

106TH CONGRESS
2D SESSION

H. R. 5663

To provide for community renewal and new markets initiatives.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2000

Mr. TALENT (for himself and Ms. VELAZQUEZ) introduced the following bill;
which was referred to the Committee on Small Business

A BILL

To provide for community renewal and new markets
initiatives.

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. NEW MARKETS VENTURE CAPITAL PROGRAM.**

4 (a) SHORT TITLE.—This section may be cited as the
5 “New Markets Venture Capital Program Act of 2000”.

6 (b) NEW MARKETS VENTURE CAPITAL PROGRAM.—
7 Title III of the Small Business Investment Act of 1958
8 (15 U.S.C. 681 et seq.) is amended—

9 (1) in the heading for the title, by striking
10 “SMALL BUSINESS INVESTMENT COMPA-

1 NIES” and inserting “INVESTMENT DIVISION
2 PROGRAMS”;

3 (2) by inserting before the heading for section
4 301 the following:

5 “PART A—SMALL BUSINESS INVESTMENT COMPANIES”;

6 and

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

8 “PART B—NEW MARKETS VENTURE CAPITAL PROGRAM

9 **“SEC. 351. DEFINITIONS.**

10 “In this part, the following definitions apply:

11 “(1) DEVELOPMENTAL VENTURE CAPITAL.—

12 The term ‘developmental venture capital’ means cap-
13 ital in the form of equity capital investments in busi-
14 nesses made with a primary objective of fostering
15 economic development in low-income geographic
16 areas. For the purposes of this paragraph, the term
17 ‘equity capital’ has the same meaning given such
18 term in section 303(g)(4).

19 “(2) LOW-INCOME INDIVIDUAL.—The term
20 ‘low-income individual’ means an individual whose
21 income (adjusted for family size) does not exceed—

22 “(A) for metropolitan areas, 80 percent of
23 the area median income; and

24 “(B) for nonmetropolitan areas, the great-
25 er of—

1 “(i) 80 percent of the area median in-
2 come; or

3 “(ii) 80 percent of the statewide non-
4 metropolitan area median income.

5 “(3) LOW-INCOME GEOGRAPHIC AREA.—the
6 term ‘low-income geographic area’ means—

7 “(A) any population census tract (or in the
8 case of an area that is not tracted for popu-
9 lation census tracts, the equivalent county divi-
10 sion, as defined by the Bureau of the Census of
11 the Department of Commerce for purposes of
12 defining poverty areas), if—

13 “(i) the poverty rate for that census
14 tract is not less than 20 percent;

15 “(ii) in the case of a tract—

16 “(I) that is located within a met-
17 ropolitan area, 50 percent or more of
18 the households in that census tract
19 have an income equal to less than 60
20 percent of the area median gross in-
21 come; or

22 “(II) that is not located within a
23 metropolitan area, the median house-
24 hold income for such tract does not

1 exceed 80 percent of the statewide
2 median household income; or

3 “(iii) as determined by the Adminis-
4 trator based on objective criteria, a sub-
5 stantial population of low-income individ-
6 uals reside, an inadequate access to invest-
7 ment capital exists, or other indications of
8 economic distress exist in that census
9 tract; or

10 “(B) any area located within—

11 “(i) a HUBZone (as defined in sec-
12 tion 3(p) of the Small Business Act and
13 the implementing regulations issued under
14 that section);

15 “(ii) an urban empowerment zone or
16 urban enterprise community (as designated
17 by the Secretary of Housing and Urban
18 Development); or

19 “(iii) a rural empowerment zone or
20 rural enterprise community (as designated
21 by the Secretary of Agriculture).

22 “(4) NEW MARKETS VENTURE CAPITAL COM-
23 PANY.—The term ‘New Markets Venture Capital
24 company’ means a company that—

1 “(A) has been granted final approval by
2 the Administrator under section 354(e); and

3 “(B) has entered into a participation
4 agreement with the Administrator.

5 “(5) OPERATIONAL ASSISTANCE.—The term
6 ‘operational assistance’ means management, mar-
7 keting, and other technical assistance that assists a
8 small business concern with business development.

9 “(6) PARTICIPATION AGREEMENT.—The term
10 ‘participation agreement’ means an agreement, be-
11 tween the Administrator and a company granted
12 final approval under section 354(e), that—

13 “(A) details the company’s operating plan
14 and investment criteria; and

15 “(B) requires the company to make invest-
16 ments in smaller enterprises at least 80 percent
17 of which are located in low-income geographic
18 areas.

19 “(7) SPECIALIZED SMALL BUSINESS INVEST-
20 MENT COMPANY.—The term ‘specialized small busi-
21 ness investment company’ means any small business
22 investment company that—

23 “(A) invests solely in small business con-
24 cerns that contribute to a well-balanced na-
25 tional economy by facilitating ownership in such

1 concerns by persons whose participation in the
2 free enterprise system is hampered because of
3 social or economic disadvantages;

4 “(B) is organized or chartered under State
5 business or nonprofit corporations statutes, or
6 formed as a limited partnership; and

7 “(C) was licensed under section 301(d), as
8 in effect before September 30, 1996.

9 “(8) STATE.—The term ‘State’ means such of
10 the several States, the District of Columbia, the
11 Commonwealth of Puerto Rico, the Virgin Islands,
12 Guam, American Samoa, the Commonwealth of the
13 Northern Mariana Islands, and any other common-
14 wealth, territory, or possession of the United States.

15 **“SEC. 352. PURPOSES.**

16 “The purposes of the New Markets Venture Capital
17 Program established under this part are—

18 “(1) to promote economic development and the
19 creation of wealth and job opportunities in low-in-
20 come geographic areas and among individuals living
21 in such areas by encouraging developmental venture
22 capital investments in smaller enterprises primarily
23 located in such areas; and

24 “(2) to establish a developmental venture cap-
25 ital program, with the mission of addressing the

1 unmet equity investment needs of small enterprises
2 located in low-income geographic areas, to be admin-
3 istered by the Administrator—

4 “(A) to enter into participation agreements
5 with New Markets Venture Capital companies;

6 “(B) to guarantee debentures of New Mar-
7 kets Venture Capital companies to enable each
8 such company to make developmental venture
9 capital investments in smaller enterprises in
10 low-income geographic areas; and

11 “(C) to make grants to New Markets Ven-
12 ture Capital companies, and to other entities,
13 for the purpose of providing operational assist-
14 ance to smaller enterprises financed, or ex-
15 pected to be financed, by such companies.

16 **“SEC. 353. ESTABLISHMENT.**

17 “In accordance with this part, the Administrator
18 shall establish a New Markets Venture Capital Program,
19 under which the Administrator may—

20 “(1) enter into participation agreements with
21 companies granted final approval under section
22 354(e) for the purposes set forth in section 352;

23 “(2) guarantee the debentures issued by New
24 Markets Venture Capital companies as provided in
25 section 355; and

1 “(3) make grants to New Markets Venture
2 Capital companies, and to other entities, under sec-
3 tion 358.

4 **“SEC. 354. SELECTION OF NEW MARKETS VENTURE CAP-**
5 **ITAL COMPANIES.**

6 “(a) **ELIGIBILITY.**—A company shall be eligible to
7 apply to participate, as a New Markets Venture Capital
8 company, in the program established under this part if—

9 “(1) the company is a newly formed for-profit
10 entity or a newly formed for-profit subsidiary of an
11 existing entity;

12 “(2) the company has a management team with
13 experience in community development financing or
14 relevant venture capital financing; and

15 “(3) the company has a primary objective of
16 economic development of low-income geographic
17 areas.

18 “(b) **APPLICATION.**—To participate, as a New Mar-
19 kets Venture Capital company, in the program established
20 under this part a company meeting the eligibility require-
21 ments set forth in subsection (a) shall submit an applica-
22 tion to the Administrator that includes—

23 “(1) a business plan describing how the com-
24 pany intends to make successful developmental ven-

1 ture capital investments in identified low-income ge-
2 ographic areas;

3 “(2) information regarding the community de-
4 velopment finance or relevant venture capital quali-
5 fications and general reputation of the company’s
6 management;

7 “(3) a description of how the company intends
8 to work with community organizations and to seek
9 to address the unmet capital needs of the commu-
10 nities served;

11 “(4) a proposal describing how the company in-
12 tends to use the grant funds provided under this
13 part to provide operational assistance to smaller en-
14 terprises financed by the company, including infor-
15 mation regarding whether the company intends to
16 use licensed professionals, when necessary, on the
17 company’s staff or from an outside entity;

18 “(5) with respect to binding commitments to be
19 made to the company under this part, an estimate
20 of the ratio of cash to in-kind contributions;

21 “(6) a description of the criteria to be used to
22 evaluate whether and to what extent the company
23 meets the objectives of the program established
24 under this part;

1 “(7) information regarding the management
2 and financial strength of any parent firm, affiliated
3 firm, or any other firm essential to the success of
4 the company’s business plan; and

5 “(8) such other information as the Adminis-
6 trator may require.

7 “(c) CONDITIONAL APPROVAL.—

8 “(1) IN GENERAL.—From among companies
9 submitting applications under subsection (b), the
10 Administrator shall, in accordance with this sub-
11 section, conditionally approval companies to partici-
12 pate in the New Markets Venture Capital Program.

13 “(2) SELECTION CRITERIA.—In selecting com-
14 panies under paragraph (1), the Administrator shall
15 consider the following:

16 “(A) The likelihood that the company will
17 meet the goal of its business plan.

18 “(B) The experience and background of
19 the company’s management team.

20 “(C) The need for developmental venture
21 capital investments in the geographic areas in
22 which the company intends to invest.

23 “(D) The extent to which the company will
24 concentrate its activities on serving the geo-
25 graphic areas in which it intends to invest.

1 “(E) The likelihood that the company will
2 be able to satisfy the conditions under sub-
3 section (d).

4 “(F) The extent to which the activities
5 proposed by the company will expand economic
6 opportunities in the geographic areas in which
7 the company intends to invest.

8 “(G) The strength of the company’s pro-
9 posal to provide operational assistance under
10 this part as the proposal relates to the ability
11 of the applicant to meet applicable cash require-
12 ments and properly utilize in-kind contribu-
13 tions, including the use of resources for the
14 services of licensed professionals, when nec-
15 essary, whether provided by persons on the
16 company’s staff or by persons outside of the
17 company.

18 “(H) Any other factors deemed appro-
19 priate by the Administrator.

20 “(3) NATIONWIDE DISTRIBUTION.—The Admin-
21 istrator shall select companies under paragraph (1)
22 in such a way that promotes investment nationwide.

23 “(d) REQUIREMENTS TO BE MET FOR FINAL AP-
24 PROVAL.—The Administrator shall grant each condi-

1 tionally approved company a period of time, not to exceed
2 2 years, to satisfy the following requirements:

3 “(1) CAPITAL REQUIREMENT.—Each condi-
4 tionally approved company shall raise not less than
5 \$5,000,000 of private capital or binding capital com-
6 mitments from one or more investors (other than
7 agencies or departments of the Federal Government)
8 who met criteria established by the Administrator.

9 “(2) NONADMINISTRATION RESOURCES FOR
10 OPERATIONAL ASSISTANCE.—

11 “(A) IN GENERAL.—In order to provide
12 operational assistance to smaller enterprises ex-
13 pected to be financed by the company, each
14 conditionally approved company—

15 “(i) shall have binding commitments
16 (for contribution in cash or in kind)—

17 “(I) from any sources other than
18 the Small Business Administration
19 that meet criteria established by the
20 Administrator;

21 “(II) payable or available over a
22 multiyear period acceptable to the Ad-
23 ministrator (not to exceed 10 years);
24 and

1 “(III) in an amount not less than
2 30 percent of the total amount of cap-
3 ital and commitments raised under
4 paragraph (1);

5 “(ii) shall have purchased an
6 annuity—

7 “(I) from an insurance company
8 acceptable to the Administrator;

9 “(II) using funds (other than the
10 funds raised under paragraph (1)),
11 from any source other than the Ad-
12 ministrator; and

13 “(III) that yields cash payments
14 over a multiyear period acceptable to
15 the Administrator (not to exceed 10
16 years) in an amount not less than 30
17 percent of the total amount of capital
18 and commitments raised under para-
19 graph (1); or

20 “(iii) shall have binding commitments
21 (for contributions in cash or in kind) of the
22 type described in clause (i) and shall have
23 purchased an annuity of the type described
24 in clause (ii), which in the aggregate make
25 available, over a multiyear period accept-

1 able to the Administrator (not to exceed 10
2 years), an amount not less than 30 percent
3 of the total amount of capital and commit-
4 ments raised under paragraph (1).

5 “(B) EXCEPTION.—The Administrator
6 may, in the discretion of the Administrator and
7 based upon a showing of special circumstances
8 and good cause, consider an applicant to have
9 satisfied the requirements of subparagraph (A)
10 if the applicant has—

11 “(i) a viable plan that reasonably
12 projects the capacity of the applicant to
13 raise the amount (in cash or in-kind) re-
14 quired under subparagraph (A); and

15 “(ii) binding commitments in an
16 amount equal to not less than 20 percent
17 of the total amount required under para-
18 graph (A).

19 “(C) LIMITATION.—In order to comply
20 with the requirements of subparagraphs (A)
21 and (B), the total amount of a company’s in-
22 kind contributions may not exceed 50 percent
23 of the company’s total contributions.

24 “(e) FINAL APPROVAL; DESIGNATION.—The Admin-
25 istrator shall, with respect to each applicant conditionally

1 approved to operate as a New Markets Venture Capital
2 company under subsection (c), either—

3 “(1) grant final approval to the applicant to op-
4 erate as a New Markets Venture Capital company
5 under this part and designate the applicant as such
6 a company, if the applicant—

7 “(A) satisfies the requirements of sub-
8 section (d) on or before the expiration of the
9 time period described in that subsection; and

10 “(B) enters into a participation agreement
11 with the Administrator; or

12 “(2) if the applicant fails to satisfy the require-
13 ments of subsection (d) on or before the expiration
14 of the time period described in that subsection, re-
15 voke the conditional approval granted under that
16 subsection.

17 **“SEC. 355. DEBENTURES.**

18 “(a) IN GENERAL.—The Administrator may guar-
19 antee the timely payment of principal and interest, as
20 scheduled, on debentures issued by any New Markets Ven-
21 ture Capital company.

22 “(b) TERMS AND CONDITIONS.—The Administrator
23 may make guarantees under this section on such terms
24 and conditions as it deems appropriate, except that the

1 term of any debenture guaranteed under this section shall
2 not exceed 15 years.

3 “(c) FULL FAITH AND CREDIT OF THE UNITED
4 STATES.—The full faith and credit of the United States
5 is pledged to pay all amounts that may be required to be
6 paid under any guarantee under this part.

7 “(d) MAXIMUM GUARANTEE.—

8 “(1) IN GENERAL.—Under this section, the Ad-
9 ministrator may guarantee the debentures issued by
10 a New Markets Venture Capital company only to be
11 extent that the total face amount of outstanding
12 guaranteed debentures of such company does not ex-
13 ceed 150 percent of the private capital of the com-
14 pany, as determined by the Administrator.

15 “(2) TREATMENT OF CERTAIN FEDERAL
16 FUNDS.—For the purposes of paragraph (1), private
17 capital shall include capital that is considered to be
18 Federal funds, if such capital is contributed by an
19 investor other than an agency or department of the
20 Federal Government.

21 **“SEC. 356. ISSUANCE AND GUARANTEE OF TRUST CERTIFI-**
22 **CATES.**

23 “(a) ISSUANCE.—The Administrator may issue trust
24 certificates representing ownership of all or a fractional
25 part of debentures issued by a New Markets Venture Cap-

1 ital company and guaranteed by the Administrator under
2 this part, if such certificates are based on and backed by
3 a trust or pool approved by the Administrator and com-
4 posed solely of guaranteed debentures.

5 “(b) GUARANTEE.—

6 “(1) IN GENERAL.—The Administrator may,
7 under such terms and conditions as it deems appro-
8 priate, guarantee the timely payment of the principal
9 of and interest on trust certificates issued by the
10 Administrator or its agents for purposes of this sec-
11 tion.

12 “(2) LIMITATION.—Each guarantee under this
13 subsection shall be limited to the extent of principal
14 and interest on the guaranteed debentures that com-
15 pose the trust or pool.

16 “(3) PREPAYMENT OR DEFAULT.—In the event
17 that a debenture in a trust or pool is prepaid, or in
18 the event of default of such a debenture, the guar-
19 antee of timely payment of principal and interest on
20 the trust certificates shall be reduced in proportion
21 to the amount of principal and interest such prepaid
22 debenture represents in the trust or pool. Interest on
23 prepaid or defaulted debentures shall accrue and be
24 guaranteed by the Administrator only through the
25 date of payment of the guarantee. At any time dur-

1 ing its term, a trust certificate may be called for re-
2 demption due to prepayment or default of all debentures.
3 tures.

4 “(c) FULL FAITH AND CREDIT OF THE UNITED
5 STATES.—The full faith and credit of the United States
6 is pledged to pay all amounts that may be required to be
7 paid under any guarantee of a trust certificate issued by
8 the Administrator or its agents under this section.

9 “(d) FEES.—The Administrator shall not collect a fee
10 for any guarantee of a trust certificate under this section,
11 but any agent of the Administrator may collect a fee approved by the Administrator for the functions described
12 proved by the Administrator for the functions described
13 in subsection (f)(2).

14 “(e) SUBROGATION AND OWNERSHIP RIGHTS.—

15 “(1) SUBROGATION.—In the event the Administrator
16 pays a claim under a guarantee issued under
17 this section, it shall be subrogated fully to the rights
18 satisfied by such payment.

19 “(2) OWNERSHIP RIGHTS.—No Federal, State,
20 or local law shall preclude or limit the exercise by
21 the Administrator of its ownership rights in the debentures
22 residing in a trust or pool against which
23 trust certificates are issued under this section.

24 “(f) MANAGEMENT AND ADMINISTRATION.—

1 “(1) REGISTRATION.—The Administrator may
2 provide for a central registration of all trust certifi-
3 cates issued under this section.

4 “(2) CONTRACTING OF FUNCTIONS.—

5 “(A) IN GENERAL.—The Administrator
6 may contract with an agent or agents to carry
7 out on behalf of the Administrator the pooling
8 and the central registration functions provided
9 for in this section including, notwithstanding
10 any other provision of law—

11 “(i) maintenance, on behalf of and
12 under the direction of the Administrator,
13 of such commercial bank accounts or in-
14 vestments in obligations of the United
15 States as may be necessary to facilitate the
16 creation of trusts or pools backed by de-
17 bentures guaranteed under this part; and

18 “(ii) the issuance of trust certificates
19 to facilitate the creation of such trusts or
20 pools.

21 “(B) FIDELITY BOND OR INSURANCE RE-
22 QUIREMENT.—Any agent performing functions
23 on behalf of the Administrator under this para-
24 graph shall provide a fidelity bond or insurance
25 in such amounts as the Administrator deter-

1 mines to be necessary to fully protect the inter-
2 ests of the United States.

3 “(3) REGULATION OF BROKERS AND DEAL-
4 ERS.—The Administrator may regulate brokers and
5 dealers in trust certificates issued under this section.

6 “(4) ELECTRONIC REGISTRATION.—Nothing in
7 this subsection may be construed to prohibit the use
8 of a book-entry or other electronic form of registra-
9 tion for trust certificates issued under this section.

10 **“SEC. 357. FEES.**

11 “Except as provided in section 356(d), the Adminis-
12 trator may charge such fees as it deems appropriate with
13 respect to any guarantee or grant issued under this part.

14 **“SEC. 358. OPERATIONAL ASSISTANCE GRANTS.**

15 “(a) IN GENERAL.—

16 “(1) AUTHORITY.—In accordance with this sec-
17 tion, the Administrator may make grants to New
18 Markets Venture Capital companies and to other en-
19 tities, as authorized by this part, to provide oper-
20 ational assistance to smaller enterprises financed, or
21 expected to be financed, by such companies or other
22 entities.

23 “(2) TERMS.—Grants made under this sub-
24 section shall be made over a multiyear period not to

1 exceed 10 years, under such other terms as the Ad-
2 ministrator may require.

3 “(3) GRANTS TO SPECIALIZED SMALL BUSINESS
4 INVESTMENT COMPANIES.—

5 “(A) AUTHORITY.—In accordance with
6 this section, the Administrator may make
7 grants to specialized small business investment
8 companies to provide operational assistance to
9 smaller enterprises financed, or expected to be
10 financed, by such companies after the effective
11 date of the New Markets Venture Capital Pro-
12 gram Act of 2000.

13 “(B) USE OF FUNDS.—The proceeds of a
14 grant made under this paragraph may be used
15 by the company receiving such grant only to
16 provide operational assistance in connection
17 with an equity investment (made with capital
18 raised after the effective date of the New Mar-
19 kets Venture Capital Program Act of 2000) in
20 a business located in a low-income geographic
21 area.

22 “(C) SUBMISSION OF PLANS.—A special-
23 ized small business investment company shall
24 be eligible for a grant under this section only if
25 the company submits to the Administrator, in

1 such form and manner as the Administrator
2 may require, a plan for use of the grant.

3 “(4) GRANT AMOUNT.—

4 “(A) NEW MARKETS VENTURE CAPITAL
5 COMPANIES.—The amount of a grant made
6 under this subsection to a New Markets Ven-
7 ture Capital company shall be equal to the re-
8 sources (in cash or in kind) raised by the com-
9 pany under section 354(d)(2).

10 “(B) OTHER ENTITIES.—The amount of a
11 grant made under this subsection to any entity
12 other than a New Markets Venture Capital
13 company shall be equal to the resources (in
14 cash or in kind) raised by the entity in accord-
15 ance with the requirements applicable to New
16 Market Venture Capital companies set forth in
17 section 354(d)(2).

18 “(5) PRO RATA REDUCTIONS.—If the amount
19 made available to carry out this section is insuffi-
20 cient for the Administrator to provide grants in the
21 amounts provided for in paragraph (4), the Adminis-
22 trator shall make pro rata reductions in the amounts
23 otherwise payable to each company and entity under
24 such paragraph.

25 “(b) SUPPLEMENTAL GRANTS.—

1 “(1) IN GENERAL.—The Administrator may
2 make supplemental grants to New Markets Venture
3 Capital companies and to other entities, as author-
4 ized by this part under such terms as the Adminis-
5 trator may require, to provide additional operational
6 assistance to smaller enterprises financed, or ex-
7 pected to be financed, by the companies.

8 “(2) MATCHING REQUIREMENT.—The Adminis-
9 trator may require, as a condition of any supple-
10 mental grant made under this subsection, that the
11 company or entity receiving the grant provide from
12 resources (in a cash or in kind), other than those
13 provided by the Administrator, a matching contribu-
14 tion equal to the amount of the supplemental grant.

15 “(c) LIMITATION.—None of the assistance made
16 available under this section may be used for any overhead
17 or general and administrative expense of a New Markets
18 Venture Capital company or a specialized small business
19 investment company.

20 **“SEC. 359. BANK PARTICIPATION.**

21 “(a) IN GENERAL.—Except as provided in subsection
22 (b), any national bank, any member bank of the Federal
23 Reserve System, and (to the extent permitted under appli-
24 cable State law) any insured bank that is not a member
25 of such system, may invest in any New Markets Venture

1 Capital company, or in any entity established to invest
2 solely in New Markets Venture Capital companies.

3 “(b) LIMITATION.—No bank described in subsection
4 (a) may make investments described in such subsection
5 that are greater than 5 percent of the capital and surplus
6 of the bank.

7 **“SEC. 360. FEDERAL FINANCING BANK.**

8 “Section 318 shall not apply to any debenture issued
9 by a New Markets Venture Capital company under this
10 part.

11 **“SEC. 361. REPORTING REQUIREMENT.**

12 “Each New Markets Venture Capital company that
13 participates in the program established under this part
14 shall provide to the Administrator such information as the
15 Administrator may require, including—

16 “(1) information related to the measurement
17 criteria that the company proposed in its program
18 application; and

19 “(2) in each case in which the company under
20 this part makes an investment in, or a loan or grant
21 to, a business that is not located in a low-income ge-
22 ographic area, a report on the number and percent-
23 age of employees of the business who reside in such
24 areas.

1 **“SEC. 362. EXAMINATIONS.**

2 “(a) IN GENERAL.—Each New Markets Venture
3 Capital company that participates in the program estab-
4 lished under this part shall be subject to examinations
5 made at the direction of the Investment Division of the
6 Small Business Administration in accordance with this
7 section.

8 “(b) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—
9 Examinations under this section may be conducted with
10 the assistance of a private sector entity that has both the
11 qualifications and the expertise necessary to conduct such
12 examinations.

13 “(c) COSTS.—

14 “(1) ASSESSMENT.—

15 “(A) IN GENERAL.—The Administrator
16 may assess the cost of examinations under this
17 section, including compensation of the exam-
18 iners, against the company examined.

19 “(B) PAYMENT.—Any company against
20 which the Administrator assesses costs under
21 this paragraph shall pay such costs.

22 “(d) DEPOSIT OF FUNDS.—Funds collected under
23 this section shall be deposited in the account for salaries
24 and expenses of the Small Business Administration.

1 **“SEC. 363. INJUNCTIONS AND OTHER ORDERS.**

2 “(a) IN GENERAL.—Whenever, in the judgment of
3 the Administrator, a New Markets Venture Capital com-
4 pany or any other person has engaged or is about to en-
5 gage in any acts or practices which constitute or will con-
6 stitute a violation of any provision of this Act, or of any
7 rule or regulation under this Act, or of any order issued
8 under this Act, the Administrator may make application
9 to the proper district court of the United States or a
10 United States court of any place subject to the jurisdiction
11 of the United States for an order enjoining such acts or
12 practices, or for an order enforcing compliance with such
13 provision, rule, regulation, or order, and such courts shall
14 have jurisdiction of such actions and, upon a showing by
15 the Administrator that such New Markets Venture Capital
16 company or other person has engaged or is about to en-
17 gage in any such acts or practices, a permanent or tem-
18 porary injunction, restraining order, or other order, shall
19 be granted without bond.

20 “(b) JURISDICTION.—In any proceeding under sub-
21 section (a), the court as a court of equity may, to such
22 extent as it deems necessary, take exclusive jurisdiction
23 of the New Market Venture Capital company and the as-
24 sets thereof, wherever located, and the court shall have
25 jurisdiction in any such proceeding to appoint a trustee

1 or receiver to hold or administer under the direction of
2 the court the assets so possessed.

3 “(c) ADMINISTRATOR AS TRUSTEE OR RECEIVER.—

4 “(1) AUTHORITY.—The Administrator may act
5 as trustee or receiver of a New Markets Venture
6 Capital company.

7 “(2) Appointment.—Upon request of the Ad-
8 ministrator, the court may appoint the Adminis-
9 trator to act as a trustee or receiver of a New Mar-
10 kets Venture Capital company unless the court
11 deems such appointment inequitable or otherwise in-
12 appropriate by reason of the special circumstances
13 involved.

14 **“SEC. 364. ADDITIONAL PENALTIES FOR NONCOMPLIANCE.**

15 “(a) IN GENERAL.—With respect to any New Mar-
16 kets Venture Capital company that violates or fails to
17 comply with any of the provisions of this Act, of any regu-
18 lation issued under this Act, or of any participation agree-
19 ment entered into under this Act, the Administrator may
20 in accordance with this section—

21 “(1) void the participation agreement between
22 the Administrator and the company; and

23 “(2) cause the company to forfeit all of the
24 rights and privileges derived by the company from
25 this Act.

1 “(b) ADJUDICATION OF NONCOMPLIANCE.—

2 “(1) IN GENERAL.—Before the Administrator
3 may cause a New Markets Venture Capital company
4 to forfeit rights or privileges under subsection (a), a
5 court of the United States of competent jurisdiction
6 must find that the company committed a violation,
7 or failed to comply, in a cause of action brought for
8 that purpose in the district, territory, or other place
9 subject to the jurisdiction of the United States, in
10 which the principal office of the company is located.

11 “(2) PARTIES AUTHORIZED TO FILE CAUSES OF
12 ACTION.—Each cause of action brought by the
13 United States under this subsection shall be brought
14 by the Administrator or by the Attorney General.

15 **“SEC. 365. UNLAWFUL ACTS AND OMISSIONS; BREACH OF**
16 **FIDUCIARY DUTY.**

17 “(a) PARTIES DEEMED TO COMMIT A VIOLATION.—
18 Whenever any New Markets Venture Capital company vio-
19 lates any provision of this Act, of a regulation issued
20 under this Act, or of a participation agreement entered
21 into under this Act, by reason of its failure to comply with
22 its terms or by reason of its engaging in any act or prac-
23 tice that constitutes or will constitute a violation thereof,
24 such violation shall also be deemed to be a violation and
25 an unlawful act committed by any person who, directly

1 or indirectly, authorizes, orders, participates in, causes,
2 brings about, counsels, aids, or abets in the commission
3 of any acts, practices, or transactions that constitute or
4 will constitute, in whole or in part, such violation.

5 “(b) FIDUCIARY DUTIES.—It shall be unlawful for
6 any officer, director, employee, agent, or other participant
7 in the management or conduct of the affairs of a New
8 Markets Venture Capital company to engage in any act
9 or practice, or to omit any act or practice, in breach of
10 the person’s fiduciary duty as such officer, director, em-
11 ployee, agent, or participant if, as a result thereof, the
12 company suffers or is in imminent danger of suffering fi-
13 nancial loss or other damage.

14 “(c) UNLAWFUL ACTS.—Except with the written con-
15 sent of the Administrator, it shall be unlawful—

16 “(1) for any person to take office as an officer,
17 director, or employee of any New Markets Venture
18 Capital company, or to become an agent or partici-
19 pant in the conduct of the affairs or management of
20 such a company, if the person—

21 “(A) has been convicted of a felony, or any
22 other criminal offense involving dishonesty or
23 breach of trust; or

24 “(B) has been found civilly liable in dam-
25 ages, or has been permanently or temporarily

1 enjoined by an order, judgment, or decree of a
2 court of competent jurisdiction, by reason of
3 any act or practice involving fraud, or breach of
4 trust; and

5 “(2) for any person continue to serve in any of
6 the capacities described in paragraph (1), if—

7 “(A) the person is convicted of a felony, or
8 any other criminal offense involving dishonesty
9 or breach of trust; or

10 “(B) the person is found civilly liable in
11 damages, or is permanently or temporarily en-
12 joined by an order, judgment, or decree of a
13 court of competent jurisdiction, by reason of
14 any act or practice involving fraud or breach of
15 trust.

16 **“SEC. 366. REMOVAL OR SUSPENSION OF DIRECTORS OR**
17 **OFFICERS.**

18 “Using the procedures for removing or suspending a
19 director or an officer of a licensee set forth in section 313
20 (to the extent such procedures are not inconsistent with
21 the requirements of this part), the Administrator may re-
22 move or suspend any director or officer of any New Mar-
23 kets Venture Capital company.

1 **“SEC. 367. REGULATIONS.**

2 “The Administrator may issue such regulations as it
3 deems necessary to carry out the provisions of this part
4 in accordance with its purposes.

5 **“SEC. 368. AUTHORIZATIONS OF APPROPRIATIONS.**

6 “(a) IN GENERAL.—There are authorized to be ap-
7 propriated for fiscal years 2001 through 2006, to remain
8 available until expended, the following sums:

9 “(1) Such subsidy budget authority as may be
10 necessary to guarantee \$150,000,000 of debentures
11 under this part.

12 “(2) \$30,000,000 to make grants under this
13 part.

14 “(b) FUNDS COLLECTED FOR EXAMINATIONS.—
15 Funds deposited under section 362(c)(2) are authorized
16 to be appropriated only for the costs of examinations
17 under section 362 and for the costs of other oversight ac-
18 tivities with respect to the program established under this
19 part.”.

20 (c) CONFORMING AMENDMENT.—Section 20(e)(1)(C)
21 of the Small Business Act (15 U.S.C. 631 note) is amend-
22 ed by inserting ‘part A of’ before “title III”.

23 (d) CALCULATION OF MAXIMUM AMOUNT OF SBIC
24 LEVERAGE.—

1 (1) MAXIMUM LEVERAGE.—Section 303(b)(2)
2 of the Small Business Investment Act of 1958 (15
3 U.S.C. 683(b)(2)) is amended to read as follows:

4 “(2) MAXIMUM LEVERAGE.—

5 “(A) IN GENERAL.—After March 31,
6 1993, the maximum amount of outstanding le-
7 verage made available to a company licensed
8 under section 301(c) of this Act shall be deter-
9 mined by the amount of such company’s private
10 capital—

11 “(i) if the company has private capital
12 of not more than \$15,000,000, the total
13 amount of leverage shall not exceed 300
14 percent of private capital;

15 “(ii) if the company has private cap-
16 ital of more than \$15,000,000 but not
17 more than \$30,000,000, the total amount
18 of leverage shall not exceed \$45,000,000
19 plus 200 percent of the amount of private
20 capital over \$15,000,000; and

21 “(iii) if the company has private cap-
22 ital of more than \$30,000,000, the total
23 amount of leverage shall not exceed
24 \$75,000,000 plus 100 percent of the
25 amount of private capital over \$30,000,000

1 but not to exceed an additional
2 \$15,000,000.

3 “(B) ADJUSTMENTS.—

4 “(i) IN GENERAL.—The dollar
5 amounts in clauses (i), (ii), and (iii) of
6 subparagraph (A) shall be adjusted annu-
7 ally to reflect increases in the Consumer
8 Price Index established by the Bureau of
9 Labor Statistics of the Department of
10 Labor.

11 “(ii) INITIAL ADJUSTMENTS.—The
12 initial adjustments made under this sub-
13 paragraph after the date of the enactment
14 of the Small Business Reauthorization Act
15 of 1937 shall reflect only increases from
16 March 31, 1993.

17 “(C) INVESTMENTS IN LOW-INCOME GEO-
18 GRAPHIC AREAS.—In calculating the out-
19 standing leverage of a company for the pur-
20 poses of subparagraph (A), the Administrator
21 shall not include the amount of the cost basis
22 of any equity investment made by the company
23 in a smaller enterprise located in a low-income
24 geographic area (as defined in section 351), to
25 the extent that the total of such amounts does

1 not exceed 50 percent of the company’s private
2 capital.”.

3 (2) MAXIMUM AGGREGATE LEVERAGE.—Section
4 303(b)(4) of the Small Business Investment Act of
5 1958 (15 U.S.C. 683(b)(4)) is amended by adding
6 at the end the following new subparagraph:

7 “(D) INVESTMENTS IN LOW-INCOME GEO-
8 GRAPHIC AREAS.—In calculating the aggregate
9 outstanding leverage of a company for the pur-
10 poses of subparagraph (A), the Administrator
11 shall not include the amount of the cost basis
12 of any equity investment made by the company
13 in a smaller enterprise located in a low-income
14 geographic area (as defined in section 351), to
15 the extent that the total of such amounts does
16 not exceed 50 percent of the company’s private
17 capital.”.

18 (e) BANKRUPTCY EXEMPTION FOR NEW MARKETS
19 VENTURE CAPITAL COMPANIES.—Section 109(b)(2) of
20 title 11, United States Code, is amended by inserting “a
21 New Markets Venture Capital company as defined in sec-
22 tion 351 of the Small Business Investment Act of 1958,”
23 after “homestead association,”.

24 (f) FEDERAL SAVINGS ASSOCIATIONS.—Section
25 5(c)(4) of the Home Owners’ Loan Act (12 U.S.C.

1 1464(c)(4)) is amended by adding at the end the fol-
2 lowing:

3 “(F) NEW MARKETS VENTURE CAPITAL
4 COMPANIES.—A Federal savings association
5 may invest in stock, obligations, or other securi-
6 ties of any New Markets Venture Capital com-
7 pany as defined in section 351 of the Small
8 Business Investment Act of 1958, except that a
9 Federal savings association may not make any
10 investment under this subparagraph if its ag-
11 gregate outstanding investment under this sub-
12 paragraph would exceed 5 percent of the capital
13 and surplus of such savings association.”.

14 **SEC. 2. BUSINESSLINC GRANTS AND COOPERATIVE AGREE-**
15 **MENTS.**

16 Section 8 of the Small Business Act (15 U.S.C. 637)
17 is amended by adding at the end the following:

18 “(n) BUSINESS GRANTS AND COOPERATIVE AGREE-
19 MENTS.—

20 “(1) IN GENERAL.—In accordance with this
21 subsection, the Administrator may make grants to
22 and enter into cooperative agreements with any coa-
23 lition of private entities, public entities, or any com-
24 bination of private and public entities—

1 “(A) to expand business-to-business rela-
2 tionships between large and small businesses;
3 and

4 “(B) to provide businesses, directly or indi-
5 rectly, with online information and a database
6 of companies that are interested in mentor-pro-
7 tege programs or community-based, statewide,
8 or local business development programs.

9 “(2) MATCHING REQUIREMENT.—Subject to
10 subparagraph (B), the Administrator may make a
11 grant to a coalition under paragraph (1) only if the
12 coalition provides for activities described in para-
13 graph (1)(A) or (1)(B) an amount, either in kind or
14 in cash, equal to the grant amount.

15 “(3) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated to carry out
17 this subsection \$6,600,000, to remain available until
18 expended, for each of fiscal years 2001 through
19 2006.”.

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