

# Union Calendar No. 181

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

# H. R. 3854

[Report No. 111-315]

To amend the Small Business Act and the Small Business Investment Act of 1958 to improve programs providing access to capital under such Acts, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2009

Mr. SCHRADER (for himself, Ms. VELÁZQUEZ, Mrs. HALVORSON, and Mrs. KIRKPATRICK of Arizona) introduced the following bill; which was referred to the Committee on Small Business

OCTOBER 26, 2009

Additional sponsors: Ms. CLARKE and Mr. SKELTON

OCTOBER 26, 2009

Committed to the Committee of the Whole House on the State of the Union  
and ordered to be printed

# **A BILL**

To amend the Small Business Act and the Small Business Investment Act of 1958 to improve programs providing access to capital under such Acts, 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; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5        “Small Business Financing and Investment Act of 2009”.

6        (b) TABLE OF CONTENTS.—The table of contents for  
 7        this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS LENDING ENHANCEMENTS

- Sec. 101. Small lender outreach program.
- Sec. 102. Rural lending outreach program.
- Sec. 103. Community Express Program made permanent.
- Sec. 104. Increased veteran participation program made permanent.
- Sec. 105. Leasing policy.
- Sec. 106. National lender training program.
- Sec. 107. Applications for repurchase of loans.
- Sec. 108. Alternative size standard.
- Sec. 109. Pilot program authority.
- Sec. 110. Loans to cooperatives.
- Sec. 111. Capital backstop program.
- Sec. 112. Loans to finance goodwill.
- Sec. 113. Appellate process and ombudsman.
- Sec. 114. Extension of recovery and relief loan benefits.
- Sec. 115. Reduced documentation for business stabilization loans.
- Sec. 116. Expanded eligibility for business stabilization loans.
- Sec. 117. Increased amount of business stabilization loans.
- Sec. 118. Extension of business stabilization loans.
- Sec. 119. SBA secondary market lending authority made permanent.
- Sec. 120. SBA secondary market lending authority expanded.
- Sec. 121. Increased loan limits.
- Sec. 122. Real estate appraisals.
- Sec. 123. Additional support for Express Loan Program.
- Sec. 124. Authorization of appropriations.

TITLE II—CDC ECONOMIC DEVELOPMENT LOAN PROGRAM

Subtitle A—General Provisions

- Sec. 201. Program levels.
- Sec. 202. Definitions.

Subtitle B—Certified Development Companies

- Sec. 211. Certified development companies.
- Sec. 212. Certified development company; operational requirements.
- Sec. 213. Accredited lenders program.

- Sec. 214. Premier certified lender program.
- Sec. 215. Multi-State operations.
- Sec. 216. Guaranty of debentures.
- Sec. 217. Economic development through debentures.
- Sec. 218. Project funding requirements.
- Sec. 219. Private debenture sales and pooling of debentures.
- Sec. 220. Foreclosure and liquidation of loans.
- Sec. 221. Reports and regulations.
- Sec. 222. Program name.

#### Subtitle C—Miscellaneous

- Sec. 231. Report on standard operating procedures.
- Sec. 232. Alternative size standard.

### TITLE III—MICROLENDING EXPANSION

- Sec. 301. Microloan credit building initiative.
- Sec. 302. Flexible credit terms.
- Sec. 303. Increased program participation.
- Sec. 304. Increased limit on intermediary borrowing.
- Sec. 305. Expanded borrower education assistance.
- Sec. 306. Interest rates and loan size.
- Sec. 307. Reporting requirement.
- Sec. 308. Surplus interest rate subsidy for businesses.
- Sec. 309. Authorization of appropriations.

### TITLE IV—SMALL BUSINESS INVESTMENT COMPANY MODERNIZATION

- Sec. 401. Increased investment from States.
- Sec. 402. Expedited licensing for experienced applicants.
- Sec. 403. Revised leverage limitations for successful SBICs.
- Sec. 404. Consistency for cost control.
- Sec. 405. Investment in veteran-owned small businesses.
- Sec. 406. Limitations on prepayment.
- Sec. 407. Investment with certain passive entities.
- Sec. 408. Investment in smaller enterprises.
- Sec. 409. Capital impairment.
- Sec. 410. Tangible net worth.
- Sec. 411. Development of agency record.
- Sec. 412. Program levels.

### TITLE V—INVESTMENT IN SMALL MANUFACTURERS AND RENEWABLE ENERGY SMALL BUSINESSES

#### Subtitle A—Enhanced New Markets Venture Capital Program

- Sec. 501. Expansion of New Markets Venture Capital Program.
- Sec. 502. Improved nationwide distribution.
- Sec. 503. Increased investment in small business concerns engaged primarily in manufacturing.
- Sec. 504. Expanded uses for operational assistance in manufacturing.
- Sec. 505. Updating definition of low-income geographic area.
- Sec. 506. Expanding operational assistance to conditionally approved companies.
- Sec. 507. Limitation on time for final approval.

- Sec. 508. Streamlined application for New Markets Venture Capital Program.
- Sec. 509. Elimination of matching requirement.
- Sec. 510. Simplified formula for operational assistance grants.
- Sec. 511. Authorization of appropriations and enhanced allocation for small manufacturing.

#### Subtitle B—Expanded Investment in Small Business Renewable Energy

- Sec. 521. Expanded investment in renewable energy.
- Sec. 522. Renewable Energy Capital Investment Program made permanent.
- Sec. 523. Expanded eligibility for small businesses.
- Sec. 524. Expanded uses for operational assistance in manufacturing and small businesses.
- Sec. 525. Expansion of Renewable Energy Capital Investment Program.
- Sec. 526. Simplified fee structure to expedite implementation.
- Sec. 527. Increased operational assistance grants.
- Sec. 528. Authorizations of appropriations.

#### TITLE VI—SMALL BUSINESS HEALTH INFORMATION TECHNOLOGY FINANCING PROGRAM

- Sec. 601. Small business health information technology financing program.

#### TITLE VII—SMALL BUSINESS EARLY-STAGE INVESTMENT PROGRAM

- Sec. 701. Small business early-stage investment program.

#### TITLE VIII—SBA DISASTER PROGRAM REFORM

- Sec. 801. Revised collateral requirements.
- Sec. 802. Increased limits.
- Sec. 803. Revised repayment terms.
- Sec. 804. Revised disbursement process.
- Sec. 805. Grant program.
- Sec. 806. Regional disaster working groups.
- Sec. 807. Outreach grants for loan applicant assistance.
- Sec. 808. Authorization of appropriations.

#### TITLE IX—REGULATIONS

- Sec. 901. Regulations.

## 1        **TITLE I—SMALL BUSINESS** 2        **LENDING ENHANCEMENTS**

### 3        **SEC. 101. SMALL LENDER OUTREACH PROGRAM.**

4        Section 7(a) of the Small Business Act (15 U.S.C.  
5        636(a)) is amended by adding at the end the following:

6                “(34) SMALL LENDER OUTREACH PROGRAM.—

7        The Administrator shall establish and carry out a

1 program to provide support to regional, district, and  
 2 branch offices of the Administration to assist small  
 3 lenders, who do not participate in the Preferred  
 4 Lenders Program, to participate in the programs  
 5 under this subsection.”.

6 **SEC. 102. RURAL LENDING OUTREACH PROGRAM.**

7 Section 7(a) of the Small Business Act (15 U.S.C.  
 8 636(a)), as amended by this Act, is further amended by  
 9 adding at the end the following:

10 “(35) RURAL LENDING OUTREACH PROGRAM.—

11 “(A) IN GENERAL.—The Administrator  
 12 shall establish and carry out a rural lending  
 13 outreach program (hereinafter referred to in  
 14 this paragraph as the ‘program’) to provide  
 15 loans under this subsection in accordance with  
 16 this paragraph.

17 “(B) MAXIMUM PARTICIPATION.—A loan  
 18 under the program shall include the maximum  
 19 participation levels by the Administrator per-  
 20 mitted for loans made under this subsection.

21 “(C) MAXIMUM LOAN AMOUNT.—The max-  
 22 imum amount of a loan under the program  
 23 shall be \$250,000.

24 “(D) USE OF RURAL LENDERS.—The pro-  
 25 gram shall be carried out through lenders lo-

1 cated in a rural area (as such term is defined  
 2 under subsection (m)(11)(C)) or, if a small  
 3 business concern located in a rural area does  
 4 not have a lender located within 30 miles of the  
 5 principal place of business of such concern,  
 6 through any lender chosen by such concern that  
 7 provides loans under this subsection.

8 “(E) TIME FOR APPROVAL.—The Adminis-  
 9 trator shall approve or disapprove a loan under  
 10 the program within 36 hours.

11 “(F) DOCUMENTATION.—The program  
 12 shall use abbreviated application and docu-  
 13 mentation requirements.

14 “(G) CREDIT STANDARDS.—Minimum  
 15 credit standards, as the Administrator considers  
 16 necessary to limit the rate of default on loans  
 17 made under the program, shall apply.”.

18 **SEC. 103. COMMUNITY EXPRESS PROGRAM MADE PERMA-**  
 19 **NENT.**

20 Section 7(a) of the Small Business Act (15 U.S.C.  
 21 636(a)), as amended by this Act, is further amended by  
 22 adding at the end the following:

23 “(36) COMMUNITY EXPRESS PROGRAM.—

24 “(A) IN GENERAL.—The Administrator  
 25 shall carry out a Community Express Program

1 to provide loans under this subsection in ac-  
2 cordance with this paragraph.

3 “(B) REQUIREMENTS.—For a loan made  
4 under the Community Express Program, the  
5 following shall apply:

6 “(i) The loan shall be in an amount  
7 not exceeding \$250,000.

8 “(ii) The loan shall be made to a  
9 small business concern the majority owner-  
10 ship interest of which is directly held by in-  
11 dividuals the Administrator determines  
12 are, without regard to the geographic loca-  
13 tion of such individuals, women, members  
14 of qualified Indian tribes, socially or eco-  
15 nomically disadvantaged individuals, vet-  
16 erans, or members of the reserve compo-  
17 nents of the Armed Forces.

18 “(iii) The loan shall comply with the  
19 collateral policy of the Administration.

20 “(iv) The loan shall include terms re-  
21 quiring the lender to provide, at the ex-  
22 pense of the lender, technical assistance to  
23 the borrower through the lender or a third-  
24 party provider.



1 “(v) The Administrator shall approve  
2 or disapprove the loan within 36 hours.”.

3 **SEC. 104. INCREASED VETERAN PARTICIPATION PROGRAM**  
4 **MADE PERMANENT.**

5 Section 7(a) of the Small Business Act (15 U.S.C.  
6 636(a)), as amended by this Act, is further amended—

7 (1) by redesignating the second paragraph (32),  
8 as added by section 208 of the Military Reservist  
9 and Veteran Small Business Reauthorization and  
10 Opportunity Act of 2008 (Public Law 110–186; 122  
11 Stat. 631), as paragraph (33); and

12 (2) in paragraph (33), as so redesignated by  
13 paragraph (1) of this section—

14 (A) by striking “pilot program” each place  
15 it appears and inserting “program”;

16 (B) by striking subparagraphs (C) and  
17 (F); and

18 (C) by redesignating subparagraphs (D)  
19 and (E) as subparagraphs (C) and (D), respec-  
20 tively.

21 **SEC. 105. LEASING POLICY.**

22 Section 7(a) of the Small Business Act (15 U.S.C.  
23 636(a)), as amended by this Act, is further amended by  
24 striking paragraph (28) and inserting the following:

1           “(28) LEASING.—If a loan under this sub-  
2           section is used to acquire or construct a facility, the  
3           assisted small business concern—

4                   “(A) shall permanently occupy and use not  
5           less than 50 percent of the space in such facil-  
6           ity; and

7                   “(B) may, on a temporary or permanent  
8           basis, lease to others not more than 50 percent  
9           of the space in such facility.”.

10 **SEC. 106. NATIONAL LENDER TRAINING PROGRAM.**

11           (a) IN GENERAL.—Section 7(a) of the Small Busi-  
12           ness Act (15 U.S.C. 636(a)), as amended by this Act, is  
13           further amended by adding at the end the following:

14                   “(37) NATIONAL LENDER TRAINING PRO-  
15           GRAM.—

16                   “(A) IN GENERAL.—The Administrator  
17           shall establish and carry out, through the re-  
18           gional offices of the Administration, a lender  
19           training program for new and existing lenders  
20           under this subsection with respect to the lend-  
21           ing systems, policies, and procedures of the Ad-  
22           ministration.

23                   “(B) FEES.—The Administrator shall  
24           charge a fee for the program established under

1           subparagraph (A) to reduce the cost of such  
2           program to zero.

3           “(C) LIMITATION.—The program estab-  
4           lished under subparagraph (A) may not be car-  
5           ried out by contract with a nongovernmental  
6           entity.”.

7           (b) PARTICIPATION.—An entity may not be permitted  
8           to participate in any program under the Small Business  
9           Act (15 U.S.C. 631 et seq.) or the Small Business Invest-  
10          ment Act of 1958 (15 U.S.C. 661 et seq.) that is amended  
11          under this Act, as a lending or investment entity or as  
12          an agent of the Small Business Administration, unless  
13          such entity satisfies the following:

14               (1) The entity has as the primary mission of  
15               the entity the financing or development of small  
16               business concerns.

17               (2) The entity has a full-time staff dedicated to  
18               loan making activities, investment activities, or en-  
19               trepreneurial development training.

20               (3) The entity does not significantly participate  
21               in activities unrelated to the primary mission of the  
22               entity.

1 **SEC. 107. APPLICATIONS FOR REPURCHASE OF LOANS.**

2 Section 7(a) of the Small Business Act (15 U.S.C.  
3 636(a)), as amended by this Act, is further amended by  
4 adding at the end the following:

5 “(38) APPLICATIONS FOR REPURCHASE OF  
6 LOANS.—

7 “(A) IN GENERAL.—Not later than 45  
8 days after the date of the receipt of a claim  
9 from a lender for proper payment of the guar-  
10 anteed portion of a loan under this subsection  
11 due to default, the Administrator shall make a  
12 final determination with respect to the approval  
13 or denial of such claim.

14 “(B) LATE DETERMINATIONS.—If the Ad-  
15 ministrator does not make a final determination  
16 under subparagraph (A) in the time period  
17 specified in such subparagraph, the claim shall  
18 be approved and paid promptly.”.

19 **SEC. 108. ALTERNATIVE SIZE STANDARD.**

20 (a) IN GENERAL.—Section 3(a) of the Small Busi-  
21 ness Act (15 U.S.C. 632(a)) is amended by adding at the  
22 end the following:

23 “(5) In addition to any other size standard  
24 under this subsection, the Administrator shall estab-  
25 lish and permit a lender making a loan under section  
26 7(a) to use an alternative size standard. The alter-

1 native size standard shall be based on factors includ-  
2 ing the maximum tangible net worth and average  
3 net income of a business concern.”.

4 (b) APPLICABILITY.—Until the Administrator estab-  
5 lishes under section 3(a)(5) of the Small Business Act,  
6 as added by subsection (a) of this section, an alternative  
7 size standard for use by a lender making a loan under  
8 section 7(a) of such Act, the alternative size standard in  
9 section 121.301(b) of title 13, Code of Federal Regula-  
10 tions, shall apply in such a case.

11 **SEC. 109. PILOT PROGRAM AUTHORITY.**

12 Section 7(a) of the Small Business Act (15 U.S.C.  
13 636(a)), as amended by this Act, is further amended by  
14 striking paragraph (25) and inserting the following:

15 “(25) LIMITATION ON CONDUCTING PILOT  
16 PROJECTS.—

17 “(A) LIMITATION ON NUMBER.—Not more  
18 than 10 percent of the total number of loans  
19 guaranteed in any fiscal year under this sub-  
20 section may be awarded as part of a pilot pro-  
21 gram.

22 “(B) DOLLAR LIMITATIONS.—

23 “(i) IN GENERAL.—With respect to  
24 any pilot program under this subsection es-  
25 tablished on or after the date of the enact-

1           ment of the Small Business Financing and  
2           Investment Act of 2009, no loan shall be  
3           made under such program if such loan  
4           would result in the total amount of loans  
5           made during a fiscal year under all such  
6           programs to be in excess of 5 percent of  
7           the total amount of loans guaranteed in  
8           such fiscal year under this subsection.

9           “(ii) CERTAIN PRE-EXISTING PRO-  
10          GRAMS.—With respect to any pilot pro-  
11          gram under this subsection established be-  
12          fore the date of the enactment of the Small  
13          Business Financing and Investment Act of  
14          2009, no loan shall be made under such  
15          program if such loan would result in the  
16          total amount of loans made during a fiscal  
17          year under all such programs to be in ex-  
18          cess of 10 percent of the total amount of  
19          loans guaranteed in such fiscal year under  
20          this subsection.

21          “(C) EXPIRATION.—

22               “(i) IN GENERAL.—Except as pro-  
23               vided in clause (iii), the duration of any  
24               pilot program under this subsection may  
25               not exceed 3 years.

1           “(ii) DESIGNATION AS NEW PRO-  
2           GRAM.—For purposes of this subpara-  
3           graph, a pilot program shall not be treated  
4           as a new pilot program solely on the basis  
5           of a modification or change in the pilot  
6           program, including the change of its name.

7           “(iii) EXISTING PROGRAMS.—With re-  
8           spect to any pilot program in existence on  
9           the date of the enactment of the Small  
10          Business Financing and Investment Act of  
11          2009, such program may continue in effect  
12          for a period not exceeding 3 years after  
13          such date without regard to the duration  
14          of such program before such date.

15          “(D) REGULATIONS.—

16          “(i) IN GENERAL.—With respect to  
17          each pilot program under this subsection,  
18          including each pilot program in existence  
19          on the date of the enactment of the Small  
20          Business Financing and Investment Act of  
21          2009, the Administrator shall—

22                  “(I) issue regulations for such  
23                  program after providing notice in the  
24                  Federal Register and an opportunity  
25                  for comment; and

1                   “(II) ensure that such regula-  
2                   tions are published in the Code of  
3                   Federal Regulations.

4                   “(ii) PILOT PROGRAMS ESTABLISHED  
5                   AFTER DATE OF ENACTMENT.—With re-  
6                   spect to any pilot program established  
7                   after the date of the enactment of the  
8                   Small Business Financing and Investment  
9                   Act of 2009, such program shall not take  
10                  effect until the requirements under this  
11                  subparagraph are satisfied.

12                  “(E) REPEAL OF AUTHORITY TO WAIVE  
13                  CERTAIN RULES.—

14                  “(i) IN GENERAL.—Notwithstanding  
15                  section 120.3 of title 13, Code of Federal  
16                  Regulations, the Administrator may not  
17                  from time to time suspend, modify, or  
18                  waive rules for a limited period of time to  
19                  test new programs or ideas with respect to  
20                  this subsection, unless such suspension,  
21                  modification, or waiver is explicitly author-  
22                  ized by Act of Congress.

23                  “(ii) EXISTING PILOT PROGRAMS.—  
24                  Nothing under clause (i) may be construed  
25                  to affect a pilot program in existence on



1 the date of the enactment of the Small  
 2 Business Financing and Investment Act of  
 3 2009.

4 “(F) PILOT PROGRAM.—For purposes of  
 5 this paragraph, the term ‘pilot program’ means  
 6 any lending program initiative, project, innova-  
 7 tion, or other activity not specifically authorized  
 8 by Act of Congress.”.

9 **SEC. 110. LOANS TO COOPERATIVES.**

10 Section 7(a) of the Small Business Act (15 U.S.C.  
 11 636(a)), as amended by this Act, is further amended by  
 12 adding at the end the following:

13 “(39) COOPERATIVES.—The Administration  
 14 may provide loans under this subsection to any coop-  
 15 erative that—

16 “(A) is not organized as a tax-exempt enti-  
 17 ty;

18 “(B) is engaged in a legal business activ-  
 19 ity;

20 “(C) obtains financial benefits for the co-  
 21 operative and for the members of such coopera-  
 22 tive; and

23 “(D) is eligible under applicable size stand-  
 24 ards of the Administration, including that any  
 25 business entity that is a member of such coop-

1           erative is eligible under applicable size stand-  
2           ards of the Administration.”.

3 **SEC. 111. CAPITAL BACKSTOP PROGRAM.**

4           Section 7(a) of the Small Business Act (15 U.S.C.  
5 636(a)), as amended by this Act, is further amended by  
6 adding at the end the following:

7           “(40) CAPITAL BACKSTOP PROGRAM.—

8           “(A) IN GENERAL.—The Administrator  
9           shall establish a process under which a small  
10          business concern may submit an application to  
11          the Administrator for the purpose of securing a  
12          loan under this subsection. With respect to such  
13          application, the Administrator shall collect all  
14          information necessary to determine the credit-  
15          worthiness and repayment ability of an appli-  
16          cant and shall determine if such application  
17          meets basic eligibility and credit standards for  
18          a loan under this subsection.

19          “(B) PARTICIPATION OF LENDERS.—

20          “(i) IN GENERAL.—The Administrator  
21          shall establish a process under which the  
22          Administrator makes available to lenders  
23          each loan application submitted and deter-  
24          mined to meet basic eligibility and credit  
25          standards under subparagraph (A) for the

1 purpose of such lenders originating, under-  
2 writing, closing, and servicing the loan for  
3 which the applicant applied.

4 “(ii) ELIGIBILITY.—Lenders are eligi-  
5 ble to receive a loan application described  
6 in clause (i) if they participate in the pro-  
7 grams established under this subsection.

8 “(iii) LOCAL LENDERS.—The Admin-  
9 istrator shall first make available a loan  
10 application described in clause (i) to lend-  
11 ers within 100 miles of the principal office  
12 of the loan applicant.

13 “(iv) PREFERRED LENDERS.—If a  
14 lender described in clause (iii) does not  
15 agree to originate, underwrite, close, and  
16 service the loan applied for within 5 busi-  
17 ness days of receiving a loan application  
18 described in clause (i), the Administrator  
19 shall subsequently make available such  
20 loan application to lenders in the Preferred  
21 Lenders Program under paragraph  
22 (2)(C)(ii) of this subsection.

23 “(v) AUTHORITY OF ADMINISTRATION  
24 TO LEND.—If a lender described in clauses  
25 (iii) or (iv) does not agree to originate, un-

1           derwrite, close, and service the loan applied  
2           for within 10 business days of receiving a  
3           loan application described in clause (i), the  
4           Administrator shall originate, underwrite,  
5           close, and service such loan.

6           “(C) ASSET SALES.—The Administrator  
7           shall offer to sell loans made by the Adminis-  
8           trator under this paragraph. Such sales shall be  
9           made through the semi-annual public solicita-  
10          tion (in the Federal Register and in other  
11          media) of offers to purchase. The Administrator  
12          may contract with vendors for due diligence,  
13          asset valuation, and other services related to  
14          such sales. The Administrator may not sell any  
15          loan under this subparagraph for less than 90  
16          percent of the net present value of the loan, as  
17          determined and certified by a qualified third  
18          party.

19          “(D) LOANS NOT SOLD.—The Adminis-  
20          trator shall maintain and service loans made by  
21          the Administrator under this paragraph that  
22          are not sold through the asset sales under this  
23          paragraph.

24          “(E) EFFECTIVE DATES.—This paragraph  
25          shall have effect on a date if—

1 “(i) such date occurs during a period  
2 that—

3 “(I) begins on the date the Bu-  
4 reau of Economic Analysis, or any  
5 successor organization, makes a deter-  
6 mination that the gross domestic  
7 product of the United States has de-  
8 creased for three consecutive quarters;  
9 and

10 “(II) ends on the date the Bu-  
11 reau of Economic Analysis, or any  
12 successor organization, makes a deter-  
13 mination that the gross domestic  
14 product of the United States has in-  
15 creased for two consecutive quarters;  
16 and

17 “(ii) the number of loans provided  
18 under this subsection prior to such date in  
19 the fiscal year including such date is at  
20 least 30 percent less than the number of  
21 such loans provided prior to the same point  
22 in the previous fiscal year.

23 “(F) IMPLEMENTATION.—The Adminis-  
24 trator shall establish a group of at least 250 in-  
25 dividuals available to carry out activities under

1           this paragraph on any date on which this para-  
2           graph has effect under subparagraph (E). The  
3           Administrator shall provide to such group the  
4           training necessary to carry out activities under  
5           this paragraph.

6           “(G) APPLICATION OF OTHER LAW.—  
7           Nothing in this paragraph shall be construed to  
8           exempt any activity of the Administrator under  
9           this paragraph from the Federal Credit Reform  
10          Act of 1990 (2 U.S.C. 661 et seq.).

11          “(H) AUTHORIZATION OF APPROPRIA-  
12          TIONS.—

13                 “(i) PROGRAM LEVELS.—The Admin-  
14                 istrator is authorized to make loans under  
15                 this paragraph in an amount that is equal  
16                 to half the amount authorized for loans  
17                 under this subsection other than loans  
18                 under this paragraph.

19                 “(ii) AUTHORIZATION OF APPROPRIA-  
20                 TIONS.—In addition to amounts made  
21                 available to carry out this subsection, there  
22                 are authorized to be appropriated such  
23                 sums as may be necessary to carry out this  
24                 paragraph.”.

1 **SEC. 112. LOANS TO FINANCE GOODWILL.**

2 Section 7(a) of the Small Business Act (15 U.S.C.  
3 636(a)), as amended by this Act, is further amended by  
4 adding at the end the following:

5 “(41) GOODWILL.—The Administrator may not  
6 apply an application, processing, or approval stand-  
7 ard to a loan for the purpose of financing goodwill  
8 under this subsection, unless such standard applies  
9 to all loans under this subsection.”.

10 **SEC. 113. APPELLATE PROCESS AND OMBUDSMAN.**

11 The Small Business Act (15 U.S.C. 631 et seq.) is  
12 amended—

13 (1) by redesignating section 44 as section 45;  
14 and

15 (2) by inserting after section 43 the following:

16 **“SEC. 44. APPELLATE PROCESS AND OMBUDSMAN.**

17 “(a) APPELLATE PROCESS.—

18 “(1) IN GENERAL.—Not later than 270 days  
19 after the date of the enactment of the Small Busi-  
20 ness Financing and Investment Act of 2009, the Ad-  
21 ministrator shall establish an independent appellate  
22 process within the Administration. The process shall  
23 be available to review material determinations made  
24 by the Administration that affect a lender or invest-  
25 ment company that participates or is applying to

1 participate in a program administered by the Ad-  
2 ministration.

3 “(2) REVIEW PROCESS.—In establishing the  
4 independent appellate process under paragraph (1),  
5 the Administrator shall ensure that—

6 “(A) any appeal of a material determina-  
7 tion by the Administration is heard and result-  
8 ing recommendations are provided expedi-  
9 tiously; and

10 “(B) appropriate safeguards exist for pro-  
11 tecting the appellant from retaliation by Admin-  
12 istration employees.

13 “(3) COMMENT PERIOD.—Not later than 180  
14 days after the date of the enactment of the Small  
15 Business Financing and Investment Act of 2009, the  
16 Administrator shall provide an opportunity for no-  
17 tice and comment on proposed guidelines for the es-  
18 tablishment of an independent appellate process  
19 under this section.

20 “(b) AGENCY OMBUDSMAN.—

21 “(1) ESTABLISHMENT.—Not later than 180  
22 days after the date of the enactment of the Small  
23 Business Financing and Investment Act of 2009, the  
24 Administrator shall appoint an ombudsman.



1           “(2) DUTIES.—The ombudsman appointed in  
2           accordance with paragraph (1) shall—

3                   “(A) act as a liaison between the Adminis-  
4                   tration and any lender or investment company  
5                   that participates or is applying to participate in  
6                   a program administered by the Administration  
7                   with respect to a problem such entity may have  
8                   in dealing with the Administration resulting  
9                   from a material determination made by the Ad-  
10                  ministration; and

11                   “(B) ensure that safeguards exist to en-  
12                   courage complainants to come forward and pre-  
13                   serve confidentiality.

14           “(c) OTHER AUTHORITY.—An individual carrying  
15           out the independent appellate process established under  
16           subsection (a) or the position of ombudsman established  
17           under subsection (b) is authorized to—

18                   “(1) examine records and documents relating to  
19                   a matter under review pursuant to such subsections;  
20                   and

21                   “(2) initiate the review of a matter under such  
22                   subsection if such individual believes that Adminis-  
23                   tration procedures have not been followed as in-  
24                   tended with respect to such matter, without regard  
25                   to whether an appeal or complaint has been made.

1 “(d) LIMITATIONS.—

2 “(1) IN GENERAL.—An individual carrying out  
3 the independent appellate process established under  
4 subsection (a) or the position of ombudsman estab-  
5 lished under subsection (b) may not, as a result of  
6 the authority provided under this section—

7 “(A) make, change, or set aside a law, pol-  
8 icy, or administrative decision;

9 “(B) make binding decisions or determine  
10 rights;

11 “(C) directly compel an entity to imple-  
12 ment the recommendations of such individual;  
13 or

14 “(D) accept jurisdiction over an issue that  
15 is pending in a legal forum.

16 “(2) RULE OF CONSTRUCTION.—Activities car-  
17 ried out under this section may not be construed—

18 “(A) as a formal investigation, formal  
19 hearing, or binding decision;

20 “(B) as limiting any remedy or right of ap-  
21 peal;

22 “(C) as affecting any procedure concerning  
23 grievances, appeals, or administrative matters  
24 under law; or

1                   “(D) as a substitute for an administrative  
2                   or judicial proceeding.

3           “(e) REPORT.—Not later than one year after the date  
4 of the enactment of the Small Business Financing and In-  
5 vestment Act of 2009 and annually thereafter, the Admin-  
6 istrator shall submit to the Committee on Small Business  
7 of the House of Representatives and the Committee on  
8 Small Business and Entrepreneurship of the Senate a re-  
9 port describing and providing the status of appeals made  
10 under subsection (a) and complaints made under sub-  
11 section (b).

12           “(f) DEFINITIONS.—In this section, the following  
13 apply:

14                   “(1) MATERIAL DETERMINATION.—The term  
15           ‘material determination’ includes determinations re-  
16           lating to—

17                           “(A) applications for payment relating to a  
18                           loan guarantee; and

19                           “(B) the ability of an entity to participate  
20                           in an Administration loan or investing program.

21                   “(2) INDEPENDENT APPELLATE PROCESS.—  
22           The term ‘independent appellate process’ means a  
23           review by an Administration official who does not di-  
24           rectly or indirectly report to the Administration offi-

1        cial who made the material determination under re-  
2        view.”.

3    **SEC. 114. EXTENSION OF RECOVERY AND RELIEF LOAN**  
4                    **BENEFITS.**

5        (a) FEE REDUCTIONS.—Section 501 of title V of di-  
6        vision A of the American Recovery and Reinvestment Act  
7        of 2009 (Public Law 111–5) is amended—

8                (1) in subsection (a) by striking “September  
9        30, 2010” and inserting “September 30, 2011”; and  
10              (2) in subsection (c) by striking paragraph (2).

11        (b) ECONOMIC STIMULUS LENDING PROGRAM FOR  
12        SMALL BUSINESSES.—Section 502(f) of title V of division  
13        A of the American Recovery and Reinvestment Act of  
14        2009 (Public Law 111–5) is amended by striking “the  
15        date 12 months after the date of enactment of this Act”  
16        and inserting “September 30, 2011”.

17    **SEC. 115. REDUCED DOCUMENTATION FOR BUSINESS STA-**  
18                    **BILIZATION LOANS.**

19        Section 506(a) of title V of division A of the Amer-  
20        ican Recovery and Reinvestment Act of 2009 (Public Law  
21        111–5) is amended by adding at the end the following:  
22        “In carrying out such program, the Administrator shall  
23        establish and utilize a one-page application for loans under  
24        this section and shall authorize lenders to utilize the same  
25        documentation and procedural requirements for loans

1 under this section as such lenders utilize for other loans  
2 of a similar size and type.”.

3 **SEC. 116. EXPANDED ELIGIBILITY FOR BUSINESS STA-**  
4 **BILIZATION LOANS.**

5 Section 506(c) of title V of division A of the American  
6 Recovery and Reinvestment Act of 2009 (Public Law 111–  
7 5) is amended by striking “but shall not include” and all  
8 that follows through “enactment of this Act”.

9 **SEC. 117. INCREASED AMOUNT OF BUSINESS STABILIZA-**  
10 **TION LOANS.**

11 Section 506(d) of title V of division A of the Amer-  
12 ican Recovery and Reinvestment Act of 2009 (Public Law  
13 111–5) is amended by striking “\$35,000” and inserting  
14 “\$50,000”.

15 **SEC. 118. EXTENSION OF BUSINESS STABILIZATION LOANS.**

16 Section 506(j) of title V of division A of the American  
17 Recovery and Reinvestment Act of 2009 (Public Law 111–  
18 5) is amended by striking “September 30, 2010” and in-  
19 serting “September 30, 2011”.

20 **SEC. 119. SBA SECONDARY MARKET LENDING AUTHORITY**  
21 **MADE PERMANENT.**

22 Section 509 of title V of division A of the American  
23 Recovery and Reinvestment Act of 2009 (Public Law 111–  
24 5) is amended—

25 (1) by striking subsection (e); and

1           (2) by redesignating subsections (f), (h), and (i)  
 2           as subsections (e), (f), and (g), respectively.

3 **SEC. 120. SBA SECONDARY MARKET LENDING AUTHORITY**  
 4 **EXPANDED.**

5           Section 509 of title V of division A of the American  
 6 Recovery and Reinvestment Act of 2009 (Public Law 111–  
 7 5), as amended by this Act, is further amended—

8           (1) in subsection (c)(1) by adding at the end  
 9           the following: “Such process shall include the des-  
 10          ignation of each lender participating in a program  
 11          under section 7(a) of the Small Business Act as a  
 12          Systematically Important Secondary Market Broker-  
 13          Dealer for purposes of this section.”; and

14          (2) in subsection (e), as so redesignated by sec-  
 15          tion 20 of this Act, by adding at the end the fol-  
 16          lowing: “To the extent that the cost of an elimi-  
 17          nation or reduction of fees is offset by appropria-  
 18          tions, the Administrator shall in lieu of the fee oth-  
 19          erwise applicable under this subsection collect no fee  
 20          or reduce fees to the maximum extent possible.”.

21 **SEC. 121. INCREASED LOAN LIMITS.**

22           Section 7(a) of the Small Business Act (15 U.S.C.  
 23 636(a)), as amended by this Act, is further amended—

24           (1) in paragraph (2)(A)—

25           (A) in clause (i)—

1 (i) by inserting after “\$150,000” the  
2 following: “and is less than or equal to  
3 \$2,000,000”; and

4 (ii) by striking “or” at the end;

5 (B) in clause (ii) by striking the period at  
6 the end and inserting “; or”; and

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

8 “(iii) 50 percent of the balance of the  
9 financing outstanding at the time of dis-  
10bursement of the loan, if such balance ex-  
11ceeds \$2,000,000.”; and

12 (2) in paragraph (3)(A) by striking  
13 “\$2,000,000” and inserting “\$3,000,000”.

14 **SEC. 122. REAL ESTATE APPRAISALS.**

15 Section 7(a)(29) of the Small Business Act (15  
16 U.S.C. 636(a)(29)) is amended—

17 (1) in the matter preceding subparagraph (A)  
18 by striking “a State licensed or certified appraiser”  
19 and inserting “an appraiser licensed or certified by  
20 the State in which such property is located”;

21 (2) in subparagraph (A) by striking  
22 “\$250,000” and inserting “\$400,000”; and

23 (3) in subparagraph (B) by striking  
24 “\$250,000” and inserting “\$400,000”.

1 **SEC. 123. ADDITIONAL SUPPORT FOR EXPRESS LOAN PRO-**  
2 **GRAM.**

3 Section 7(a)(18)(B) of the Small Business Act (15  
4 U.S.C. 636(a)(18)(B)) is amended by adding after “under  
5 subparagraph (A)(i)” the following: “, except that a lender  
6 making a loan under paragraph (31) may not retain any  
7 percentage of a fee collected under such subparagraph”.

8 **SEC. 124. AUTHORIZATION OF APPROPRIATIONS.**

9 Section 20 of the Small Business Act (15 U.S.C. 631  
10 note) is amended by inserting after subsection (e) the fol-  
11 lowing:

12 “(f) FISCAL YEARS 2010 AND 2011 WITH RESPECT  
13 TO SECTION 7(a).—

14 “(1) PROGRAM LEVELS.—For the programs au-  
15 thorized by this Act, in each of fiscal years 2010 and  
16 2011 commitments for general business loans au-  
17 thorized under section 7(a) may not exceed  
18 \$20,000,000,000.

19 “(2) AUTHORIZATION OF APPROPRIATIONS.—  
20 There are authorized to be appropriated such sums  
21 as may be necessary to carry out paragraph (1).”.



1           **TITLE II—CDC ECONOMIC**  
 2           **DEVELOPMENT LOAN PROGRAM**  
 3           **Subtitle A—General Provisions**

4   **SEC. 201. PROGRAM LEVELS.**

5           Section 20 of the Small Business Act (15 U.S.C. 631  
 6   note), as amended by this Act, is further amended by in-  
 7   serting after subsection (f) the following:

8           “(g) PROGRAM LEVELS WITH RESPECT TO CDC  
 9   ECONOMIC DEVELOPMENT LOAN PROGRAM.—

10           “(1) FISCAL YEAR 2010.—For financings au-  
 11   thorized by section 7(a)(13) of this Act and title V  
 12   of the Small Business Investment Act of 1958, the  
 13   Administrator is authorized to make \$9,000,000,000  
 14   in guarantees of debentures for fiscal year 2010.

15           “(2) FISCAL YEAR 2011.—For financings au-  
 16   thorized by section 7(a)(13) of this Act and title V  
 17   of the Small Business Investment Act of 1958, the  
 18   Administrator is authorized to make  
 19   \$10,000,000,000 in guarantees of debentures for fis-  
 20   cal year 2011.”.

21   **SEC. 202. DEFINITIONS.**

22           Section 103 of the Small Business Investment Act  
 23   of 1958 (5 U.S.C. 662) is amended as follows:

24           (1) By amending paragraph (6) to read as fol-  
 25   lows:

1           “(6) the term ‘development company’ means  
2           any corporation organized in order to promote eco-  
3           nomic development and the growth of small business  
4           concerns and includes companies chartered under a  
5           special State law authorizing them to operate on a  
6           statewide basis;”.

7           (2) By striking “and” at the end of paragraph  
8           (18), by striking the period at the end of paragraph  
9           (19) and inserting a semicolon, and by adding at the  
10          end the following new paragraphs:

11          “(20) the term ‘certified development company’  
12          means a development company that the Adminis-  
13          trator has determined meets the criteria set forth in  
14          section 501;

15          “(21) the term ‘local governmental entity’  
16          means—

17                  “(A) a State or a political subdivision of a  
18                  State; or

19                  “(B) a combination of political subdivisions  
20                  which—

21                          “(i) has been formed to promote eco-  
22                          nomic or community development;

23                          “(ii) is composed of representatives of  
24                          the State or a political subdivision acting  
25                          in their official capacity; and

1                   “(iii) includes an area in an adjacent  
2                   State if it is part of a local economic area,  
3                   a rural area, or has a population deter-  
4                   mined by the Administrator to be insuffi-  
5                   cient to support the formation of a sepa-  
6                   rate development company;

7                   such term includes entities meeting the require-  
8                   ments of clauses (i) through (iii), such as, but  
9                   not limited to, a council of governments, re-  
10                  gional development corporation, regional plan-  
11                  ning commission, or economic development dis-  
12                  trict;

13               “(22) the term ‘member’ means any person au-  
14               thorized to vote for a director of a corporation or the  
15               dissolution or merger of a company (for purposes of  
16               this definition, a shareholder of a for-profit corpora-  
17               tion shall be considered a member);

18               “(23) the terms ‘rural’ and ‘rural area’ shall  
19               have the same meaning as those terms are given in  
20               section 1991(a)(13)(A) of title 7, United States  
21               Code; and

22               “(24) the term ‘small manufacturer’ means a  
23               small business concern—

1           “(A) the primary business of which is clas-  
 2           sified in sector 31, 32, or 33 of the North  
 3           American Industrial Classification System; and

4           “(B) all of the production facilities of  
 5           which are located in the United States.”.

## 6   **Subtitle B—Certified Development** 7                           **Companies**

### 8   **SEC. 211. CERTIFIED DEVELOPMENT COMPANIES.**

9           Section 501 of the Small Business Investment Act  
 10          of 1958 (15 U.S.C. 695) is amended to read as follows:

#### 11   **“SEC. 501. CERTIFIED DEVELOPMENT COMPANIES.**

12          “(a) CERTIFIED DEVELOPMENT COMPANY DEBEN-  
 13          TURE AUTHORITY.—Only development companies cer-  
 14          tified by the Administrator shall have the authority to  
 15          issue debentures under this Act.

16          “(b) CERTIFICATION STANDARDS.—A development  
 17          company shall be certified for the purposes of issuing de-  
 18          bentures if the Administrator determines that it meets  
 19          each of the following criteria:

20               “(1) SMALL CONCERN.—

21                   “(A) IN GENERAL.—Except as provided in  
 22                   subparagraph (C) of paragraph (2), the com-  
 23                   pany, including its affiliates, shall have no more  
 24                   than 200 employees.

1           “(B) CONTROL.—Except as provided in  
2 paragraph (2) (B) or (C) the company shall not  
3 be under the control of any other concern.

4           “(C) NOT FOR PROFIT.—The development  
5 company is organized as a not-for-profit cor-  
6 poration.

7           “(2) EXCEPTIONS.—

8           “(A) FOR PROFIT STATUS.—If a develop-  
9 ment company was chartered as a for-profit  
10 corporation and issued debentures prior to Jan-  
11 uary 1, 1987, the company shall not be re-  
12 quired to change its status to not-for-profit in  
13 order to be certified.

14           “(B) AFFILIATION GRANDFATHER.—Any  
15 company that was authorized by the Adminis-  
16 trator to issue debentures before December 31,  
17 2005, shall be eligible for certification without  
18 regard to its status as part of, or its affiliation  
19 with, any other not-for-profit corporation or  
20 local governmental entity unless that not-for-  
21 profit corporation or local governmental entity  
22 is another entity that issues debentures under  
23 this title.

24           “(C) AFFILIATION WITH LOCAL GOVERN-  
25 MENTAL ENTITIES.—Any company that was or-

ganized after the date of enactment of the Small Business Financing and Investment Act of 2009 shall be eligible for certification without regard to its status as part of or affiliation with any local governmental entity.

“(3) GOOD STANDING.—A development company shall be in good standing and comply with all laws, in every State in which it is incorporated or authorized to conduct business.

“(4) MEMBERSHIP.—

“(A) IN GENERAL.—The development company shall have at least 25 members.

“(B) VOTING RIGHTS.—No member shall control more than 10 percent of the total voting power in the development company.

“(C) RESIDENCE.—Members must be residents of the State in which the development company is chartered or authorized to do business.

“(D) DIVERSITY.—The development company must have at least one member from each of the following:

“(i) A local governmental entity.

“(ii) A financial institution subject to regulation by a Federal organization be-

1           longing to the Federal Financial Institu-  
2           tions Examination Council and that pro-  
3           vides long-term fixed asset financing in the  
4           commercial market.

5           “(iii) A not-for-profit organization,  
6           other than a development company, that is  
7           dedicated to promoting economic growth.

8           “(iv) A for-profit business, other than  
9           a financial institution described in clause  
10          (ii).

11          “(E) EMPLOYMENT STATUS.—Membership  
12          in a development company shall not be predi-  
13          cated on employment status and an individual  
14          who retired from or was terminated (for rea-  
15          sons other than fraud or the commission of a  
16          crime) from an entity described in subpara-  
17          graph (D) shall be deemed to be from the orga-  
18          nization described in that subparagraph.

19          “(5) BOARD OF DIRECTORS.—

20          “(A) IN GENERAL.—The development com-  
21          pany’s board consists of members and each di-  
22          rector receives a majority vote of the members  
23          unless the development company is a for-profit  
24          corporation in which case the board need not  
25          consist entirely of members.

1           “(B) BOARD REPRESENTATION.—There  
2 shall be at least one director from not fewer  
3 than 3 of the 4 types of organizations specified  
4 in paragraph (4)(D) but no single type of orga-  
5 nization shall have more than 50 percent rep-  
6 resentation on the board of the development  
7 company. If the development company is a for-  
8 profit corporation, financial institution rep-  
9 resentatives may make up more than 50 per-  
10 cent of the board.

11           “(C) AFFILIATED ENTITY REPRESENTA-  
12 TION RESTRICTIONS.—A development company  
13 that is described in paragraph (1)(C) may have  
14 any or all of its board members appointed by  
15 entities affiliated with the company and may in-  
16 clude common members who also serve on the  
17 affiliate’s board of directors if the appointment  
18 of board members was exercised by an affiliate  
19 prior to December 31, 2005.

20           “(D) SPECIAL RULE FOR CERTAIN DEVEL-  
21 OPMENT COMPANIES.—The board of directors  
22 for any development company issuing deben-  
23 tures before December 31, 2005, and incor-  
24 porated under a State law requiring, or which  
25 is interpreted by the State’s legal department



1 as imposing specific requirements on, the num-  
2 ber and selection of members, board members,  
3 or both, and the rights and privileges conferred  
4 by such State law, may adhere to such provi-  
5 sions.

6 “(6) PROFESSIONAL MANAGEMENT AND  
7 STAFF.—

8 “(A) IN GENERAL.—The development com-  
9 pany shall have full-time independent profes-  
10 sional management, including a chief executive  
11 officer to manage the daily operations and a  
12 full-time professional staff qualified to carry out  
13 the functions authorized under this title.

14 “(B) UTILIZATION OF STAFF FROM AF-  
15 FILIATED ENTITIES.—A development company  
16 shall not be denied certification under this sec-  
17 tion if its chief executive or full-time profes-  
18 sional staff is from an affiliated entity as de-  
19 scribed in paragraph (1)(C).

20 “(C) STAFF UNDER CONTRACT.—The Ad-  
21 ministrator shall not deny certification to a de-  
22 velopment company that contracts for its full  
23 time staff if one of the following conditions is  
24 met:

1           “(i) The development company is lo-  
2           cated in a rural area, obtains its staff  
3           through contract from another develop-  
4           ment company that is certified by the Ad-  
5           ministrator and that development company  
6           operates in the same or a contiguous  
7           State.

8           “(ii) The development company had  
9           issued debentures under this title prior to  
10          December 31, 2005, and had contracted  
11          with a for-profit business concern to pro-  
12          vide staffing and management services.

13       “(c) APPLICATIONS.—

14           “(1) DEVELOPMENT COMPANIES ISSUING DE-  
15          BENTURES BEFORE SEPTEMBER 30, 2009.—

16           “(A) SHORT FORM APPLICATION.—(i) For  
17          any development company that issued deben-  
18          tures pursuant to this title before September  
19          30, 2009, the Administrator shall develop, after  
20          an opportunity for notice and comment, no  
21          later than 90 days after the date of enactment  
22          of the Small Business Financing and Invest-  
23          ment Act of 2009, a short-form application that  
24          contains sufficient information for the Adminis-  
25          trator to determine that the development com-

pany currently meets the standards set forth in subsection (b). In developing such application, the Administrator shall be required to limit the amount of paperwork necessary to determine whether the development company meets the standards for certification and may limit the application to the filing of reports previously submitted to the Administrator.

“(ii) For those companies that obtain staff through contracts, the application shall include a copy of the contract.

“(B) CERTIFICATION DECISION.—(i) The Administrator shall certify the development company if the application demonstrates that the applicant meets the standards in subsection (b). The decision to certify or not approve the request for certification shall be made within 7 business days from the date the initial submission of the application is received by the Administrator. If the Administrator takes no action to approve or disapprove within 7 business days, the application for certification is deemed approved and no further action is required by the Administrator or the development company to obtain certification. If the Administrator dis-

1 approves the application, the Administrator  
2 shall provide in writing within 3 business days  
3 the reasons for the disapproval. If such docu-  
4 ment is not provided within the time specified,  
5 the application is deemed approved and no fur-  
6 ther action is required by the Administrator or  
7 the development company to obtain certifi-  
8 cation.

9 “(ii) For those development companies  
10 that submit contracts under subparagraph  
11 (A)(ii), the Administrator is limited in rejecting  
12 the application only if the Administrator finds  
13 that the entity servicing the applicant is no  
14 longer able to provide the employees or services  
15 needed by the applicant to perform the func-  
16 tions that would be authorized under this title.

17 “(C) APPLICATION RESUBMITTAL.—If the  
18 Administrator disapproves the application for  
19 certification and provides a written statement  
20 as set forth in subparagraph (B), the develop-  
21 ment company may file a new application lim-  
22 ited solely to addressing the concerns of the Ad-  
23 ministrator and the certification procedures set  
24 forth in subparagraph (B) shall recommence.

1           “(D) APPEALS.—If the Administrator dis-  
2           approves an application in accordance with the  
3           procedures of subparagraphs (B) or (C), the  
4           applicant may, within 10 calendar days after  
5           receipt of the disapproval, appeal such dis-  
6           approval. The Administrator shall conduct a  
7           hearing to determine such appeal pursuant to  
8           sections 554, 556, and 557 of title 5, United  
9           States Code, and shall issue a decision not later  
10          than 45 days after the appeal is filed. The deci-  
11          sion on appeal shall constitute final agency ac-  
12          tion for purposes of chapter 7 of title 5, United  
13          States Code.

14          “(E) GRANDFATHERING.—

15                 “(i) IN GENERAL.—For the period 2  
16                 years after date of enactment of the Small  
17                 Business Financing and Investment Act of  
18                 2009, any development company that was  
19                 issuing debentures on or before the date  
20                 set forth in this clause (i) shall be deemed  
21                 to be a certified development company.

22                 “(ii) COMPLETION OF APPLICATION  
23                 PROCESS.—The procedures set forth in  
24                 this paragraph for determining certifi-  
25                 cation shall apply to any development com-

pany meeting the qualifications of clause (i).

“(iii) EFFECT OF DENIAL.—The denial or rejection of an application for certification as set forth in this subsection shall have no effect on the ability of a development company meeting the qualifications in clause (i) from continuing to issue debentures during the entire two-year period established in that clause.

“(iv) FAILURE TO OBTAIN CERTIFICATION.—Any development company that fails to obtain certification in accordance with the procedures set forth in this paragraph during the period set forth in clause (i) shall be considered to be a new development company and the procedures of paragraph (2) shall apply. The authority to issue debentures shall cease for any development company covered by this subparagraph that has failed to obtain certification from the Administrator during the time period set forth in clause (i).

“(F) AUTOMATIC QUALIFICATION PROVISION.—If the Administrator fails to implement

1 the certification process set forth in this para-  
2 graph, any development company that was  
3 issuing debentures before September 30, 2009,  
4 pursuant to this title shall be considered cer-  
5 tified until such time as the Administrator de-  
6 velops the certification procedures set forth in  
7 this paragraph.

8 “(G) SAVINGS CLAUSE.—Any action taken  
9 by a development company or the Administrator  
10 pursuant to this paragraph shall have no im-  
11 pact on any guarantee of a debenture issued  
12 prior to the date of enactment of the Small  
13 Business Financing and Investment Act of  
14 2009.

15 “(2) APPLICATION PROCESS FOR NEW DEVEL-  
16 OPMENT COMPANIES.—

17 “(A) IN GENERAL.—For any development  
18 company that has not issued debentures prior  
19 to September 30, 2009, the Administrator shall  
20 develop no later than 180 days after the date  
21 of enactment of the Small Business Financing  
22 and Investment Act of 2009, after an oppor-  
23 tunity for notice and comment, an application  
24 form for certification that provides the Admin-  
25 istrator with sufficient information to insure

that the applicant meets the standards set forth in subsection (b). The Administrator shall certify such development company or reject the application within 60 calendar days from the date the initial submission was received by the Administrator. If the Administrator rejects the application, the Administrator shall provide in writing within 7 business days after the decision, the reason for rejecting the application.

“(B) APPEALS.—A development company shall be able to appeal the disapproval of an application under the procedures set forth in paragraph (1)(D).”.

**SEC. 212. CERTIFIED DEVELOPMENT COMPANY; OPERATIONAL REQUIREMENTS.**

(a) OPERATIONAL REQUIREMENTS.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended to read as follows:

**“SEC. 502. OPERATIONAL REQUIREMENTS FOR CERTIFIED DEVELOPMENT COMPANIES.**

“(a) MAINTENANCE OF STANDARDS FOR CERTIFICATION.—Any company certified pursuant to section 501 shall continue to comply with the requirements of that section to remain certified. The Administrator shall develop a reporting form, which to the extent possible, incor-



1 porates other documents and reports already kept by cer-  
2 tified development companies, demonstrating their contin-  
3 ued compliance. The form shall be developed in a manner  
4 that the estimated time for completion shall take no more  
5 than 2 hours.

6 “(b) ETHICS AND CONFLICT OF INTERESTS.—

7 “(1) IN GENERAL.—A certified development  
8 company, its officers, employees, and contractors  
9 shall act ethically and avoid activities which con-  
10 stitute a conflict of interest or appear to constitute  
11 a conflict of interest. For purposes of this sub-  
12 section, conduct that is unethical includes, but is not  
13 limited to, the actions specified in section 120.140 of  
14 title 13, Code of Federal Regulations, as in effect on  
15 January 1, 2009.

16 “(2) BY ASSOCIATES.—An associate may not be  
17 an officer, director, or manager of more than 1 cer-  
18 tified development company. The term ‘associate’  
19 shall have the same meaning given the term ‘Asso-  
20 ciate of a CDC’ in section 120.10 of title 13, Code  
21 of Federal Regulations, as in effect on January 1,  
22 2009. For the purposes of this subsection, 10 per-  
23 cent shall be substituted wherever section 120.10 of  
24 title 13, Code of Federal Regulation uses 20 per-  
25 cent.

1           “(3) BY ENTITIES.—Except as provided in sec-  
2       tions 501(b)(5) and 501(b)(6), no person, sole pro-  
3       prietorship, partnership, or corporation shall control  
4       or have managerial control of more than one cer-  
5       tified development company. Control means any of  
6       the following:

7           “(A) The ability to appoint or remove a  
8       member of the company or member of its board  
9       of directors.

10          “(B) The ability to modify or approve rate  
11       or fee changes affecting revenues of the cer-  
12       tified development company.

13          “(C) The ability to veto, overrule, or mod-  
14       ify decisions of the certified development com-  
15       pany’s body.

16          “(D) The ability, either directly or contrac-  
17       tually, to appoint, hire, reassign, or dismiss  
18       those managers and employees responsible for  
19       the daily operations of the certified development  
20       company.

21          “(E) The ability to access the certified de-  
22       velopment company’s resources or amend its  
23       budget.

1                   “(F) The ability to control another cer-  
2                   tified development company pursuant to provi-  
3                   sions in a contract.

4                   “(c) MEETINGS.—The board of directors of the cer-  
5                   tified development company shall meet on a regular basis  
6                   to make policy decisions for the company.

7                   “(d) LOAN COMMITTEES.—The board of directors of  
8                   a certified development company may use a loan com-  
9                   mittee to process loans in the State in which it operates  
10                  as well as adjacent local economic areas. Members of the  
11                  loan committee shall be residents of the certified develop-  
12                  ment company’s State of operation or the adjacent local  
13                  economic area. Such loan committees shall meet on a peri-  
14                  odic basis as set forth by the board of directors.

15                  “(e) PROHIBITED CONFLICT IN PROJECT LOANS.—

16                         “(1) IN GENERAL.—Certified development com-  
17                         panies shall not recommend or approve a guarantee  
18                         of a debenture that will be collateralized by property  
19                         being constructed or acquired on which an institu-  
20                         tion, as provided in section 508(c)(1)(A), will have  
21                         a first lien position.

22                         “(2) EXCEPTION.—The prohibition in para-  
23                         graph (1) shall not apply to any certified develop-  
24                         ment company that was affiliated with or part of

1 any entity that took a first lien position between Oc-  
2 tober 1, 2003, and September 30, 2005.

3 “(f) AFFILIATION WITH LENDERS OPERATING  
4 UNDER SECTION 7 OF THE SMALL BUSINESS ACT.—

5 “(1) PROHIBITION.—No certified development  
6 company may invest in, or be an affiliate of, a lender  
7 who participates in the loan programs authorized in  
8 sections 7(a) and 7(c) of the Small Business Act (15  
9 U.S.C. 636(a) and (c)).

10 “(2) EXCEPTION.—The prohibition in para-  
11 graph (1) shall not apply to any certified develop-  
12 ment company that is affiliated with an entity au-  
13 thorized by the Administrator to operate under sec-  
14 tion 7(a) of the Small Business Act if such affili-  
15 ation occurred on or before November 6, 2003.

16 “(3) CREDIT UNION AFFILIATION.—A certified  
17 development company shall not lose its status due to  
18 an affiliation with an institution regulated by the  
19 National Credit Union Administration if the develop-  
20 ment company was affiliated with such an institu-  
21 tion prior to January 1, 2007.

22 “(g) SERVICING AND PACKAGING GUARANTEED  
23 LOANS.—A certified development company is authorized  
24 to prepare applications for loans under sections 7(a) or  
25 7(c) of the Small Business Act (15 U.S.C. 636(a) or (c)),

1 to service such loans, and to charge a reasonable fee for  
2 servicing such loans.

3 “(h) USE OF EXCESS FUNDS.—Any funds generated  
4 by a certified development company from the issuance of  
5 debentures under this title, the sale of debentures in the  
6 private secondary market, or fees described in subsection  
7 (g) that remain unexpended after payment of staff, oper-  
8 ating, and overhead expenses shall be used by the certified  
9 development company for—

10 “(1) operating reserves;

11 “(2) expanding the area in which the certified  
12 development company operates through the methods  
13 authorized in section 505 (relating to multi-State  
14 operation);

15 “(3) investment in other community and local  
16 economic development activity or community devel-  
17 opment primarily in the State from which such  
18 funds were generated; or

19 “(4) investment in small business investment  
20 companies subject to the limitations in subsection  
21 (i).

22 “(i) LIMITATIONS WITH RESPECT TO SMALL BUSI-  
23 NESS INVESTMENT COMPANIES.—A certified development  
24 company shall not—

1           “(1) invest excess funds in a small business in-  
2           vestment company that the Administrator deter-  
3           mines to be capitally impaired as set forth in section  
4           107.1830 of title 13, Code of Federal Regulations,  
5           as in effect on January 1, 2009, or any successor  
6           regulation to that regulation, but may maintain its  
7           investment in such company if such investment was  
8           made prior to the determination of capital impair-  
9           ment; and

10           “(2) provide a debenture under this title to a  
11           small business concern that has financing with a  
12           small business investment company in which the cer-  
13           tified development company has invested excess  
14           funds.

15           “(j) ECONOMIC DEVELOPMENT ACTIVITIES.—A com-  
16           pany certified pursuant to this section shall carry out each  
17           of the following economic development activities that cre-  
18           ate or preserve jobs in urban and rural areas:

19           “(1) The company shall provide long-term fi-  
20           nancing to small business concerns through deben-  
21           tures described in section 506.

22           “(2) The company shall operate any other pro-  
23           gram to assist small business concerns or commu-  
24           nities that promote local economic development and  
25           job creation or preservation.

1 “(k) RESTRICTIONS ON ASSISTANCE.—

2 “(1) IN GENERAL.—After the date of enact-  
3 ment of the Small Business Financing and Invest-  
4 ment Act of 2009, no certified development company  
5 may accept funding from any source, including any  
6 Federal agency (as that term is defined in section  
7 551 of title 5, United States Code) if the source im-  
8 poses—

9 “(A) conditions on the types of small busi-  
10 ness concerns that a certified development com-  
11 pany may provide assistance to under this title;  
12 or

13 “(B) conditions or requirements, directly  
14 or indirectly, upon any small business concern  
15 receiving assistance under this title.

16 “(2) EXCEPTION.—The conditions of subpara-  
17 graphs (A) and (B) of paragraph (1) shall not apply  
18 if the source provides all of the financing that will  
19 be provided by the certified development company to  
20 the small business concern, provided further that  
21 any conditions or restrictions are limited solely to  
22 the financing provided by the source of funding.

23 “(l) REVOCATION AND SUSPENSION.—The Adminis-  
24 trator may suspend or revoke a certified development com-  
25 pany’s status if the Administrator determines, after a

1 hearing on the record as set forth in sections 554, 556,  
 2 and 557 of title 5, United States Code, that the certified  
 3 development company no longer—

4 “(1) meets the eligibility criteria established  
 5 under section 501 of this title;

6 “(2) satisfies the operational standards in this  
 7 section; or

8 “(3) complies with the Administrator’s rules,  
 9 regulations, or provisions of law.

10 “(m) EFFECT OF SUSPENSION OR REVOCATION.—A  
 11 suspension or revocation under subsection (l) shall not af-  
 12 fect any outstanding debenture guarantee.”.

13 **SEC. 213. ACCREDITED LENDERS PROGRAM.**

14 Section 503 of the Small Business Investment of  
 15 1958 (15 U.S.C. 697) is amended to read as follows:

16 **“SEC. 503. ACCREDITED LENDERS PROGRAM.**

17 “(a) ESTABLISHMENT.—

18 “(1) IN GENERAL.—A certified development  
 19 company may apply for status to become an accred-  
 20 ited certified development company if it meets the  
 21 operational standards of section 502 and the criteria  
 22 in subsection (b).

23 “(2) APPLICATION.—The Administrator shall,  
 24 after opportunity for notice and comment, develop  
 25 an application for certified development companies



1 seeking to become accredited certified development  
2 companies.

3 “(3) PROCESSING OF APPLICATION.—The Ad-  
4 ministrator shall make a determination within 30  
5 days after a complete application has been filed by  
6 the certified development company.

7 “(4) REAPPLICATION.—If the Administrator re-  
8 jects the application, the Administrator shall provide  
9 in writing the reasons for the rejection. Any certified  
10 development company may reapply which will recom-  
11 mence the processing time limits set forth in para-  
12 graph (3), and such reapplication shall be limited to  
13 addressing the reasons for rejection. If the Adminis-  
14 trator rejects a second application, that shall be con-  
15 sidered final agency action for purposes of chapter  
16 7 of title 5, United States Code.

17 “(b) STANDARDS FOR ACCREDITED CERTIFIED DE-  
18 VELOPMENT COMPANY PROGRAM.—The Administrator  
19 shall designate a certified development company as accred-  
20 ited if it meets the following standards:

21 “(1) Has been a certified development company  
22 for not less than the preceding 12 months and has  
23 issued debentures as authorized under this title dur-  
24 ing that time period.

1           “(2) Has well-trained, qualified personnel who  
2           are knowledgeable in the lending policies and proce-  
3           dures for certified development companies.

4           “(3) Has the ability to process, close, and serv-  
5           ice the loan issued under this title.

6           “(4) Has a loss rate on the company’s deben-  
7           tures that is reasonable and acceptable to the Ad-  
8           ministrator.

9           “(5) Has a history of submitting to the Admin-  
10          istrator complete and accurate debenture guaranty  
11          application packages.

12          “(6) Has the ability to serve small business  
13          credit needs for financing plant and equipment as a  
14          certified development company.

15          “(c) EXPEDITED PROCESSING OF GUARANTEE AP-  
16          PLICATIONS.—The Administrator shall develop an expe-  
17          dited procedure for processing a guarantee application or  
18          servicing action submitted by an accredited certified devel-  
19          opment company. For purposes of this subsection, an ex-  
20          pedited procedure is one that takes at least two business  
21          days less than the processing performed for certified devel-  
22          opment companies that have not been accredited.

23          “(d) SUSPENSION OR REVOCATION OF ACCREDITED  
24          STATUS.—The Administrator may suspend or revoke a  
25          certified development company’s accredited status if the

1 Administrator determines, after a hearing on the record  
2 as set forth in sections 554, 556, and 557 of title 5,  
3 United States Code, that the certified development com-  
4 pany no longer meets the eligibility criteria established  
5 under this section (which shall not include a time limit  
6 on the term of the certified development company's ac-  
7 credited status) or failed to adhere to the Administrator's  
8 rules, regulations, or is violating some other provision of  
9 law. Such suspension or revocation shall have no effect  
10 on the development company's status as certified.

11       “(e) EFFECT OF SUSPENSION OR REVOCATION ON  
12 EXISTING GUARANTEES.—A suspension or revocation of  
13 accredited status shall not affect any outstanding debent-  
14 ure guarantee.

15       “(f) GRANDFATHER PROVISION.—Any certified de-  
16 velopment company that was accredited by the date of en-  
17 actment of the Small Business Financing and Investment  
18 Act of 2009 shall remain accredited for 24 months after  
19 that date. If the certified development company does not  
20 have an application for accreditation approved by the Ad-  
21 ministrator within the 24 months, its accreditation stand-  
22 ard shall lapse.

23       “(g) AUTOMATIC QUALIFICATION.—

24               “(1) IN GENERAL.—Until the Administrator de-  
25 velops procedures for granting accredited status, any

1 certified development company that was accredited  
2 as of the date of enactment of the Small Business  
3 Financing and Investment Act of 2009 shall be  
4 deemed to be accredited.

5 “(2) APPLICATIONS.—Any certified develop-  
6 ment company that satisfies the provision of para-  
7 graph (1) shall have 24 months in which to submit  
8 the application established by this section for accred-  
9 ited status.

10 “(3) EFFECT WHILE APPLICATION PENDING.—  
11 The denial or rejection of an application for accred-  
12 ited status as set forth in this section shall have no  
13 effect on the ability of a development company that  
14 meets the standard set forth in paragraph (1) from  
15 maintaining its status during the 24 months speci-  
16 fied in this subsection.

17 “(h) PROMULGATION OF ACCREDITING STAND-  
18 ARDS.—The Administrator shall develop standards for ac-  
19 crediting, suspension, and revocation under the program  
20 established by this section only after notice and an oppor-  
21 tunity for comment as set forth in section 553(b) of title  
22 5, United States Code. After the development of such  
23 standards, the Administrator shall publish such standards  
24 in the Code of Federal Regulations.

1       “(i) RULE OF CONSTRUCTION.—Any reference to the  
2 term ‘accredited lender’ in any provision of law enacted,  
3 or any regulation adopted, prior to the enactment of the  
4 Small Business Financing and Investment Act of 2009  
5 shall be deemed to be a reference to the term ‘accredited  
6 certified development company’.”.

7 **SEC. 214. PREMIER CERTIFIED LENDER PROGRAM.**

8       Section 504 of the Small Business Investment Act  
9 of 1958 (15 U.S.C. 697a) is amended to read as follows:

10 **“SEC. 504. PREMIER CERTIFIED LENDER PROGRAM.**

11       “(a) ESTABLISHMENT.—

12               “(1) IN GENERAL.—A certified development  
13 company accredited under section 503 may apply for  
14 status to become a premier certified development  
15 company.

16               “(2) APPLICATION.—The Administrator shall,  
17 after opportunity for notice and comment, develop  
18 an application for accredited certified development  
19 companies seeking to become premier certified devel-  
20 opment companies.

21               “(3) PROCESSING OF APPLICATION.—The Ad-  
22 ministrator shall make a determination within 60  
23 days after a complete application has been filed by  
24 an accredited certified development company.

1           “(4) REAPPLICATION.—If the Administrator re-  
2       jects the application, the Administrator shall provide  
3       in writing the reasons for the rejection. Any accred-  
4       ited certified development company may reapply  
5       which will recommence the processing time limits set  
6       forth in paragraph (3), and such reapplication shall  
7       be limited to addressing the reasons for rejection. If  
8       the Administrator rejects a second application, that  
9       shall be considered final agency action for purposes  
10      of chapter 7 of title 5, United States Code.

11       “(b) STANDARDS FOR OBTAINING PREMIER CER-  
12      TIFIED DEVELOPMENT COMPANY STATUS.—The Admin-  
13      istrator shall designate an accredited certified develop-  
14      ment company as a premier certified development com-  
15      pany if the application submitted pursuant to subsection  
16      (a) demonstrates that the accredited certified development  
17      company meets the following standards:

18           “(1) Has been an accredited certified develop-  
19      ment company for at least 12 months.

20           “(2) Has submitted to the Administrator ade-  
21      quately analyzed debenture guarantee applications.

22           “(3) Has closed, in a proper manner following  
23      the Administrator regulations, loans under this title.

24           “(4) Has serviced its loan portfolio in accord-  
25      ance with the standards set by the Administrator.

1           “(5) Has established a loan loss reserve estab-  
2           lished in accordance with this section that the Ad-  
3           ministrator determines is sufficient to meet its obli-  
4           gations to protect the Federal Government from the  
5           risk of loss on each debenture guaranteed under this  
6           section.

7           “(6) Has agreed, as part of the application and  
8           in order to protect the Federal Government against  
9           the risk of loss, to the following—

10               “(A) on account of a debenture, the pro-  
11               ceeds of which were used to fund a loan ap-  
12               proved prior to the date of enactment of the  
13               Small Business Financing and Investment Act  
14               of 2009, agrees to reimburse the Administrator  
15               for 10 percent of any loss sustained by the Ad-  
16               ministrator as a result of a default by the com-  
17               pany in the payment of principal or interest on  
18               a debenture issued by such company and guar-  
19               anteed by the Administrator;

20               “(B) on account of a debenture, the pro-  
21               ceeds of which were used to fund a loan ap-  
22               proved prior to the date of enactment of the  
23               Small Business Financing and Investment Act  
24               of 2009 and which were issued during the pe-  
25               riod in which the company had made a selection

1           pursuant to section 508(c)(7) of the Small  
2           Business Investment Act of 1958, as in effect  
3           on the day before such date of enactment,  
4           agrees to reimburse the Administrator for 15  
5           percent of any loss sustained by the Adminis-  
6           trator as a result of a default by the company  
7           in the payment of principal or interest on a de-  
8           benture issued by such company and guaran-  
9           teed by the Administrator; or

10           “(C) on account of a debenture, the pro-  
11           ceeds of which are used to fund a loan approved  
12           on or after the date of enactment of the Small  
13           Business Financing and Investment Act of  
14           2009, upon closing, pay to the Administrator a  
15           one-time participation fee in the amount equal  
16           to the higher of the following:

17           “(i) 0.25 percent of the amount of the  
18           debenture.

19           “(ii) A percent of the amount of the  
20           debenture equal to 10 percent of the  
21           amount of the company’s historic loss rate  
22           on debentures guaranteed under this sec-  
23           tion as determined by the Administrator.  
24           The rate specified by this clause shall be  
25           determined annually based upon the com-



1           pany’s loan losses as of close of business  
2           on June 30 and notice of the determina-  
3           tion shall be provided to each company not  
4           later than August 31. Such rate shall be  
5           applicable to loans approved during the fis-  
6           cal year commencing after the determina-  
7           tion is made and shall expire and have no  
8           further application after the end of such  
9           fiscal year. If no timely determination has  
10          been made prior to the commencement of  
11          a fiscal year, including the year of enact-  
12          ment of the Small Business Financing and  
13          Investment Act of 2009, one may be made  
14          after the commencement and it shall be  
15          applicable to loans approved during the  
16          balance of such fiscal year commencing 30  
17          days after notification to the development  
18          company involved.

19          “(c) SUSPENSION OR REVOCATION OF PREMIER STA-  
20          TUS.—The Administrator may suspend or revoke an ac-  
21          credited certified development company’s premier status  
22          if the Administrator determines, after a hearing on the  
23          record as set forth in sections 554, 556, and 557 of title  
24          5, United States Code, that the accredited certified devel-  
25          opment company no longer meets the eligibility criteria for

1 premier status as established under this section or failed  
2 to adhere to the Administrator's rules, regulations, or is  
3 violating some other provision of law. Such revocation or  
4 suspension shall have no effect on its status as an accred-  
5 ited certified development company.

6 “(d) LOAN LOSS RESERVE.—

7 “(1) ASSETS.—Each loan loss reserve main-  
8 tained by the premier certified development company  
9 for loans made pursuant to the authority in sub-  
10 section (g)(1) shall be comprised of—

11 “(A) segregated funds on deposit in an ac-  
12 count or accounts with a federally insured de-  
13 pository institution or institutions selected by  
14 the company, subject to a collateral assignment  
15 in favor of, and in a format acceptable to, the  
16 Administrator that shall amount to 10 percent  
17 of the company's exposure as determined pursu-  
18 ant to subsection (b)(6);

19 “(B) irrevocable letter or letters of credit,  
20 with a collateral assignment in favor of, and a  
21 commercially reasonable format acceptable to,  
22 the Administrator; or

23 “(C) any combination of the assets de-  
24 scribed in subparagraphs (A) and (B).

1           “(2) CONTRIBUTIONS.—The company shall  
2           make contributions to the loss reserve, either cash or  
3           letters of credit as provided above, in the following  
4           amounts and at the following intervals:

5                   “(A) 50 percent when a debenture is  
6           closed.

7                   “(B) 25 percent additional not later than  
8           1 year after a debenture is closed.

9                   “(C) 25 percent additional not later than  
10          2 years after a debenture is closed.

11          “(3) REPLENISHMENT.—If a loss has been sus-  
12          tained by the Administrator, any portion of the loss  
13          reserve, and other funds provided by the premier  
14          certified development company as necessary, may be  
15          used to reimburse the Administrator for the premier  
16          certified development company’s share of the loss as  
17          provided for in subsection (b)(6). If the premier cer-  
18          tified development company utilizes the reserve, it  
19          shall, within 30 calendar days, replace an equivalent  
20          amount of funds.

21          “(4) DISBURSEMENTS.—

22                   “(A) IN GENERAL.—The Administrator  
23                  shall allow the premier certified development  
24                  company to withdraw from the loss reserve

1 amounts attributable to any debenture that has  
2 been repaid.

3 “(B) REDUCTION.—The Administrator  
4 shall allow the premier certified development  
5 company to withdraw from the loss reserve such  
6 amounts as are in excess of 1 percent of the ag-  
7 gregate outstanding balances of debentures to  
8 which such loss reserve relates. The reduction  
9 authorized by this subparagraph shall not apply  
10 with respect to any debenture before 100 per-  
11 cent of the contribution described in paragraph  
12 (2) with respect to such debenture has been  
13 made.

14 “(C) RULE OF CONSTRUCTION.—The pro-  
15 vision contained in subparagraph (B) shall be  
16 read as if enacted prior to a date 2 years and  
17 90 days after the date of enactment of the  
18 Small Business Financing and Investment Act  
19 of 2009.

20 “(e) BUREAU OF PREMIER CERTIFIED DEVELOP-  
21 MENT COMPANY LENDER OVERSIGHT.—

22 “(1) IN GENERAL.—There is hereby established  
23 a Bureau of Premier Certified Development Com-  
24 pany Lender Oversight in the Office of Lender Over-  
25 sight at the Administration which shall have respon-

1 sibility and capability for carrying out oversight of  
2 premier certified development companies and such  
3 other responsibilities as the Administrator des-  
4 ignates.

5 “(2) ANNUAL REVIEW.—The Bureau estab-  
6 lished in paragraph (1) annually shall review the fi-  
7 nancing made by each premier certified development  
8 company. Such review shall include the premier cer-  
9 tified development company’s credit decisions and  
10 general compliance with the eligibility requirements  
11 for each financing approved as a result of its status  
12 as a premier certified development company.

13 “(3) RANDOM AUDITS.—The Bureau shall de-  
14 velop and implement a method for sampling the de-  
15 bentures issued by premier certified development  
16 companies. Such sampling shall be similar to the  
17 random file audits of development companies that  
18 utilize the Abridged Submission Method described in  
19 chapter 4 of subpart C of Standard Operating Pro-  
20 cedure 50 10 (5)(A) as was in effect on March 2,  
21 2009.

22 “(4) REVIEW OF LENDERS PROVIDING SENIOR  
23 FINANCING.—

24 “(A) CALCULATION OF LOAN LOSS  
25 RATE.—The Bureau shall periodically calculate

1 the loss rate of all debentures approved under  
2 this section and shall calculate a loss rate on  
3 the basis of the total debentures attributable to  
4 projects approved by premier certified develop-  
5 ment companies in which each lender is a par-  
6 ticipating lender.

7 “(B) NOTIFICATION.—If the Bureau deter-  
8 mines that the loss rate on debentures involving  
9 an individual lender exceeds the average for all  
10 debentures approved under this section, it shall  
11 advise the Administrator.

12 “(5) USE OF REVIEWS AND AUDITS.—The Ad-  
13 ministrator shall consider the findings under para-  
14 graphs (2), (3), and (4) in carrying out the respon-  
15 sibilities under subsection (h).

16 “(f) SALE OF CERTAIN DEFAULTED LOANS.—

17 “(1) NOTICE.—If, upon default in repayment,  
18 the Administrator acquires a debenture issued by a  
19 premier certified development company and identi-  
20 fies such loan for inclusion in a bulk asset sale of  
21 defaulted or repurchased loans or other financing,  
22 the Administrator shall give prior notice thereof to  
23 any premier certified development company which  
24 has a contingent liability under this section. The no-  
25 tice shall be given to the premier certified develop-

1       ment company as soon as possible after the financ-  
2       ing is identified, but not less than 90 days before  
3       the date the Administrator first makes any records  
4       on such financing available for examination by pro-  
5       spective purchasers prior to its offering in a package  
6       of loans for bulk sale.

7               “(2) LIMITATIONS.—The Administrator shall  
8       not offer any loan described in paragraph (1) as  
9       part of a bulk sale unless the Administrator—

10               “(A) provides prospective purchasers with  
11       the opportunity to examine the Administration’s  
12       records with respect to such loan; and

13               “(B) provides the notice required by para-  
14       graph (1).

15       “(g) LOAN APPROVAL AUTHORITY.—

16               “(1) IN GENERAL.—A premier certified develop-  
17       ment company may, under conditions determined by  
18       the Administrator in regulations published in the  
19       Code of Federal Regulations, issue guarantees on  
20       debentures, approve, authorize, close, service, fore-  
21       close, litigate (except that the Administrator may  
22       monitor conduct of any such litigation), and liq-  
23       uidate loans that are funded with proceeds of a de-  
24       benture issued by a premier certified development  
25       company unless the Administrator advises the com-

1       pany that loans involving a specific institutional  
2       lender are to be submitted to the Administrator for  
3       further consideration, and approval by the Adminis-  
4       trator.

5               “(2) PROGRAM GOALS.—Each premier certified  
6       development company shall establish a goal of proc-  
7       essing no less than 50 percent of the applications for  
8       assistance under this title that the premier certified  
9       development company receives. Failure to meet this  
10      goal shall have no affect on the company’s status as  
11      a premier certified development company under this  
12      section.

13              “(3) SCOPE OF REVIEW.—The approval of a  
14      loan and guarantee of a debenture by a premier cer-  
15      tified development company shall be subject to final  
16      approval as to the eligibility of any guarantee by the  
17      Administrator as set forth in section 506, but such  
18      final approval shall not include review of decisions  
19      by the premier certified development company in-  
20      volving creditworthiness, loan closing, or compliance  
21      with legal requirements imposed by law or regula-  
22      tion.

23              “(h) SUSPENSION OR REVOCATION.—The Adminis-  
24      trator may suspend or revoke an accredited certified devel-  
25      opment company’s premier status if the Administrator de-



1 terminates, after a hearing on the record as set forth in sec-  
2 tions 554, 556, and 557 of title 5, United States Code,  
3 that the accredited certified development company no  
4 longer meets the eligibility criteria established under this  
5 section, fails to maintain adequate loan loss reserves man-  
6 dated in this section even if it meets the other eligibility  
7 requirements for premier status, or violates the Adminis-  
8 trator's rules, regulations, or some other provision of law.  
9 The Administrator shall consider the review of the premier  
10 certified development company conducted pursuant to sub-  
11 section (e) in determining whether to suspend or revoke  
12 an accredited development company's premier status.  
13 Such suspension or revocation shall have no effect on the  
14 development company's status as an accredited certified  
15 development company.

16 “(i) EFFECT OF SUSPENSION OR REVOCATION.—A  
17 suspension or revocation of premier status shall not affect  
18 any outstanding debenture guarantee.

19 “(j) RULE OF CONSTRUCTION.—Any reference to the  
20 term ‘premier certified lender’ or ‘PCL’ in legislation en-  
21 acted, or regulations adopted, prior to the enactment of  
22 the Small Business Financing and Investment Act of 2009  
23 shall be deemed to be a reference to the term ‘premier  
24 certified development company’.”.

1   **SEC. 215. MULTI-STATE OPERATIONS.**

2       Section 505 of the Small Business Investment Act  
3 of 1958 (15 U.S.C. 697b) is amended to read as follows:

4   **“SEC. 505. MULTI-STATE OPERATIONS.**

5       “(a) AUTHORIZATION.—The Administrator shall per-  
6 mit an accredited or premier certified development com-  
7 pany to make loans or issue debentures in any State that  
8 is contiguous to the State of incorporation of that com-  
9 pany only if the company—

10           “(1) has members, from each of the States in  
11 which it operates with not fewer than 25 members  
12 who reside in such States;

13           “(2) has a board of directors that contains not  
14 fewer than 2 members from each State in which the  
15 company makes loans and issues debentures and are  
16 residents of that State;

17           “(3) maintains a separate loan committee to  
18 process loans in each expansion State and the mem-  
19 bers of the loan committee are solely residents of the  
20 expansion State; and

21           “(4) files an application developed by the Ad-  
22 ministrator which provides—

23                   “(A) notice of the intention to make loans  
24 in multiple States;

25                   “(B) a specification of the States in which  
26 the company intends to make loans;

1                   “(C) a list of members in each expansion  
2                   State; and

3                   “(D) a detailed statement on how the com-  
4                   pany will comply with the requirements of this  
5                   subsection.

6           “(b) LOAN COMMITTEES.—The requirements of  
7   paragraph (3) of subsection (a) shall not require a devel-  
8   opment company to establish a loan committee in its State  
9   of incorporation or in a local economic area outside the  
10   State of incorporation unless such area is part of an ex-  
11   pansion State.

12           “(c) REVIEW.—

13                   “(1) IN GENERAL.—The Administrator shall re-  
14                   view each application for expansion under subsection  
15                   (a), but such review shall be limited to that informa-  
16                   tion needed to determine whether the company will  
17                   comply with the requirements of subsection (a).

18                   “(2) DEADLINE FOR DECISION.—The Adminis-  
19                   trator shall make a decision on each application  
20                   under subsection (a) within 15 calendar days after  
21                   the receipt of the application. If no such decision is  
22                   granted, the application is deemed to be approved  
23                   and no further action is required by the applicant or  
24                   the Administrator for the company to expand into  
25                   the States specified in the application.

1           “(3) APPLICATION RESUBMITTAL.—If the Ad-  
2           ministrators rejects the application for expansion, the  
3           Administrator shall provide in writing the reasons  
4           for denial within 10 calendar days of the decision.  
5           The applicant then may resubmit the application but  
6           the review of such resubmitted applications will be  
7           limited only to the areas in which the Administrator  
8           found the original application deficient. The dead-  
9           lines in paragraph (2) shall apply to resubmitted ap-  
10          plications.

11          “(4) APPEAL.—If a resubmitted application is  
12          denied, the applicant may, within 10 calendar days  
13          after receipt of the disapproval, appeal such dis-  
14          approval. The Administrator shall conduct a hearing  
15          to determine such appeal pursuant to sections 554,  
16          556, and 557 of title 5, United States Code, and  
17          shall issue a decision not later than 45 days after  
18          the appeal is filed. The decision on appeal shall con-  
19          stitute final agency action for purposes of chapter 7  
20          of title 5, United States Code.

21          “(d) FAILURE TO DEVELOP APPLICATION.—If the  
22          Administrator fails to develop an application as required  
23          in subsection (a)(4) within 60 days of the enactment of  
24          the Small Business Financing and Investment Act of  
25          2009, an accredited or premier certified development com-

1 pany only need submit the information required in sub-  
2 section (a) to the Administrator to be deemed eligible to  
3 commence operations authorized by this section. Such eli-  
4 gibility shall not be terminated if the Administrator devel-  
5 ops an application after the 60-day period set forth in this  
6 subsection.

7 “(e) AGGREGATE ACCOUNTING.—An accredited or  
8 premier certified development company authorized to op-  
9 erate in multiple States pursuant to this section may  
10 maintain an aggregate accounting of all revenue and ex-  
11 penses of the company for purposes of this title.

12 “(f) LOCAL JOB CREATION REQUIREMENTS.—

13 “(1) IN GENERAL.—Any company making loans  
14 in multiple States as authorized in this section shall  
15 not count jobs created or retained in one State to-  
16 wards any applicable job creation or retention re-  
17 quirements mandated by this title in another State.

18 “(2) APPLICABILITY.—Any company operating  
19 under the authority of this section shall be required  
20 to meet any job creation or retention requirement of  
21 this title on the date that is 2 years after the cer-  
22 tified development company closed its first loan in  
23 its new State of operation.

24 “(g) CONTIGUOUS STATES.—For the purposes of this  
25 section, the States of Alaska and Hawaii shall be deemed

1 to be contiguous to any State abutting the Pacific Ocean.  
2 Territories of the United States located in the Pacific  
3 Ocean shall be deemed to be contiguous to any State abut-  
4 ting the Pacific Ocean, including Alaska and Hawaii, and  
5 territories of the United States located in the Caribbean  
6 Sea shall be deemed contiguous to any State abutting the  
7 Gulf of Mexico.

8 “(h) EXEMPTION FOR LOCAL ECONOMIC AREAS.—  
9 Except as provided in subsection (a)(3) with respect to  
10 loan committees, any certified, accredited, or premier de-  
11 velopment company or applicant operating in a local eco-  
12 nomic development area that crosses the border of another  
13 State shall not be considered to be operating under the  
14 provisions of this section and shall not be required to com-  
15 ply with the requirements of this section for multi-State  
16 operation.”.

17 **SEC. 216. GUARANTY OF DEBENTURES.**

18 Section 506 of the Small Business Investment Act  
19 of 1958 (15 U.S.C. 697c) is amended to read as follows:

20 **“SEC. 506. GUARANTY OF DEBENTURES.**

21 “(a) AUTHORITY TO GUARANTEE.—Except as pro-  
22 vided in subsection (c), the Administrator may guarantee  
23 the timely payment of all principal and interest as sched-  
24 uled on any debenture issued by a certified development  
25 company.

1       “(b) TERMS AND CONDITIONS OF THE GUAR-  
2 ANTEE.—Such guarantees may be made on such terms  
3 and conditions as the Administrator may by regulation,  
4 published in the Code of Federal Regulations, determine  
5 to be appropriate, except that the Administrator shall not  
6 decline to issue such guarantee when the ownership inter-  
7 ests of the small business concern and the ownership inter-  
8 ests of the property to be financed with the proceeds of  
9 the loan made pursuant to subsection (e)(1) are not iden-  
10 tical because one or more of the following classes of rel-  
11 atives have an ownership interest in either the small busi-  
12 ness concern or the property: father, mother, son, daugh-  
13 ter, wife, husband, brother, or sister, if the Administrator  
14 or his designee has determined on a case-by-case basis  
15 that such ownership interest, such guarantee, and the pro-  
16 ceeds of such loan, will substantially benefit the small  
17 business concern.

18       “(c) FULL FAITH AND CREDIT.—The full faith and  
19 credit of the United States is pledged to the payment of  
20 all amounts guaranteed under this section.

21       “(d) SUBORDINATION.—Any debenture issued by a  
22 certified development company with respect to which a  
23 guarantee is made under this section may be subordinated  
24 by the Administrator to any other debenture, promissory  
25 note, or other debt or obligation of such company.

1       “(e) STANDARDS FOR ADMINISTRATOR GUARAN-  
2 TEES.—No guarantee may be made with respect to any  
3 debenture under this section unless—

4           “(1) the debenture is issued for the purpose of  
5 making one or more loans to small business concerns  
6 the proceeds of which shall be used for the purposes  
7 set forth in section 507;

8           “(2) the interest rate on such debentures is not  
9 less than the rate of interest determined by the Sec-  
10 retary of the Treasury for purposes of section  
11 303(b);

12           “(3) the aggregate amount of such debenture  
13 does not exceed the amount of the loans to be made  
14 from the proceeds of such debenture plus, at the  
15 election of the borrower, other amounts attributable  
16 to the administrative and closing costs of such loans,  
17 except for the attorney fees of the borrower;

18           “(4) the amount of any loan to be made from  
19 such proceeds does not exceed an amount equal to  
20 50 percent of the cost of the project with respect to  
21 which such loan is made;

22           “(5) the Administrator, except to the extent  
23 provided in section 504 with respect to premier cer-  
24 tified development companies, approves each loan to  
25 be made from such proceeds; and



1           “(6) with respect to each loan made from the  
2       proceeds of such debenture, the Administrator—

3           “(A) assesses and collects a fee, which  
4       shall be payable by the borrower, in an amount  
5       established annually by the Administration,  
6       which amount shall not exceed—

7           “(i) the lesser of—

8                       “(I) 0.9375 percent per year of  
9       the outstanding balance of the loan;  
10       or

11                      “(II) the minimum amount nec-  
12       essary to reduce the cost (as defined  
13       in section 502 of the Federal Credit  
14       Reform Act of 1990) to the Adminis-  
15       trator of purchasing and guaranteeing  
16       debentures under this title to zero;  
17       and

18           “(ii) 50 percent of the amount estab-  
19       lished under clause (i) in the case of a loan  
20       made during the 2-year period beginning  
21       on October 1, 2002, for the life of the  
22       loan; and

23           “(B) uses the proceeds of such fee to offset  
24       the cost (as such term is defined in section 502  
25       of the Federal Credit Reform Act of 1990) to

1           the Administrator of making guarantees under  
2           this section.

3           “(f) INTEREST RATES ON COMMERCIAL LOANS.—  
4   Notwithstanding the provisions of the constitution or laws  
5   of any State limiting the rate or amount of interest which  
6   may be charged, taken, received, or reserved, the max-  
7   imum legal rate of interest on any commercial loan which  
8   funds any portion of the cost of the project financed pur-  
9   suant to this title which is not funded by a debenture  
10   guaranteed under this section shall be a rate which is es-  
11   tablished by the Administrator who shall publish such rate  
12   quarterly in, at a minimum, the Federal Register and on  
13   the Administration’s website.

14          “(g) DEBENTURE REPAYMENT.—Any debenture that  
15   is issued under this section shall provide for the payment  
16   of principal and interest on a semiannual basis.

17          “(h) CHARGES FOR ADMINISTRATOR’S EXPENSES.—  
18   The Administrator may impose an additional charge for  
19   administrative expenses with respect to each debenture for  
20   which payment of principal and interest is guaranteed  
21   under this section. Such administrative expenses may in-  
22   clude—

23               “(1) development company fees for processing,  
24               closing, servicing, late payment, or loan assumption;

1           “(2) agent or trustee fees for central servicing,  
2           underwriters, or debenture funding; and

3           “(3) fees charged by the Administrator for the  
4           debenture guaranty and from the certified develop-  
5           ment company to reduce the subsidy cost.

6           “(i) PARTICIPATION FEE.—The Administrator shall  
7           collect a one-time fee in an amount equal to 50 basis  
8           points on the total participation in any project of any  
9           State or local government, bank, other financial institu-  
10          tion, or foundation or not-for-profit institution. Such fee  
11          shall be imposed only when the participation of the entity  
12          described in the previous sentence will occupy a senior  
13          credit position to that of the development company. All  
14          proceeds of the fee shall be used to offset the cost (as  
15          that term is defined in section 502 of the Credit Reform  
16          Act of 1990) to the Administrator of making guarantees  
17          under this section.

18          “(j) CERTIFIED DEVELOPMENT COMPANY FEE.—  
19          The Administrator shall collect annually from each devel-  
20          opment company a fee of 0.125 percent of the outstanding  
21          principal balance of any guaranteed debenture authorized  
22          by the Administrator after September 30, 1996. Such fee  
23          shall be derived from the servicing fees collected by the  
24          certified development company pursuant to regulation,  
25          and shall not be derived from any additional fees imposed

1 on small business concerns. All proceeds of the fee shall  
 2 be used to offset the cost (as that term is defined in sec-  
 3 tion 502 of the Credit Reform Act of 1990) to the Admin-  
 4 istrator of making guarantees under this section.

5 “(k) EFFECTIVE DATE.—The fees authorized by this  
 6 section shall apply to any financing approved under this  
 7 title on or after October 1, 1996.

8 “(l) CALCULATION OF SUBSIDY RATE.—All fees, in-  
 9 terest, and profits received and retained by the Adminis-  
 10 trator under this section shall be included in the calcula-  
 11 tions made by the Director of the Office of Management  
 12 and Budget to offset the cost (as that term is defined in  
 13 section 502 of the Federal Credit Reform Act of 1990)  
 14 to the Administrator of purchasing and guaranteeing de-  
 15 bentures under this title.

16 “(m) ACTIONS UPON DEFAULT.—

17 “(1) INITIAL ACTIONS.—Not later than the  
 18 45th day after the date on which a payment on a  
 19 loan funded through a debenture guaranteed under  
 20 this section is due and not received, the Adminis-  
 21 trator shall—

22 “(A) take all necessary steps to bring such  
 23 loan current; or

24 “(B) implement a formal written deferral  
 25 agreement.

1           “(2) PURCHASE OR ACCELERATION OF DEBEN-  
2           TURE.—Not later than the 65th day after the date  
3           on which a payment on a loan described in para-  
4           graph (1) is due and not received, and absent a for-  
5           mal written deferral agreement, the Administrator  
6           shall take all necessary steps to purchase or accel-  
7           erate the debenture.

8           “(3) PREPAYMENT PENALTIES.—With respect  
9           to the portion of any project derived from funds not  
10          provided by a debenture issued by a certified devel-  
11          opment company or borrower, the Administrator—

12               “(A) shall negotiate the elimination of any  
13               prepayment penalties or late fees on defaulted  
14               loans made prior to September 30, 1996;

15               “(B) shall not pay any prepayment penalty  
16               or late fee on the default based purchase of  
17               loans issued after September 30, 1996; and

18               “(C) shall not pay a default interest rate  
19               higher than the interest rate on the note prior  
20               to the date of default for any project financed  
21               after September 30, 1996.

22          “(4) COLLECTION AND SERVICING.—

23               “(A) IN GENERAL.—In the event of the de-  
24               fault of any loan and the repurchase of a de-  
25               benture guaranteed by the Administrator under

1 this title, the Administrator shall continue to  
2 delegate to the central servicing agent that was  
3 contracted for that service as of January 1,  
4 2009, or successor contractor the authority to  
5 collect and disburse all funds or payments re-  
6 ceived on such defaulted loans, including pay-  
7 ments from guarantors or on notes in com-  
8 promise of the original note. The central serv-  
9 icing agent shall continue to provide an ac-  
10 counting of income and expenses for any such  
11 loan on the same basis it does for any other  
12 loan issued under this title. The central serv-  
13 icing agent shall make the accounting of income  
14 and expenses and reports thereon available as  
15 requested by the certified development company  
16 that issued the debenture or the Administrator.

17 “(B) EFFECTIVE DATE.—The require-  
18 ments of subparagraph (A) shall become effec-  
19 tive 180 days after the date of enactment of the  
20 Small Business Financing and Investment Act  
21 of 2009.”.

22 **SEC. 217. ECONOMIC DEVELOPMENT THROUGH DEBEN-**  
23 **TURES.**

24 Section 507 of the Small Business Investment Act  
25 of 1958 (15 U.S.C. 697d) is amended to read as follows:

1   **“SEC. 507 ECONOMIC DEVELOPMENT AND DEBENTURES.**

2           “(a) IN GENERAL.—A certified development company  
3 shall be prohibited from issuing a debenture under this  
4 title unless the project funded with the debenture meets  
5 one of the following economic development objectives:

6           “(1) The creation of job opportunities within  
7 two years of the completion of the project or the  
8 preservation or retention of jobs attributable to the  
9 project.

10          “(2) Improving the economy of the locality,  
11 such as stimulating other business development in  
12 the community, bringing new income into the area,  
13 or assisting the community in diversifying and stabi-  
14 lizing its economy.

15          “(3) The achievement of one or more of the fol-  
16 lowing public policy goals:

17           “(A) Business district revitalization or ex-  
18 pansion of businesses in low-income commu-  
19 nities which would be eligible for a new markets  
20 tax credit under section 45D(a) of the Internal  
21 Revenue Code of 1986, or implementing regula-  
22 tions issued under that section.

23           “(B) Expansion of exports.

24           “(C) Expansion of minority business devel-  
25 opment or women-owned business development.

26           “(D) Rural development.

1           “(E) Expansion of small business concerns  
2           owned and controlled by veterans, as defined in  
3           section 3(q) of the Small Business Act (15  
4           U.S.C. 632(q)), especially service-disabled vet-  
5           erans, as defined in such section.

6           “(F) Enhanced economic competition, in-  
7           cluding the advancement of technology, plan re-  
8           tooling, conversion to robotics, or competition  
9           with imports.

10          “(G) Changes necessitated by Federal  
11          budget cutbacks, including defense related in-  
12          dustries.

13          “(H) Business restructuring arising from  
14          federally mandated standards or policies affect-  
15          ing the environment or the safety and health of  
16          employees.

17          “(I) Reduction of energy consumption by  
18          at least 10 percent.

19          “(J) Increased use of sustainable design,  
20          including designs that reduce the use of green-  
21          house gas emitting fossil fuels, or low-impact  
22          design to produce buildings that reduce the use  
23          of nonrenewable resources and minimize envi-  
24          ronmental impact.



1           “(K) Plant, equipment, and process up-  
 2           grades of renewable energy sources such as the  
 3           small-scale production of energy for individual  
 4           buildings or communities consumption, com-  
 5           monly known as micropower, or renewable fuels  
 6           producers including biodiesel and ethanol pro-  
 7           ducers.

8           “(4) Debt refinancing to the extent permitted  
 9           by subsection (d).

10          “(b) JOB CREATION AND RETENTION REQUIRE-  
 11          MENTS.—

12           “(1) IN GENERAL.—A project meets the job  
 13           creation or retention objective set forth in subsection  
 14           (a)(1) if the project creates or retains one job for  
 15           every \$65,000 guaranteed by the Administrator, ex-  
 16           cept that the amount shall be \$100,000 in the case  
 17           of a project of a small manufacturer.

18           “(2) EXCEPTIONS.—

19           “(A) Paragraph (1) shall not apply to a  
 20           project for which eligibility is based on the ob-  
 21           jectives set forth in subsection (a)(2) or (a)(3)  
 22           if the certified development company’s portfolio  
 23           of outstanding debentures creates or retains one  
 24           job for every \$65,000 guaranteed by the Ad-  
 25           ministrator.

1           “(B) For projects in Alaska, Hawaii,  
2           State-designated enterprise zones, empower-  
3           ment zones, enterprise communities, or labor  
4           surplus areas designated by the Administrator,  
5           the certified development company’s portfolio  
6           may average not more than \$75,000 per job  
7           created or retained.

8           “(C) Loans for projects of small manufac-  
9           turers shall be excluded from the calculations in  
10          subparagraphs (A) and (B).

11       “(c) COMBINATION OF CERTAIN GOALS.—A small  
12       business concern that is unconditionally owned by more  
13       than 1 individual, or a corporation, the stock of which is  
14       owned by more than 1 individual, shall be deemed to have  
15       achieved a goal under subsection (a)(3) if a combined own-  
16       ership share of not less than 51 percent is held by individ-  
17       uals who are in 1 of, or a combination of, the groups de-  
18       scribed in subparagraphs (C) or (E) of subsection (a)(1).

19       “(d) COMPOSITION OF THE PROJECT.—

20       “(1) IN GENERAL.—The projects described in  
21       this section shall include, but not be limited to, plant  
22       acquisition, construction, conversion, expansion (in-  
23       cluding the acquisition of land), equipment and re-  
24       lated project costs, or to acquire the stock of a cor-  
25       poration (as long as the value of the loan for the ac-

1       quisition of the stock does not exceed the fixed asset  
2       value attributable to such assets as would be eligible  
3       for financing under subsection (a)).

4               “(2) DEBT REFINANCING.—Any financing ap-  
5       proved under this title may include a limited amount  
6       of debt refinancing if the project involves the expan-  
7       sion of a small business concern.

8               “(3) LIMITATION.—The amount of the existing  
9       indebtedness may be refinanced and added to the ex-  
10      pansion cost if—

11               “(A) the existing indebtedness does not ex-  
12      ceed 50 percent of the project cost of the ex-  
13      pansion;

14               “(B) the proceeds of the indebtedness were  
15      used to acquire land, including a building situ-  
16      ated thereon, to construct a building thereon, or  
17      to purchase equipment;

18               “(C) the existing indebtedness is  
19      collateralized by fixed assets;

20               “(D) the existing indebtedness was in-  
21      curred for the benefit of the small business con-  
22      cern;

23               “(E) the financing under this title will be  
24      used only for refinancing existing indebtedness

1 or costs relating to the project financed under  
2 this title;

3 “(F) the financing under this title will pro-  
4 vide a substantial benefit to the borrower when  
5 prepayment penalties, financing fees, and other  
6 financing costs are accounted for;

7 “(G) the borrower has been current on all  
8 payments due on the existing debt for not less  
9 than 1 year preceding the date of refinancing;  
10 and

11 “(H) the financing under this title will  
12 provide better terms or rate of interest than the  
13 existing indebtedness at the time of refinancing.

14 “(e) DEFINITION.—For purposes of subparagraphs  
15 (J) and (K) of subsection (a)(3), the terms included have  
16 the meanings given those terms under the Leadership in  
17 Energy and Environmental Design (more generally re-  
18 ferred to as LEED) standard for green building certifi-  
19 cation, as determined by the Administrator through regu-  
20 lation to be published in the Code of Federal Regula-  
21 tions.”.

22 **SEC. 218. PROJECT FUNDING REQUIREMENTS.**

23 Section 508 of the Small Business Investment Act  
24 of 1958 (15 U.S.C. 697e) is amended to read as follows:

1 **“SEC. 508. PROJECT FUNDING REQUIREMENTS.**

2 “(a) IN GENERAL.—Any project described in section  
3 507 must meet the funding standards set forth in this sec-  
4 tion.

5 “(b) SIZE OF DEBENTURE.—The Administrator shall  
6 only be permitted to guarantee debenture issued by a cer-  
7 tified development company up to the following amounts:

8 “(1) \$3,000,000 for any project of a small busi-  
9 ness concern.

10 “(2) \$4,000,000 for any project that meets the  
11 public policy goals set forth in section 507(a)(3).

12 “(3) \$4,000,000 for any project to be located in  
13 a low-income community as that term is described in  
14 section 507(a)(3)(A).

15 “(4) \$8,000,000 for each project of a small  
16 manufacturer.

17 “(5) \$8,000,000 for each project that reduces  
18 the borrower’s energy consumption by at least 10  
19 percent.

20 “(6) \$8,000,000 for each project that generates  
21 renewable energy or renewable fuels, such as, but  
22 not limited to, biodiesel or ethanol production.

23 “(7) \$10,000,000 for each project for a small  
24 business concern that constitutes a major source of  
25 employment as that term is used in section

1       7(b)(3)(E) of the Small Business Act (15 U.S.C.  
2       636(b)(3)(E)).

3       “(c) FUNDING FROM SOURCES OTHER THAN DE-  
4       BENTURES ISSUED BY CERTIFIED DEVELOPMENT COM-  
5       PANIES.—

6               “(1) IN GENERAL.—Any project financed pur-  
7       suant to this title must have the following contribu-  
8       tions from parties other than the debenture issued  
9       by the certified development company:

10               “(A) FUNDING FROM INSTITUTIONS.—

11                       “(i) If a small business concern pro-  
12       vides—

13                               “(I) the minimum contribution  
14       required by subparagraph (B), not  
15       less than 50 percent of the total cost  
16       of any project financed shall come  
17       from State or local governments,  
18       banks or other financial institutions,  
19       or foundations or other not-for-profit  
20       institutions; and

21                               “(II) more than the minimum  
22       contribution required under subpara-  
23       graph (B), any excess contribution  
24       may be used to reduce the amount re-  
25       quired from institutions described in

1                   subclause (I), except that the amount  
2                   provided by such institution may not  
3                   be reduced to an amount that is less  
4                   than the amount of the loan made by  
5                   the Administrator.

6                   “(B) FUNDING FROM SMALL BUSINESS  
7                   CONCERNS.—The small business concern (or its  
8                   owners, stockholders, or affiliates) that will  
9                   have a project financed pursuant to this title  
10                  shall provide—

11                  “(i) at least 15 percent of the total  
12                  cost of the project financed if the small  
13                  business concern has been in operation for  
14                  a period of 2 years or less;

15                  “(ii) at least 15 percent of the total  
16                  cost of the project financed if the project  
17                  involves construction of a limited or single  
18                  purposed building or structure;

19                  “(iii) at least 20 percent of the total  
20                  cost of the project financed if the project  
21                  involves both of the conditions in clauses  
22                  (i) and (ii); or

23                  “(iv) at least 10 percent of the total  
24                  cost of the project financed and not cov-  
25                  ered by clauses (i), (ii), or (iii), at the dis-

1                   cretion of the certified development com-  
2                   pany.

3                   “(2) SELLER FINANCING.—Seller-provided fi-  
4                   nancing may be used to meet the requirements of  
5                   paragraph (1)(B), if the seller subordinates the in-  
6                   terest of the seller in the property to the debenture  
7                   guaranteed by the Administrator.

8                   “(3) COLLATERALIZATION.—

9                   “(A) IN GENERAL.—The collateral pro-  
10                  vided by the small business concern shall gen-  
11                  erally include a subordinate lien position on the  
12                  property being financed under this title, and is  
13                  only one of the factors to be evaluated in the  
14                  credit determination. Additional collateral shall  
15                  be required only if the Administrator deter-  
16                  mines, on a case-by-case basis, that additional  
17                  security is necessary to protect the interest of  
18                  the Government.

19                  “(B) APPRAISALS.—With respect to com-  
20                  mercial real property provided by the small  
21                  business concern as collateral, an appraisal of  
22                  the property by a State licensed or certified ap-  
23                  praiser—

24                               “(i) shall be required by the Adminis-  
25                               trator before disbursement of the loan if



1 the estimated value of that property is  
2 more than \$400,000; or

3 “(ii) may be required by the Adminis-  
4 trator or the lender before disbursement of  
5 the loan if the estimated value of that  
6 property is \$400,000 or less, and such ap-  
7 praisal is necessary for appropriate evalua-  
8 tion of creditworthiness.

9 “(C) ADJUSTMENT.—The Administrator  
10 shall periodically adjust the amount under sub-  
11 paragraph (B) to account for the effects of in-  
12 flation, provided that no such adjustment shall  
13 be less than \$50,000.

14 “(4) LIMITATION ON LEASING.—

15 “(A) If the project funded under this sec-  
16 tion includes the acquisition of a facility or the  
17 construction of a new facility, the small busi-  
18 ness concern—

19 “(i) shall permanently occupy and use  
20 not less than 50 percent of the project  
21 property; and

22 “(ii) may, on a temporary or perma-  
23 nent basis, lease to others not more than  
24 50 percent of the project property.

1                   “(B) For purposes of this paragraph, the  
2                   term ‘project property’ means—

3                   “(i) the building and any exterior  
4                   areas used in connection with the building  
5                   or a part thereof and includes all of the  
6                   parcels of real property included in the  
7                   project in the aggregate; and

8                   “(ii) occupancy and use of the project  
9                   property by the operating company shall be  
10                  deemed to be occupancy and use by the  
11                  small business concern that received fund-  
12                  ing under this section.

13               “(d) REGULATIONS.—(1) The Administrator shall  
14               promulgate regulations, after notice and comment, to im-  
15               plement the provisions of this section within 60 days after  
16               enactment of the Small Business Financing and Invest-  
17               ment Act of 2009. The Administrator may limit the com-  
18               ment period to 15 days to meet this deadline.

19               “(2) If the Administrator fails to promulgate the reg-  
20               ulations as provided in paragraph (1), all leases entered  
21               into, absent clear and convincing evidence of fraud, shall  
22               be deemed to be in compliance with the limitations on leas-  
23               ing in this subparagraph for purposes of honoring the  
24               guarantee on the debenture issued by the certified develop-  
25               ment company.

1       “(3) Any regulation of the Administrator or interpre-  
2   tation of any regulation by the Administrator or the Office  
3   of Hearings and Appeals that restricts the use of proceeds  
4   for leased projects that was in effect on the date of enact-  
5   ment of the Small Business Financing and Investment Act  
6   of 2009 shall hereby cease to apply.

7       “(4) Any interpretation of the leasing provisions  
8   issued by the Administrator prior to the issuance of regu-  
9   lations required by paragraph (1) shall be considered null  
10   and void and may be not be used in any court of com-  
11   petent jurisdiction, be it Federal or State court, to dis-  
12   honor any guarantee of a debenture issued by a certified  
13   development company for a project funded pursuant to  
14   this section.

15       “(e) OWNERSHIP CALCULATION.—Ownership re-  
16   quirements to determine the eligibility of a small business  
17   concern that applies for funding under this title shall be  
18   determined without regard to any ownership interest of  
19   a spouse arising solely from the application of the commu-  
20   nity property laws of a State for purposes of determining  
21   marital interests.

22       “(f) COMBINATION FINANCING.—Financing under  
23   this title may be provided to a borrower in the maximum  
24   amount provided in this section, and a loan guarantee  
25   under section 7(a) of the Small Business Act (15 U.S.C.

1 636(a)) may be provided to the same borrower in the max-  
 2 imum amount provided in section 7(a)(3)(A) of such Act,  
 3 to the extent that the borrower otherwise qualifies for such  
 4 assistance.

5 “(g) RULES FOR DEBENTURES FUNDING PROJECTS  
 6 IN LOW-INCOME AREAS.—

7 “(1) SIZE STANDARDS.—For purposes of deter-  
 8 mining the size of a small business concern seeking  
 9 funds for a project described in subsection (b)(3),  
 10 the size standard promulgated by the Administrator  
 11 in section 121.201 of title 13, Code of Federal Reg-  
 12 ulations, as in effect on January, 1, 2009, or any  
 13 successor regulation, shall be increased by 25 per-  
 14 cent.

15 “(2) PERSONAL LIQUIDITY.—

16 “(A) IN GENERAL.—The amount of per-  
 17 sonal resources of an owner for a project de-  
 18 scribed in subsection (b)(3) that are excluded  
 19 from the amount required to reduce the portion  
 20 of the project funded by the Administrator shall  
 21 be not less than 25 percent more than that re-  
 22 quired for funding of any other project de-  
 23 scribed in subsection (b).

24 “(B) DEFINITION.—For purposes of sub-  
 25 paragraph (A), the term ‘owner’ means any

1 person that owns not less than 20 percent of  
 2 the equity or has not less than 20 percent of  
 3 the voting rights (in the case of a small busi-  
 4 ness organized as a partnership) of a small  
 5 business concern seeking funds under this sec-  
 6 tion.

7 “(h) APPLICABILITY OF CREDIT ELSEWHERE AND  
 8 PERSONAL RESOURCES REGULATIONS.—Except as pro-  
 9 vided in subsection (c)(1)(B) with respect to project fund-  
 10 ing, the Administrator shall be prohibited from applying  
 11 the regulations set forth in sections 120.101 and 120.102  
 12 of title 13, Code of Federal Regulations, as in effect on  
 13 January 1, 2009, or any successor regulation that applies  
 14 a credit elsewhere or personal resources test to any appli-  
 15 cation for a loan under this title pending or filed after  
 16 the date of enactment of the Small Business Financing  
 17 and Investment Act of 2009.”.

18 **SEC. 219. PRIVATE DEBENTURE SALES AND POOLING OF**  
 19 **DEBENTURES.**

20 Section 509 of the Small Business Investment Act  
 21 of 1958 (15 U.S.C. 697f) is amended to read as follows:

22 **“SEC. 509. PRIVATE DEBENTURE SALES AND POOLING OF**  
 23 **DEBENTURES.**

24 “(a) PRIVATE DEBENTURE SALES.—Notwith-  
 25 standing any other law, rule, or regulation, the Adminis-

1 trator shall sell to investors, either publicly or by private  
2 placement, debentures issued by certified development  
3 companies pursuant to this title for the full amount of the  
4 program levels authorized in each fiscal year and if there  
5 is not authorization of a level, the amount of debentures  
6 actually issued.

7 “(b) FEDERAL FINANCING BANK.—Nothing in any  
8 provision of law shall be construed to authorize the Fed-  
9 eral Financing Bank to acquire—

10 “(1) any obligation the payment of principal or  
11 interest on which at any time has been guaranteed  
12 in whole or in part under this title and which is  
13 being sold pursuant to the provisions of this section;

14 “(2) any obligation which is an interest in any  
15 obligation which is an interest in any obligation de-  
16 scribed in paragraph (1); or

17 “(3) any obligation which is secured by, or sub-  
18 stantially all of the value of which is attributable to,  
19 any obligation described in paragraph (1) or (2).

20 “(c) POOLING OF DEBENTURES.—

21 “(1) IN GENERAL.—The Administrator is au-  
22 thorized to issue trust certificates representing own-  
23 ership of all or a fractional part of debentures issued  
24 by certified development companies and guaranteed  
25 under this title if such trust certificates are based on

1 and backed by a trust or pool approved by the Ad-  
2 ministrator and composed solely of guaranteed de-  
3 bentures.

4 “(2) GUARANTEE OF TRUST CERTIFICATES.—

5 The Administrator is authorized, upon such terms  
6 and conditions as are deemed appropriate, to guar-  
7 antee the timely payment of the principal of and in-  
8 terest on trust certificates issued by the Adminis-  
9 trator or its agent for purposes of this section. Such  
10 guarantee shall be limited to the extent of principal  
11 and interest on the guaranteed debentures which  
12 compose the trust or pool. In the event that a deben-  
13 ture in such trust or pool is prepaid, either volun-  
14 tarily or in the event of default, the guarantee of  
15 timely payment of principal and interest on the trust  
16 certificates shall be reduced in proportion to the  
17 amount of principal and interest such prepaid deben-  
18 ture represents in the trust or pool. Interest on pre-  
19 paid or defaulted debentures shall accrue and be  
20 guaranteed by the Administrator only through the  
21 date of payment on the guarantee. During the term  
22 of the trust certificate, it may be called for redemp-  
23 tion due to prepayment or default of all debentures  
24 constituting the pool.

1           “(3) FULL FAITH AND CREDIT.—The full faith  
2           and credit of the United States is pledged to the  
3           payment of all amounts which may be required to be  
4           paid under any guarantee of such trust certificates  
5           issued by the Administrator or its agent pursuant to  
6           this section.

7           “(4) PROHIBITION ON GUARANTEE FEE FOR  
8           POOLS.—The Administrator shall not collect any fee  
9           for any guarantee under this section, provided that  
10          nothing herein shall preclude any agent of the Ad-  
11          ministrator from collecting a fee approved by the  
12          Administrator for the functions performed in para-  
13          graph (6)(F).

14          “(5) SUBROGATION.—

15                 “(A) IN GENERAL.—In the event the Ad-  
16                 ministrator pays a claim under a guarantee  
17                 issued under this section, it shall be subrogated  
18                 fully to the rights satisfied by such payment.

19                 “(B) ADMINISTRATOR EXERCISE OF  
20                 RIGHTS.—No Federal, State, or local law shall  
21                 preclude or limit the exercise by the Adminis-  
22                 trator of its ownership rights in the debentures  
23                 constituting the trust or pool against which the  
24                 trust certificates are issued.

25          “(6) CENTRAL REGISTRATION.—



1           “(A) IN GENERAL.—The Administrator  
2 shall provide for a central registration of all  
3 trust certificates sold pursuant to this section.

4           “(B) CONTRACT.—The Administrator shall  
5 contract with an agent to carry out on behalf  
6 of the Administrator the central registration  
7 functions of this section and the issuance of  
8 trust certificates to facilitate pooling.

9           “(C) BOND.—The Administrator shall re-  
10 quire the contractor to provide a fidelity bond  
11 or insurance in such amounts as is deemed nec-  
12 essary to fully protect the interests of the Gov-  
13 ernment.

14           “(D) DISCLOSURE REQUIREMENTS.—The  
15 Administrator shall, prior to any sale, require  
16 the seller to disclose to a purchaser of a trust  
17 certificate issued pursuant to this section, infor-  
18 mation on terms, conditions, and yield of such  
19 instruments.

20           “(E) AUTHORITY TO REGULATE.—The Ad-  
21 ministrator shall have the authority to regulate  
22 brokers and dealers in trust certificates sold  
23 pursuant to this section.

24           “(F) BOOK ENTRY PERMITTED.—Nothing  
25 in this paragraph shall prohibit the utilization

1           of a book-entry or other electronic form of reg-  
2           istration for trust certificates.”.

3   **SEC. 220. FORECLOSURE AND LIQUIDATION OF LOANS.**

4           Section 510 of the Small Business Investment Act  
5   of 1958 (15 U.S.C. 697g) is amended to read as follows:

6   **“SEC. 510. FORECLOSURE AND LIQUIDATION OF LOANS.**

7           “(a) DELEGATION OF AUTHORITY.—In accordance  
8   with this section, the Administrator shall delegate to any  
9   certified development company that meets the eligibility  
10   requirements of subsection (b)(1), the authority to fore-  
11   close and liquidate, or to otherwise treat in accordance  
12   with this section, defaulted loans in its portfolio that are  
13   funded with the proceeds of debentures guaranteed by the  
14   Administrator pursuant to this title.

15          “(b) ELIGIBILITY FOR DELEGATION.—

16               “(1) REQUIREMENTS.—A certified development  
17   company shall be eligible for a delegation of author-  
18   ity under subsection (a) if—

19                   “(A) the certified development company—

20                               “(i) has participated in the loan liq-  
21                               uidation pilot program established by the  
22                               Small Business Programs Improvement  
23                               Act of 1996 (15 U.S.C. 695 note), before  
24                               the enactment of the Small Business Fi-  
25                               nancing and Investment Act of 2009;

1 “(ii) is an accredited or premier cer-  
2 tified development company; or

3 “(iii) during the 3 fiscal years imme-  
4 diately prior to seeking such a delegation,  
5 has made an average of not less than 10  
6 loans per year that are funded with the  
7 proceeds of debentures guaranteed under  
8 this title; and

9 “(B) the certified development company—

10 “(i) has one or more employees—

11 “(I) with not less than 2 years of  
12 substantive, decisionmaking experi-  
13 ence in administering the liquidation  
14 and workout of problem loans secured  
15 in a manner substantially similar to  
16 loans funded with the proceeds of de-  
17 bentures guaranteed under this title;  
18 and

19 “(II) who have completed a train-  
20 ing program on loan liquidation devel-  
21 oped by the Administrator in conjunc-  
22 tion with a certified development com-  
23 pany that meet the requirements of  
24 this paragraph; or

1                   “(ii) submits to the Administrator  
2                   documentation demonstrating that the  
3                   company has contracted with a qualified  
4                   third party to perform any liquidation ac-  
5                   tivities and secures the approval of the  
6                   contract by the Administrator with respect  
7                   to the qualifications of the contractor and  
8                   the terms and conditions of liquidation ac-  
9                   tivities.

10                  “(2) CONFIRMATION.—On the request, the Ad-  
11                  ministrator shall examine the qualifications of any  
12                  certified development company described in sub-  
13                  section (a) to determine if such company is eligible  
14                  for the delegation of authority under this section. If  
15                  the Administrator determines that a company is not  
16                  eligible, the Administrator shall provide the com-  
17                  pany, in writing, with the reasons for such ineligi-  
18                  bility. The certified development company shall be  
19                  entitled to request delegated authority and the Ad-  
20                  ministrator shall review the request only to address  
21                  whether the certified development company has rec-  
22                  tified the reasons for the Administrator’s original  
23                  determination of ineligibility.

24                  “(c) SCOPE OF DELEGATED AUTHORITY.—

1           “(1) IN GENERAL.—Each certified development  
2           company to which the Administrator delegates au-  
3           thority under subsection (a) may with respect to any  
4           loan described in subsection (a)—

5                   “(A) perform all liquidation and fore-  
6                   closure functions, including the purchase in ac-  
7                   cordance with this subsection of any other in-  
8                   debtedness secured by the property securing the  
9                   loan, in a reasonable and sound manner accord-  
10                  ing to commercially accepted practices, pursu-  
11                  ant to a liquidation plan approved in advance  
12                  by the Administrator under paragraph (2)(A);

13                  “(B) litigate any matter relating to the  
14                  performance of the functions described in sub-  
15                  paragraph (A), except that the Administrator  
16                  may—

17                           “(i) defend or bring any claim if—

18                                   “(I) the outcome of the litigation  
19                                   may adversely affect the Administra-  
20                                   tor’s management of the program es-  
21                                   tablished under this title; or

22                                   “(II) the Administrator is enti-  
23                                   tled to legal remedies not available to  
24                                   a certified development company and  
25                                   such remedies will benefit either the

1 Administrator or the certified develop-  
2 ment company; and

3 “(ii) oversee the conduct of any such  
4 litigation; and

5 “(C) take other appropriate actions to  
6 mitigate loan losses in lieu of total liquidation  
7 or foreclosures, including the restructuring of a  
8 loan in accordance with prudent loan servicing  
9 practices and pursuant to a workout plan ap-  
10 proved in advance by the Administrator under  
11 paragraph (2).

12 “(2) ADMINISTRATOR APPROVAL OF PLANS.—

13 “(A) CERTIFIED DEVELOPMENT COMPANY  
14 SUBMISSION OF PLANS.—Before carrying out  
15 functions described in paragraph (1)(A) or  
16 (1)(C), the certified development company shall  
17 submit to the Administrator a proposed liquida-  
18 tion plan, any proposal for the Administrator to  
19 the purchase of any other indebtedness secured  
20 by the property securing a defaulted loan, or a  
21 workout plan or any combination thereof.

22 “(B) ADMINISTRATOR APPROVAL PROCE-  
23 DURES.—

24 “(i) TIMING.—Not later than 15 busi-  
25 ness days after the plans described in sub-

1 paragraph (A) are received by the Admin-  
2 istrator, the Administrator shall approve or  
3 reject the plan.

4 “(ii) NOTICE OF NO DECISION.—With  
5 respect to any plan that cannot be ap-  
6 proved or denied within the 15-day period  
7 required by clause (i), the Administrator  
8 shall within such period provide in accord-  
9 ance with subparagraph (E) notice to the  
10 company that submitted the plan.

11 “(C) ROUTINE ACTIONS.—In carrying out  
12 the functions described in paragraph (1)(A), a  
13 certified development company may undertake  
14 routine actions not addressed in a liquidation or  
15 workout plan without obtaining additional ap-  
16 proval from the Administrator.

17 “(D) COMPROMISE OF INDEBTEDNESS.—  
18 In carrying out functions described in para-  
19 graph (1)(A), a certified development company  
20 may—

21 “(i) consider an offer made by an obli-  
22 gor to compromise the debt for less than  
23 the full amount owing; and

24 “(ii) pursuant to such offer, release  
25 any obligor or other party contingently lia-

1                   ble, if the company secures the written ap-  
2                   proval of the Administrator.

3                   “(E) CONTENTS OF NOTICE OF NO DECISION.—Any notice provided by the Adminis-  
4                   trator pursuant to subparagraph (B)(ii) shall—

5                   “(i) be in writing stating the specific  
6                   reasons for which the Administrator was  
7                   unable to act on the request submitted  
8                   pursuant to subparagraph (A);

9                   “(ii) provide an estimate of the addi-  
10                  tional time needed for the Administrator to  
11                  reach a decision on the request; and  
12                  “(iii) specify any additional informa-

13                 tion or documentation that the Adminis-  
14                 trator needs to make a decision but was  
15                 not provided in the plan submitted by the  
16                 certified development company.  
17                 “(3) CONFLICT OF INTEREST.—In carrying out

18                 functions described in paragraph (1), a certified de-  
19                 velopment company shall take no action that would  
20                 result in an actual or apparent conflict of interest  
21                 between the company (or any employee of the com-  
22                 pany) and any third-party lender, associate of a  
23                 third-party lender, or any other person participating  
24



1 in a liquidation, foreclosure, or loss mitigation ac-  
2 tion.

3 “(d) SUSPENSION OR REVOCATION OF AUTHOR-  
4 ITY.—

5 “(1) IN GENERAL.—The Administrator may re-  
6 voke or suspend a delegation of authority under this  
7 section to a certified development company if the  
8 Administrator determines that the company—

9 “(A) does not meet the requirements of  
10 subsection (b)(1);

11 “(B) violated any applicable law or rule or  
12 regulation of the Administrator that in the esti-  
13 mation of the Administrator requires revoca-  
14 tion; or

15 “(C) fails to comply with any reporting  
16 that may be established by the Administrator  
17 relating to the establishment of eligibility in  
18 subsection (b)(1) or carrying out the functions  
19 described in subsection (c)(1).

20 “(2) WRITTEN NOTICE.—The Administrator  
21 shall provide in writing detailed reason why the dele-  
22 gation of authority was suspended or revoked.

23 “(e) PARTICIPATION IN LIQUIDATION.—

24 “(1) IN GENERAL.—

1           “(A) CONTRACT WITH QUALIFIED THIRD  
2           PARTY.—A certified development company  
3           which elects not to apply for authority to fore-  
4           close and liquidate defaulted loans under this  
5           section, or which the Administrator determines  
6           to be ineligible for such authority, shall contract  
7           with a qualified third party to perform fore-  
8           closure and liquidation of defaulted loans in its  
9           portfolio.

10           “(B) CONTRACT APPROVAL.—The contract  
11           entered into by the certified development com-  
12           pany specified in subparagraph (A) shall be  
13           contingent upon approval by the Administrator  
14           with respect to the qualifications of the con-  
15           tractor and the terms and conditions of liquida-  
16           tion activities. The Administrator shall not un-  
17           reasonably withhold such approval.

18           “(C) NOTIFICATION OF REJECTION.—If  
19           the Administrator rejects the contract, the Ad-  
20           ministrator shall provide a notice to the cer-  
21           tified development company, in writing, explain-  
22           ing the reasons for such rejection within ten  
23           business days after submission of the contract.

24           “(D) RESUBMITTAL.—The certified devel-  
25           opment company shall be permitted to resubmit

1 the contract and the Administrator’s review of  
2 any such resubmittal shall be limited to  
3 insufficiencies described in the notification of  
4 rejection.

5 “(E) REGULATIONS.—The Administrator  
6 shall promulgate regulations, after notice and  
7 opportunity for comment, adopting standards  
8 for the approval of qualified third-party con-  
9 tractors within 90 days after the date of enact-  
10 ment of the Small Business Financing and In-  
11 vestment Act of 2009.

12 “(F) FAILURE TO PROMULGATE REGULA-  
13 TIONS.—If the Administrator fails to promul-  
14 gate such regulations, any contract for liquida-  
15 tion entered into by a certified development  
16 company under this subsection shall be consid-  
17 ered valid for the purposes of this subsection  
18 and subsection (f).

19 “(G) EFFECT OF ADMINISTRATOR’S PRO-  
20 MULGATION OF REGULATIONS.—If the Adminis-  
21 trator promulgates regulations after the dead-  
22 line specified in subparagraph (E), those regu-  
23 lations shall not have any retroactive applica-  
24 tion with respect to contracts that are described  
25 in subparagraph (F).

1           “(2) COMMENCEMENT.—This subsection shall  
2       not require any certified development company to  
3       liquidate defaulted loans until the Administrator im-  
4       plements a system to compensate and reimburse cer-  
5       tified development companies for liquidation of any  
6       defaulted loans.

7       “(f) COMPENSATION AND REIMBURSEMENT.—

8           “(1) REIMBURSEMENT OF EXPENSES.—The  
9       Administrator shall reimburse each certified develop-  
10      ment company for all expenses paid by such com-  
11      pany as part of the foreclosure and liquidation ac-  
12      tivities taken to carry out this section, if the ex-  
13      penses—

14           “(A) were—

15           “(i) approved in advance by the Ad-  
16           ministrator, either specifically in a plan  
17           submitted pursuant to subsection (c) or  
18           generally, such as, but not limited to, ac-  
19           tions approved by the Administrator in  
20           regulations or other interpretative  
21           issuances; or

22           “(ii) incurred by the development  
23           company on an emergency basis without  
24           prior approval from the Administrator, if  
25           the Administrator determines that the ex-

1                   penses were reasonable and appropriate;  
2                   and

3                   “(B) are submitted by the certified devel-  
4                   opment company to the Administrator not later  
5                   than 3 years after the date the expense was in-  
6                   curred or the bill therefore is submitted to the  
7                   certified development company, whichever is  
8                   later.

9                   “(2) ALTERNATIVE REIMBURSEMENT.—As an  
10                  alternative to the procedure in paragraph (1), a cer-  
11                  tified development company may elect to obtain re-  
12                  imbursement for all such expenses from the proceeds  
13                  of any collateral provided by the borrower that was  
14                  liquidated by the certified development company if  
15                  the expenses comply with the requirements of para-  
16                  graph (1). Within 6 months of the reimbursement,  
17                  the certified development company shall provide the  
18                  Administrator with the same information and docu-  
19                  mentation it would be required to submit to obtain  
20                  payment from the Administrator.

21                  “(3) REGULATIONS.—The Administrator shall  
22                  promulgate regulations, after notice and comment to  
23                  carry out the provisions of paragraphs (1) and (2).  
24                  If the Administrator does not promulgate such regu-  
25                  lations within one year, certified development compa-

1       nies shall be authorized, notwithstanding the re-  
2       quirements of subsection (e)(2), to liquidate de-  
3       faulted loans and such costs and expenses incurred,  
4       absent clear and convincing evidence of fraud, shall  
5       be deemed to be approved.

6               “(4) COMPENSATION FOR RESULTS.—

7               “(A) DEVELOPMENT.—In regulations pro-  
8       mulgated pursuant to paragraph (3), the Ad-  
9       ministrator also shall develop a schedule of  
10      compensation that provides monetary incentives  
11      for certified development companies in order to  
12      increase recoveries on defaulted loans.

13              “(B) CRITERIA.—The schedule shall—

14              “(i) be based on a percentage of the  
15      net amount recovered, but shall not exceed  
16      a maximum amount; and

17              “(ii) not apply to any foreclosure  
18      which is conducted under a contract be-  
19      tween a certified development company and  
20      a qualified third party to perform the fore-  
21      closure and liquidation.

22              “(C) PAYMENT.—The Administrator shall  
23      transmit the compensation provided herein to  
24      the development company from the proceeds of  
25      liquidated collateral, unless the Administrator

1           utilizes another source for funds, within 30  
2           days from the date when the liquidation case  
3           has been closed and documentation received.”.

4   **SEC. 221. REPORTS AND REGULATIONS.**

5           Title V of the Small Business Investment Act of 1958  
6   (15 U.S.C. 695 et seq.) is amended by adding at the end  
7   the following:

8   **“SEC. 511. REPORTS.**

9           “(a) PREMIER CERTIFIED DEVELOPMENT COMPA-  
10 NIES.—The Administrator shall report annually to the  
11 Committee on Small Business of the House of Representa-  
12 tives and the Committee on Small Business and Entrepre-  
13 neurship of the Senate on the implementation of section  
14 504. Each report shall include—

15           “(1) the number of premier certified develop-  
16 ment companies;

17           “(2) the debenture volume of each premier cer-  
18 tified development company;

19           “(3) a comparison of the loss rate for premier  
20 certified development companies to the loss rate for  
21 accredited or certified development companies; and

22           “(4) such other information as the Adminis-  
23 trator deems appropriate.

24           “(b) REPORTS ON LIQUIDATION AND FORE-  
25 CLOSURES.—

1           “(1) IN GENERAL.—Based on information pro-  
2       vided by certified development companies and the  
3       Administrator, the Administrator shall submit annu-  
4       ally to the Committee on Small Business and Entre-  
5       preneurship of the Senate and the Committee on  
6       Small Business of the House of Representatives a  
7       report on the results of delegation of authority under  
8       section 510.

9           “(2) CONTENTS.—Each report submitted under  
10      paragraph (1) shall include the following informa-  
11      tion:

12           “(A) With respect to each loan foreclosed  
13      or liquidated by a certified development com-  
14      pany, or for which losses were otherwise miti-  
15      gated by pursuant to a workout plan—

16           “(i) the total cost of the project fi-  
17      nanced with the loan;

18           “(ii) the total original dollar amount  
19      guaranteed by the Administration;

20           “(iii) the total dollar amount of the  
21      loan at the time of liquidation, foreclosure,  
22      or mitigation of loss;

23           “(iv) the total dollar losses resulting  
24      from the liquidation, foreclosure, or mitiga-  
25      tion of loss; and



1           “(v) the total recoveries resulting  
2           from the liquidation, foreclosure, or mitiga-  
3           tion of loss, both as a percentage of the  
4           amount guaranteed and the total cost of  
5           the project financed.

6           “(B) With respect to each certified devel-  
7           opment company to which authority is dele-  
8           gated under section 510, the totals of each of  
9           the amounts described in clauses (i) through (v)  
10          of subparagraph (A).

11          “(C) With respect to each certified devel-  
12          opment company that contracts with a qualified  
13          third-party contractor pursuant to section  
14          510(e), the total of each of the amounts de-  
15          scribed in clauses (i) through (v) of subpara-  
16          graph (A).

17          “(D) With respect to all loans subject to  
18          foreclosure, liquidation, or mitigation under sec-  
19          tion 510, the totals of each of the amounts de-  
20          scribed in clauses (i) through (v) of subpara-  
21          graph (A).

22          “(E) A comparison between—

23                 “(i) the information provided under  
24                 subparagraph (D) with respect to the 12-

1 month period preceding the date on which  
2 the report is submitted; and

3 “(ii) the same information with re-  
4 spect to loans foreclosed and liquidated, or  
5 otherwise treated, by the Administrator  
6 during the same period.

7 “(F) The number of times that the Admin-  
8 istrator has failed to approve or reject a liq-  
9 uidation plan, workout plan, request to pur-  
10 chase indebtedness, or failed to approve a third-  
11 party contractor under section 510, including  
12 specific information regarding the reasons for  
13 the Administrator’s failure and any delays that  
14 resulted.

15 “(c) REPORTS ON COMBINATION FINANCING.—

16 “(1) REPORTING REQUIREMENT.—Not later  
17 than 90 days after the date of enactment of the  
18 Small Business Financing and Investment Act of  
19 2009, and annually thereafter, the Administrator  
20 shall submit a report to the Committee on Small  
21 Business and Entrepreneurship of the Senate and  
22 the Committee on Small Business of the House of  
23 Representatives that—

24 “(A) includes the number of small business  
25 concerns that have financing under both section

1           7(a) of the Small Business Act (15 U.S.C.  
2           636(a)) and title V of the Small Business In-  
3           vestment Act of 1958 (15 U.S.C. 695 et seq.)  
4           during the year before the year of that report;  
5           and

6                   “(B) describes the total amount and gen-  
7           eral performance of the financing described in  
8           subparagraph (A).

9           “(d) REPORT ON OTHER ECONOMIC DEVELOPMENT  
10   ACTIVITY.—The Administrator shall compile and submit  
11   to the Committee on Small Business of the House of Rep-  
12   resentatives and the Committee on Small Business and  
13   Entrepreneurship of the Senate on an annual basis, com-  
14   mencing in the year that the Small Business Financing  
15   and Investment Act of 2009 is enacted, a report that de-  
16   scribes the economic and community development activi-  
17   ties, other than loan making under this title, of each cer-  
18   tified development company during the prior fiscal year.  
19   The Administrator may contract with another party, in-  
20   cluding non-governmental entities, to collect information  
21   or otherwise assist in the preparation of the report re-  
22   quired by this subsection.

1   **“SEC. 512. PROMULGATION OF REGULATIONS UNDER THIS**  
2                           **TITLE.**

3           “(a) DEADLINES FOR IMPLEMENTING REGULA-  
4 TIONS.—Except as expressly provided elsewhere in the  
5 Small Business Financing and Investment Act of 2009,  
6 the Administrator shall promulgate regulations under this  
7 title, after providing notice and the opportunity for com-  
8 ment, within 180 days after the date of enactment of that  
9 Act.

10          “(b) NOTICE AND COMMENT REQUIREMENTS IN  
11 GENERAL.—Except as otherwise provided elsewhere in  
12 this title, the Administrator shall provide, after the date  
13 of enactment of the Small Business Financing and Invest-  
14 ment Act of 2009, notice of any proposed change to a reg-  
15 ulation implementing this title (whether in existence on  
16 the date of enactment of the Small Business Financing  
17 and Investment Act of 2009 or subsequently adopted),  
18 publish such notification in the Federal Register, and pro-  
19 vide a comment period of not less than 60 days.”.

20   **SEC. 222. PROGRAM NAME.**

21          Title V of the Small Business Investment Act of 1958  
22 (15 U.S.C. 695 et seq.), as amended by this Act, is further  
23 amended by adding at the end the following:

1 **“SEC. 513 PROGRAM NAME.**

2       “(a) IN GENERAL.—The program created by this  
3 title shall be referred to as the CDC Economic Develop-  
4 ment Loan Program.

5       “(b) MODIFICATION OF MATERIALS USED.—Not  
6 later than 60 days after the date of enactment of the  
7 Small Business Financing and Investment Act of 2009,  
8 the Administrator shall modify all documents and websites  
9 to conform to the name change made by this section.”.

10                   **Subtitle C—Miscellaneous**

11 **SEC. 231. REPORT ON STANDARD OPERATING PROCE-**  
12                   **DURES.**

13       (a) REPORT.—The Administrator of the Small Busi-  
14 ness Administration shall submit to the Committee on  
15 Small Business of the House of Representatives and the  
16 Committee on Small Business and Entrepreneurship of  
17 the Senate a report within 180 days after enactment of  
18 this Act identifying each Standard Operating Procedure  
19 issued after January 1, 1996, that relates to the operation  
20 of a development company (in any manner) under title V  
21 of the Small Business Investment Act of 1958, that is still  
22 in effect on the date of enactment of this Act, and the  
23 regulation codified in title 13 of the Code of Federal Regu-  
24 lations that authorizes the issuance of the Standard Oper-  
25 ating Procedure and separately identifies the regulation

1 that the Standard Operating Procedure purports to inter-  
2 pret.

3 (b) INAPPLICABILITY.—If the Administrator fails to  
4 complete the report by the time specified in subsection (a),  
5 the Administrator shall, unless there is clear and con-  
6 vincing evidence of fraud, honor the terms and conditions  
7 of any debenture to the entity that issued the debenture  
8 pursuant to title V of the Small Business Investment Act  
9 of 1958 without regard to whether the entity complied  
10 with any of the Standard Operating Procedures described  
11 in subsection (a) until such time as the Administrator sub-  
12 mits the report required under subsection (a).

13 (c) DEFINITION.—For purposes of this section, the  
14 term “Standard Operating Procedure” has the meaning  
15 given that term in section 120.10 of title 13, Code of Fed-  
16 eral Regulations, as in effect on January 1, 2009, and  
17 includes any reference to the acronym “SOP”.

18 **SEC. 232. ALTERNATIVE SIZE STANDARD.**

19 (a) REVIEW AND STUDY.—

20 (1) IN GENERAL.—The Administrator of the  
21 Small Business Administration shall study and re-  
22 view the optional size standard set forth in section  
23 121.301(b) of title 13, Code of Federal Regulations,  
24 as in effect on January 1, 2009, for eligibility of a

1 small business concern for financing under title V of  
2 the Small Business Investment Act of 1958.

3 (2) CONTENTS.—The review shall analyze  
4 whether the alternative size standard includes the  
5 business concerns defined in section 3(a)(1) of the  
6 Small Business Act and what, if any, regulatory  
7 changes are needed in the alternative size standard.

8 (3) SUBMISSION TO CONGRESS.—The Adminis-  
9 trator shall submit its study and conclusions within  
10 180 days after the date of enactment of the Small  
11 Business Financing and Investment Act of 2009 to  
12 the Committee on Small Business and Entrepre-  
13 neurship of the Senate and the Committee on Small  
14 Business of the House of Representatives.

15 (b) ISSUANCE OF REGULATIONS.—Any changes in  
16 the optional size standard described in subsection (a)(1)  
17 shall be promulgated within 180 days of the submission  
18 of the report to committees referred to in paragraph (3)  
19 of subsection (a).

20 (c) INTERIM ALTERNATIVE SIZE STANDARD.—Until  
21 the Administrator promulgates regulations either re-  
22 adopting the size standard referred to in subsection (a)(1)  
23 or adopts a new alternative size standard, the alternative  
24 size standard shall be a maximum tangible net worth of  
25 not more than \$15,000,000 and an average net income

1 after the payment of Federal taxes (but excluding any car-  
2 ryover losses) for the preceding two fiscal years not more  
3 than \$5,000,000.

## 4 **TITLE III—MICROLENDING** 5 **EXPANSION**

### 6 **SEC. 301. MICROLOAN CREDIT BUILDING INITIATIVE.**

7 Section 7(m) of the Small Business Act (15 U.S.C.  
8 636(m)) is amended by adding at the end the following:

9 “(14) CREDIT REPORTING INFORMATION.—The  
10 Administrator shall establish a process, for use by  
11 an intermediary making a loan to a borrower under  
12 this subsection, under which the intermediary shall  
13 provide to the major credit reporting agencies the in-  
14 formation about the borrower, both positive and neg-  
15 ative, that is relevant to credit reporting, such as the  
16 payment activity of the borrower on the loan. Such  
17 process shall allow an intermediary the option of  
18 providing information to the major credit reporting  
19 agencies through the Administration or independ-  
20 ently.”.

### 21 **SEC. 302. FLEXIBLE CREDIT TERMS.**

22 Section 7(m) of the Small Business Act (15 U.S.C.  
23 636(m)), as amended by this Act, is further amended—

24 (1) in paragraph (1)(B)(i) by striking “short-  
25 term,”;



1           (2) in paragraph (6)(A) by striking “short-  
2       term,”; and

3           (3) in paragraph (11)(B) by striking “short-  
4       term,”.

5   **SEC. 303. INCREASED PROGRAM PARTICIPATION.**

6       Section 7(m)(2) of the Small Business Act (15  
7   U.S.C. 636(m)(2)) is amended—

8           (1) in subparagraph (A) by striking “paragraph  
9       (10)” and inserting “paragraph (11)”; and

10          (2) by amending subparagraph (B) to read as  
11       follows:

12                       “(B) has—

13                               “(i) at least—

14                                       “(I) 1 year of experience making  
15                                       microloans to startup, newly estab-  
16                                       lished, or growing small business con-  
17                                       cerns; or

18                                       “(II) 1 full-time employee who  
19                                       has not less than 3 years of experi-  
20                                       ence making microloans to startup,  
21                                       newly established, or growing small  
22                                       business concerns; and

23                               “(ii) at least—

24                                       “(I) 1 year of experience pro-  
25                                       viding, as an integral part of its

1 microloan program, intensive mar-  
 2 keting, management, and technical as-  
 3 sistance to its borrowers; or

4 “(II) 1 full-time employee who  
 5 has not less than 1 year of experience  
 6 providing intensive marketing, man-  
 7 agement, and technical assistance to  
 8 borrowers.”.

9 **SEC. 304. INCREASED LIMIT ON INTERMEDIARY BOR-**  
 10 **ROWING.**

11 Section 7(m)(3)(C) of the Small Business Act (15  
 12 U.S.C. 636(m)(3)(C)) is amended—

13 (1) by striking “\$750,000” and inserting  
 14 “\$1,000,000”;

15 (2) by striking “\$3,500,000” and inserting  
 16 “\$7,000,000”; and

17 (3) by adding at the end the following: “The  
 18 Administrator may treat the amount of \$7,000,000  
 19 in this subparagraph as if such amount is  
 20 \$10,000,000 if the Administrator determines, with  
 21 respect to an intermediary, that such treatment is  
 22 appropriate.”.

23 **SEC. 305. EXPANDED BORROWER EDUCATION ASSISTANCE.**

24 Section 7(m)(4)(E) of the Small Business Act (15  
 25 U.S.C. 636(m)(4)(E)) is amended—

1 (1) in clause (i) by striking “25 percent” and  
2 inserting “35 percent”; and

3 (2) in clause (ii) by striking “25 percent” and  
4 inserting “35 percent”.

5 **SEC. 306. INTEREST RATES AND LOAN SIZE.**

6 Section 7(m) of the Small Business Act (15 U.S.C.  
7 636(m)), as amended by this Act, is further amended—

8 (1) in paragraph (3)(F)(iii) by striking  
9 “\$7,500” and inserting “\$10,000”;

10 (2) in paragraph (6)(C)(i) by striking “\$7,500”  
11 and inserting “\$10,000”; and

12 (3) in paragraph (6)(C)(ii) by striking  
13 “\$7,500” and inserting “\$10,000”.

14 **SEC. 307. REPORTING REQUIREMENT.**

15 Section 7(m) of the Small Business Act (15 U.S.C.  
16 636(m)), as amended by this Act, is further amended by  
17 adding at the end the following:

18 “(15) REPORTING REQUIREMENT.—Not later  
19 than 90 days after the end of each fiscal year, the  
20 Administrator shall submit to the Committee on  
21 Small Business of the House of Representatives and  
22 the Committee on Small Business and Entrepre-  
23 neurship of the Senate a report that includes, with  
24 respect to such fiscal year of the microloan program,  
25 the following:

1           “(A) The names and locations of each  
2 intermediary that received funds to make  
3 microloans or provide marketing, management,  
4 and technical assistance.

5           “(B) The amounts of each loan and each  
6 grant provided to each such intermediary in  
7 such fiscal year and in prior fiscal years.

8           “(C) A description of the contributions  
9 from non-Federal sources of each such inter-  
10 mediary.

11           “(D) The number and amounts of  
12 microloans made by each such intermediary to  
13 all borrowers and to each of the following:

14                   “(i) Women entrepreneurs and busi-  
15 ness owners.

16                   “(ii) Low-income entrepreneurs and  
17 business owners.

18                   “(iii) Veteran entrepreneurs and busi-  
19 ness owners.

20                   “(iv) Disabled entrepreneurs and busi-  
21 ness owners.

22                   “(v) Minority entrepreneurs and busi-  
23 ness owners.

24           “(E) A description of the marketing, man-  
25 agement, and technical assistance provided by

1 each such intermediary to all borrowers and to  
2 each of the following:

3 “(i) Women entrepreneurs and busi-  
4 ness owners.

5 “(ii) Low-income entrepreneurs and  
6 business owners.

7 “(iii) Veteran entrepreneurs and busi-  
8 ness owners.

9 “(iv) Disabled entrepreneurs and busi-  
10 ness owners.

11 “(v) Minority entrepreneurs and busi-  
12 ness owners.

13 “(F) The number of jobs created and re-  
14 tained as a result of microloans and marketing,  
15 management, and technical assistance provided  
16 by each such intermediary.

17 “(G) The repayment history of each such  
18 intermediary.

19 “(H) The number of businesses that  
20 achieved success after receipt of a microloan.”.

21 **SEC. 308. SURPLUS INTEREST RATE SUBSIDY FOR BUSI-**  
22 **NESSES.**

23 Section 7(m) of the Small Business Act (15 U.S.C.  
24 636(m)), as amended by this Act, is further amended by  
25 adding at the end the following:

1 “(16) INTEREST ASSISTANCE.—

2 “(A) IN GENERAL.—The Administrator is  
3 authorized to use amounts determined unlikely  
4 to be expended under subparagraph (B) to as-  
5 sist borrowers that receive a microloan under  
6 this subsection to reduce the interest paid with  
7 respect to such microloan.

8 “(B) AMOUNTS UNLIKELY TO BE EX-  
9 PENDED.—Not later than April 1 of each fiscal  
10 year, the Administrator shall determine if any  
11 amounts made available to carry out this sub-  
12 section for such fiscal year are unlikely to be  
13 expended for activities under this subsection  
14 other than activities under this paragraph.”.

15 **SEC. 309. AUTHORIZATION OF APPROPRIATIONS.**

16 Section 20 of the Small Business Act (15 U.S.C. 631  
17 note), as amended by this Act, is further amended by in-  
18 serting after subsection (g) the following:

19 “(h) FISCAL YEARS 2010 AND 2011 WITH RESPECT  
20 TO SECTION 7(m).—

21 “(1) PROGRAM LEVELS.—For the programs au-  
22 thorized by this Act, the Administration is author-  
23 ized to make during each of fiscal years 2010 and  
24 2011—

1                   “(A) \$80,000,000 in technical assistance  
2                   grants, as provided in section 7(m); and

3                   “(B) \$110,000,000 in direct loans, as pro-  
4                   vided in section 7(m).

5                   “(2) AUTHORIZATION OF APPROPRIATIONS.—

6                   There is authorized to be appropriated such sums as  
7                   may be necessary to carry out paragraph (1).”.

8       **TITLE IV—SMALL BUSINESS IN-**  
9       **VESTMENT COMPANY MOD-**  
10      **ERNIZATION**

11      **SEC. 401. INCREASED INVESTMENT FROM STATES.**

12           Section 103(13)(C) of the Small Business Investment  
13   Act of 1958 (15 U.S.C. 662(13)(C)) is amended by strik-  
14   ing “33 percent” and inserting “45 percent”.

15      **SEC. 402. EXPEDITED LICENSING FOR EXPERIENCED AP-**  
16                                   **PLICANTS.**

17           Section 301 of the Small Business Investment Act  
18   of 1958 (15 U.S.C. 681) is amended by inserting after  
19   subsection (c) the following new subsection:

20           “(d) LICENSES FOR EXPERIENCED APPLICANTS.—

21                   “(1) IN GENERAL.—Notwithstanding any other  
22                   provision of this section, not later than 60 days after  
23                   the initial receipt by the Administrator of any re-  
24                   quest (which shall be deemed to be the application)  
25                   for a license to operate as a small business invest-

1       ment company under this Act, the Administrator  
2       shall approve the request and issue such license if  
3       each of the following requirements is satisfied:

4               “(A) At least 50 percent of the principal  
5       managers of the applicant consist of at least  
6       two-thirds of the principal managers of a small  
7       business investment company that has been li-  
8       censed under this Act.

9               “(B) The licensed small business invest-  
10      ment company specified under subparagraph  
11      (A) has operated under such license for at least  
12      3 years prior to the receipt of the request speci-  
13      fied in this paragraph.

14              “(C) The licensed small business invest-  
15      ment company specified under subparagraph  
16      (A)—

17                   “(i) either has invested at least 70  
18                  percent of its private capital and drawn at  
19                  least 50 percent of its projected leverage at  
20                  the time of the receipt of the request speci-  
21                  fied in this paragraph or reserved for in-  
22                  vestment and expenses or some combina-  
23                  tion of both at least 70 percent of its pri-  
24                  vate capital in the one-year period prior to  
25                  the date on which the application referred



1 to in this paragraph was received by the  
2 Administrator;

3 “(ii) has maintained 6 consecutive  
4 quarters of profitable net investment in-  
5 come; and

6 “(iii) has made at least 3 exits from  
7 investments in small businesses that have  
8 realized profits from those respective in-  
9 vestments.

10 “(D) The applicant submits to the Admin-  
11 istrator, in writing, an application consisting of  
12 all of the following:

13 “(i) A certification, in the form pre-  
14 scribed by the Administrator, that such ap-  
15 plicant satisfies the requirements of this  
16 subsection and that all information con-  
17 tained in the application is true and com-  
18 plete.

19 “(ii) A copy of the organizational doc-  
20 uments of the applicant.

21 “(iii) A copy of the operating plan of  
22 the applicant demonstrating that at least  
23 50 percent of the amount of the planned  
24 investments of the applicant will be in the  
25 same or substantially similar investment

1 stage and use the same or substantially  
2 similar type of investment instruments as  
3 the investments of the licensed small busi-  
4 ness investment company specified under  
5 subparagraph (A).

6 “(iv) A certification, in a form pre-  
7 scribed by the Administrator, that the ap-  
8 plicant satisfies the requirements of sub-  
9 sections (a) and (c) of section 302 of this  
10 Act.

11 “(E) The applicant is in good standing as  
12 set forth in paragraph (2).

13 “(F) The applicant pays all fees prescribed  
14 by the Administrator under subsection (e).

15 “(2) GOOD STANDING.—For purposes of this  
16 subsection, an applicant is in good standing if—

17 “(A) a licensed leveraged debentured or  
18 non-leveraged small business investment com-  
19 pany specified under paragraph (1)(A) is ac-  
20 tively operating under this Act on the date of  
21 the initial receipt of the application by the Ad-  
22 ministrator to which this subsection applies;

23 “(B) no principal manager of the applicant  
24 has been found liable in a civil action for fraud  
25 if the Administrator makes a reasonable deter-

1 mination based on evidence in the agency  
2 record that such liability has a material adverse  
3 effect on the ability of the applicant to perform  
4 obligations required by a license issued pursu-  
5 ant to this Act; and

6 “(C) no principal manager is under inves-  
7 tigation by a governmental agency or authority  
8 for, is under indictment for, or has been con-  
9 victed of a felony for a violation of Federal or  
10 State securities laws, fraud, or another criminal  
11 violation if such investigation, indictment, or  
12 conviction has a material adverse effect on the  
13 ability of the applicant to perform obligations  
14 under a license issued under this Act.

15 “(3) LIMITATION.—

16 “(A) IN GENERAL.—The Administrator  
17 may remove an application from the approval  
18 process under this subsection if the Adminis-  
19 trator determines based on evidence in the  
20 agency record that the approval of the license  
21 would present an unacceptable risk to the Fed-  
22 eral Government.

23 “(B) IN WRITING.—Such determination  
24 shall be made in writing and provided to the  
25 applicant no later than 10 calendar days after

1 such determination is made. Failure to provide  
2 this determination to the applicant shall be  
3 deemed to be a permanent waiver of the Admin-  
4 istrator's authority to remove an application  
5 pursuant to this subsection.

6 “(C) NON-DELEGABILITY.—The Adminis-  
7 trator may rely on agency personnel to collect  
8 data or other material relevant to establishing  
9 a record, but the decision to remove the appli-  
10 cation may not be delegated by the Adminis-  
11 trator to any subordinate personnel in the agen-  
12 cy.

13 “(4) NOTICE AND OPPORTUNITY TO CURE NON-  
14 CONFORMANCE.—

15 “(A) NOTICE OF NON-CONFORMANCE.—  
16 Except for a determination made pursuant to  
17 paragraph (3), the Administrator shall provide  
18 an applicant described in paragraph (1) within  
19 60 days after receipt of the application a writ-  
20 ten notice and description of any nonconform-  
21 ance with any requirement of this subsection  
22 based on evidence in the agency record.

23 “(B) OPPORTUNITY TO CURE.—The appli-  
24 cant shall have 30 days following the receipt of  
25 notice of nonconformance or the receipt of re-

1           moval as set forth in paragraph (3) to cure  
2           such nonconformance.

3           “(C) FAILURE TO PROVIDE NOTICE.—Fail-  
4           ure to provide the notice within the time limit  
5           set forth in subparagraph (A) shall be deemed  
6           to be acceptance by the Administrator of the  
7           applicant’s conformance with the requirements  
8           of this subsection.

9           “(5) BACKGROUND REVIEWS.—The Adminis-  
10          trator shall ensure that a timely background check  
11          of the principal managers of each applicant is com-  
12          pleted with respect to paragraphs (2)(B) and (2)(C).

13          “(6) FEES.—The Administrator may charge an  
14          applicant additional fees for carrying out the back-  
15          ground reviews mandated by paragraph (5). Such  
16          fees shall not exceed \$10,000.

17          “(7) EFFECT OF NON-QUALIFICATION.—The  
18          failure of an applicant to qualify for expedited licen-  
19          sure under this subsection shall have no effect on an  
20          existing license or the ability for the applicant or  
21          any of its individual managers to apply for or receive  
22          a license to operate a small business investment  
23          company under the procedures established elsewhere  
24          in this Act or its implementing regulations.

1           “(8) REGULATIONS.—The Administrator shall  
 2       develop forms and promulgate regulations to imple-  
 3       ment this subsection after providing an opportunity  
 4       for notice and comment. Regulations promulgated  
 5       pursuant to this paragraph shall be published in the  
 6       Code of Federal Regulations.”.

7   **SEC. 403. REVISED LEVERAGE LIMITATIONS FOR SUCCESS-**  
 8                           **FUL SBICS.**

9       (a) MAXIMUM LEVERAGE.—Section 303(b)(2) of the  
 10 Small Business Investment Act of 1958 (15 U.S.C.  
 11 683(b)(2)) is amended by striking so much of paragraph  
 12 (2) as precedes subparagraph (C) and inserting the fol-  
 13 lowing:

14           “(2) MAXIMUM LEVERAGE.—

15                   “(A) IN GENERAL.—(i) The maximum  
 16       amount of outstanding leverage made available  
 17       to any one company licensed under section  
 18       301(c) of this Act may not exceed the lesser  
 19       of—

20                           “(I) 300 percent of such com-  
 21                           pany’s private capital; or

22                           “(II) \$150,000,000.

23                   “(ii) In applying clause (i)(I) in the case of  
 24       a debenture licensee which is in good standing  
 25       without the imposition of additional regulatory

standards and whose financings at cost are comprised of at least 50 percent of loans and debt securities, such licensee may be leveraged as follows:

“(I) The first one-third of private capital to 300 percent.

“(II) The second one-third of private capital to 200 percent.

“(III) The last third of private capital to 100 percent.

“(iii) Notwithstanding clause (i), in the case of any company operating as a business development company (as such term is defined under section 2(a)(48) of the Investment Company Act of 1940) or a majority-owned subsidiary of such a company that is in good standing without the imposition of additional regulatory requirements, the maximum amount of outstanding leverage made available to such company shall be \$250,000,000.

“(B) MULTIPLE LICENSEES UNDER COMMON CONTROL.—The maximum amount of outstanding leverage made available to two or more debenture companies licensed under section 301(c) of this Act that are commonly controlled

1 (as determined by the Administrator) and not  
2 under capital impairment may not exceed  
3 \$350,000,000.”.

4 (b) REGULATIONS.—Section 303(b)(2) of the Small  
5 Business Investment Act of 1958 (15 U.S.C. 683(b)(2)),  
6 as amended by this Act, is further amended by adding  
7 at the end the following:

8 “(E) REGULATIONS.—The Administrator  
9 shall promulgate regulations, after notice and  
10 opportunity for comment, establishing quantifi-  
11 able objective criteria under which a licensee’s  
12 private capital in its entirety may be leveraged  
13 up to 300 percent. Such regulations shall be  
14 published in the Code of Federal Regulations.”.

15 (c) INVESTMENTS IN LOW-INCOME GEOGRAPHIC  
16 AREAS.—Section 303(b)(2)(C)(ii) of the Small Business  
17 Investment Act of 1958 (15 U.S.C. 683(b)(2)(C)(ii)) is  
18 amended by striking “\$250,000,000” in subclause (II)  
19 and inserting “\$400,000,000”.

20 **SEC. 404. CONSISTENCY FOR COST CONTROL.**

21 Section 305(c) of the Small Business Investment Act  
22 of 1958 (15 U.S.C. 685(c)) is amended by adding at the  
23 end the following:

24 “In addition to the foregoing, with respect to a loan  
25 made, or debt with equity features acquired, under this



1 section, the minimum coupon rate of interest (cost of  
2 money ceiling) imposed by the Administrator shall not be  
3 less than 19 percent per annum for a loan or a debt secu-  
4 rity, except that nothing herein shall alter or affect provi-  
5 sions permitting higher coupon rates of interest (cost of  
6 money ceilings) and a company may charge up to an addi-  
7 tional 7 percent more than the interest rate set forth in  
8 the loan or debt security in the event of a default. For  
9 purposes of this subsection a default means the occurrence  
10 of any of the following:

11           “(1) Failure to pay an amount when due.

12           “(2) Failure to provide in a timely manner ma-  
13 terial information required under the applicable fi-  
14 nancing documents.

15           “(3) Failure to observe any material term, cov-  
16 enant, or other agreement contained in the applica-  
17 ble financing documents.

18           “(4) A representation, warranty, certification,  
19 or statement of fact made by or on behalf of a bor-  
20 rower in any applicable financing document or in  
21 any document delivered in connection therewith, that  
22 was materially incorrect or misleading when made.

23           “(5) Any material event of default specified in  
24 the applicable financing documents.”.

1 **SEC. 405. INVESTMENT IN VETERAN-OWNED SMALL BUSI-**  
2 **NESSES.**

3 Section 303(b)(2)(C) of the Small Business Invest-  
4 ment Act of 1958 (15 U.S.C. 683(b)(2)(C)) is amended  
5 as follows:

6 (1) In the heading, by inserting after “AREAS”  
7 the following: “AND VETERANS”.

8 (2) In clause (i), by inserting after “351)” the  
9 following: “or in a small business concern owned and  
10 controlled by veterans (as such term is defined in  
11 section 3(q)(3) of the Small Business Act)”.

12 (3) In clause (iii), by inserting after “351)” the  
13 following: “or in small business concerns owned and  
14 controlled by veterans (as such term is defined in  
15 section 3(q)(3) of the Small Business Act)”.

16 **SEC. 406. LIMITATIONS ON PREPAYMENT.**

17 Section 305 of the Small Business Investment Act  
18 of 1958 (15 U.S.C. 685) is amended by adding at the end  
19 the following:

20 “(g) A company may require a small business concern  
21 to accept reasonable and customary minimum prepayment  
22 amounts, terms, and notice requirements.

23 “(h) The private capital of a licensee may include  
24 funds transferred to an account of the Telecommuni-  
25 cations Development Fund created pursuant to section  
26 714 of the Communications Act of 1934 (47 U.S.C. 614)

1 and which are described in section 309(j)(8)(C)(iii) of the  
2 Communications Act of 1934 (47 U.S.C.  
3 309(j)(8)(C)(iii)).

4 “(i) The authorization to make loans under sub-  
5 section (a) includes the authority to engage in venture  
6 leasing, equipment leasing, real estate sale leasebacks, and  
7 similar arrangements with small business concerns, so  
8 long as such arrangements have an economic purpose  
9 similar to traditional loans. Any transaction covered by  
10 this subsection involving real property shall require the oc-  
11 cupancy of at least 50 percent of the real property by the  
12 small business concern.”.

13 **SEC. 407. INVESTMENT WITH CERTAIN PASSIVE ENTITIES.**

14 Part A of title III of the Small Business Investment  
15 Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding  
16 at the end the following:

17 **“SEC. 321. INVESTMENT WITH CERTAIN PASSIVE ENTITIES.**

18 “A licensee may provide financing to a passive busi-  
19 ness as defined under section 107.720(b)(1) of title 13,  
20 Code of Federal Regulations, as in effect on January 1,  
21 2009, which is a corporation or limited liability company  
22 wholly-owned by the licensee and the sole purpose of which  
23 is to provide financing by the licensee to such concerns  
24 would cause investors in the licensee to incur with respect  
25 to regulated investment companies, income not qualifying

1 under section 851(b)(2)(A) of the Internal Revenue Code  
2 of 1986. Nothing in this section shall affect the validity  
3 of regulations permitting financings of passive businesses  
4 previously duly promulgated by the Administrator.”.

5 **SEC. 408. INVESTMENT IN SMALLER ENTERPRISES.**

6 Section 303(d) of the Small Business Investment Act  
7 of 1958 (15 U.S.C. 683(d)) is amended by adding at the  
8 end the following: “A licensee shall not be required to  
9 achieve any percentage of such financings (at cost) which  
10 is higher than 25 percent which may result from the appli-  
11 cation of prior statutory or regulatory requirements to all  
12 or any portion of the licensee’s portfolio.”

13 **SEC. 409. CAPITAL IMPAIRMENT.**

14 Section 303(e) of the Small Business Investment Act  
15 of 1958 (15 U.S.C. 683(e)) is amended by adding at the  
16 end the following:  
17 “A licensee with Earmarked Assets (as that term is de-  
18 fined by the Administrator) will not be in capital impair-  
19 ment during the first 72 months after its date of licensure,  
20 if its impairment does not exceed 85 percent.”.

21 **SEC. 410. TANGIBLE NET WORTH.**

22 Section 103 of the Small Business Investment Act  
23 of 1958 (15 U.S.C. 662), as amended by this Act, is fur-  
24 ther amended by striking “and” at the end of paragraph  
25 (23), by striking the period at the end of paragraph (24)

1 and inserting “; and”, and by adding at the end the fol-  
2 lowing:

3 “(25) for purposes of the terms ‘small-business  
4 concern’ in paragraph (5) and ‘smaller enterprise’ in  
5 paragraph (12), tangible net worth shall, to the ex-  
6 tent used, mean the total net worth of the small  
7 business, in accordance with General Accepted Ac-  
8 counting Principles, minus all intangibles in accord-  
9 ance with General Accepted Accounting Principles.”.

10 **SEC. 411. DEVELOPMENT OF AGENCY RECORD.**

11 Part A of title III of the Small Business Investment  
12 Act of 1958 (15 U.S.C. 681 et seq.), as amended by this  
13 Act, is further amended by adding at the end the fol-  
14 lowing:

15 **“SEC. 322. AGENCY RECORD FOR LICENSING OF SMALL**  
16 **BUSINESS INVESTMENT COMPANIES.**

17 “(a) RECORD.—The Associate Administrator for In-  
18 vestment shall establish an agency record of evidence re-  
19 ferring or relating to each application for a license to be-  
20 come a small business investment company.

21 “(b) WRITTEN NOTIFICATION.—The Administrator  
22 shall provide a written explanation of any denial of a li-  
23 cense application based upon evidence in the agency  
24 record. Absent an order by a Federal or State court of  
25 general jurisdiction, access to applications and the agency

1 record shall be limited to the applicant and to the Admin-  
2 istrator and subordinate personnel of the Administrator.”.

3 **SEC. 412. PROGRAM LEVELS.**

4 Section 20 of the Small Business Act (15 U.S.C. 631  
5 note), as amended by this Act, is further amended by in-  
6 serting after subsection (h) the following:

7 “(i) PART A OF TITLE III OF THE SMALL BUSINESS  
8 INVESTMENT ACT OF 1958.—

9 “(1) PROGRAM LEVELS 2010.—For fiscal year  
10 2010, in carrying out the program authorized by  
11 part A of title III of the Small Business Investment  
12 Act of 1958, the Administrator is authorized to  
13 make \$5,000,000,000 in guarantees of debentures.

14 “(2) PROGRAM LEVELS 2011.—For fiscal year  
15 2011, in carrying out the program authorized by  
16 part A of title III of the Small Business Investment  
17 Act of 1958, the Administrator is authorized to  
18 make \$5,500,000,000 in guarantees of debentures.”.

1 **TITLE V—INVESTMENT IN**  
2 **SMALL MANUFACTURERS**  
3 **AND RENEWABLE ENERGY**  
4 **SMALL BUSINESSES**

5 **Subtitle A—Enhanced New**  
6 **Markets Venture Capital Program**

7 **SEC. 501. EXPANSION OF NEW MARKETS VENTURE CAPITAL**  
8 **PROGRAM.**

9 (a) ADMINISTRATION PARTICIPATION REQUIRED.—  
10 Section 353 of the Small Business Investment Act of 1958  
11 (15 U.S.C. 689b) is amended by striking “under which  
12 the Administrator may” and inserting “under which the  
13 Administrator shall”.

14 (b) REPORT TO CONGRESS.—Not later than 1 year  
15 after the date of the enactment of this Act, the Adminis-  
16 trator of the Small Business Administration shall submit  
17 to Congress a report describing any expansion of the New  
18 Markets Venture Capital Program as a result of this sec-  
19 tion.

20 **SEC. 502. IMPROVED NATIONWIDE DISTRIBUTION.**

21 Section 354 of the Small Business Investment Act  
22 of 1958 (15 U.S.C. 689c) is amended by adding at the  
23 end the following:

24 “(f) GEOGRAPHIC EXPANSION.—From among com-  
25 panies submitting applications under subsection (b), the

1 Administrator shall consider the selection criteria and pro-  
2 motion of nationwide distribution under subsection (c) and  
3 shall, to the extent practicable, approve at least one com-  
4 pany from each geographic region of the Small Business  
5 Administration.”.

6 **SEC. 503. INCREASED INVESTMENT IN SMALL BUSINESS**  
7 **CONCERNS ENGAGED PRIMARILY IN MANU-**  
8 **FACTURING.**

9 (a) DEVELOPMENTAL VENTURE CAPITAL AND PAR-  
10 TICIPATION AGREEMENTS.—Section 351 of the Small  
11 Business Investment Act of 1958 (15 U.S.C. 689) is  
12 amended—

13 (1) in paragraph (1) by inserting after “geo-  
14 graphic areas” the following: “or encouraging the  
15 growth or continuation of small business concerns  
16 located in low-income geographic areas and engaged  
17 primarily in manufacturing”; and

18 (2) in paragraph (6)(B) by inserting after “geo-  
19 graphic areas” the following: “or in small business  
20 concerns located in low-income geographic areas at  
21 least 80 percent of which are engaged primarily in  
22 manufacturing”.

23 (b) PURPOSES.—Section 352(2) of the Small Busi-  
24 ness Investment Act of 1958 (15 U.S.C. 689a(2)) is  
25 amended—



1           (1) in the matter preceding subparagraph (A)  
2           by inserting after “geographic areas” the following:  
3           “and small business concerns located in low-income  
4           geographic areas and engaged primarily in manufac-  
5           turing”;

6           (2) in subparagraph (B) by inserting after “ge-  
7           ographic areas” the following: “or in small business  
8           concerns located in low-income geographic areas and  
9           engaged primarily in manufacturing”; and

10          (3) in subparagraph (C) by inserting after  
11          “smaller enterprises” the following: “and small busi-  
12          ness concerns”.

13          (c) ELIGIBILITY, APPLICATIONS, AND REQUIRE-  
14          MENTS FOR FINAL APPROVAL.—Section 354 of the Small  
15          Business Investment Act of 1958 (15 U.S.C. 689c), as  
16          amended by this Act, is further amended—

17               (1) in subsection (a)(3) by inserting after “geo-  
18               graphic areas” the following: “or investing in small  
19               business concerns located in low-income geographic  
20               areas and engaged primarily in manufacturing”;

21               (2) in subsection (b)—

22                       (A) in paragraph (1) by inserting after  
23                       “geographic areas” the following: “or in small  
24                       business concerns located in low-income geo-

1 geographic areas and engaged primarily in manu-  
2 facturing”; and

3 (B) in paragraph (4) by inserting after  
4 “smaller enterprises” the following: “or small  
5 business concerns”; and

6 (3) in subsection (d)—

7 (A) in paragraph (1)—

8 (i) by striking “Each” and inserting  
9 the following:

10 “(A) IN GENERAL.—Except as provided in  
11 subparagraph (B), each”; and

12 (ii) by adding at the end the fol-  
13 lowing:

14 “(B) SMALL BUSINESS CONCERNS EN-  
15 GAGED PRIMARILY IN MANUFACTURING.—Each  
16 conditionally approved company engaged pri-  
17 marily in development of and investment in  
18 small business concerns located in low-income  
19 geographic areas and engaged primarily in  
20 manufacturing shall raise not less than  
21 \$3,000,000 of private capital or binding capital  
22 commitments from one or more investors (other  
23 than agencies or departments of the Federal  
24 Government) who met criteria established by  
25 the Administrator.”; and

1 (B) in paragraph (2)(A) by inserting after  
2 “smaller enterprises” the following: “or small  
3 business concerns”.

4 (d) OPERATIONAL ASSISTANCE GRANTS.—Section  
5 358 of the Small Business Investment Act of 1958 (15  
6 U.S.C. 689g) is amended—

7 (1) in subsection (a)(1) by inserting after  
8 “smaller enterprises” the following: “and small busi-  
9 ness concerns”; and

10 (2) in subsection (b)(1) by inserting after  
11 “smaller enterprises” the following: “and small busi-  
12 ness concerns”.

13 **SEC. 504. EXPANDED USES FOR OPERATIONAL ASSISTANCE**  
14 **IN MANUFACTURING.**

15 Section 351 of the Small Business Investment Act  
16 of 1958 (15 U.S.C. 689), as amended by this Act, is fur-  
17 ther amended in paragraph (5) by inserting after “busi-  
18 ness development” the following: “or assistance that as-  
19 sists a small business concern located in a low-income geo-  
20 graphic area and engaged primarily in manufacturing with  
21 retooling, updating, or replacing machinery or equip-  
22 ment”.

1 **SEC. 505. UPDATING DEFINITION OF LOW-INCOME GEO-**  
2 **GRAPHIC AREA.**

3 Section 351 of the Small Business Investment Act  
4 of 1958 (15 U.S.C. 689), as amended by this Act, is fur-  
5 ther amended—

6 (1) by striking paragraphs (2) and (3);

7 (2) by inserting after paragraph (1) the fol-  
8 lowing:

9 “(2) LOW-INCOME GEOGRAPHIC AREA.—The  
10 term ‘low-income geographic area’ has the meaning  
11 given the term ‘low-income community’ in section  
12 45D(e) of the Internal Revenue Code of 1986.”; and

13 (3) by redesignating paragraphs (4) through  
14 (8) as paragraphs (3) through (7), respectively.

15 **SEC. 506. EXPANDING OPERATIONAL ASSISTANCE TO CON-**  
16 **DITIONALLY APPROVED COMPANIES.**

17 Section 358(a) of the Small Business Investment Act  
18 of 1958 (15 U.S.C. 689g(a)) is amended by adding at the  
19 end the following:

20 “(6) GRANTS TO CONDITIONALLY APPROVED  
21 COMPANIES.—

22 “(A) IN GENERAL.—Subject to the provi-  
23 sions of this paragraph, upon the request of a  
24 company conditionally approved under section  
25 354(c), the Administrator shall make a grant to  
26 the company under this subsection.

1           “(B) REPAYMENT BY COMPANIES NOT AP-  
2           PROVED.—If a company receives a grant under  
3           this paragraph and does not receive final ap-  
4           proval under section 354(e), the company shall  
5           repay the amount of the grant to the Adminis-  
6           trator.

7           “(C) DEDUCTION FROM GRANT TO AP-  
8           PROVED COMPANY.—If a company receives a  
9           grant under this paragraph and receives final  
10          approval under section 354(e), the Adminis-  
11          trator shall deduct the amount of such grant  
12          from the amount of any immediately succeeding  
13          grant the company receives for operational as-  
14          sistance.

15          “(D) AMOUNT OF GRANT.—No company  
16          may receive a grant of more than \$50,000  
17          under this paragraph.”.

18 **SEC. 507. LIMITATION ON TIME FOR FINAL APPROVAL.**

19          Section 354(d) of the Small Business Investment Act  
20          of 1958 (15 U.S.C. 689c(d)) is amended in the matter  
21          preceding paragraph (1) by striking “a period of time, not  
22          to exceed 2 years,” and inserting “2 years”.

1 **SEC. 508. STREAMLINED APPLICATION FOR NEW MARKETS**  
2 **VENTURE CAPITAL PROGRAM.**

3 Not later than 60 days after the date of the enact-  
4 ment of this Act, the Administrator of the Small Business  
5 Administration shall prescribe standard documents for a  
6 New Markets Venture Capital company final approval ap-  
7 plication under section 354(e) of the Small Business In-  
8 vestment Act of 1958 (15 U.S.C. 689c(e)). The Adminis-  
9 trator shall ensure that the standard documents are de-  
10 signed to substantially reduce the cost burden of the appli-  
11 cation process for companies.

12 **SEC. 509. ELIMINATION OF MATCHING REQUIREMENT.**

13 Section 354(d)(2)(A)(i) of the Small Business Invest-  
14 ment Act of 1958 (15 U.S.C. 689c(d)(2)(A)(i)) is amend-  
15 ed—

16 (1) in subclause (I) by adding “and” at the  
17 end;

18 (2) in subclause (II) by striking “and” at the  
19 end; and

20 (3) by striking subclause (III).

21 **SEC. 510. SIMPLIFIED FORMULA FOR OPERATIONAL AS-**  
22 **SISTANCE GRANTS.**

23 Section 358(a)(4)(A) of the Small Business Invest-  
24 ment Act of 1958 (15 U.S.C. 689g(a)(4)(A)) is amend-  
25 ed—

1 (1) by striking “shall be equal to” and all that  
 2 follows through the period at the end and inserting  
 3 “shall be equal to the lesser of—”; and

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

5 “(i) 10 percent of the resources (in  
 6 cash or in-kind) raised by the company  
 7 under section 354(d)(2); or

8 “(ii) \$1,000,000.”.

9 **SEC. 511. AUTHORIZATION OF APPROPRIATIONS AND EN-**  
 10 **HANCED ALLOCATION FOR SMALL MANUFAC-**  
 11 **TURING.**

12 Section 368(a) of the Small Business Investment Act  
 13 of 1958 (15 U.S.C. 689q(a)) is amended—

14 (1) in the matter preceding paragraph (1) by  
 15 striking “fiscal years 2001 through 2006” and in-  
 16 serting “fiscal years 2010 and 2011”;

17 (2) in paragraph (1)—

18 (A) by striking “\$150,000,000” and in-  
 19 serting “\$100,000,000”; and

20 (B) by inserting before the period at the  
 21 end the following: “, of which not less than 50  
 22 percent shall be used to guarantee debentures  
 23 of companies engaged primarily in development  
 24 of and investment in small business concerns lo-

cated in low-income geographic areas and engaged primarily in manufacturing”; and

(3) in paragraph (2)—

(A) by striking “\$30,000,000” and inserting “\$20,000,000”; and

(B) by inserting before the period at the end the following: “, of which not less than 50 percent shall be used to make grants to companies engaged primarily in development of and investment in small business concerns located in low-income geographic areas and engaged primarily in manufacturing”.

## **Subtitle B—Expanded Investment in Small Business Renewable Energy**

### **SEC. 521. EXPANDED INVESTMENT IN RENEWABLE ENERGY.**

Part C of title III of the Small Business Investment Act of 1958 (15 U.S.C. 690 et seq.) is amended—

(1) in the heading by striking “**RENEWABLE FUEL CAPITAL INVESTMENT**” and inserting “**RENEWABLE ENERGY CAPITAL INVESTMENT**”;

(2) in the heading of paragraph (4) of section 381 by striking “RENEWABLE FUEL CAPITAL IN-



1       VESTMENT” and inserting “RENEWABLE ENERGY  
2       CAPITAL INVESTMENT”;

3           (3) in the heading of section 384 by striking  
4       “**RENEWABLE FUEL CAPITAL INVESTMENT**” and  
5       inserting “**RENEWABLE ENERGY CAPITAL IN-**  
6       **VESTMENT**”; and

7           (4) by striking “Renewable Fuel Capital Invest-  
8       ment” each place it appears and inserting “Renew-  
9       able Energy Capital Investment”.

10 **SEC. 522. RENEWABLE ENERGY CAPITAL INVESTMENT PRO-**  
11 **GRAM MADE PERMANENT.**

12       Part C of title III of the Small Business Investment  
13 Act of 1958 (15 U.S.C. 690 et seq.), as amended by this  
14 Act, is further amended—

15           (1) in the heading by striking “**PILOT**”; and

16           (2) by striking section 398.

17 **SEC. 523. EXPANDED ELIGIBILITY FOR SMALL BUSINESSES.**

18       Part C of title III of the Small Business Investment  
19 Act of 1958 (15 U.S.C. 690 et seq.), as amended by this  
20 Act, is further amended by striking “smaller enterprises”  
21 each place it appears and inserting “small business con-  
22 cerns”.

1 **SEC. 524. EXPANDED USES FOR OPERATIONAL ASSISTANCE**  
2 **IN MANUFACTURING AND SMALL BUSI-**  
3 **NESSES.**

4 Section 381(1) of the Small Business Investment Act  
5 of 1958 (15 U.S.C. 690(1)) is amended by inserting after  
6 “business development” the following: “, assistance that  
7 assists a small business concern to reduce energy con-  
8 sumption, or assistance that assists a small business con-  
9 cern engaged primarily in manufacturing with retooling,  
10 updating, or replacing machinery or equipment”.

11 **SEC. 525. EXPANSION OF RENEWABLE ENERGY CAPITAL IN-**  
12 **VESTMENT PROGRAM.**

13 (a) ADMINISTRATION PARTICIPATION REQUIRED.—  
14 Section 383 of the Small Business Investment Act of 1958  
15 (15 U.S.C. 690b) is amended by striking “under which  
16 the Administrator may” and inserting “under which the  
17 Administrator shall”.

18 (b) REPORT TO CONGRESS.—Not later than 1 year  
19 after the date of the enactment of this Act, the Adminis-  
20 trator of the Small Business Administration shall submit  
21 to Congress a report describing any expansion of the Re-  
22 newable Energy Capital Investment Program as a result  
23 of this section.

1 **SEC. 526. SIMPLIFIED FEE STRUCTURE TO EXPEDITE IM-**  
2 **PLEMENTATION.**

3 Section 387(a) of the Small Business Investment Act  
4 of 1958 (15 U.S.C. 690f(a)) is amended by striking “or  
5 grant”.

6 **SEC. 527. INCREASED OPERATIONAL ASSISTANCE GRANTS.**

7 Section 397(a) of the Small Business Investment Act  
8 of 1958 (15 U.S.C. 690p(a)) is amended by inserting after  
9 “and 2009” the following: “and \$30,000,000 in such  
10 grants for each of fiscal years 2010 and 2011”.

11 **SEC. 528. AUTHORIZATIONS OF APPROPRIATIONS.**

12 Section 397 of the Small Business Investment Act  
13 of 1958 (15 U.S.C. 690p) is amended—

14 (1) in the heading by inserting after “**APPRO-**  
15 **PRIATIONS**” the following: “**AND PROGRAM LEV-**  
16 **ELS**”; and

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

18 “(c) PROGRAM LEVELS.—For the programs author-  
19 ized by this part, the Administration is authorized to make  
20 \$1,000,000,000 in guarantees of debentures for each of  
21 fiscal years 2010 and 2011.”.

1 **TITLE VI—SMALL BUSINESS**  
2 **HEALTH INFORMATION TECH-**  
3 **NOLOGY FINANCING PRO-**  
4 **GRAM**

5 **SEC. 601. SMALL BUSINESS HEALTH INFORMATION TECH-**  
6 **NOLOGY FINANCING PROGRAM.**

7 The Small Business Act (15 U.S.C. 631 et seq.), as  
8 amended by this Act, is further amended by redesignating  
9 section 45 as section 46 and by inserting the following  
10 new section after section 44:

11 **“SEC. 45. LOAN GUARANTEES FOR HEALTH INFORMATION**  
12 **TECHNOLOGY.**

13 “(a) DEFINITIONS.—As used in this section:

14 “(1) The term ‘health information technology’  
15 means computer hardware, software, and related  
16 technology that supports the meaningful EHR use  
17 requirements set forth in section 1848(o)(2)(A) of  
18 the Social Security Act (42 U.S.C. 1395w–  
19 4(o)(2)(A)) and is purchased by an eligible profes-  
20 sional to aid in the provision of health care in a  
21 health care setting, including, but not limited to,  
22 electronic medical records, and that provides for—

23 “(A) enhancement of continuity of care for  
24 patients through electronic storage, trans-  
25 mission, and exchange of relevant personal

1 health data and information, such that this in-  
2 formation is accessible at the times and places  
3 where clinical decisions will be or are likely to  
4 be made;

5 “(B) enhancement of communication be-  
6 tween patients and health care providers;

7 “(C) improvement of quality measurement  
8 by eligible professionals enabling them to col-  
9 lect, store, measure, and report on the proc-  
10 esses and outcomes of individual and population  
11 performance and quality of care;

12 “(D) improvement of evidence-based deci-  
13 sion support; or

14 “(E) enhancement of consumer and pa-  
15 tient empowerment.

16 Such term shall not include information technology  
17 whose sole use is financial management, mainte-  
18 nance of inventory of basic supplies, or appointment  
19 scheduling.

20 “(2) The term ‘eligible professional’ means any  
21 of the following:

22 “(A) A physician (as defined in section  
23 1861(r) of the Social Security Act (42 U.S.C.  
24 1395x(r)).

1           “(B) A practitioner described in section  
2           1842(b)(18)(C) of that Act.

3           “(C) A physical or occupational therapist  
4           or a qualified speech-language pathologist.

5           “(D) A qualified audiologist (as defined in  
6           section 1861(l)(3)(B)) of that Act.

7           “(E) A qualified medical transcriptionist  
8           who is either certified by or registered with the  
9           Association for Healthcare Documentation In-  
10          tegrity, or a successor association thereto.

11          “(F) A State-licensed pharmacist.

12          “(G) A State-licensed supplier of durable  
13          medical equipment, prosthetics, orthotics, or  
14          supplies.

15          “(3) The term ‘qualified eligible professional’  
16          means an eligible professional whose office can be  
17          classified as a small business concern by the Admin-  
18          istrator for purposes of this Act under size stand-  
19          ards established under section 3 of this Act.

20          “(4) The term ‘qualified medical  
21          transcriptionist’ means a specialist in medical lan-  
22          guage and the healthcare documentation process  
23          who interprets and transcribes dictation by physi-  
24          cians and other healthcare professionals to ensure

1 accurate, complete, and consistent documentation of  
2 healthcare encounters.

3 “(b) LOAN GUARANTEES FOR QUALIFIED ELIGIBLE  
4 PROFESSIONALS.—

5 “(1) IN GENERAL.—Subject to paragraph (2),  
6 the Administrator may guarantee up to 90 percent  
7 of the amount of a loan made to a qualified eligible  
8 professional to be used for the acquisition of health  
9 information technology for use in such eligible pro-  
10 fessional’s medical practice and for the costs associ-  
11 ated with the installation of such technology. Except  
12 as otherwise provided in this section, the terms and  
13 conditions that apply to loans made under section  
14 7(a) of this Act shall apply to loan guarantees made  
15 under this section.

16 “(2) LIMITATIONS ON GUARANTEE AMOUNTS.—  
17 The maximum amount of loan principal guaranteed  
18 under this subsection may not exceed—

19 “(A) \$350,000 with respect to any single  
20 qualified eligible professional; and

21 “(B) \$2,000,000 with respect to a single  
22 group of affiliated qualified eligible profes-  
23 sionals.

24 “(c) FEES.—(1) The Administrator may impose a  
25 guarantee fee on the borrower for the purpose of reducing

1 the cost (as defined in section 502(5) of the Federal Credit  
2 Reform Act of 1990) of the guarantee to zero in an  
3 amount not to exceed 2 percent of the total guaranteed  
4 portion of any loan guaranteed under this section. The Ad-  
5 ministrator may also impose annual servicing fees on lend-  
6 ers not to exceed 0.5 percent of the outstanding balance  
7 of the guarantees on lenders' books.

8       “(2) No service fees, processing fees, origination fees,  
9 application fees, points, brokerage fees, bonus points, or  
10 other fees may be charged to a loan applicant or recipient  
11 by a lender in the case of a loan guaranteed under this  
12 section.

13       “(d) DEFERRAL PERIOD.—Loans guaranteed under  
14 this section shall carry a deferral period of not less than  
15 1 year and not more than 3 years. The Administrator shall  
16 have the authority to subsidize interest during the deferral  
17 period.

18       “(e) EFFECTIVE DATE.—No loan may be guaranteed  
19 under this section until the meaningful EHR use require-  
20 ments have been determined by the Secretary of Health  
21 and Human Services.

22       “(f) SUNSET.—No loan may be guaranteed under  
23 this section after the date that is 5 years after meaningful  
24 EHR use requirements have been determined by the Sec-  
25 retary of Health and Human Services.



1       “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
 2 are authorized to be appropriated such sums as are nec-  
 3 essary for the cost (as defined in section 502(5) of the  
 4 Federal Credit Reform Act of 1990) of guaranteeing  
 5 \$10,000,000,000 in loans under this section. The Admin-  
 6 istrator shall determine such program cost separately and  
 7 distinctly from other programs operated by the Adminis-  
 8 trator.”.

9       **TITLE VII—SMALL BUSINESS**  
 10       **EARLY-STAGE INVESTMENT**  
 11       **PROGRAM**

12       **SEC. 701. SMALL BUSINESS EARLY-STAGE INVESTMENT**  
 13       **PROGRAM.**

14       Title III of the Small Business Investment Act of  
 15 1958 (15 U.S.C. 681 et seq.) is amended by adding at  
 16 the end the following:

17       **“PART D—SMALL BUSINESS EARLY-STAGE**  
 18       **INVESTMENT PROGRAM**

19       **“SEC. 399A. ESTABLISHMENT OF PROGRAM.**

20       “The Administrator shall establish and carry out an  
 21 early-stage investment program (hereinafter referred to in  
 22 this part as the ‘program’) to provide equity investment  
 23 financing to support early-stage small businesses in tar-  
 24 geted industries in accordance with this part.

1   **“SEC. 399B. ADMINISTRATION OF PROGRAM.**

2           “The program shall be administered by the Adminis-  
3   trator acting through the Associate Administrator de-  
4   scribed under section 201.

5   **“SEC. 399C. APPLICATIONS.**

6           “(a) IN GENERAL.—Any incorporated body, limited  
7   liability company, or limited partnership organized and  
8   chartered or otherwise existing under Federal or State law  
9   for the purpose of performing the functions and con-  
10   ducting the activities contemplated under the program and  
11   any small business investment company may submit to the  
12   Administrator an application to participate in the pro-  
13   gram.

14          “(b) REQUIREMENTS FOR APPLICATION.—An appli-  
15   cation to participate in the program shall include the fol-  
16   lowing:

17               “(1) A business plan describing how the appli-  
18   cant intends to make successful venture capital in-  
19   vestments in early-stage small businesses in targeted  
20   industries.

21               “(2) Information regarding the relevant venture  
22   capital investment qualifications and backgrounds of  
23   the individuals responsible for the management of  
24   the applicant.

1           “(3) A description of the extent to which the  
2           applicant meets the selection criteria under section  
3           399D.

4           “(c) APPLICATIONS FROM SMALL BUSINESS INVEST-  
5           MENT COMPANIES.—The Administrator shall establish an  
6           abbreviated application process for small business invest-  
7           ment companies that have received a license under section  
8           301 and that are applying to participate in the program.  
9           Such abbreviated process shall incorporate a presumption  
10          that such small business investment companies satisfac-  
11          torily meet the selection criteria under paragraphs (3) and  
12          (5) of section 399D(b).

13       **“SEC. 399D. SELECTION OF PARTICIPATING INVESTMENT**  
14                               **COMPANIES.**

15          “(a) IN GENERAL.—Not later than 90 days after the  
16          date on which the Administrator receives an application  
17          from an applicant under section 399C, the Administrator  
18          shall make a final determination to approve or disapprove  
19          such applicant to participate in the program and shall  
20          transmit such determination to the applicant in writing.

21          “(b) SELECTION CRITERIA.—In making a determina-  
22          tion under subsection (a), the Administrator shall consider  
23          each of the following:

1           “(1) The likelihood that the applicant will meet  
2           the goals specified in the business plan of the appli-  
3           cant.

4           “(2) The likelihood that the investments of the  
5           applicant will create or preserve jobs, both directly  
6           and indirectly.

7           “(3) The character and fitness of the manage-  
8           ment of the applicant.

9           “(4) The experience and background of the  
10          management of the applicant.

11          “(5) The extent to which the applicant will con-  
12          centrate investment activities on early-stage small  
13          businesses in targeted industries.

14          “(6) The likelihood that the applicant will  
15          achieve profitability.

16          “(7) The experience of the management of the  
17          applicant with respect to establishing a profitable in-  
18          vestment track record.

19   **“SEC. 399E. GRANTS.**

20          “(a) IN GENERAL.—The Administrator may make  
21          one or more grants to a participating investment company.

22          “(b) GRANT AMOUNTS.—

23               “(1) NON-FEDERAL CAPITAL.—A grant made  
24               to a participating investment company under the  
25               program may not be in an amount that exceeds the

1 amount of the capital of such company that is not  
2 from a Federal source and that is available for in-  
3 vestment on or before the date on which a grant is  
4 drawn upon. Such capital may include legally bind-  
5 ing commitments with respect to capital for invest-  
6 ment.

7 “(2) LIMITATION ON AGGREGATE AMOUNT.—  
8 The aggregate amount of all grants made to a par-  
9 ticipating investment company under the program  
10 may not exceed \$100,000,000.

11 “(c) GRANT PROCESS.—In making a grant under the  
12 program, the Administrator shall commit a grant amount  
13 to a participating investment company and the amount of  
14 each such commitment shall remain available to be drawn  
15 upon by such company—

16 “(1) for new-named investments during the 5-  
17 year period beginning on the date on which each  
18 such commitment is first drawn upon; and

19 “(2) for follow-on investments and management  
20 fees during the 10-year period beginning on the date  
21 on which each such commitment is first drawn upon,  
22 with not more than 2 additional 1-year periods avail-  
23 able at the discretion of the Administrator.

1   **“SEC. 399F. INVESTMENTS IN EARLY-STAGE SMALL BUSI-**  
2                   **NESSES IN TARGETED INDUSTRIES.**

3           “(a) IN GENERAL.—As a condition of receiving a  
4 grant under the program, a participating investment com-  
5 pany shall make all of the investments of such company  
6 in small business concerns, of which at least 50 percent  
7 shall be early-stage small businesses in targeted indus-  
8 tries.

9           “(b) EVALUATION OF COMPLIANCE.—With respect to  
10 a grant amount committed to a participating investment  
11 company under section 399E, the Administrator shall  
12 evaluate the compliance of such company with the require-  
13 ments under this section if such company has drawn upon  
14 50 percent of such commitment.

15   **“SEC. 399G. PRO RATA INVESTMENT SHARES.**

16           “Each investment made by a participating invest-  
17 ment company under the program shall be treated as com-  
18 prised of capital from grants under the program according  
19 to the ratio that capital from grants under the program  
20 bears to all capital available to such company for invest-  
21 ment.

22   **“SEC. 399H. GRANT INTEREST.**

23           “(a) GRANT INTEREST.—

24                   “(1) IN GENERAL.—As a condition of receiving  
25 a grant under the program, a participating invest-

1       ment company shall convey a grant interest to the  
2       Administrator in accordance with paragraph (2).

3               “(2) EFFECT OF CONVEYANCE.—The grant in-  
4       terest conveyed under paragraph (1) shall have all  
5       the rights and attributes of other investors attrib-  
6       utable to their interests in the participating invest-  
7       ment company, but shall not denote control or vot-  
8       ing rights to the Administrator. The grant interest  
9       shall entitle the Administrator to a pro rata portion  
10      of any distributions made by the participating in-  
11      vestment company equal to the percentage of capital  
12      in the participating investment company that the  
13      grant comprises. The Administrator shall receive dis-  
14      tributions from the participating investment com-  
15      pany at the same times and in the same amounts as  
16      any other investor in the company with a similar in-  
17      terest. The investment company shall make alloca-  
18      tions of income, gain, loss, deduction, and credit to  
19      the Administrator with respect to the grant interest  
20      as if the Administrator were an investor.

21              “(b) MANAGER PROFITS.—As a condition of receiv-  
22      ing a grant under the program, the manager profits inter-  
23      est payable to the managers of a participating investment  
24      company under the program shall not exceed 20 percent  
25      of profits, exclusive of any profits that may accrue as a

1 result of the capital contributions of any such managers  
2 with respect to such company. Any excess of this amount,  
3 less taxes payable thereon, shall be returned by the man-  
4 agers and paid to the investors and the Administrator in  
5 proportion to the capital contributions and grants paid in.  
6 No manager profits interest (other than a tax distribution)  
7 shall be paid prior to the repayment to the investors and  
8 the Administrator of all contributed capital and grants  
9 made.

10 “(c) DISTRIBUTION REQUIREMENTS.—As a condition  
11 of receiving a grant under the program, a participating  
12 investment company shall make all distributions to all in-  
13 vestors in cash and shall make distributions within a rea-  
14 sonable time after exiting investments, including following  
15 a public offering or market sale of underlying investments.

16 **“SEC. 399I. FUND.**

17 “There is hereby created within the Treasury a sepa-  
18 rate fund for grants which shall be available to the Admin-  
19 istrator subject to annual appropriations as a revolving  
20 fund to be used for the purposes of the program. All  
21 amounts received by the Administrator, including any  
22 moneys, property, or assets derived by the Administrator  
23 from operations in connection with the program, shall be  
24 deposited in the fund. All expenses and payments, exclud-  
25 ing administrative expenses, pursuant to the operations of



1 the Administrator under the program shall be paid from  
2 the fund.

3 **“SEC. 399J. APPLICATION OF OTHER SECTIONS.**

4 “To the extent not inconsistent with requirements  
5 under this part, the Administrator may apply sections  
6 309, 311, 312, 313, and 314 to activities under this part  
7 and an officer, director, employee, agent, or other partici-  
8 pant in a participating investment company shall be sub-  
9 ject to the requirements under such sections.

10 **“SEC. 399K. DEFINITIONS.**

11 “In this part, the following definitions apply:

12 “(1) EARLY-STAGE SMALL BUSINESS IN A TAR-  
13 GETED INDUSTRY.—The term ‘early-stage small  
14 business in a targeted industry’ means a small busi-  
15 ness concern that—

16 “(A) is domiciled in a State;

17 “(B) has not generated gross annual sales  
18 revenues exceeding \$15,000,000 in any of the  
19 previous 3 years; and

20 “(C) is engaged primarily in researching,  
21 developing, manufacturing, producing, or bring-  
22 ing to market goods, products, or services with  
23 respect to any of the following business sectors:

24 “(i) Agricultural technology.

25 “(ii) Energy technology.

1 “(iii) Environmental technology.

2 “(iv) Life science.

3 “(v) Information technology.

4 “(vi) Digital media.

5 “(vii) Clean technology.

6 “(viii) Defense technology.

7 “(2) PARTICIPATING INVESTMENT COMPANY.—

8 The term ‘participating investment company’ means  
9 an applicant approved under section 399D to par-  
10 ticipate in the program.

11 “(3) SMALL BUSINESS CONCERN.—The term  
12 ‘small business concern’ has the same meaning given  
13 such term under section 3(a) of the Small Business  
14 Act (15 U.S.C. 632(a)).

15 **“SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.**

16 “There is authorized to be appropriated to carry out  
17 the program \$200,000,000 for the first full fiscal year be-  
18 ginning after the date of the enactment of this part.”.

19 **TITLE VIII—SBA DISASTER**  
20 **PROGRAM REFORM**

21 **SEC. 801. REVISED COLLATERAL REQUIREMENTS.**

22 Section 7 of the Small Business Act (15 U.S.C. 636)  
23 is amended—

24 (1) by striking “(e) [RESERVED].” and “(f)  
25 [RESERVED].”; and

1           (2) in subsection (f), as added by section  
2       12068(a)(2) of the Small Business Disaster Re-  
3       sponse and Loan Improvements Act of 2008 (sub-  
4       title B of title XII of the Food, Conservation, and  
5       Energy Act of 2008; Public Law 110–246), by add-  
6       ing at the end the following:

7           “(2) REVISED COLLATERAL REQUIREMENTS.—  
8       In making a loan with respect to a business under  
9       subsection (b), if the total approved amount of such  
10      loan is less than or equal to \$250,000, the Adminis-  
11      trator may not require the borrower to use the bor-  
12      rower’s home as collateral.”.

13 **SEC. 802. INCREASED LIMITS.**

14       Section 7(b) of the Small Business Act (15 U.S.C.  
15   636(b)) is amended—

16           (1) in paragraph (3)(E) by striking  
17       “\$1,500,000” each place it appears and inserting  
18       “\$3,000,000”; and

19           (2) in paragraph (8)(A) by striking  
20       “\$2,000,000” and inserting “\$3,000,000”.

21 **SEC. 803. REVISED REPAYMENT TERMS.**

22       Section 7(f) of the Small Business Act (15 U.S.C.  
23   636(f)) is amended by adding at the end the following:

24           “(3) REVISED REPAYMENT TERMS.—In making  
25      loans under subsection (b), the Administrator—

1           “(A) may not require repayment to begin  
 2           until the date that is 12 months after the date  
 3           on which the final disbursement of approved  
 4           amounts is made; and

5           “(B) shall calculate the amount of repay-  
 6           ment based solely on the amounts disbursed.”.

7 **SEC. 804. REVISED DISBURSEMENT PROCESS.**

8           Section 7(f) of the Small Business Act (15 U.S.C.  
 9   636(f)), as amended by this Act, is further amended by  
 10   adding at the end the following:

11           “(4) REVISED DISBURSEMENT PROCESS.—In  
 12           making a loan under subsection (b), the Adminis-  
 13           trator shall disburse loan amounts in accordance  
 14           with the following:

15           “(A) If the total amount approved with re-  
 16           spect to such loan is less than or equal to  
 17           \$150,000—

18           “(i) the first disbursement with re-  
 19           spect to such loan shall consist of 40 per-  
 20           cent of the total loan amount, or a lesser  
 21           percentage of the total loan amount if the  
 22           Administrator and the borrower agree on  
 23           such a lesser percentage;

24           “(ii) the second disbursement shall  
 25           consist of 50 percent of the loan amounts

1 that remain after the first disbursement,  
2 and shall be made when the borrower has  
3 produced satisfactory receipts to dem-  
4 onstrate the proper use of 50 percent of  
5 the first disbursement; and

6 “(iii) the third disbursement shall  
7 consist of the loan amounts that remain  
8 after the preceding disbursements, and  
9 shall be made when the borrower has pro-  
10 duced satisfactory receipts to demonstrate  
11 the proper use of the first disbursement  
12 and 50 percent of the second disburse-  
13 ment.

14 “(B) If the total amount approved with re-  
15 spect to such loan is more than \$150,000 but  
16 less than or equal to \$500,000—

17 “(i) the first disbursement with re-  
18 spect to such loan shall consist of 20 per-  
19 cent of the total loan amount, or a lesser  
20 percentage of the total loan amount if the  
21 Administrator and the borrower agree on  
22 such a lesser percentage;

23 “(ii) the second disbursement shall  
24 consist of 30 percent of the loan amounts  
25 that remain after the first disbursement,

1 and shall be made when the borrower has  
2 produced satisfactory receipts to dem-  
3 onstrate the proper use of 50 percent of  
4 the first disbursement;

5 “(iii) the third disbursement shall  
6 consist of 25 percent of the loan amounts  
7 that remain after the first and second dis-  
8 bursements, and shall be made when the  
9 borrower has produced satisfactory receipts  
10 to demonstrate the proper use of the first  
11 disbursement and 50 percent of the second  
12 disbursement; and

13 “(iv) the fourth disbursement shall  
14 consist of the loan amounts that remain  
15 after the preceding disbursements, and  
16 shall be made when the borrower has pro-  
17 duced satisfactory receipts to demonstrate  
18 the proper use of the first and second dis-  
19 bursements and 50 percent of the third  
20 disbursement.

21 “(C) If the total amount approved with re-  
22 spect to such loan is more than \$500,000—

23 “(i) the first disbursement with re-  
24 spect to such loan shall consist of at least  
25 \$100,000, or a lesser amount if the Ad-

1            administrator and the borrower agree on  
 2            such a lesser amount; and

3            “(ii) the number of disbursements  
 4            after the first, and the amount of each  
 5            such disbursement, shall be in the discre-  
 6            tion of the Administrator, but the amount  
 7            of each such disbursement shall be at least  
 8            \$100,000.”.

9    **SEC. 805. GRANT PROGRAM.**

10        Section 7(b) of the Small Business Act (15 U.S.C.  
 11    636(b)), as amended by this Act, is further amended by  
 12    inserting after paragraph (9) the following:

13            “(10) GRANTS TO DISASTER-AFFECTED SMALL  
 14    BUSINESSES.—

15            “(A) IN GENERAL.—If the Administrator  
 16            declares eligibility for additional disaster assist-  
 17            ance under paragraph (9), the Administrator  
 18            may make a grant, in an amount not exceeding  
 19            \$100,000, to a small business concern that—

20            “(i) is located in an area affected by  
 21            the applicable major disaster;

22            “(ii) submits to the Administrator a  
 23            certification by the owner of the concern  
 24            that such owner intends to reestablish the

1 concern in the same county in which the  
2 concern was originally located;

3 “(iii) has applied for, and was rejected  
4 for, a conventional disaster assistance loan  
5 under this subsection; and

6 “(iv) was in existence for at least 2  
7 years before the date on which the applica-  
8 ble disaster declaration was made.

9 “(B) PRIORITY.—In making grants under  
10 this paragraph, the Administrator shall give  
11 priority to a small business concern that the  
12 Administrator determines is economically viable  
13 but unable to meet short-term financial obliga-  
14 tions.

15 “(C) PROGRAM LEVEL AND AUTHORIZA-  
16 TION OF APPROPRIATIONS.—

17 “(i) PROGRAM LEVEL.—The Adminis-  
18 trator is authorized to make \$100,000,000  
19 in grants under this paragraph for each of  
20 fiscal years 2010 and 2011.

21 “(ii) AUTHORIZATION OF APPROPRIA-  
22 TIONS.—There are authorized to be appro-  
23 priated to the Administrator such sums as  
24 may be necessary to carry out this para-  
25 graph.”.



1   **SEC. 806. REGIONAL DISASTER WORKING GROUPS.**

2       Section 40 of the Small Business Act (15 U.S.C.  
3   657l) is amended—

4           (1) in subsection (a), in the matter preceding  
5       paragraph (1), by striking “or” and inserting “and”;

6           (2) by redesignating subsection (d) as sub-  
7       section (e); and

8           (3) by inserting after subsection (c) the fol-  
9       lowing:

10       “(d) REGIONAL DISASTER WORKING GROUPS.—In  
11   carrying out subsection (a), the Administrator, acting  
12   through the regional administrators of the regional offices  
13   of the Administration, shall develop a disaster prepared-  
14   ness and response plan for each region of the Administra-  
15   tion. Each such plan shall be developed in cooperation  
16   with Federal, State, and local emergency response authori-  
17   ties and representatives of businesses located in the region  
18   to which such plan applies. Each such plan shall identify  
19   and include a plan relating to the 3 disasters, natural or  
20   manmade, most likely to occur in the region to which such  
21   plan applies.”.

22   **SEC. 807. OUTREACH GRANTS FOR LOAN APPLICANT AS-**  
23                   **SISTANCE.**

24       Section 7(b) of the Small Business Act (15 U.S.C.  
25   636(b)), as amended by this Act, is further amended by  
26   inserting after paragraph (10) the following:

1           “(11) OUTREACH GRANTS FOR LOAN APPLI-  
2           CANT ASSISTANCE.—

3           “(A) IN GENERAL.—From amounts made  
4           available for administrative expenses relating to  
5           activities under this subsection, the Adminis-  
6           trator is authorized to make grants to the fol-  
7           lowing:

8           “(i) A women’s business center in an  
9           area affected by a disaster.

10          “(ii) A small business development  
11          center in an area affected by a disaster.

12          “(iii) A Veteran Business Outreach  
13          Center in an area affected by a disaster.

14          “(iv) A chamber of commerce in an  
15          area affected by a disaster.

16          “(B) USE OF GRANT.—An entity specified  
17          under subparagraph (A) shall use a grant re-  
18          ceived under this paragraph to provide applica-  
19          tion preparation assistance to applicants for a  
20          loan under this subsection.

21          “(C) PROGRAM LEVEL.—The Adminis-  
22          trator is authorized to make \$50,000,000 in  
23          grants under this paragraph for each of fiscal  
24          years 2010 and 2011.”.

1 **SEC. 808. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 20 of the Small Business Act (15 U.S.C. 631  
3 note), as amended by this Act, is further amended—

4 (1) by redesignating subsection (j) as sub-  
5 section (k); and

6 (2) by inserting after subsection (i) the fol-  
7 lowing:

8 “(j) FISCAL YEARS 2010 AND 2011 WITH RESPECT  
9 TO SECTION 7(b).—There is authorized to be appropriated  
10 such sums as may be necessary for administrative ex-  
11 penses and loans under section 7(b).”.

12 **TITLE IX—REGULATIONS**

13 **SEC. 901. REGULATIONS.**

14 Except as otherwise provided in this Act or in amend-  
15 ments made by this Act, after an opportunity for notice  
16 and comment, but not later than 180 days after the date  
17 of the enactment of this Act, the Administrator shall issue  
18 regulations to carry out this Act and the amendments  
19 made by this Act.

Union Calendar No. 181

11<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 3854**

[Report No. 111-315]

**A BILL**

To amend the Small Business Act and the Small Business Investment Act of 1958 to improve programs providing access to capital under such Acts, and for other purposes.

OCTOBER 26, 2009

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed