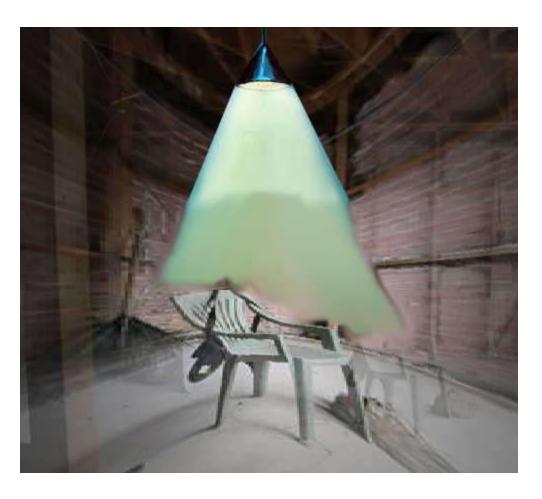


Contribute

Ask us about H.R. 133 Section 324 titled Save Our Stages (SOS) Shuttered Venue Operator Grants



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Original post location: https://www.truckandtools.com/disaster/sba.asp?gdyk=320

Published: 1-26-2021 Revised: 1-29-2021

Section 324 Summary of H. R. 133 Save Our Stages (SOS) Shuttered Venue Operator Grants Questions with Answers. Be sure to submit your question using the form near the bottom of this article. I will be updating this section as changes are published

Save Our Stages (SOS): Shuttered Venue Operator Grants

Shuttered Venue Operators Grant (SVOG) program is Section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (Economic Aid Act)

Update: 1-27-2021 (SBA FAQ FINAL 500)

This section will be updated as new information comes available and additional program details are finalized. Policy, rules, directives, guidance, clarifications all start with your questions. If you feel something is missing, not clear or your related industry is not represented in the spirit of this law it's your responsibility to contact the SBA to express your concerns. The SBA is a federal agency to which you have a voice. This page is to be treated as a living document. If you have parts of the help section not clear please use the form to contact us. We will forward your question to the SBA for clarification.

Frequently Asked Questions (FAQ) for Save Our Stages (SOS): Shuttered Venue Operator Grants.

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Eligibility

All Applicants

1. What is an "eligible entity" for an SVOG?

Eligible entities may be live venue operators or promoters, theatrical producers, live performing arts organization operators, museum operators, motion picture theater operators, and talent representatives, per the Economic Aid Act. Additionally, entities of these types owned by state or local governments (for example, museums or historic homes) are eligible to apply if the governmentally-owned entity also acts solely as a venue operator, museum, etc. and not also include other types of entities.

For example, a city parks and recreation department that operated a bandstand in a public square along with running various nature parks would not qualify as an eligible entity for an SVOG. Finally, each subsidiary business owned by an eligible entity that also meets the eligibility requirements on its own rights will qualify as an eligible entity.

2. When does a business have to have been established to be eligible to apply for an SVOG?

The business must have been in operation as of February 29, 2020.

3. Is an entity that was not in business in 2019 but fully operational on Feb. 29, 2020 eligible to apply?

Yes, if an entity was not in business during 2019 but was fully operational on Feb. 29, 2020, it is eligible to apply if it can show the required level of revenue loss. In situations like this, the SBA will use an alternative method for demonstrating revenue loss based on the approach the Agency is using with the PPP. Firms not in operation in 2019 may qualify for an SVOG if their gross earned revenues for the second, third, or fourth quarter of 2020 demonstrate a reduction of not less than 25% from their gross earned revenues from the first quarter of 2020.

4. Is an entity that applied for and received a Paycheck Protection Program loan in July 2020 eligible to apply for an SVOG?

Yes, if an entity applied and was approved for a PPP loan prior to Dec. 27, 2020, it is eligible to apply for an SVOG.

5. Is an entity that applied for a First Draw or Second Draw PPP loan on or after Dec. 27, 2020, eligible to apply for an SVOG?

No. Both examples would not be eligible to apply for an SVOG unless and until the PPP loan application (whether First Draw or Second Draw) is declined.

6. Can an entity apply for a PPP loan now and decide later on the loan if it did not receive an SVOG?

At what stage is a PPP loan considered "received"?

No. Per the Economic Aid Act, as well as how the PPP loan system operates, entities cannot apply for a PPP loan and SVOG at the same time. Entities must make an informed business decision as to which program will most benefit them and apply accordingly. If an applicant is rejected by one program, it will then be eligible to apply for the other.

7. Is a venue with a multipurpose room with movable seating eligible to apply?

No. The Economic Aid Act specifically requires fixed seating and makes no allowance for temporary, removable, modular, convertible, or other non-fixed seating arrangements. As such, eligible entities required by the Act to have fixed seating cannot satisfy this requirement with other forms of seating.

8. Is a venue with outdoor fixed seating eligible to apply?

Yes. The Economic Aid Act does not require qualifying venues to be indoors. If the venue meets the applicable eligibility requirements, it should be eligible to apply for an SVOG.

9. Is a mobile entity with no fixed performance space eligible to apply?

No. Among other requirements, the Economic Aid Act requires a venue to have defined performance and audience spaces. If a particular venue, such as a circus, fair or entertainment business that provides talent at weddings/parties, cannot meet this requirement, it is not eligible to apply for an SVOG.

10. Is a drive-in movie theater without fixed seating eligible to apply?

No. Per the Economic Aid Act, a motion picture theatre operator must have at least one auditorium with a motion picture screen and fixed audience seating, so a drive-in movie theater is not eligible to apply for an SVOG.

11. What disqualifies an entity from SVOG eligibility?

The following types of circumstances would preclude an otherwise eligible firm from an SVOG:

- It does not have a place of business located in the United States, does not operate primarily within the U.S., and does not
 make a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or
 labor.
- It was not in operation as of Feb. 29, 2020.
- It received a PPP loan on or after Dec. 27, 2020.
- It is a publicly traded corporation, or is majority owned and controlled by a publicly traded corporation.
- It presents live performances or sells products or services of a prurient sexual nature.
- More than 10% of its 2019 gross revenue came from the federal government (not counting disaster assistance)
- It owns or operates venues, theaters, museums or talent agencies in more than one country, owns or operates venues, theaters, museums or talent agencies in more than ten states, AND it had more than 500 employees as of Feb. 29, 2020.

Museum Operator

1. Is a museum partially funded with state dollars eligible to apply?

Yes. While there are specific eligibility rules for entities owned by state or local governments, the receipt of funding from a state government does not affect its eligibility.

2. Is a museum that received CARES Act funding eligible to apply?

Yes. Per the Economic Aid Act, receipt of CARES Act funding does not disqualify an entity for SVOGs.

Live Venue Operator or Promoter

1. Is a wedding/event venue eligible to apply?

It is not likely. Per the Economic Aid Act and specific eligibility criteria applying to Live Venue Operators, it appears wedding venue operators would likely fail to meet multiple requirements (for example: sale of tickets, promotion of events to the public, defined audience and performing space, lighting rig, sound mixing equipment, employment of sound engineers, stage managers box office managers, etc.).

2. Is a sports stadium or venue used for concerts and other live, non-sport performances eligible to apply?

It is not likely. While sports are not a form of performing art, if the operator of a sports stadium or similar athletic arena can meet the statutory definition of an eligible entity under the Economic Aid Act, including the requirement that its principal business

activity must be the organization, promotion, management, or hosting of live concerts, comedy shows, theatrical productions or other events by performing artists, it should be eligible to apply for an SVOG.

3. Is a restaurant that features live music eligible to apply?

No, if the principal line of business is restaurant operation rather than live venue operation, the business would not be eligible to apply.

4. Is a dinner theater eligible to apply?

It is possible. A dinner theater could qualify if its principal business activity is the organization, promotion, management, or hosting of live concerts, comedy shows, theatrical productions or other events by performing artists, rather than restaurant operations, and meets all other applicable eligibility criteria.

5. Is a performing arts center owned and operated by a government, state college (as a college department) eligible to apply?

Yes. State government-owned entities may be eligible to apply for an SVOG.

6. Is a company that uses 1099 (independent contractor) workers/talent (vs. W2) eligible to apply?

Yes. Per the Economic Aid Act, payments made to independent contractors as reported on an entity's Form-1099 are an allowable use of grant funds. As such, an entity that used independent contractors would be eligible to apply for an SVOG.

7. We hire a lot of independent contractors for our events; as a subsidiary service provider for or at live venues and events, does this fit the talent placement eligibility?

No, this does not fit the definition of a subsidiary, but rather defines a secondary service provider. The SBA does not believe a secondary service provider supplying support to qualifying venues meets any eligible entity definition.

8. Is a theatrical production management business with revenue generated by the production management eligible to apply (under the talent representative definition)?

It is possible. A theatrical producer may be eligible to apply for an SVOG even if less than 70% of its revenue came from cover charges or ticket sales. Under the Economic Aid Act, it also may be eligible to apply if, as its principal business activity, it has production tickets available for public purchase an average of not less than 60 days before the performance date.

9. Is a talent agency that books actors at live venues, but does not operate a live venue, eligible to apply?

It is possible. A talent agency may be eligible to apply if 70% of its operations is managing, booking or representing performers who appear primarily at live venues. If it is less than 70%, it is not eligible to apply for an SVOG.

Definitions

1. How is "principal business activity" being defined?

The SBA is drawing from its years of experience in ascertaining a firm's primary industry under the SBA size regulations (13 C.F.R. § 121.107) to define "principal business activity." To determine a given firm's principal business activity, the SBA will consider the distribution of an entity's receipts, employees and costs of doing business among the different lines of business activity in which its business operations occurred for the most recently completed fiscal year. The SBA may also consider other factors, such as the distribution of patents, contract awards, and assets, as appropriate.

2. How is "majority owned or controlled" being defined?

Across its various programs, the SBA defines majority ownership and control to mean that at least 51% of the ownership interests in an entity (regardless of its legal structure) are held by a single individual or entity.

3. How is "fixed seating" being defined?

Fixed seating is seating permanently fixed to the floor or ground, per the Economic Aid Act.

4. How is "regular programming" being defined?

While it may vary depending on the circumstances, generally the SBA is defining regular programming to mean programming provided on an ongoing and near-continuous basis of an average of at least four times a month over the course of a year in its qualifying theater, lecture hall, or similar venue.

5. How are "cover charges" being defined?

The SBA defines "cover charges" to encompass front door entrance fees, food or beverage minimums, or other similar charges required to gain admission to a venue, whether collected via ticket sales, addition to a tab, or direct payment.

Application

1. What can an entity do to get ready to apply?

As the SBA works on building the application platform, it would be in your best interest to register for a DUNS number so you can then register in the System for Award Management (SAM.gov). Also, gather documents that demonstrate your number of employees and monthly revenues so you can calculate the average number of qualifying employees you had over the prior 12 months. Lastly, determine the extent of gross earned revenue loss you experienced between 2019 and 2020. This and additional information such as floor plans, contract copies and other evidence will be needed to apply for an SVOG.

2. Must applicants register in the System for Award Management (SAM.gov) or can they use other identifiers like ITINs or EINs to apply for an SVOG?

SVOG applicants need to register with the federal government's SAM at www.SAM.gov to apply and cannot use an Individual Taxpayer Identification Number, Employer Identification Number, or other means of identification or registration. Interested parties are encouraged to obtain a Dun and Bradstreet (DUNS) number (a prerequisite for SAM registration) as soon as possible. With a DUNS number, interested parties then should immediately begin registering in SAM.gov, as the SAM registration may take up to two weeks once submitted.

3. When will SVOG applications open?

The SBA is working expeditiously to open SVOG applications and encourages you to stay up to date by frequently visiting www.sba.gov/coronavirusrelief for information.

Use of Funds

1. Can SVOG funds be used to refund customers still holding tickets for cancelled performances?

Yes, it appears this type of cost would qualify under the Economic Aid Act as a necessary and ordinary business expense. As such, it should be an allowable use of grant funds to make refund payments to patrons for cancelled shows

2. Can SVOG funds be used to reimburse an owner who loaned the business money to keep employees paid and operating expenses paid?

Yes, if the loan was incurred before Feb. 15, 2020 and made on commercially reasonable terms and formally documented as a standard, ordinary debt instrument then payments made under that loan would seem to be an allowable expense of grant funds.

Business Size / Employees

1. How should an entity determine its employee count?

For employee count, the SBA is drawing on the Economic Aid Act's specific provisions re: the calculation of employees and decades of agency experience in counting employees under the SBA size regulations (13 C.F.R. § 121.106). Employees that work at least 30 hours per week are considered full-time. Employees that work between 10-29 hours per week are considered one-half of a full-time employee. Employees that work less than 10 hours per week are not considered an employee. Once the qualifying employees are determined, an entity must then calculate the average number of employees it had over the prior year by adding up the number of qualifying employees in each individual pay period and dividing that amount by the number of pay periods in that year.

For example, assume a firm paid its employees monthly and had the following number of qualifying employees each pay period:

Jan - 7.5 full-time employees

Feb – 6 full-time employees

Mar – 9.5 full-time employees

Apr – 8 full-time employees

May – 9.5 full-time employees

Jun – 8.5 full-time employees

Jul – 10 full-time employees

Aug – 10 full-time employees

Sep – 7 full-time employees

Oct – 8.5 full-time employees

Nov – 7 full-time employees

Dec – 6 full-time employees

The sum of the firm's full-time employees is 97.5. The firm would then divide 97.5 by 12 (the number of pay periods) to determine its average number of full-time employees was eight.

2. Which priority or phase is number of employees considered?

There is no priority based on number of employees in the application process. Per the Economic Aid Act, the \$2 billion small employer set-aside for those with 50 employees or less is a separate aspect of the awarding process from the priority periods.

3. Are institutions of more than 500 employees eligible to apply if they meet other eligibility criteria?

Yes, if they do not operate in either more than 10 states or another country.

Revenue

1. How are "earned revenue" and "gross earned revenue" being defined by the SBA?

As required by the Economic Aid Act, the SBA is defining earned revenue and gross earned revenue (the two terms in the law) in accordance with common principals of the accrual method of accounting. Using this, only monies organizations receive from the sale of goods or services are counted as earned revenue. This commonly accepted definition of earned revenue does not include other sources of funds that an organization may receive, such as donations, sponsorships, governmental assistance, or returns on investments. Gross earned revenue is the total of earned revenue from various sales of goods or services, such as admission tickets, merchandise, food and beverages, advertising sales and contracted presentation income.

2. Are donations / contributions included in gross earned revenue?

Only earned revenue should be included in calculations of gross earned revenue. Unearned revenue, including donations and other gratuitous contributions, such as foundation grants, corporate sponsorships and individual gifts, should not be included.

3. Are fundraising event receipts considered gross earned revenue?

In dealing with fundraising events, the SBA will follow the same general principles applied to tax deductions for donations to charities. This means that the portion of the amount an individual pays in connection with a fundraising event which represents the estimated value of the good or service they receive in exchange must be included in gross earned revenue. However, that portion of the amount such an individual pays that exceeds the estimated value of the good or service they receive will be considered a donation and is not included in gross earned revenue.

For example, if a ticket to a fundraising dinner costs \$100 per person and the estimated value of the dinner provided is \$50, then \$50 of the funds generated from the fundraising ticket would be considered gross earned revenue and the other \$50 would be considered a donation and would be excluded from gross earned revenue.

4. Does a non-profit count contributions and grants revenue?

No. Both contributions and grants revenue would be excluded from an organization's earned revenue. However, the SBA will take into account an organization's Federal grants revenue to determine whether it meets the eligibility limit of having no more than 10% of its gross earned revenue from Federal sources, not including disaster assistance.

5. Does a non-profit count membership revenue?

Yes and no; like fundraising, the portion of membership cost that represents the estimated value of the goods or services provided as a condition of membership should be included in gross earned revenue. The portion of a membership cost that exceeds the estimated value of the goods or services provided as a condition of membership is considered a contribution and excluded from gross earned revenue.

6. Our business provides talent representation and financial services for athletes and entertainers. For the SVOG would we use our total revenue for the grant amount or just the portion of our sales from talent representation services?

You would use your gross earned revenue from all sources, but you would also need to satisfy the requirement that your principal line of business is talent representation versus financial services.

7. What is included in the 10% maximum for federal grants/funding?

The 10% maximum for federal grants/funding covers everything regardless of the use of the grant/funding except disaster assistance.

8. Is rental income from tenants and income from renting the venue for private events counted as earned revenue?

Yes, rental income from longer-term tenants and from short-term rentals for event hosting should be included in earned revenue because they derive from standard commercial transactions for the paid use of facilities.

Subsidiaries

1. For entities with subsidiaries, does each entity need to meet the eligibility criteria independently?

No. For entities with multiple subsidiaries, the parent entity must meet the eligibility criteria, but each subsidiary does need to meet the criteria independently. If a subsidiary wants to apply for its own SVOG in its own name, it must meet the eligibility requirements. Each entity is looked at independently if it's a separate legal entity under a parent organization and each location would need to meet its individual requirements to be eligible to apply. Per the Economic Aid Act, subsidiary entities that qualify for an SVOG will not be treated as affiliates of their parent entity or one another.

2. How are shared expenses across affiliated organizations treated?

Assuming an entity with subsidiaries (parent) shares costs with its subsidiaries, the parent's shared costs (or allocated costs to subsidiaries) remain as such, and the parent should keep records to show that all expenses claimed under the grant served grant purposes. If a subsidiary is eligible to apply for and applies for its own grant, only the portion of the shared cost that the subsidiary pays can be paid for by the SVOG should it be received.

3. Are there limits on the number of affiliates that can receive an SVOG or the total between them?

Yes, a maximum of five business entities of an eligible entity can receive an SVOG. In addition, an eligible museum, and all other museums it operates as subsidiaries may receive no more than \$10 million combined under the program.

4. Is there any SBA guidance or information on affiliation I can use to help me understand these affiliation issues?

Yes, the SBA has a general guide to business affiliation principles that may clarify this. The guide can be found at https://www.sba.gov/document/support-affiliation-guide-size-standards.

RESOURCE for Update: 1-27-2021 SBA FAQ FINAL 508

Previously updated 1-26-2021 with edits.

Previously updated on 1-26-2021 with Edits.

1. Who is eligible and what types of businesses are eligible?

Answer: Similar to other Pandemic Grant programs you must have been in operation on February 15, 2020 and you must prove that you lost at least 25% of your gross revenues in any quarter of 2020 as compared to the same quarter in 2019.

Eligible persons, companies, entities include:

- Live venue operators
- Live venue promoters
- Theatrical producers
- Live performing arts organization operators
- Museum operators
- Motion picture theatre operators
- Talent representatives

2. What is the maximum grant award that my venue or my business can receive?

Initial grants of up to \$10 million can be awarded as long as funds are available. If additional funds are requested and funds are available it is estimated that the program will provide a supplemental grant of up to 50% of the initial grant award amount. The total combined amounts from the initial grant and any supplemental grant may not exceed \$10 million.

3. How is this grant award amount determined and calculated?

Grants are calculated on the amount equal to 45% of your gross earned revenue during the 2019 season if in operation on January 1, 2019 or \$10 million whichever is the lesser amount.

For those that began operations after January 1, 2019, the amount would be equal to 6 times the average monthly gross earned revenue for each monthly you were fully in operation in 2019.

4. How soon could I expect to receive my Save Our Stages (SOS) grant?

Grants will be distributed based on the amount of financial loss your operation has experienced. The first distribution phase or first 14 days that the SOS is implemented grant awards will be distributed to those filing a 90% or more revenue loss between April 1, 2020 and December 31, 2020 as compared with the same period of 2019.

Second phase of 14 days after the first phase 14 day period of implementing the SOS grant program the SBA will award to eligible entities who have experienced a 70% or greater revenue loss between April 1, 2020 and December 31, 2020 as compared to the same period of time in 2019.

After Phases 1 and 2 (28 days) grants will be awarded to all other eligible entities.

Editors note: Do not delay preparing and applying for this grant just because you may fall in the last processing category. If you are permitted to apply you should do so as early as possible to be placed in order of application.

5. I employ less than 50 people working full-time. What protections does the SBA and Section 324 Save Our Stages (SOS) provide small operators like myself?

In the initial 60 days of the program the SBA will set aside \$2 billion available nationwide for small entities that employ less than 50 full-time or full-time equivalent employees.

Employees working 30 hours or more per week count as one full-time equivalent (FTE) and employees working between 10 and 30 hours per week are counted as one-half of a full-time equivalent employee. After the initial 60 days those who have more than 50 employees will be eligible if funds are available.

6. How can I spend my Shuttered Venue Operator grant money? What are the eligible uses of the grant?

Eligible uses of the grant are:

- Payroll costs
- Rent or Mortgage payments
- Utilities
- Payments made to independent contractors as reported on Form-1099-MISC.
- Ordinary business expenses like, Maintenance, Licensing fees, Taxes, Operating leases, Insurance policies, Advertising, Production transportation, etc.
- Worker protection equipment and items such as personal protective equipment.

7. When can I apply?

As soon as the SBA announces they have completed the new streamlined online application page and published the link
we all know when we will spend a long evening applying and answering application questions.

Notes and Beginnings:

From the Congressional Record Online through the Government Publishing Office [www.gpo.gov]

"SAVE OUR STAGES

(Mr. WILLIAMS asked and was given permission to address the House for

1 minute.)

Mr. WILLIAMS. Mr. Speaker, Austin, Texas, is known as the Live Music

Capital of the World, and every year millions of people come from

around the world to my district to enjoy concerts and events.

Venues like Songbird Live in Cleburne, Hudson's on Mercer Street in

culture. During COVID-19, these venues have faced devastation as they were the first to close and will be among the last to open.

In order to provide relief, I am proud to introduce the bipartisan

Save Our Stages Act with my colleague, Peter Welch, to create a grant program that will ensure they have the resources needed to survive.

American music legends that rose to fame once graced their stages that are currently empty and motionless. They moved the young and old alike and inspired the next generation of artists.

It is my hope that our venues, with the help of Congress and our communities, will be able to once again welcome their next act to the stage. I urge consideration and passage of this vital bill.

Dripping Springs, and Mohawk in Austin play a crucial role in our

[[Page H3992]]

In God we trust."

Save our Stages Act (Executive Session) Congressional Record Vol. 166, No. 155 (Senate - September 09, 2020)

[Pages S5481-S5482]

From the Congressional Record Online through the Government Publishing Office [www.gpo.gov]

Save our Stages Act

"Madam President, now a final matter. The new Republican bill is silent on a whole host of crucial issues, including a number of items that affect small businesses.

Over the State work period, I visited several independent music and theater venues that have struggled during the COVID-19 pandemic. Live venues were some of the first to close, and they will be the last to open up. Many of them are already on the brink of collapse. There is the rent, the utilities, and an entire year without revenue.

Live venues--by definition, people are close together, so they couldn't continue during COVID, and they have to wait until the very end. But they are so important to so many communities--urban, suburban, and rural.

Unfortunately, according to one survey, 90 percent of independent venues will have to close permanently without Federal funding. What an incredible shame that would be. These are indie music venues, jazz clubs, symphony orchestra halls, comedy clubs, and even Broadway, which is made up of dozens of small theaters that employ thousands of

workers, from the box office to the backstage. These independent venues provide 75 percent of all artists' income, and they drive economic activity within our communities at restaurants, hotels, stores, and other establishments.

But what we risk if these venues close permanently isn't purely economic, although it is so important. I was in Albany and Syracuse yesterday. It is estimated that the arts are one of the top five employers in both of those cities. We can't afford to let this happen. Economically, we will lose thousands and thousands of jobs. Cities will lose city downtowns, and rural areas, as well, will lose their vitality.

The risk, if these venues close permanently, is not just economic.

They are the very fabric of our society, which has been stretched to the breaking point by this crisis. Once this is all over, we will need these venues and the passionate, inspiring, artistic work that they help make possible as we come together again and try to make sense of this incredibly difficult moment in our history.

We have a bipartisan bill--Save Our Stages Act--that would create a new

[[Page S5482]]

\$10-billion SBA program to provide Federal grants to live-venue operators so that when, God willing, these live stages can reopen safely, these venues can come back bigger and better than ever. Those grants would go for 6 months, giving the venues enough time and breathing room to recuperate, and, God willing, if there is a vaccine in 6 months, they will be able, God willing, to open again.

One of the most difficult parts of this pandemic has been the effect on American society, arts, and culture. These are the things we live for: sports, comedy, theater, and music. When the day finally comes that the pandemic is behind us, we will want to celebrate once again with friends and family at these venues now in danger of closing.

I hope we can come together in the future to pass the Save Our Stages Act and save this essential part of American culture.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip"

Resource Links:

- H. R. 133 Consolidated Appropriations Act, 2021 (PDF)
- SEC. 324. GRANTS FOR SHUTTERED VENUE OPERATORS. (local page)
- SBA Application page, Shuttered Venue Operators Grant Emergency assistance for eligible venues affected by the COVID pandemic.
- S.4258 SOS Act 116th Congress (2019-2020) Sen. Cornyn, John [R-TX] (Introduced 07/22/2020)
- H.R.7806 SOS Act 116th Congress (2019-2020) Rep. Welch, Peter [D-VT-At Large] (Introduced 07/27/2020)

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Original post location: https://www.truckandtools.com/disaster/sba.asp?gdyk=320

Published: 1-26-2021 Revised: 1-29-2021