and have the loan authorization issued. HR5297 would provide additional appropriation to pay fees until approximately December 31, 2010, and would also extend the effective date for loan approvals eligible for subsidy until year-end as well.

To add to the drama of the next few weeks, is the pending end of the Federal fiscal year on September 30. Each fiscal year the Office of Management and Budget predetermines the projected default fee which is included in the SBA 504 interest rate. This default interest pays for loan losses rather than having a taxpayer paid subsidy do so. For loans authorized by September 30, their default rate component of their 504 rate is .389 % or less than one-half of one percent interest. For loans authorized on or after October 1, 2010, the default component of the 504 interest rate will rise to .749% or about three-fourths of one percent interest. If HR5297 is signed into law before September 30, then loans in queue can be authorized before September 30 and qualify for the lower default cost in their monthly interest rate. SBA will, likely establish a withdrawal date for loans to pull out of the queue. So, if HR5297 is not passed, or is passed after the September 30 deadline, then all loans in queue will automatically be removed from queue. If that act is after September 30 the higher default rate will apply. The timing of passage or removal from queue, are very important considerations.

If HR 5297 should pass we will outline in detail the small business lending provisions and the benefits to both lenders and their customers. In short, the 90% 7a guarantee would be reinstated until the end of December, and a higher program limit to \$5 million would be enacted for both 504 and 7a. We see as immensely valuable a broader refinance provision which would allow lenders to refinance commercial real estate mortgages for many owner-occupied businesses using the 50-40% structure where the bank holds a first position for up to 50% of the mortgage and the 504 loan is used in second position for up to 40%. The bill provides for funding up to \$7.5 billion for the regular 504 program and another \$7.5 billion for the refinance program. We expect to be very busy for the two year period that refinancing would be allowed.

We also expect to be very busy for some time due to the very favorable twenty-year fixed interest rate the borrower receives on the second mortgage 504. Our September rate was the lowest in the program's twenty year history. Although the rate will jump a little on October 1, the primary element used to price the debenture is the interest paid on the ten year US Treasury bond, and based on Federal Reserve reports, this target rate will likely remain low over a continued period of time. For this reason alone, the 504 structure has been positively viewed for small business owners as a cornerstone for their long-term fixed asset debt. If we are able to get HR5297 passed many businesses may be able to restructure their shorter term and longer term business debt with potential benefits to last a generation.

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