

**FULL COMMITTEE MARKUP OF  
H.R. 3854: THE SMALL BUSINESS  
FINANCING AND INVESTMENT ACT OF 2009**

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**HEARING**

BEFORE THE

**COMMITTEE ON SMALL BUSINESS  
UNITED STATES  
HOUSE OF REPRESENTATIVES**

**ONE HUNDRED ELEVENTH CONGRESS**

**FIRST SESSION**

HEARING HELD  
OCTOBER 21, 2009



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**FULL COMMITTEE MARKUP OF  
H.R. 3854: THE SMALL BUSINESS  
FINANCING AND INVESTMENT ACT OF 2009**

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**Wednesday, October 21, 2009**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SMALL BUSINESS,  
*Washington, DC.*

The Committee met, pursuant to call, at 10:00 a.m., in Room 2360 Rayburn House Office Building, Hon. Nydia Velázquez [chairman of the Committee] presiding.

Present: Representatives Velázquez, Dahlkemper, Schrader, Kirkpatrick, Michaud, Altmire, Clarke, Ellsworth, Bright, Griffith, Halvorson, Graves, Westmoreland, Fallin, Buchanan, Luetkemeyer, Schock and Coffman.

Chairwoman VELÁZQUEZ. I am pleased to call this morning's markup to order.

Today we will consider legislation to reauthorize and enhance the SBA Access to Capital Programs. We often refer to small firms as the engine of our economy. After all, small companies create more new jobs and drive greater innovation than big businesses do.

Through the Recovery Act, Congress has delivered important funding to small firms. Since then we have seen real progress. Over the last seven months, SBA has made \$12 billion in loans. But as I said back in February, the Recovery Act was a critical first step, not a silver bullet. Today access to capital remains a serious challenge for small businesses.

We need to be sure that small firms have all of the resources they need to grow and flourish because at the end of the day our recovery will hinge on job creation, the very thing that small businesses do best.

Historically, small firms have created roughly 64 percent of all new jobs, but today a lack of capital is hindering their ability to put Americans back to work. According to a July survey by the Federal Reserve, 35 percent of banks have tightened lending to small firms.

Meanwhile, 79 percent of entrepreneurs have seen their credit card lines cut dramatically. These are troubling declines not just for small businesses, but for our larger economy.

The legislation we are considering today will help reverse this trend. It improves SBA financing options and, most importantly, creates or saves 1.33 million jobs per year. With unemployment was 9.8, we could really use those 1.33 million jobs. That is why this bill is such a critical piece of legislation.

And I want to recognize Chairman Schrader for his leadership in moving it forward. I would also like to thank all of my colleagues who worked so hard to make this bill a success: Ranking Member Graves, Ms. Halvorson, Mr. Buchanan, Mr. Ellsworth, Mr. Luetkemeyer, Ms. Kirkpatrick, Ms. Dahlkemper, Mr. Nye, and Mr. Griffith.

I now yield to Ranking Member Graves for his opening remarks.

Mr. GRAVES. Good morning. Thank you, Madam Chairman, for holding this markup. I appreciate, very much appreciate, your leadership on this issue and commend you for working in a bipartisan manner on developing legislation that is going to provide changes to the Small Business Administration programs that are going to provide needed capital to small businesses.

Testimony before this Committee shows that small businesses have been unable to obtain needed capital to maintain or expand their businesses. In our districts, business owners have noted that they have seen banks reduce their credit lines and demand excessive collateral to get a loan.

The inability to obtain capital has a serious detrimental effect on the capacity of small businesses to grow their business and pull us out of this current recession.

The Committee has worked hard to produce legislation with significant discussions between Democrat and Republican members. The bill before us today is a compilation of legislative initiatives drafted by members of both sides of the aisle. Their contributions cannot be understated, and I would especially like to thank Congressman Buchanan and Congressman Luetkemeyer for their input on this legislation.

The bill before us today makes important changes to improve the efficiency and increase the transparency of the SBA's lending programs. These modifications are needed to insure that capital is made available to as many small businesses as possible in a timely manner because delay in the marketplace can result in lost opportunities for small businesses.

In addition to creating improvements for the management of the SBA Capital Access Programs, the bill's primary focus is to provide vital capital to small businesses, including those in rural areas. The bill increases outreach efforts to rural lenders in the 7(a) loan program, modifying the areas in which the new market venture capital companies can operate and will provide greater investment opportunities for rural areas that have been bypassed by other venture capitalists.

These are only two of the examples of the many improvements that this will increase access to capital by small business owners.

Despite these significant improvements, there are still some unresolved concerns with the bill. While I strongly endorse the efforts for the SBA to find lenders to make loans, I am a little troubled that the SBA could still make a loan if no bank is willing to make such a loan. To me it suggests an underlying problem possibly with the loan package, and I do not think that the SBA should be making the loan.

The disaster loan provisions included an authorization to make grants to small businesses rather than loans, and I recognize that FEMA provides grants to individuals, but not sufficient grant funds



to small businesses, and I am not sure that we should change a loan program to a grant program, especially without any detailed findings that grants would help save businesses during recovery from a disaster that were not saved by loans.

And finally, we must recognize the current fiscal constraints. The deficit is at an all time high, and Congress is considering a number of potentially expensive programs, and I am concerned about the potential overall cost of the bill.

But those are my reservations on the bill before us, and given the importance of the bills to the potential prosperity of American small business economy, I support the bill being reported out of Committee, and I look forward to working with the Chairwoman to address these concerns as the legislative process moves forward.

And again, I want to thank you for holding this markup, and I yield back the balance.

[The prepared statement of Mr. Graves is included in the appendix.]

Chairwoman VELÁZQUEZ. Thank you, Mr. Graves.

Are there any other members that wish to be recognized for the purpose of making opening remarks?

Ms. Halvorson.

Ms. HALVORSON. Thank you, Chairwoman Velázquez and Ranking Member Graves, for holding this morning's Committee markup.

The legislation that we are considering today will provide a much needed update to the SBA's Access to Capital Programs. All of us on this Committee have heard from small business owners in our districts that accessing capital continues to be a major challenge. So small businesses need capital to grow and create new jobs, but the credit crunch has made it exceedingly difficult for them to obtain loans. The SBA's Access to Capital Programs are supposed to be a resource for small business owners when they have trouble getting credit from traditional sources, and unfortunately, we have seen a recent decrease in the SBA's loan volume.

In Fiscal Year 2009, SBA made around 35 percent fewer 7(a) loans than it did in the previous year. This needs to be turned around, and we need action now.

The legislation we are marking up this morning, the Small Business Financing and Investment Act, will reauthorize and enhance the SBA's Access to Capital Program so that they can better serve the needs of our nation's small businesses. I commend the Chairman of the Finance and Tax Subcommittee, Mr. Schrader, for taking the lead on this legislation, and I am also pleased that it incorporates my bill, H.R. 3723, the Small Business Credit Expansion and Loan Market Stabilization Act. The language from my bill will improve the SBA's flagship 7(a) loan program. It extends the provisions in the Recovery Act that reduced borrower fees and increased the SBA loan guarantee to 90 percent.

We also raised the loan limit to \$3 million, and I look forward to working with the Chair and the Committee to evaluate further raising the limit to five million, which is what I have been hearing from the Committee and outside people that we need to do.

We are also going to extend the ARC Loan Program, which was created by the ARRA to provide small business owners with interest free loans that are 100 percent guaranteed by SBA. The lan-

guage from my bill will increase the maximum award from 35,000 to 50,000.

To increase lender participation in 7(a), the bill creates new rural and small lender outreach programs at the SBA.

And finally, we are going to help veteran entrepreneurs by fully implementing the SBA's Increased Veteran Participation Loan Program.

So I think the bill we have before us today is a good step in the right direction, and I urge members of this Committee to support it.

Madam Chair, I yield back the balance of my time.

Chairwoman VELÁZQUEZ. Are there any other members who wish to be recognized?

Mr. Schrader.

Mr. SCHRADER. Thank you, Madam Chair.

I would just like to thank everybody on the Committee and everyone who has come before our Committee and the testimony they have given to help us fine tune the SBA programs before us today. I particularly enjoyed working with the Ranking Member and my colleagues on the other side of the aisle to help reduce the cost of this bill, recognizing deficit in an issue, but still trying to make sure the lending markets fee up a little bit, expand some of our opportunities around the country to get these agencies, frankly, in a better competitive position, and then the next step will be to instill confidence in the banks.

We are not adding a whole bunch of new regulations that would hamper their ability to get involved. No strings attached; these are just opportunities to get small business going again, and I really appreciate the opportunity to be part of this bill.

Thank you, Madam Chair.

Chairwoman VELÁZQUEZ. Any other member that wishes?

Mr. Ellsworth.

Mr. ELLSWORTH. Madam Chair, in the interest of time, if I could just enter a statement for the record, I would appreciate it.

Chairwoman VELÁZQUEZ. Without objection, so ordered.

Mr. ELLSWORTH. Thank you.

Chairwoman VELÁZQUEZ. Ms. Dahlkemper.

Ms. DAHLKEMPER. Madam Chair, I would also, in the interest of time, ask that I have an opening statement that I would like to enter into the record.

Chairwoman VELÁZQUEZ. Without objection, so ordered.

Mr. Griffith.

Mr. GRIFFITH. Madam Chair, I, too, would like to make an opening statement. I am late. Do we have time?

Chairwoman VELÁZQUEZ. Yes, we do.

Mr. GRIFFITH. We do? Well, thank you, Madam Chairwoman.

In rural America, small businesses often serve as a local economic anchor. Not only do they create and support jobs, but they are important contributors to local charities and nonprofit groups. In small towns, business owners are often engaged in the civic process and serve as community leaders. In short, entrepreneurs are nothing short of the glue that holds rural communities together.

For these reasons, small businesses play a critical role when communities recover from natural disasters. When tornados or hurricanes strike, many communities don't fully recover until local businesses reopen their doors. Once businesses get back to work, local commerce can resume. Citizens are able to find employment, and eventually life returns to normal.

The Small Business Administration's Disaster Loan Program is an important lifeline for businesses that are struggling after natural disasters. Low interest loans provided through this program help firms rebuild if their facilities sustain physical damage. The program can also help small businesses survive the economic shocks that accompany disasters.

Earlier this year, in April, thunderstorms and tornados ripped through north Alabama, my district. More than 100,000 homes and businesses in our state lost power. The SBA's Disaster Loan Program is helping many businesses in the region get back on their feet. Already the agency has approved more than one million in disaster assistance loans for businesses. These funds are helping small firms recover from both the physical and economic damage caused by storms.

While these programs are valuable, I am afraid they do not yet function at their highest potential. Earlier this year, the Government Accounting Office examined the SBA's Disaster Recovery Programs. Specifically, GAO looked at what SBA has done to improve these measures since Hurricane Katrina. In July, when the GAO testified before this Committee, they told us that the Small Business Administration is still unprepared to respond to a major disaster.

This gives me reason for concern. As the old saying goes, hope for the best but prepare for the worst. From what the GAO is telling us, it looks like some in the SBA may be hoping for the best.

The legislation we are considering today includes provisions I author to improve the SBA's disaster assistance initiatives. By improving how the SBA disburses assistance, the bill will speed help to all firms more quickly. The SBA also will be required to establish regional disaster working groups. This will insure the agency prepares for the most likely disaster scenarios in different parts of the country.

Madam Chair, access to capital is always important for small businesses, but when disasters strike, finding an affordable loan can mean the difference between staying in business and going under. The legislation before us will help entrepreneurs find the capital they need in good times as well as bad.

I urge the adoption of the bill and yield back the balance of my time.

Chairwoman VELÁZQUEZ. Are there any other members that wish to be recognized at this point?

[No response.]

Chairwoman VELÁZQUEZ. We will now consider H.R. 3854, The Small Business Financing and Investment Act of 2009, introduced by Representative Schrader.

[The Bill H.R. 3854 is included in the appendix.]

Chairwoman VELÁZQUEZ. This legislation is a comprehensive answer to small firms' capital needs. It carries them throughout the

entire small business life cycle, from day one of the start-up stage to the point at which they can compete with the Fortune 500. For small firms just getting off the ground, Representative Ellsworth crafted important improvements to the Microloan Program. In the past, that initiative inspired growth in otherwise struggling communities.

By reducing interest rates and providing more flexible credit terms, H.R. 3854 gives entrepreneurs greater control of their finances and empowers them to make new investments.

Meanwhile, a move to pair traditional loans with technical training programs provides small firms with the information they need to be successful. At the same time, efforts to draw more lenders into the program will expand access to this vital source of funding.

We often talk about the importance of welfare to work. Well, microloans put people to work through the power of entrepreneurship. If we are looking for policies that spur job growth, then this is the kind of program we should be supporting. Starting a new business is a resource intensive process, but entrepreneurs' capital needs do not begin and end with the first business plan. Rather, they continue throughout all phases of development. For that reason, this bill expands SBA's 504 Program delivering better financing options to middle market firms.

To further bolster established companies, H.R. 3854 also extends successful Recovery Act measures, for example, fee exemptions on loan guarantees. In doing so, it encourages greater lending from banks. This is key because many banks are concerned that they do not have the capital to resume lending in earnest until the middle of 2010. But as any entrepreneur will tell you, small businesses cannot afford to wait that long. They need capital for things like stocking their shelves and financing investments today, not eight months from today.

That is why Representative Halvorson contributed policies to streamline SBA's 7(a) program. Her contributions deliver better funding options to veteran entrepreneurs, the men and women who have served our country so well and who are now helping to drive our economy.

Meanwhile we are improving 7(a) financing options and doing so in a way that mitigates risk to the taxpayer. I want to be clear. Taxpayer protections are a top priority in this bill. It ramps up safeguards in a number of ways, including actions recommended by Representative Buchanan, which allow CDCs to liquidate defaulted loans.

While the SBA is a critical resource for small firms' capital needs, there are cases in which its traditional loans are not enough. For these instances, Congress created a portfolio of investment initiatives. Through the contributions of Representative Luetkemeyer, H.R. 3854 will enhance SBA's largest pool of equity capital, the Small Business Investment Company Program. It will do this by increasing the number and size of investments made. This increase could not come at a more critical time.

In 2009, D.C. firms will invest ten to \$15 billion less than they did in 2008. That is an alarming trend, one that if not reversed will significantly hamper our recovery. By encouraging greater partici-

pation among successful SBICs, this bill can breach the gap and get equity capital flowing to small businesses.

Of all the contributions small firms make to our economy, innovation is one of the most important. That is why H.R. 3854 targets promising start-ups in fields like renewable energy. Through provisions introduced by Representative Kirkpatrick, we are steering investments to firms who focus in that area. In order to fill the void left by the now defunct participating securities program, this bill creates a new pool of capital for early stage firms. That provision introduced by Representative Nye will increase investment in the kind of high growth start-ups that create new jobs.

It is important to know, like many of the measures in this bill, the early stage capital program is governed by critical taxpayer safeguards. For example, it requires investment companies to match grant requests with capital from non-federal resources. SBA will also conduct audits of participating companies to insure that grants are invested in a transparent fashion.

Small businesses play a key role in all sectors of our economy, but they have a particularly strong track record in the tech industry. So I am pleased that this bill encourages small firms to invest in an innovative new product. By helping small medical practices afford health IT, it allows them to make yet another critical contribution to our economy, a streamlined health care system. At present only 13 percent of single doctor practices use HIT. This is because the technology is extremely costly. For your average three-doctor practice, implementation runs close to \$100,000, a large sum for any small business.

By helping small practices afford HIT, H.R. 3854 will encourage greater adoption and, in turn, reduce cost and minimize errors. This measure will not only improve the quality of our health care system, but will create jobs for entrepreneurs in the health IT and technology sector. It would not have come together without the work of Representative Dahlkemper, and I am grateful for her work in including this provision.

H.R. 3854 insures small firms have the financing they need to not only make new investments, but to weather any economic storm. Importantly, it also accounts for entrepreneurs in the event of a natural disaster.

To address shortcomings in SBA disaster loan programs, Representative Griffith introduced measures to establish regional working groups. Doing so will help SBA respond to the multitude of different challenges that could impact our country.

H.R. 3854 also tailors assistance to fit the express needs of small firms following a disaster. When it comes to preparing for catastrophe, SBA's work is never done. This legislation will help the agency remain vigilant in protecting the small businesses that drive our economy. These are the businesses that given the opportunity will drive new growth for our economy and put Americans back to work.

The fact that this bill has such broad support is testament to its importance. I am pleased to say that it is backed by a wide range of groups, almost close to 20. We have the National Restaurants Association, the American Society of Travel Agents, the International Franchise Association, Biotech, National Association of

Credit Unions, the National Association of Investment Companies, the National Venture Capital Association, the American Dental Association, the American Institute of Architects, Air Conditioning Contractors of America, the Association of General Contractors of America, among other.

This bill is about better choices for small businesses. It allows entrepreneurs to select the best possible funding options for their firms and will go a long way in empowering those businesses, but perhaps most importantly, it will help create and sustain 1.33 million jobs. I cannot imagine anyone who can argue with that number.

H.R. 3854 is a bipartisan product, and I urge my colleagues to support its adoption.

Are there any other members who wish to be recognized on H.R. 3854?

[No response.]

Chairwoman VELÁZQUEZ. Well, the Committee now moves to consideration of H.R. 3854. The Clerk will report the title of the bill.

The CLERK. 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.

Chairwoman VELÁZQUEZ. I ask unanimous consent that the bill in its entirety be open for amendment at this time. Does any member seek recognition for the purpose of offering an amendment?

[No response.]

Chairwoman VELÁZQUEZ. Seeing no amendments, the question is on reporting H.R. 3854. All those in favor say aye.

[Chorus of ayes.]

Chairwoman VELÁZQUEZ. Those opposed say no.

[No response.]

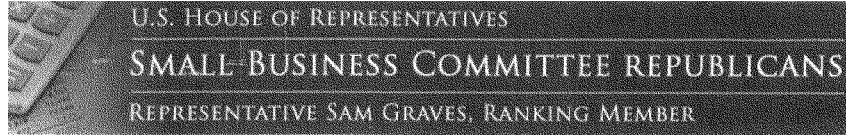
Chairwoman VELÁZQUEZ. The ayes have it. The bill is adopted and reported.

This concludes Committee business for today. I ask unanimous consent that the Committee is authorized to correct section numbers, punctuation, cross-references, and to make necessary technical and conforming corrections on the bill considered today.

Without objection, so ordered.

This markup is now adjourned.

[Whereupon, at 10:40 a.m., the Committee was adjourned.]



Contact: Angela Landers  
Phone: (202) 226-1581

**Opening Statement for Markup on  
The Small Business Financing and Investment Act of 2009  
Sam Graves  
Ranking Member  
Committee on Small Business  
United States House of Representatives  
Washington, DC  
October 21, 2009**

Good morning. Thank you, Madam Chairwoman, for holding this markup. I appreciate your leadership on this issue and commend you for working in a bipartisan manner on developing legislation that will provide changes to the Small Business Administration programs that provide needed capital to small businesses. Testimony before this Committee shows that small businesses have been unable to obtain needed capital to maintain or expand their businesses. In our districts, business owners have noted that they have seen banks reduce their credit lines and demand excessive collateral to get a loan. The inability to obtain capital has a serious detrimental effect on the capacity of small businesses to grow their businesses and pull us out of the current recession.

The Committee has worked hard to produce legislation with significant discussions between Democrat and Republican members. The bill before us today is a compilation of legislative initiatives drafted by members from both sides of the aisle. Their contributions cannot be understated. I would especially like to thank Congressmen Buchanan and Luetkemeyer for their input on this legislation. The bill before us today makes important changes to improve the efficiency and increase the transparency of the SBA's lending programs. Those modifications are needed to ensure that capital is made available to as many small businesses as possible in a timely manner because delay in the marketplace can result in lost opportunities for small businesses.

In addition to creating improvements for the management of the SBA capital access programs, the bill's primary focus is to provide vital capital to small businesses, including those in rural areas. The bill increases outreach efforts for rural lenders in the 7(a) loan program. Modifying the areas in which New Market Venture Capital Companies can operate will provide greater investment opportunities for rural areas that have been bypassed by other venture capitalists. These are only two of the examples of the many improvements that will increase access to capital by small business owners. Despite these significant improvements, there are still unresolved concerns with the bill. While I strongly endorse efforts for the SBA to find lenders to make loans, I am troubled that the SBA still could make a loan if no bank is willing to make such a loan. To me that suggests an underlying problem with the loan package and I do not think that the SBA should make the loan.

The disaster loan provisions include an authorization to make grants to small businesses rather than loans. I recognize that FEMA provides grants to individuals but not sufficient grant funds to small businesses. I am not sure that we should change a loan program to a grant program especially without any detailed findings that grants would have saved businesses during recovery from a disaster that were not saved by loans. Finally, we must recognize the current fiscal constraints. The deficit is at an all time high and Congress is considering a number of other potentially expensive programs. As a result, I am concerned about the potential overall cost of the bill.

These are my reservations on the bill before us. Given, the importance of these bills to the potential prosperity of the American small business economy, I support the bill being reported out of Committee. I look forward to working with the Chairwoman to address these concerns as the legislative process moves forward. Again, I would like to thank the Chairwoman for holding this markup and yield back the balance of my time.



111TH CONGRESS  
1ST SESSION

# H. R. 3854

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

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## 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.
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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  
8       program to provide support to regional, district, and  
9       branch offices of the Administration to assist small  
10       lenders, who do not participate in the Preferred  
11       Lenders Program, to participate in the programs  
12       under this subsection.”.

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

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 “(35) RURAL LENDING OUTREACH PROGRAM.—

6 “(A) IN GENERAL.—The Administrator  
7 shall establish and carry out a rural lending  
8 outreach program (hereinafter referred to in  
9 this paragraph as the ‘program’) to provide  
10 loans under this subsection in accordance with  
11 this paragraph.

12 “(B) MAXIMUM PARTICIPATION.—A loan  
13 under the program shall include the maximum  
14 participation levels by the Administrator per-  
15 mitted for loans made under this subsection.

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

19 “(D) USE OF RURAL LENDERS.—The pro-  
20 gram shall be carried out through lenders lo-  
21 cated in a rural area (as such term is defined  
22 under subsection (m)(11)(C)) or, if a small  
23 business concern located in a rural area does  
24 not have a lender located within 30 miles of the  
25 principal place of business of such concern,

1 through any lender chosen by such concern that  
2 provides loans under this subsection.

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

6 “(F) DOCUMENTATION.—The program  
7 shall use abbreviated application and docu-  
8 mentation requirements.

9 “(G) CREDIT STANDARDS.—Minimum  
10 credit standards, as the Administrator considers  
11 necessary to limit the rate of default on loans  
12 made under the program, shall apply.”.

13 **SEC. 103. COMMUNITY EXPRESS PROGRAM MADE PERMA-**  
14 **NENT.**

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

18 “(36) COMMUNITY EXPRESS PROGRAM.—

19 “(A) IN GENERAL.—The Administrator  
20 shall carry out a Community Express Program  
21 to provide loans under this subsection in ac-  
22 cordance with this paragraph.

23 “(B) REQUIREMENTS.—For a loan made  
24 under the Community Express Program, the  
25 following shall apply:

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

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

13          “(iii) The loan shall comply with the  
14          collateral policy of the Administration.

15          “(iv) The loan shall include terms re-  
16          quiring the lender to provide, at the ex-  
17          pense of the lender, technical assistance to  
18          the borrower through the lender or a third-  
19          party provider.

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

22 **SEC. 104. INCREASED VETERAN PARTICIPATION PROGRAM**  
23 **MADE PERMANENT.**

24          Section 7(a) of the Small Business Act (15 U.S.C.  
25 636(a)), as amended by this Act, is further amended—

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

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

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

10                   (B) by striking subparagraphs (C) and  
11                   (F); and

12                   (C) by redesignating subparagraphs (D)  
13                   and (E) as subparagraphs (C) and (D), respec-  
14                   tively.

15 **SEC. 105. LEASING POLICY.**

16           Section 7(a) of the Small Business Act (15 U.S.C.  
17           636(a)), as amended by this Act, is further amended by  
18           striking paragraph (28) and inserting the following:

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

22                           “(A) shall permanently occupy and use not  
23                           less than 50 percent of the space in such facil-  
24                           ity; and



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

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

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

8           “(37) NATIONAL LENDER TRAINING PRO-  
9           GRAM.—

10           “(A) IN GENERAL.—The Administrator  
11           shall establish and carry out, through the re-  
12           gional offices of the Administration, a lender  
13           training program for new and existing lenders  
14           under this subsection with respect to the lend-  
15           ing systems, policies, and procedures of the Ad-  
16           ministration.

17           “(B) FEES.—The Administrator shall  
18           charge a fee for the program established under  
19           subparagraph (A) to reduce the cost of such  
20           program to zero.

21           “(C) LIMITATION.—The program estab-  
22           lished under subparagraph (A) may not be car-  
23           ried out by contract with a nongovernmental  
24           entity.”.

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

8 (1) The entity has as the primary mission of  
9 the entity the financing or development of small  
10 business concerns.

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

14 (3) The entity does not significantly participate  
15 in activities unrelated to the primary mission of the  
16 entity.

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

18 Section 7(a) of the Small Business Act (15 U.S.C.  
19 636(a)), as amended by this Act, is further amended by  
20 adding at the end the following:

21 “(38) APPLICATIONS FOR REPURCHASE OF  
22 LOANS.—

23 “(A) IN GENERAL.—Not later than 45  
24 days after the date of the receipt of a claim  
25 from a lender for proper payment of the guar-

1           anted portion of a loan under this subsection  
2           due to default, the Administrator shall make a  
3           final determination with respect to the approval  
4           or denial of such claim.

5                   “(B) LATE DETERMINATIONS.—If the Ad-  
6           ministrator does not make a final determination  
7           under subparagraph (A) in the time period  
8           specified in such subparagraph, the claim shall  
9           be approved and paid promptly.”.

10 **SEC. 108. ALTERNATIVE SIZE STANDARD.**

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

14                   “(5) In addition to any other size standard  
15           under this subsection, the Administrator shall estab-  
16           lish and permit a lender making a loan under section  
17           7(a) to use an alternative size standard. The alter-  
18           native size standard shall be based on factors includ-  
19           ing the maximum tangible net worth and average  
20           net income of a business concern.”.

21           (b) APPLICABILITY.—Until the Administrator estab-  
22           lishes under section 3(a)(5) of the Small Business Act,  
23           as added by subsection (a) of this section, an alternative  
24           size standard for use by a lender making a loan under  
25           section 7(a) of such Act, the alternative size standard in

1 section 121.301(b) of title 13, Code of Federal Regula-  
2 tions, shall apply in such a case.

3 **SEC. 109. PILOT PROGRAM AUTHORITY.**

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 striking paragraph (25) and inserting the following:

7 “(25) LIMITATION ON CONDUCTING PILOT  
8 PROJECTS.—

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

14 “(B) DOLLAR LIMITATIONS.—

15 “(i) IN GENERAL.—With respect to  
16 any pilot program under this subsection es-  
17 tablished on or after the date of the enact-  
18 ment of the Small Business Financing and  
19 Investment Act of 2009, no loan shall be  
20 made under such program if such loan  
21 would result in the total amount of loans  
22 made during a fiscal year under all such  
23 programs to be in excess of 5 percent of  
24 the total amount of loans guaranteed in  
25 such fiscal year under this subsection.

1           “(ii) CERTAIN PRE-EXISTING PRO-  
2           GRAMS.—With respect to any pilot pro-  
3           gram under this subsection established be-  
4           fore the date of the enactment of the Small  
5           Business Financing and Investment Act of  
6           2009, no loan shall be made under such  
7           program if such loan would result in the  
8           total amount of loans made during a fiscal  
9           year under all such programs to be in ex-  
10          cess of 10 percent of the total amount of  
11          loans guaranteed in such fiscal year under  
12          this subsection.

13          “(C) EXPIRATION.—

14                 “(i) IN GENERAL.—Except as pro-  
15                 vided in clause (iii), the duration of any  
16                 pilot program under this subsection may  
17                 not exceed 3 years.

18                 “(ii) DESIGNATION AS NEW PRO-  
19                 GRAM.—For purposes of this subpara-  
20                 graph, a pilot program shall not be treated  
21                 as a new pilot program solely on the basis  
22                 of a modification or change in the pilot  
23                 program, including the change of its name.

24                 “(iii) EXISTING PROGRAMS.—With re-  
25                 spect to any pilot program in existence on

1 the date of the enactment of the Small  
2 Business Financing and Investment Act of  
3 2009, such program may continue in effect  
4 for a period not exceeding 3 years after  
5 such date without regard to the duration  
6 of such program before such date.

7 “(D) REGULATIONS.—

8 “(i) IN GENERAL.—With respect to  
9 each pilot program under this subsection,  
10 including each pilot program in existence  
11 on the date of the enactment of the Small  
12 Business Financing and Investment Act of  
13 2009, the Administrator shall—

14 “(I) issue regulations for such  
15 program after providing notice in the  
16 Federal Register and an opportunity  
17 for comment; and

18 “(II) ensure that such regula-  
19 tions are published in the Code of  
20 Federal Regulations.

21 “(ii) PILOT PROGRAMS ESTABLISHED  
22 AFTER DATE OF ENACTMENT.—With re-  
23 spect to any pilot program established  
24 after the date of the enactment of the  
25 Small Business Financing and Investment

1 Act of 2009, such program shall not take  
2 effect until the requirements under this  
3 subparagraph are satisfied.

4 “(E) REPEAL OF AUTHORITY TO WAIVE  
5 CERTAIN RULES.—

6 “(i) IN GENERAL.—Notwithstanding  
7 section 120.3 of title 13, Code of Federal  
8 Regulations, the Administrator may not  
9 from time to time suspend, modify, or  
10 waive rules for a limited period of time to  
11 test new programs or ideas with respect to  
12 this subsection, unless such suspension,  
13 modification, or waiver is explicitly author-  
14 ized by Act of Congress.

15 “(ii) EXISTING PILOT PROGRAMS.—  
16 Nothing under clause (i) may be construed  
17 to affect a pilot program in existence on  
18 the date of the enactment of the Small  
19 Business Financing and Investment Act of  
20 2009.

21 “(F) PILOT PROGRAM.—For purposes of  
22 this paragraph, the term ‘pilot program’ means  
23 any lending program initiative, project, innova-  
24 tion, or other activity not specifically authorized  
25 by Act of Congress.”.

1 **SEC. 110. LOANS TO COOPERATIVES.**

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

8 “(A) is not organized as a tax-exempt enti-  
9 ty;

10 “(B) is engaged in a legal business activ-  
11 ity;

12 “(C) obtains financial benefits for the co-  
13 operative and for the members of such coopera-  
14 tive; and

15 “(D) is eligible under applicable size stand-  
16 ards of the Administration, including that any  
17 business entity that is a member of such coop-  
18 erative is eligible under applicable size stand-  
19 ards of the Administration.”.

20 **SEC. 111. CAPITAL BACKSTOP PROGRAM.**

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

24 “(40) CAPITAL BACKSTOP PROGRAM.—

25 “(A) IN GENERAL.—The Administrator  
26 shall establish a process under which a small



1 business concern may submit an application to  
2 the Administrator for the purpose of securing a  
3 loan under this subsection. With respect to such  
4 application, the Administrator shall collect all  
5 information necessary to determine the credit-  
6 worthiness and repayment ability of an appli-  
7 cant and shall determine if such application  
8 meets basic eligibility and credit standards for  
9 a loan under this subsection.

10 “(B) PARTICIPATION OF LENDERS.—

11 “(i) IN GENERAL.—The Administrator  
12 shall establish a process under which the  
13 Administrator makes available to lenders  
14 each loan application submitted and deter-  
15 mined to meet basic eligibility and credit  
16 standards under subparagraph (A) for the  
17 purpose of such lenders originating, under-  
18 writing, closing, and servicing the loan for  
19 which the applicant applied.

20 “(ii) ELIGIBILITY.—Lenders are eligi-  
21 ble to receive a loan application described  
22 in clause (i) if they participate in the pro-  
23 grams established under this subsection.

24 “(iii) LOCAL LENDERS.—The Admin-  
25 istrator shall first make available a loan

1 application described in clause (i) to lend-  
2 ers within 100 miles of the principal office  
3 of the loan applicant.

4 “(iv) PREFERRED LENDERS.—If a  
5 lender described in clause (iii) does not  
6 agree to originate, underwrite, close, and  
7 service the loan applied for within 5 busi-  
8 ness days of receiving a loan application  
9 described in clause (i), the Administrator  
10 shall subsequently make available such  
11 loan application to lenders in the Preferred  
12 Lenders Program under paragraph  
13 (2)(C)(ii) of this subsection.

14 “(v) AUTHORITY OF ADMINISTRATION  
15 TO LEND.—If a lender described in clauses  
16 (iii) or (iv) does not agree to originate, un-  
17 derwrite, close, and service the loan applied  
18 for within 10 business days of receiving a  
19 loan application described in clause (i), the  
20 Administrator shall originate, underwrite,  
21 close, and service such loan.

22 “(C) ASSET SALES.—The Administrator  
23 shall offer to sell loans made by the Adminis-  
24 trator under this paragraph. Such sales shall be  
25 made through the semi-annual public sollicita-

1           tion (in the Federal Register and in other  
2           media) of offers to purchase. The Administrator  
3           may contract with vendors for due diligence,  
4           asset valuation, and other services related to  
5           such sales. The Administrator may not sell any  
6           loan under this subparagraph for less than 90  
7           percent of the net present value of the loan, as  
8           determined and certified by a qualified third  
9           party.

10           “(D) LOANS NOT SOLD.—The Adminis-  
11           trator shall maintain and service loans made by  
12           the Administrator under this paragraph that  
13           are not sold through the asset sales under this  
14           paragraph.

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

17           “(i) such date occurs during a period  
18           that—

19           “(I) begins on the date the Bu-  
20           reau of Economic Analysis, or any  
21           successor organization, makes a deter-  
22           mination that the gross domestic  
23           product of the United States has de-  
24           creased for three consecutive quarters;  
25           and

1                   “(II) ends on the date the Bu-  
2                   reau of Economic Analysis, or any  
3                   successor organization, makes a deter-  
4                   mination that the gross domestic  
5                   product of the United States has in-  
6                   creased for two consecutive quarters;  
7                   and

8                   “(ii) the number of loans provided  
9                   under this subsection prior to such date in  
10                  the fiscal year including such date is at  
11                  least 30 percent less than the number of  
12                  such loans provided prior to the same point  
13                  in the previous fiscal year.

14                  “(F) IMPLEMENTATION.—The Adminis-  
15                  trator shall establish a group of at least 250 in-  
16                  dividuals available to carry out activities under  
17                  this paragraph on any date on which this para-  
18                  graph has effect under subparagraph (E). The  
19                  Administrator shall provide to such group the  
20                  training necessary to carry out activities under  
21                  this paragraph.

22                  “(G) APPLICATION OF OTHER LAW.—  
23                  Nothing in this paragraph shall be construed to  
24                  exempt any activity of the Administrator under

1           this paragraph from the Federal Credit Reform  
2           Act of 1990 (2 U.S.C. 661 et seq.).

3           “(II) AUTHORIZATION OF APPROPRIA-  
4           TIONS.—

5                     “(i) PROGRAM LEVELS.—The Admin-  
6                     istrator is authorized to make loans under  
7                     this paragraph in an amount that is equal  
8                     to half the amount authorized for loans  
9                     under this subsection other than loans  
10                    under this paragraph.

11                   “(ii) AUTHORIZATION OF APPROPRIA-  
12                    TIONS.—In addition to amounts made  
13                    available to carry out this subsection, there  
14                    are authorized to be appropriated such  
15                    sums as may be necessary to carry out this  
16                    paragraph.”.

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

18           Section 7(a) of the Small Business Act (15 U.S.C.  
19 636(a)), as amended by this Act, is further amended by  
20 adding at the end the following:

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

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

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

4 (1) by redesignating section 44 as section 45;  
5 and

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

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

8 “(a) APPELLATE PROCESS.—

9 “(1) IN GENERAL.—Not later than 270 days  
10 after the date of the enactment of the Small Busi-  
11 ness Financing and Investment Act of 2009, the Ad-  
12 ministrator shall establish an independent appellate  
13 process within the Administration. The process shall  
14 be available to review material determinations made  
15 by the Administration that affect a lender or invest-  
16 ment company that participates or is applying to  
17 participate in a program administered by the Ad-  
18 ministration.

19 “(2) REVIEW PROCESS.—In establishing the  
20 independent appellate process under paragraph (1),  
21 the Administrator shall ensure that—

22 “(A) any appeal of a material determina-  
23 tion by the Administration is heard and result-  
24 ing recommendations are provided expedi-  
25 tiously; and

1           “(B) appropriate safeguards exist for pro-  
2           tecting the appellant from retaliation by Admin-  
3           istration employees.

4           “(3) COMMENT PERIOD.—Not later than 180  
5           days after the date of the enactment of the Small  
6           Business Financing and Investment Act of 2009, the  
7           Administrator shall provide an opportunity for no-  
8           tice and comment on proposed guidelines for the es-  
9           tablishment of an independent appellate process  
10          under this section.

11          “(b) AGENCY OMBUDSMAN.—

12           “(1) ESTABLISHMENT.—Not later than 180  
13          days after the date of the enactment of the Small  
14          Business Financing and Investment Act of 2009, the  
15          Administrator shall appoint an ombudsman.

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

18           “(A) act as a liaison between the Adminis-  
19          tration and any lender or investment company  
20          that participates or is applying to participate in  
21          a program administered by the Administration  
22          with respect to a problem such entity may have  
23          in dealing with the Administration resulting  
24          from a material determination made by the Ad-  
25          ministration; and

1           “(B) ensure that safeguards exist to en-  
2           courage complainants to come forward and pre-  
3           serve confidentiality.

4           “(e) OTHER AUTHORITY.—An individual carrying  
5 out the independent appellate process established under  
6 subsection (a) or the position of ombudsman established  
7 under subsection (b) is authorized to—

8           “(1) examine records and documents relating to  
9           a matter under review pursuant to such subsections;  
10          and

11          “(2) initiate the review of a matter under such  
12          subsections if such individual believes that Adminis-  
13          tration procedures have not been followed as in-  
14          tended with respect to such matter, without regard  
15          to whether an appeal or complaint has been made.

16          “(d) LIMITATIONS.—

17          “(1) IN GENERAL.—An individual carrying out  
18          the independent appellate process established under  
19          subsection (a) or the position of ombudsman estab-  
20          lished under subsection (b) may not, as a result of  
21          the authority provided under this section—

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

24                  “(B) make binding decisions or determine  
25                  rights;



1           “(C) directly compel an entity to imple-  
2           ment the recommendations of such individual;  
3           or

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

6           “(2) RULE OF CONSTRUCTION.—Activities ear-  
7           ried out under this section may not be construed—

8           “(A) as a formal investigation, formal  
9           hearing, or binding decision;

10           “(B) as limiting any remedy or right of ap-  
11           peal;

12           “(C) as affecting any procedure concerning  
13           grievances, appeals, or administrative matters  
14           under law; or

15           “(D) as a substitute for an administrative  
16           or judicial proceeding.

17           “(e) REPORT.—Not later than one year after the date  
18           of the enactment of the Small Business Financing and In-  
19           vestment Act of 2009 and annually thereafter, the Admin-  
20           istrator shall submit to the Committee on Small Business  
21           of the House of Representatives and the Committee on  
22           Small Business and Entrepreneurship of the Senate a re-  
23           port describing and providing the status of appeals made  
24           under subsection (a) and complaints made under sub-  
25           section (b).

1 “(f) DEFINITIONS.—In this section, the following  
2 apply:

3 “(1) MATERIAL DETERMINATION.—The term  
4 ‘material determination’ includes determinations re-  
5 lating to—

6 “(A) applications for payment relating to a  
7 loan guarantee; and

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

10 “(2) INDEPENDENT APPELLATE PROCESS.—  
11 The term ‘independent appellate process’ means a  
12 review by an Administration official who does not di-  
13 rectly or indirectly report to the Administration offi-  
14 cial who made the material determination under re-  
15 view.”.

16 **SEC. 114. EXTENSION OF RECOVERY AND RELIEF LOAN**  
17 **BENEFITS.**

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

21 (1) in subsection (a) by striking “September  
22 30, 2010” and inserting “September 30, 2011”; and

23 (2) in subsection (c) by striking paragraph (2).

24 (b) ECONOMIC STIMULUS LENDING PROGRAM FOR  
25 SMALL BUSINESSES.—Section 502(f) of title V of division

1 A of the American Recovery and Reinvestment Act of  
2 2009 (Public Law 111-5) is amended by striking “the  
3 date 12 months after the date of enactment of this Act”  
4 and inserting “September 30, 2011”.

5 **SEC. 115. REDUCED DOCUMENTATION FOR BUSINESS STA-**  
6 **BILIZATION LOANS.**

7 Section 506(a) of title V of division A of the Amer-  
8 ican Recovery and Reinvestment Act of 2009 (Public Law  
9 111-5) is amended by adding at the end the following:  
10 “In carrying out such program, the Administrator shall  
11 establish and utilize a one-page application for loans under  
12 this section and shall authorize lenders to utilize the same  
13 documentation and procedural requirements for loans  
14 under this section as such lenders utilize for other loans  
15 of a similar size and type.”.

16 **SEC. 116. EXPANDED ELIGIBILITY FOR BUSINESS STA-**  
17 **BILIZATION LOANS.**

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

22 **SEC. 117. INCREASED AMOUNT OF BUSINESS STABILIZA-**  
23 **TION LOANS.**

24 Section 506(d) of title V of division A of the Amer-  
25 ican Recovery and Reinvestment Act of 2009 (Public Law

1 111–5) is amended by striking “\$35,000” and inserting  
2 “\$50,000”.

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

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

8 **SEC. 119. SBA SECONDARY MARKET LENDING AUTHORITY**  
9 **MADE PERMANENT.**

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

- 13 (1) by striking subsection (e); and  
14 (2) by redesignating subsections (f), (h), and (i)  
15 as subsections (e), (f), and (g), respectively.

16 **SEC. 120. SBA SECONDARY MARKET LENDING AUTHORITY**  
17 **EXPANDED.**

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

- 21 (1) in subsection (c)(1) by adding at the end  
22 the following: “Such process shall include the des-  
23 ignation of each lender participating in a program  
24 under section 7(a) of the Small Business Act as a

1 Systematically Important Secondary Market Broker-  
2 Dealer for purposes of this section.”; and

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

10 **SEC. 121. INCREASED LOAN LIMITS.**

11 Section 7(a) of the Small Business Act (15 U.S.C.  
12 636(a)), as amended by this Act, is further amended—

13 (1) in paragraph (2)(A)—

14 (A) in clause (i)—

15 (i) by inserting after “\$150,000” the  
16 following: “and is less than or equal to  
17 \$2,000,000”; and

18 (ii) by striking “or” at the end;

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

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

22 “(iii) 50 percent of the balance of the  
23 financing outstanding at the time of dis-  
24 bursement of the loan, if such balance ex-  
25 ceeds \$2,000,000.”; and

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

3 **SEC. 122. REAL ESTATE APPRAISALS.**

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

6           (1) in the matter preceding subparagraph (A)  
7           by striking “a State licensed or certified appraiser”  
8           and inserting “an appraiser licensed or certified by  
9           the State in which such property is located”;

10          (2) in subparagraph (A) by striking  
11          “\$250,000” and inserting “\$400,000”; and

12          (3) in subparagraph (B) by striking  
13          “\$250,000” and inserting “\$400,000”.

14 **SEC. 123. ADDITIONAL SUPPORT FOR EXPRESS LOAN PRO-**  
15 **GRAM.**

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

21 **SEC. 124. AUTHORIZATION OF APPROPRIATIONS.**

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

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

3               “(1) PROGRAM LEVELS.—For the programs au-  
4 thorized by this Act, in each of fiscal years 2010 and  
5 2011 commitments for general business loans au-  
6 thorized under section 7(a) may not exceed  
7 \$20,000,000,000.

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

11               **TITLE II—CDC ECONOMIC**  
12 **DEVELOPMENT LOAN PROGRAM**  
13 **Subtitle A—General Provisions**

14 **SEC. 201. PROGRAM LEVELS.**

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

18       “(g) PROGRAM LEVELS WITH RESPECT TO CDC  
19 ECONOMIC DEVELOPMENT LOAN PROGRAM.—

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

1           “(2) FISCAL YEAR 2011.—For financings au-  
2           thorized by section 7(a)(13) of this Act and title V  
3           of the Small Business Investment Act of 1958, the  
4           Administrator is authorized to make  
5           \$10,000,000,000 in guarantees of debentures for fis-  
6           cal year 2011.”.

7   **SEC. 202. DEFINITIONS.**

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

10           (1) By amending paragraph (6) to read as fol-  
11           lows:

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

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

22           “(20) the term ‘certified development company’  
23           means a development company that the Adminis-  
24           trator has determined meets the criteria set forth in  
25           section 501;



1           “(21) the term ‘local governmental entity’  
2 means—  
3           “(A) a State or a political subdivision of a  
4 State; or  
5           “(B) a combination of political subdivisions  
6 which—  
7           “(i) has been formed to promote eco-  
8 nomic or community development;  
9           “(ii) is composed of representatives of  
10 the State or a political subdivision acting  
11 in their official capacity; and  
12           “(iii) includes an area in an adjacent  
13 State if it is part of a local economic area,  
14 a rural area, or has a population deter-  
15 mined by the Administrator to be insuffi-  
16 cient to support the formation of a sepa-  
17 rate development company;  
18 such term includes entities meeting the require-  
19 ments of clauses (i) through (iii), such as, but  
20 not limited to, a council of governments, re-  
21 gional development corporation, regional plan-  
22 ning commission, or economic development dis-  
23 trict;  
24           “(22) the term ‘member’ means any person au-  
25 thorized to vote for a director of a corporation or the

1 dissolution or merger of a company (for purposes of  
2 this definition, a shareholder of a for-profit corpora-  
3 tion shall be considered a member);

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

8 “(24) the term ‘small manufacturer’ means a  
9 small business concern—

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

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

## 15 **Subtitle B—Certified Development** 16 **Companies**

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

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

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

21 “(a) CERTIFIED DEVELOPMENT COMPANY DEBEN-  
22 TURE AUTHORITY.—Only development companies cer-  
23 tified by the Administrator shall have the authority to  
24 issue debentures under this Act.

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

5           “(1) SMALL CONCERN.—

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

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

13           “(C) NOT FOR PROFIT.—The development  
14 company is organized as a not-for-profit cor-  
15 poration.

16           “(2) EXCEPTIONS.—

17               “(A) FOR PROFIT STATUS.—If a develop-  
18 ment company was chartered as a for-profit  
19 corporation and issued debentures prior to Jan-  
20 uary 1, 1987, the company shall not be re-  
21 quired to change its status to not-for-profit in  
22 order to be certified.

23           “(B) AFFILIATION GRANDFATHER.—Any  
24 company that was authorized by the Adminis-  
25 trator to issue debentures before December 31,

1           2005, shall be eligible for certification without  
2           regard to its status as part of, or its affiliation  
3           with, any other not-for-profit corporation or  
4           local governmental entity unless that not-for-  
5           profit corporation or local governmental entity  
6           is another entity that issues debentures under  
7           this title.

8           “(C) AFFILIATION WITH LOCAL GOVERN-  
9           MENTAL ENTITIES.—Any company that was or-  
10          ganized after the date of enactment of the  
11          Small Business Financing and Investment Act  
12          of 2009 shall be eligible for certification without  
13          regard to its status as part of or affiliation with  
14          any local governmental entity.

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

19          “(4) MEMBERSHIP.—

20                  “(A) IN GENERAL.—The development com-  
21          pany shall have at least 25 members.

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

1           “(C) RESIDENCE.—Members must be resi-  
2           dents of the State in which the development  
3           company is chartered or authorized to do busi-  
4           ness.

5           “(D) DIVERSITY.—The development com-  
6           pany must have at least one member from each  
7           of the following:

8                   “(i) A local governmental entity.

9                   “(ii) A financial institution subject to  
10                  regulation by a Federal organization be-  
11                  longing to the Federal Financial Institu-  
12                  tions Examination Council and that pro-  
13                  vides long-term fixed asset financing in the  
14                  commercial market.

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

18                  “(iv) A for-profit business, other than  
19                  a financial institution described in clause  
20                  (ii).

21           “(E) EMPLOYMENT STATUS.—Membership  
22           in a development company shall not be predi-  
23           cated on employment status and an individual  
24           who retired from or was terminated (for rea-  
25           sons other than fraud or the commission of a

1 crime) from an entity described in subpara-  
2 graph (D) shall be deemed to be from the orga-  
3 nization described in that subparagraph.

4 “(5) BOARD OF DIRECTORS.—

5 “(A) IN GENERAL.—The development com-  
6 pany’s board consists of members and each di-  
7 rector receives a majority vote of the members  
8 unless the development company is a for-profit  
9 corporation in which case the board need not  
10 consist entirely of members.

11 “(B) BOARD REPRESENTATION.—There  
12 shall be at least one director from not fewer  
13 than 3 of the 4 types of organizations specified  
14 in paragraph (4)(D) but no single type of orga-  
15 nization shall have more than 50 percent rep-  
16 resentation on the board of the development  
17 company. If the development company is a for-  
18 profit corporation, financial institution rep-  
19 resentatives may make up more than 50 per-  
20 cent of the board.

21 “(C) AFFILIATED ENTITY REPRESENTA-  
22 TION RESTRICTIONS.—A development company  
23 that is described in paragraph (1)(C) may have  
24 any or all of its board members appointed by  
25 entities affiliated with the company and may in-

1           clude common members who also serve on the  
2           affiliate’s board of directors if the appointment  
3           of board members was exercised by an affiliate  
4           prior to December 31, 2005.

5           “(D) SPECIAL RULE FOR CERTAIN DEVELOPMENT COMPANIES.—The board of directors  
6           for any development company issuing debentures before December 31, 2005, and incorporated under a State law requiring, or which  
7           is interpreted by the State’s legal department as imposing specific requirements on, the number and selection of members, board members,  
8           or both, and the rights and privileges conferred by such State law, may adhere to such provisions.  
9             
10          “(6) PROFESSIONAL MANAGEMENT AND  
11          STAFF.—  
12          “(A) IN GENERAL.—The development company shall have full-time independent professional management, including a chief executive  
13          officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
14          “(B) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company  
15          shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
16          “(C) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
17          “(D) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
18          “(E) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
19          “(F) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
20          “(G) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
21          “(H) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
22          “(I) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
23          “(J) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
24          “(K) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.  
25          “(L) UTILIZATION OF STAFF FROM AFFILIATED ENTITIES.—A development company shall have full-time independent professional management, including a chief executive officer to manage the daily operations and a full-time professional staff qualified to carry out the functions authorized under this title.

1 shall not be denied certification under this sec-  
2 tion if its chief executive or full-time profes-  
3 sional staff is from an affiliated entity as de-  
4 scribed in paragraph (1)(C).

5 “(C) STAFF UNDER CONTRACT.—The Ad-  
6 ministrator shall not deny certification to a de-  
7 velopment company that contracts for its full  
8 time staff if one of the following conditions is  
9 met:

10 “(i) The development company is lo-  
11 cated in a rural area, obtains its staff  
12 through contract from another develop-  
13 ment company that is certified by the Ad-  
14 ministrator and that development company  
15 operates in the same or a contiguous  
16 State.

17 “(ii) The development company had  
18 issued debentures under this title prior to  
19 December 31, 2005, and had contracted  
20 with a for-profit business concern to pro-  
21 vide staffing and management services.

22 “(e) APPLICATIONS.—

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



1           “(A) SHORT FORM APPLICATION.—(i) For  
2           any development company that issued deben-  
3           tures pursuant to this title before September  
4           30, 2009, the Administrator shall develop, after  
5           an opportunity for notice and comment, no  
6           later than 90 days after the date of enactment  
7           of the Small Business Financing and Invest-  
8           ment Act of 2009, a short-form application that  
9           contains sufficient information for the Adminis-  
10          trator to determine that the development com-  
11          pany currently meets the standards set forth in  
12          subsection (b). In developing such application,  
13          the Administrator shall be required to limit the  
14          amount of paperwork necessary to determine  
15          whether the development company meets the  
16          standards for certification and may limit the  
17          application to the filing of reports previously  
18          submitted to the Administrator.

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

22                 “(B) CERTIFICATION DECISION.—(i) The  
23                 Administrator shall certify the development  
24                 company if the application demonstrates that  
25                 the applicant meets the standards in subsection

1 (b). The decision to certify or not approve the  
2 request for certification shall be made within 7  
3 business days from the date the initial submis-  
4 sion of the application is received by the Ad-  
5 ministrator. If the Administrator takes no ac-  
6 tion to approve or disapprove within 7 business  
7 days, the application for certification is deemed  
8 approved and no further action is required by  
9 the Administrator or the development company  
10 to obtain certification. If the Administrator dis-  
11 approves the application, the Administrator  
12 shall provide in writing within 3 business days  
13 the reasons for the disapproval. If such docu-  
14 ment is not provided within the time specified,  
15 the application is deemed approved and no fur-  
16 ther action is required by the Administrator or  
17 the development company to obtain certifi-  
18 cation.

19 “(ii) For those development companies  
20 that submit contracts under subparagraph  
21 (A)(ii), the Administrator is limited in rejecting  
22 the application only if the Administrator finds  
23 that the entity servicing the applicant is no  
24 longer able to provide the employees or services

1 needed by the applicant to perform the func-  
2 tions that would be authorized under this title.

3 “(C) APPLICATION RESUBMITTAL.—If the  
4 Administrator disapproves the application for  
5 certification and provides a written statement  
6 as set forth in subparagraph (B), the develop-  
7 ment company may file a new application lim-  
8 ited solely to addressing the concerns of the Ad-  
9 ministrator and the certification procedures set  
10 forth in subparagraph (B) shall recommence.

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

24 “(E) GRANDFATHERING.—

1           “(i) IN GENERAL.—For the period 2  
2 years after date of enactment of the Small  
3 Business Financing and Investment Act of  
4 2009, any development company that was  
5 issuing debentures on or before the date  
6 set forth in this clause (i) shall be deemed  
7 to be a certified development company.

8           “(ii) COMPLETION OF APPLICATION  
9 PROCESS.—The procedures set forth in  
10 this paragraph for determining certifi-  
11 cation shall apply to any development com-  
12 pany meeting the qualifications of clause  
13 (i).

14           “(iii) EFFECT OF DENIAL.—The de-  
15 nial or rejection of an application for cer-  
16 tification as set forth in this subsection  
17 shall have no effect on the ability of a de-  
18 velopment company meeting the qualifica-  
19 tions in clause (i) from continuing to issue  
20 debentures during the entire two-year pe-  
21 riod established in that clause.

22           “(iv) FAILURE TO OBTAIN CERTIFI-  
23 CATION.—Any development company that  
24 fails to obtain certification in accordance  
25 with the procedures set forth in this para-

1 graph during the period set forth in clause  
2 (i) shall be considered to be a new develop-  
3 ment company and the procedures of para-  
4 graph (2) shall apply. The authority to  
5 issue debentures shall cease for any devel-  
6 opment company covered by this subpara-  
7 graph that has failed to obtain certification  
8 from the Administrator during the time  
9 period set forth in clause (i).

10 “(F) AUTOMATIC QUALIFICATION PROVI-  
11 SION.—If the Administrator fails to implement  
12 the certification process set forth in this para-  
13 graph, any development company that was  
14 issuing debentures before September 30, 2009,  
15 pursuant to this title shall be considered cer-  
16 tified until such time as the Administrator de-  
17 velops the certification procedures set forth in  
18 this paragraph.

19 “(G) SAVINGS CLAUSE.—Any action taken  
20 by a development company or the Administrator  
21 pursuant to this paragraph shall have no im-  
22 pact on any guarantee of a debenture issued  
23 prior to the date of enactment of the Small  
24 Business Financing and Investment Act of  
25 2009.

1           “(2) APPLICATION PROCESS FOR NEW DEVELOPMENT COMPANIES.—

2  
3           “(A) IN GENERAL.—For any development  
4           company that has not issued debentures prior  
5           to September 30, 2009, the Administrator shall  
6           develop no later than 180 days after the date  
7           of enactment of the Small Business Financing  
8           and Investment Act of 2009, after an opportunity for notice and comment, an application  
9           form for certification that provides the Administrator with sufficient information to insure  
10          that the applicant meets the standards set forth  
11          in subsection (b). The Administrator shall certify such development company or reject the application  
12          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  
13          writing within 7 business days after the decision, the reason for rejecting the application.

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21          “(B) APPEALS.—A development company  
22          shall be able to appeal the disapproval of an application under the procedures set forth in  
23          paragraph (1)(D).”  
24

1 **SEC. 212. CERTIFIED DEVELOPMENT COMPANY; OPER-**  
2 **ATIONAL REQUIREMENTS.**

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

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

8 “(a) MAINTENANCE OF STANDARDS FOR CERTIFI-  
9 CATION.—Any company certified pursuant to section 501  
10 shall continue to comply with the requirements of that sec-  
11 tion to remain certified. The Administrator shall develop  
12 a reporting form, which to the extent possible, incor-  
13 porates other documents and reports already kept by cer-  
14 tified development companies, demonstrating their contin-  
15 ued compliance. The form shall be developed in a manner  
16 that the estimated time for completion shall take no more  
17 than 2 hours.

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

19 “(1) IN GENERAL.—A certified development  
20 company, its officers, employees, and contractors  
21 shall act ethically and avoid activities which con-  
22 stitute a conflict of interest or appear to constitute  
23 a conflict of interest. For purposes of this sub-  
24 section, conduct that is unethical includes, but is not  
25 limited to, the actions specified in section 120.140 of

1 title 13, Code of Federal Regulations, as in effect on  
2 January 1, 2009.

3 “(2) BY ASSOCIATES.—An associate may not be  
4 an officer, director, or manager of more than 1 cer-  
5 tified development company. The term ‘associate’  
6 shall have the same meaning given the term ‘Asso-  
7 ciate of a CDC’ in section 120.10 of title 13, Code  
8 of Federal Regulations, as in effect on January 1,  
9 2009. For the purposes of this subsection, 10 per-  
10 cent shall be substituted wherever section 120.10 of  
11 title 13, Code of Federal Regulation uses 20 per-  
12 cent.

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

19 “(A) The ability to appoint or remove a  
20 member of the company or member of its board  
21 of directors.

22 “(B) The ability to modify or approve rate  
23 or fee changes affecting revenues of the cer-  
24 tified development company.



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

4           “(D) The ability, either directly or contrac-  
5           tually, to appoint, hire, reassign, or dismiss  
6           those managers and employees responsible for  
7           the daily operations of the certified development  
8           company.

9           “(E) The ability to access the certified de-  
10          velopment company’s resources or amend its  
11          budget.

12          “(F) The ability to control another cer-  
13          tified development company pursuant to provi-  
14          sions in a contract.

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

18          “(d) LOAN COMMITTEES.—The board of directors of  
19          a certified development company may use a loan com-  
20          mittee to process loans in the State in which it operates  
21          as well as adjacent local economic areas. Members of the  
22          loan committee shall be residents of the certified develop-  
23          ment company’s State of operation or the adjacent local  
24          economic area. Such loan committees shall meet on a peri-  
25          odic basis as set forth by the board of directors.

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

2 “(1) IN GENERAL.—Certified development com-  
3 panies shall not recommend or approve a guarantee  
4 of a debenture that will be collateralized by property  
5 being constructed or acquired on which an institu-  
6 tion, as provided in section 508(e)(1)(A), will have  
7 a first lien position.

8 “(2) EXCEPTION.—The prohibition in para-  
9 graph (1) shall not apply to any certified develop-  
10 ment company that was affiliated with or part of  
11 any entity that took a first lien position between Oc-  
12 tober 1, 2003, and September 30, 2005.

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

15 “(1) PROHIBITION.—No certified development  
16 company may invest in, or be an affiliate of, a lender  
17 who participates in the loan programs authorized in  
18 sections 7(a) and 7(e) of the Small Business Act (15  
19 U.S.C. 636(a) and (e)).

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

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

7           “(g) SERVICING AND PACKAGING GUARANTEED  
8           LOANS.—A certified development company is authorized  
9           to prepare applications for loans under sections 7(a) or  
10          7(c) of the Small Business Act (15 U.S.C. 636(a) or (c)),  
11          to service such loans, and to charge a reasonable fee for  
12          servicing such loans.

13          “(h) USE OF EXCESS FUNDS.—Any funds generated  
14          by a certified development company from the issuance of  
15          debentures under this title, the sale of debentures in the  
16          private secondary market, or fees described in subsection  
17          (g) that remain unexpended after payment of staff, oper-  
18          ating, and overhead expenses shall be used by the certified  
19          development company for—

20                  “(1) operating reserves;

21                  “(2) expanding the area in which the certified  
22          development company operates through the methods  
23          authorized in section 505 (relating to multi-State  
24          operation);

1           “(3) investment in other community and local  
2           economic development activity or community devel-  
3           opment primarily in the State from which such  
4           funds were generated; or

5           “(4) investment in small business investment  
6           companies subject to the limitations in subsection  
7           (i).

8           “(i) LIMITATIONS WITH RESPECT TO SMALL BUSI-  
9           NESS INVESTMENT COMPANIES.—A certified development  
10          company shall not—

11           “(1) invest excess funds in a small business in-  
12          vestment company that the Administrator deter-  
13          mines to be capitally impaired as set forth in section  
14          107.1830 of title 13, Code of Federal Regulations,  
15          as in effect on January 1, 2009, or any successor  
16          regulation to that regulation, but may maintain its  
17          investment in such company if such investment was  
18          made prior to the determination of capital impair-  
19          ment; and

20           “(2) provide a debenture under this title to a  
21          small business concern that has financing with a  
22          small business investment company in which the cer-  
23          tified development company has invested excess  
24          funds.

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

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

8           “(2) The company shall operate any other pro-  
9 gram to assist small business concerns or commu-  
10 nities that promote local economic development and  
11 job creation or preservation.

12       “(k) RESTRICTIONS ON ASSISTANCE.—

13           “(1) IN GENERAL.—After the date of enact-  
14 ment of the Small Business Financing and Invest-  
15 ment Act of 2009, no certified development company  
16 may accept funding from any source, including any  
17 Federal agency (as that term is defined in section  
18 551 of title 5, United States Code) if the source im-  
19 poses—

20           “(A) conditions on the types of small busi-  
21 ness concerns that a certified development com-  
22 pany may provide assistance to under this title;  
23 or

1           “(B) conditions or requirements, directly  
2           or indirectly, upon any small business concern  
3           receiving assistance under this title.

4           “(2) EXCEPTION.—The conditions of subpara-  
5           graphs (A) and (B) of paragraph (1) shall not apply  
6           if the source provides all of the financing that will  
7           be provided by the certified development company to  
8           the small business concern, provided further that  
9           any conditions or restrictions are limited solely to  
10          the financing provided by the source of funding.

11          “(l) REVOCATION AND SUSPENSION.—The Adminis-  
12          trator may suspend or revoke a certified development com-  
13          pany’s status if the Administrator determines, after a  
14          hearing on the record as set forth in sections 554, 556,  
15          and 557 of title 5, United States Code, that the certified  
16          development company no longer—

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

19                 “(2) satisfies the operational standards in this  
20                 section; or

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

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

1 **SEC. 213. ACCREDITED LENDERS PROGRAM.**

2 Section 503 of the Small Business Investment of  
3 1958 (15 U.S.C. 697) is amended to read as follows:

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

5 “(a) ESTABLISHMENT.—

6 “(1) IN GENERAL.—A certified development  
7 company may apply for status to become an accredited  
8 certified development company if it meets the  
9 operational standards of section 502 and the criteria  
10 in subsection (b).

11 “(2) APPLICATION.—The Administrator shall,  
12 after opportunity for notice and comment, develop  
13 an application for certified development companies  
14 seeking to become accredited certified development  
15 companies.

16 “(3) PROCESSING OF APPLICATION.—The Administrator shall make a determination within 30  
17 days after a complete application has been filed by  
18 the certified development company.

19 “(4) REAPPLICATION.—If the Administrator re-  
20 jects the application, the Administrator shall provide  
21 in writing the reasons for the rejection. Any certified  
22 development company may reapply which will recommence the processing time limits set forth in paragraph (3), and such reapplication shall be limited to  
23 addressing the reasons for rejection. If the Adminis-  
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25  
26

1       trator rejects a second application, that shall be con-  
2       sidered final agency action for purposes of chapter  
3       7 of title 5, United States Code.

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

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

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

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

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

20              “(5) Has a history of submitting to the Admin-  
21      istrator complete and accurate debenture guaranty  
22      application packages.

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



1       “(e) EXPEDITED PROCESSING OF GUARANTEE AP-  
2 PPLICATIONS.—The Administrator shall develop an expe-  
3 dited procedure for processing a guarantee application or  
4 servicing action submitted by an accredited certified devel-  
5 opment company. For purposes of this subsection, an ex-  
6 pedited procedure is one that takes at least two business  
7 days less than the processing performed for certified devel-  
8 opment companies that have not been accredited.

9       “(d) SUSPENSION OR REVOCATION OF ACCREDITED  
10 STATUS.—The Administrator may suspend or revoke a  
11 certified development company’s accredited status if the  
12 Administrator determines, after a hearing on the record  
13 as set forth in sections 554, 556, and 557 of title 5,  
14 United States Code, that the certified development com-  
15 pany no longer meets the eligibility criteria established  
16 under this section (which shall not include a time limit  
17 on the term of the certified development company’s ac-  
18 credited status) or failed to adhere to the Administrator’s  
19 rules, regulations, or is violating some other provision of  
20 law. Such suspension or revocation shall have no effect  
21 on the development company’s status as certified.

22       “(e) EFFECT OF SUSPENSION OR REVOCATION ON  
23 EXISTING GUARANTEES.—A suspension or revocation of  
24 accredited status shall not affect any outstanding debent-  
25 ure guarantee.

1       “(f) GRANDFATHER PROVISION.—Any certified de-  
2 velopment company that was accredited by the date of en-  
3 actment of the Small Business Financing and Investment  
4 Act of 2009 shall remain accredited for 24 months after  
5 that date. If the certified development company does not  
6 have an application for accreditation approved by the Ad-  
7 ministrator within the 24 months, its accreditation stand-  
8 ard shall lapse.

9       “(g) AUTOMATIC QUALIFICATION.—

10       “(1) IN GENERAL.—Until the Administrator de-  
11 velops procedures for granting accredited status, any  
12 certified development company that was accredited  
13 as of the date of enactment of the Small Business  
14 Financing and Investment Act of 2009 shall be  
15 deemed to be accredited.

16       “(2) APPLICATIONS.—Any certified develop-  
17 ment company that satisfies the provision of para-  
18 graph (1) shall have 24 months in which to submit  
19 the application established by this section for accred-  
20 ited status.

21       “(3) EFFECT WHILE APPLICATION PENDING.—  
22 The denial or rejection of an application for accred-  
23 ited status as set forth in this section shall have no  
24 effect on the ability of a development company that  
25 meets the standard set forth in paragraph (1) from

1 maintaining its status during the 24 months speci-  
2 fied in this subsection.

3 “(h) PROMULGATION OF ACCREDITING STAND-  
4 ARDS.—The Administrator shall develop standards for ac-  
5 crediting, suspension, and revocation under the program  
6 established by this section only after notice and an oppor-  
7 tunity for comment as set forth in section 553(b) of title  
8 5, United States Code. After the development of such  
9 standards, the Administrator shall publish such standards  
10 in the Code of Federal Regulations.

11 “(i) RULE OF CONSTRUCTION.—Any reference to the  
12 term ‘accredited lender’ in any provision of law enacted,  
13 or any regulation adopted, prior to the enactment of the  
14 Small Business Financing and Investment Act of 2009  
15 shall be deemed to be a reference to the term ‘accredited  
16 certified development company’.”.

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

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

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

21 “(a) ESTABLISHMENT.—

22 “(1) IN GENERAL.—A certified development  
23 company accredited under section 503 may apply for  
24 status to become a premier certified development  
25 company.

1           “(2) APPLICATION.—The Administrator shall,  
2           after opportunity for notice and comment, develop  
3           an application for accredited certified development  
4           companies seeking to become premier certified devel-  
5           opment companies.

6           “(3) PROCESSING OF APPLICATION.—The Ad-  
7           ministrators shall make a determination within 60  
8           days after a complete application has been filed by  
9           an accredited certified development company.

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

20          “(b) STANDARDS FOR OBTAINING PREMIER CER-  
21          TIFIED DEVELOPMENT COMPANY STATUS.—The Admin-  
22          istrator shall designate an accredited certified develop-  
23          ment company as a premier certified development com-  
24          pany if the application submitted pursuant to subsection

1 (a) demonstrates that the accredited certified development  
2 company meets the following standards:

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

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

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

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

11 “(5) Has established a loan loss reserve estab-  
12 lished in accordance with this section that the Ad-  
13 ministrator determines is sufficient to meet its obli-  
14 gations to protect the Federal Government from the  
15 risk of loss on each debenture guaranteed under this  
16 section.

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

20 “(A) 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, agrees to reimburse the Administrator  
25 for 10 percent of any loss sustained by the Ad-

1 administrator as a result of a default by the com-  
2 pany in the payment of principal or interest on  
3 a debenture issued by such company and guar-  
4 anteed by the Administrator;

5 “(B) on account of a debenture, the pro-  
6 ceeds of which were used to fund a loan ap-  
7 proved prior to the date of enactment of the  
8 Small Business Financing and Investment Act  
9 of 2009 and which were issued during the pe-  
10 riod in which the company had made a selection  
11 pursuant to section 508(c)(7) of the Small  
12 Business Investment Act of 1958, as in effect  
13 on the day before such date of enactment,  
14 agrees to reimburse the Administrator for 15  
15 percent of any loss sustained by the Adminis-  
16 trator as a result of a default by the company  
17 in the payment of principal or interest on a de-  
18 benture issued by such company and guaran-  
19 teed by the Administrator; or

20 “(C) on account of a debenture, the pro-  
21 ceeds of which are used to fund a loan approved  
22 on or after the date of enactment of the Small  
23 Business Financing and Investment Act of  
24 2009, upon closing, pay to the Administrator a

1 one-time participation fee in the amount equal  
2 to the higher of the following:

3 “(i) 0.25 percent of the amount of the  
4 debenture.

5 “(ii) A percent of the amount of the  
6 debenture equal to 10 percent of the  
7 amount of the company’s historic loss rate  
8 on debentures guaranteed under this sec-  
9 tion as determined by the Administrator.  
10 The rate specified by this clause shall be  
11 determined annually based upon the com-  
12 pany’s loan losses as of close of business  
13 on June 30 and notice of the determina-  
14 tion shall be provided to each company not  
15 later than August 31. Such rate shall be  
16 applicable to loans approved during the fis-  
17 cal year commencing after the determina-  
18 tion is made and shall expire and have no  
19 further application after the end of such  
20 fiscal year. If no timely determination has  
21 been made prior to the commencement of  
22 a fiscal year, including the year of enact-  
23 ment of the Small Business Financing and  
24 Investment Act of 2009, one may be made  
25 after the commencement and it shall be

1 applicable to loans approved during the  
2 balance of such fiscal year commencing 30  
3 days after notification to the development  
4 company involved.

5 “(e) SUSPENSION OR REVOCATION OF PREMIER STA-  
6 TUS.—The Administrator may suspend or revoke an ac-  
7 credited certified development company’s premier status  
8 if the Administrator determines, after a hearing on the  
9 record as set forth in sections 554, 556, and 557 of title  
10 5, United States Code, that the accredited certified devel-  
11 opment company no longer meets the eligibility criteria for  
12 premier status as established under this section or failed  
13 to adhere to the Administrator’s rules, regulations, or is  
14 violating some other provision of law. Such revocation or  
15 suspension shall have no effect on its status as an accred-  
16 ited certified development company.

17 “(d) LOAN LOSS RESERVE.—

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

22 “(A) segregated funds on deposit in an ac-  
23 count or accounts with a federally insured de-  
24 pository institution or institutions selected by  
25 the company, subject to a collateral assignment



1 in favor of, and in a format acceptable to, the  
2 Administrator that shall amount to 10 percent  
3 of the company's exposure as determined pursu-  
4 ant to subsection (b)(6);

5 “(B) irrevocable letter or letters of credit,  
6 with a collateral assignment in favor of, and a  
7 commercially reasonable format acceptable to,  
8 the Administrator; or

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

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

15 “(A) 50 percent when a debenture is  
16 closed.

17 “(B) 25 percent additional not later than  
18 1 year after a debenture is closed.

19 “(C) 25 percent additional not later than  
20 2 years after a debenture is closed.

21 “(3) REPLENISHMENT.—If a loss has been sus-  
22 tained by the Administrator, any portion of the loss  
23 reserve, and other funds provided by the premier  
24 certified development company as necessary, may be  
25 used to reimburse the Administrator for the premier

1 certified development company's share of the loss as  
2 provided for in subsection (b)(6). If the premier cer-  
3 tified development company utilizes the reserve, it  
4 shall, within 30 calendar days, replace an equivalent  
5 amount of funds.

6 “(4) DISBURSEMENTS.—

7 “(A) IN GENERAL.—The Administrator  
8 shall allow the premier certified development  
9 company to withdraw from the loss reserve  
10 amounts attributable to any debenture that has  
11 been repaid.

12 “(B) REDUCTION.—The Administrator  
13 shall allow the premier certified development  
14 company to withdraw from the loss reserve such  
15 amounts as are in excess of 1 percent of the ag-  
16 gregate outstanding balances of debentures to  
17 which such loss reserve relates. The reduction  
18 authorized by this subparagraph shall not apply  
19 with respect to any debenture before 100 per-  
20 cent of the contribution described in paragraph  
21 (2) with respect to such debenture has been  
22 made.

23 “(C) RULE OF CONSTRUCTION.—The pro-  
24 vision contained in subparagraph (B) shall be  
25 read as if enacted prior to a date 2 years and

1           90 days after the date of enactment of the  
2           Small Business Financing and Investment Act  
3           of 2009.

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

6           “(1) IN GENERAL.—There is hereby established  
7           a Bureau of Premier Certified Development Com-  
8           pany Lender Oversight in the Office of Lender Over-  
9           sight at the Administration which shall have respon-  
10          sibility and capability for carrying out oversight of  
11          premier certified development companies and such  
12          other responsibilities as the Administrator des-  
13          ignates.

14          “(2) ANNUAL REVIEW.—The Bureau estab-  
15          lished in paragraph (1) annually shall review the fi-  
16          nancing made by each premier certified development  
17          company. Such review shall include the premier cer-  
18          tified development company’s credit decisions and  
19          general compliance with the eligibility requirements  
20          for each financing approved as a result of its status  
21          as a premier certified development company.

22          “(3) RANDOM AUDITS.—The Bureau shall de-  
23          velop and implement a method for sampling the de-  
24          bentures issued by premier certified development  
25          companies. Such sampling shall be similar to the

1 random file audits of development companies that  
2 utilize the Abridged Submission Method described in  
3 chapter 4 of subpart C of Standard Operating Pro-  
4 cedure 50 10 (5)(A) as was in effect on March 2,  
5 2009.

6 “(4) REVIEW OF LENDERS PROVIDING SENIOR  
7 FINANCING.—

8 “(A) CALCULATION OF LOAN LOSS  
9 RATE.—The Bureau shall periodically calculate  
10 the loss rate of all debentures approved under  
11 this section and shall calculate a loss rate on  
12 the basis of the total debentures attributable to  
13 projects approved by premier certified develop-  
14 ment companies in which each lender is a par-  
15 ticipating lender.

16 “(B) NOTIFICATION.—If the Bureau deter-  
17 mines that the loss rate on debentures involving  
18 an individual lender exceeds the average for all  
19 debentures approved under this section, it shall  
20 advise the Administrator.

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

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

1           “(1) NOTICE.—If, upon default in repayment,  
2           the Administrator acquires a debenture issued by a  
3           premier certified development company and identi-  
4           fies such loan for inclusion in a bulk asset sale of  
5           defaulted or repurchased loans or other financing,  
6           the Administrator shall give prior notice thereof to  
7           any premier certified development company which  
8           has a contingent liability under this section. The no-  
9           tice shall be given to the premier certified develop-  
10          ment company as soon as possible after the financ-  
11          ing is identified, but not less than 90 days before  
12          the date the Administrator first makes any records  
13          on such financing available for examination by pro-  
14          spective purchasers prior to its offering in a package  
15          of loans for bulk sale.

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

19                  “(A) provides prospective purchasers with  
20                  the opportunity to examine the Administration’s  
21                  records with respect to such loan; and

22                  “(B) provides the notice required by para-  
23                  graph (1).

24          “(g) LOAN APPROVAL AUTHORITY.—

1           “(1) IN GENERAL.—A premier certified develop-  
2           ment company may, under conditions determined by  
3           the Administrator in regulations published in the  
4           Code of Federal Regulations, issue guarantees on  
5           debentures, approve, authorize, close, service, fore-  
6           close, litigate (except that the Administrator may  
7           monitor conduct of any such litigation), and liq-  
8           uidate loans that are funded with proceeds of a de-  
9           benture issued by a premier certified development  
10          company unless the Administrator advises the com-  
11          pany that loans involving a specific institutional  
12          lender are to be submitted to the Administrator for  
13          further consideration, and approval by the Adminis-  
14          trator.

15          “(2) PROGRAM GOALS.—Each premier certified  
16          development company shall establish a goal of proc-  
17          essing no less than 50 percent of the applications for  
18          assistance under this title that the premier certified  
19          development company receives. Failure to meet this  
20          goal shall have no affect on the company’s status as  
21          a premier certified development company under this  
22          section.

23          “(3) SCOPE OF REVIEW.—The approval of a  
24          loan and guarantee of a debenture by a premier cer-  
25          tified development company shall be subject to final

1 approval as to the eligibility of any guarantee by the  
2 Administrator as set forth in section 506, but such  
3 final approval shall not include review of decisions  
4 by the premier certified development company in-  
5 volving creditworthiness, loan closing, or compliance  
6 with legal requirements imposed by law or regula-  
7 tion.

8 “(h) SUSPENSION OR REVOCATION.—The Adminis-  
9 trator may suspend or revoke an accredited certified devel-  
10 opment company’s premier status if the Administrator de-  
11 termines, after a hearing on the record as set forth in sec-  
12 tions 554, 556, and 557 of title 5, United States Code,  
13 that the accredited certified development company no  
14 longer meets the eligibility criteria established under this  
15 section, fails to maintain adequate loan loss reserves man-  
16 dated in this section even if it meets the other eligibility  
17 requirements for premier status, or violates the Adminis-  
18 trator’s rules, regulations, or some other provision of law.  
19 The Administrator shall consider the review of the premier  
20 certified development company conducted pursuant to sub-  
21 section (e) in determining whether to suspend or revoke  
22 an accredited development company’s premier status.  
23 Such suspension or revocation shall have no effect on the  
24 development company’s status as an accredited certified  
25 development company.

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

4       “(j) RULE OF CONSTRUCTION.—Any reference to the  
5 term ‘premier certified lender’ or ‘PCL’ in legislation en-  
6 acted, or regulations adopted, prior to the enactment of  
7 the Small Business Financing and Investment Act of 2009  
8 shall be deemed to be a reference to the term ‘premier  
9 certified development company’.”.

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

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

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

14       “(a) AUTHORIZATION.—The Administrator shall per-  
15 mit an accredited or premier certified development com-  
16 pany to make loans or issue debentures in any State that  
17 is contiguous to the State of incorporation of that com-  
18 pany only if the company—

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

22               “(2) has a board of directors that contains not  
23 fewer than 2 members from each State in which the  
24 company makes loans and issues debentures and are  
25 residents of that State;



1           “(3) maintains a separate loan committee to  
2           process loans in each expansion State and the mem-  
3           bers of the loan committee are solely residents of the  
4           expansion State; and

5           “(4) files an application developed by the Ad-  
6           ministrators which provides—

7                   “(A) notice of the intention to make loans  
8                   in multiple States;

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

11                  “(C) a list of members in each expansion  
12                  State; and

13                  “(D) a detailed statement on how the com-  
14                  pany will comply with the requirements of this  
15                  subsection.

16           “(b) LOAN COMMITTEES.—The requirements of  
17           paragraph (3) of subsection (a) shall not require a devel-  
18           opment company to establish a loan committee in its State  
19           of incorporation or in a local economic area outside the  
20           State of incorporation unless such area is part of an ex-  
21           pansion State.

22           “(c) REVIEW.—

23                   “(1) IN GENERAL.—The Administrator shall re-  
24                   view each application for expansion under subsection  
25                   (a), but such review shall be limited to that informa-

1 tion needed to determine whether the company will  
2 comply with the requirements of subsection (a).

3 “(2) DEADLINE FOR DECISION.—The Adminis-  
4 trator shall make a decision on each application  
5 under subsection (a) within 15 calendar days after  
6 the receipt of the application. If no such decision is  
7 granted, the application is deemed to be approved  
8 and no further action is required by the applicant or  
9 the Administrator for the company to expand into  
10 the States specified in the application.

11 “(3) APPLICATION RESUBMITTAL.—If the Ad-  
12 ministrator rejects the application for expansion, the  
13 Administrator shall provide in writing the reasons  
14 for denial within 10 calendar days of the decision.  
15 The applicant then may resubmit the application but  
16 the review of such resubmitted applications will be  
17 limited only to the areas in which the Administrator  
18 found the original application deficient. The dead-  
19 lines in paragraph (2) shall apply to resubmitted ap-  
20 plications.

21 “(4) APPEAL.—If a resubmitted application is  
22 denied, the applicant may, within 10 calendar days  
23 after receipt of the disapproval, appeal such dis-  
24 approval. The Administrator shall conduct a hearing  
25 to determine such appeal pursuant to sections 554,

1 556, and 557 of title 5, United States Code, and  
2 shall issue a decision not later than 45 days after  
3 the appeal is filed. The decision on appeal shall con-  
4 stitute final agency action for purposes of chapter 7  
5 of title 5, United States Code.

6 “(d) FAILURE TO DEVELOP APPLICATION.—If the  
7 Administrator fails to develop an application as required  
8 in subsection (a)(4) within 60 days of the enactment of  
9 the Small Business Financing and Investment Act of  
10 2009, an accredited or premier certified development com-  
11 pany only need submit the information required in sub-  
12 section (a) to the Administrator to be deemed eligible to  
13 commence operations authorized by this section. Such eli-  
14 gibility shall not be terminated if the Administrator devel-  
15 ops an application after the 60-day period set forth in this  
16 subsection.

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

22 “(f) LOCAL JOB CREATION REQUIREMENTS.—

23 “(1) IN GENERAL.—Any company making loans  
24 in multiple States as authorized in this section shall  
25 not count jobs created or retained in one State to-

1       wards any applicable job creation or retention re-  
2       quirements mandated by this title in another State.

3           “(2) APPLICABILITY.—Any company operating  
4       under the authority of this section shall be required  
5       to meet any job creation or retention requirement of  
6       this title on the date that is 2 years after the cer-  
7       tified development company closed its first loan in  
8       its new State of operation.

9           “(g) CONTIGUOUS STATES.—For the purposes of this  
10       section, the States of Alaska and Hawaii shall be deemed  
11       to be contiguous to any State abutting the Pacific Ocean.  
12       Territories of the United States located in the Pacific  
13       Ocean shall be deemed to be contiguous to any State abut-  
14       ting the Pacific Ocean, including Alaska and Hawaii, and  
15       territories of the United States located in the Caribbean  
16       Sea shall be deemed contiguous to any State abutting the  
17       Gulf of Mexico.

18           “(h) EXEMPTION FOR LOCAL ECONOMIC AREAS.—  
19       Except as provided in subsection (a)(3) with respect to  
20       loan committees, any certified, accredited, or premier de-  
21       velopment company or applicant operating in a local eco-  
22       nomic development area that crosses the border of another  
23       State shall not be considered to be operating under the  
24       provisions of this section and shall not be required to com-

1 ply with the requirements of this section for multi-State  
2 operation.”.

3 **SEC. 216. GUARANTY OF DEBENTURES.**

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

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

7 “(a) **AUTHORITY TO GUARANTEE.**—Except as pro-  
8 vided in subsection (c), the Administrator may guarantee  
9 the timely payment of all principal and interest as sched-  
10 uled on any debenture issued by a certified development  
11 company.

12 “(b) **TERMS AND CONDITIONS OF THE GUAR-**  
13 **ANTEE.**—Such guarantees may be made on such terms  
14 and conditions as the Administrator may by regulation,  
15 published in the Code of Federal Regulations, determine  
16 to be appropriate, except that the Administrator shall not  
17 decline to issue such guarantee when the ownership inter-  
18 ests of the small business concern and the ownership inter-  
19 ests of the property to be financed with the proceeds of  
20 the loan made pursuant to subsection (c)(1) are not iden-  
21 tical because one or more of the following classes of rel-  
22 atives have an ownership interest in either the small busi-  
23 ness concern or the property: father, mother, son, daugh-  
24 ter, wife, husband, brother, or sister, if the Administrator  
25 or his designee has determined on a case-by-case basis

1 that such ownership interest, such guarantee, and the pro-  
2 ceeds of such loan, will substantially benefit the small  
3 business concern.

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

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

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

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

19 “(2) the interest rate on such debentures is not  
20 less than the rate of interest determined by the Sec-  
21 retary of the Treasury for purposes of section  
22 303(b);

23 “(3) the aggregate amount of such debenture  
24 does not exceed the amount of the loans to be made  
25 from the proceeds of such debenture plus, at the

1 election of the borrower, other amounts attributable  
2 to the administrative and closing costs of such loans,  
3 except for the attorney fees of the borrower;

4 “(4) the amount of any loan to be made from  
5 such proceeds does not exceed an amount equal to  
6 50 percent of the cost of the project with respect to  
7 which such loan is made;

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

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

14 “(A) assesses and collects a fee, which  
15 shall be payable by the borrower, in an amount  
16 established annually by the Administration,  
17 which amount shall not exceed—

18 “(i) the lesser of—

19 “(I) 0.9375 percent per year of  
20 the outstanding balance of the loan;  
21 or

22 “(II) the minimum amount nec-  
23 essary to reduce the cost (as defined  
24 in section 502 of the Federal Credit  
25 Reform Act of 1990) to the Adminis-

1                   trator of purchasing and guaranteeing  
2                   debentures under this title to zero;  
3                   and

4                   “(ii) 50 percent of the amount estab-  
5                   lished under clause (i) in the case of a loan  
6                   made during the 2-year period beginning  
7                   on October 1, 2002, for the life of the  
8                   loan; and

9                   “(B) uses the proceeds of such fee to offset  
10                  the cost (as such term is defined in section 502  
11                  of the Federal Credit Reform Act of 1990) to  
12                  the Administrator of making guarantees under  
13                  this section.

14               “(f) INTEREST RATES ON COMMERCIAL LOANS.—  
15   Notwithstanding the provisions of the constitution or laws  
16   of any State limiting the rate or amount of interest which  
17   may be charged, taken, received, or reserved, the max-  
18   imum legal rate of interest on any commercial loan which  
19   funds any portion of the cost of the project financed pur-  
20   suant to this title which is not funded by a debenture  
21   guaranteed under this section shall be a rate which is es-  
22   tablished by the Administrator who shall publish such rate  
23   quarterly in, at a minimum, the Federal Register and on  
24   the Administration’s website.



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

4       “(h) CHARGES FOR ADMINISTRATOR’S EXPENSES.—  
5 The Administrator may impose an additional charge for  
6 administrative expenses with respect to each debenture for  
7 which payment of principal and interest is guaranteed  
8 under this section. Such administrative expenses may in-  
9 clude—

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

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

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

17       “(i) PARTICIPATION FEE.—The Administrator shall  
18 collect a one-time fee in an amount equal to 50 basis  
19 points on the total participation in any project of any  
20 State or local government, bank, other financial institu-  
21 tion, or foundation or not-for-profit institution. Such fee  
22 shall be imposed only when the participation of the entity  
23 described in the previous sentence will occupy a senior  
24 credit position to that of the development company. All  
25 proceeds of the fee shall be used to offset the cost (as

1 that term is defined in section 502 of the Credit Reform  
2 Act of 1990) to the Administrator of making guarantees  
3 under this section.

4 “(j) CERTIFIED DEVELOPMENT COMPANY FEE.—

5 The Administrator shall collect annually from each devel-  
6 opment company a fee of 0.125 percent of the outstanding  
7 principal balance of any guaranteed debenture authorized  
8 by the Administrator after September 30, 1996. Such fee  
9 shall be derived from the servicing fees collected by the  
10 certified development company pursuant to regulation,  
11 and shall not be derived from any additional fees imposed  
12 on small business concerns. All proceeds of the fee shall  
13 be used to offset the cost (as that term is defined in sec-  
14 tion 502 of the Credit Reform Act of 1990) to the Admin-  
15 istrator of making guarantees under this section.

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

19 “(l) CALCULATION OF SUBSIDY RATE.—All fees, in-  
20 terest, and profits received and retained by the Adminis-  
21 trator under this section shall be included in the calcula-  
22 tions made by the Director of the Office of Management  
23 and Budget to offset the cost (as that term is defined in  
24 section 502 of the Federal Credit Reform Act of 1990)

1 to the Administrator of purchasing and guaranteeing de-  
2 bentures under this title.

3 “(m) ACTIONS UPON DEFAULT.—

4 “(1) INITIAL ACTIONS.—Not later than the  
5 45th day after the date on which a payment on a  
6 loan funded through a debenture guaranteed under  
7 this section is due and not received, the Adminis-  
8 trator shall—

9 “(A) take all necessary steps to bring such  
10 loan current; or

11 “(B) implement a formal written deferral  
12 agreement.

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

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

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

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

7           “(C) shall not pay a default interest rate  
8           higher than the interest rate on the note prior  
9           to the date of default for any project financed  
10          after September 30, 1996.

11          “(4) COLLECTION AND SERVICING.—

12           “(A) IN GENERAL.—In the event of the de-  
13           fault of any loan and the repurchase of a de-  
14           benture guaranteed by the Administrator under  
15           this title, the Administrator shall continue to  
16           delegate to the central servicing agent that was  
17           contracted for that service as of January 1,  
18           2009, or successor contractor the authority to  
19           collect and disburse all funds or payments re-  
20           ceived on such defaulted loans, including pay-  
21           ments from guarantors or on notes in com-  
22           promise of the original note. The central serv-  
23           icing agent shall continue to provide an ac-  
24           counting of income and expenses for any such  
25           loan on the same basis it does for any other

1 loan issued under this title. The central serv-  
2 icing agent shall make the accounting of income  
3 and expenses and reports thereon available as  
4 requested by the certified development company  
5 that issued the debenture or the Administrator.

6 “(B) EFFECTIVE DATE.—The require-  
7 ments of subparagraph (A) shall become effec-  
8 tive 180 days after the date of enactment of the  
9 Small Business Financing and Investment Act  
10 of 2009.”.

11 **SEC. 217. ECONOMIC DEVELOPMENT THROUGH DEBEN-**  
12 **TURES.**

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

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

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

20 “(1) The creation of job opportunities within  
21 two years of the completion of the project or the  
22 preservation or retention of jobs attributable to the  
23 project.

24 “(2) Improving the economy of the locality,  
25 such as stimulating other business development in

1 the community, bringing new income into the area,  
2 or assisting the community in diversifying and stabi-  
3 lizing its economy.

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

6 “(A) Business district revitalization or ex-  
7 pansion of businesses in low-income commu-  
8 nities which would be eligible for a new markets  
9 tax credit under section 45D(a) of the Internal  
10 Revenue Code of 1986, or implementing regula-  
11 tions issued under that section.

12 “(B) Expansion of exports.

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

15 “(D) Rural development.

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

21 “(F) Enhanced economic competition, in-  
22 cluding the advancement of technology, plan re-  
23 tooling, conversion to robotics, or competition  
24 with imports.

1           “(G) Changes necessitated by Federal  
2 budget cutbacks, including defense related in-  
3 dustries.

4           “(II) Business restructuring arising from  
5 federally mandated standards or policies affect-  
6 ing the environment or the safety and health of  
7 employees.

8           “(I) Reduction of energy consumption by  
9 at least 10 percent.

10          “(J) Increased use of sustainable design,  
11 including designs that reduce the use of green-  
12 house gas emitting fossil fuels, or low-impact  
13 design to produce buildings that reduce the use  
14 of nonrenewable resources and minimize envi-  
15 ronmental impact.

16          “(K) Plant, equipment, and process up-  
17 grades of renewable energy sources such as the  
18 small-scale production of energy for individual  
19 buildings or communities consumption, com-  
20 monly known as micropower, or renewable fuels  
21 producers including biodiesel and ethanol pro-  
22 ducers.

23          “(4) Debt refinancing to the extent permitted  
24 by subsection (d).

1       “(b) JOB CREATION AND RETENTION REQUIRE-  
2 MENTS.—

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

9           “(2) EXCEPTIONS.—

10           “(A) Paragraph (1) shall not apply to a  
11 project for which eligibility is based on the ob-  
12 jectives set forth in subsection (a)(2) or (a)(3)  
13 if the certified development company’s portfolio  
14 of outstanding debentures creates or retains one  
15 job for every \$65,000 guaranteed by the Ad-  
16 ministrator.

17           “(B) For projects in Alaska, Hawaii,  
18 State-designated enterprise zones, empower-  
19 ment zones, enterprise communities, or labor  
20 surplus areas designated by the Administrator,  
21 the certified development company’s portfolio  
22 may average not more than \$75,000 per job  
23 created or retained.



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

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

12          “(d) COMPOSITION OF THE PROJECT.—

13           “(1) IN GENERAL.—The projects described in  
14           this section shall include, but not be limited to, plant  
15           acquisition, construction, conversion, expansion (in-  
16           cluding the acquisition of land), equipment and re-  
17           lated project costs, or to acquire the stock of a cor-  
18           poration (as long as the value of the loan for the ac-  
19           quisition of the stock does not exceed the fixed asset  
20           value attributable to such assets as would be eligible  
21           for financing under subsection (a)).

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

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

4           “(A) the existing indebtedness does not ex-  
5 ceed 50 percent of the project cost of the ex-  
6 pansion;

7           “(B) the proceeds of the indebtedness were  
8 used to acquire land, including a building situ-  
9 ated thereon, to construct a building thereon, or  
10 to purchase equipment;

11           “(C) the existing indebtedness is  
12 collateralized by fixed assets;

13           “(D) the existing indebtedness was in-  
14 curred for the benefit of the small business con-  
15 cern;

16           “(E) the financing under this title will be  
17 used only for refinancing existing indebtedness  
18 or costs relating to the project financed under  
19 this title;

20           “(F) the financing under this title will pro-  
21 vide a substantial benefit to the borrower when  
22 prepayment penalties, financing fees, and other  
23 financing costs are accounted for;

24           “(G) the borrower has been current on all  
25 payments due on the existing debt for not less

1 than 1 year preceding the date of refinancing;  
2 and

3 “(II) the financing under this title will  
4 provide better terms or rate of interest than the  
5 existing indebtedness at the time of refinancing.

6 “(e) DEFINITION.—For purposes of subparagraphs  
7 (J) and (K) of subsection (a)(3), the terms included have  
8 the meanings given those terms under the Leadership in  
9 Energy and Environmental Design (more generally re-  
10 ferred to as LEED) standard for green building certifi-  
11 cation, as determined by the Administrator through regu-  
12 lation to be published in the Code of Federal Regula-  
13 tions.”.

14 **SEC. 218. PROJECT FUNDING REQUIREMENTS.**

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

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

18 “(a) IN GENERAL.—Any project described in section  
19 507 must meet the funding standards set forth in this sec-  
20 tion.

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

24 “(1) \$3,000,000 for any project of a small busi-  
25 ness concern.

1           “(2) \$4,000,000 for any project that meets the  
2 public policy goals set forth in section 507(a)(3).

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

6           “(4) \$8,000,000 for each project of a small  
7 manufacturer.

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

11           “(6) \$8,000,000 for each project that generates  
12 renewable energy or renewable fuels, such as, but  
13 not limited to, biodiesel or ethanol production.

14           “(7) \$10,000,000 for each project for a small  
15 business concern that constitutes a major source of  
16 employment as that term is used in section  
17 7(b)(3)(E) of the Small Business Act (15 U.S.C.  
18 636(b)(3)(E)).

19           “(c) FUNDING FROM SOURCES OTHER THAN DE-  
20 BENTURES ISSUED BY CERTIFIED DEVELOPMENT COM-  
21 PANIES.—

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

1                   “(A) FUNDING FROM INSTITUTIONS.—

2                   “ (i) If a small business concern pro-  
3                   vides—

4                   “ (I) the minimum contribution  
5                   required by subparagraph (B), not  
6                   less than 50 percent of the total cost  
7                   of any project financed shall come  
8                   from State or local governments,  
9                   banks or other financial institutions,  
10                  or foundations or other not-for-profit  
11                  institutions; and

12                  “ (II) more than the minimum  
13                  contribution required under subpara-  
14                  graph (B), any excess contribution  
15                  may be used to reduce the amount re-  
16                  quired from institutions described in  
17                  subclause (I), except that the amount  
18                  provided by such institution may not  
19                  be reduced to an amount that is less  
20                  than the amount of the loan made by  
21                  the Administrator.

22                  “(B) FUNDING FROM SMALL BUSINESS  
23                  CONCERNS.—The small business concern (or its  
24                  owners, stockholders, or affiliates) that will

1 have a project financed pursuant to this title  
2 shall provide—

3 “(i) at least 15 percent of the total  
4 cost of the project financed if the small  
5 business concern has been in operation for  
6 a period of 2 years or less;

7 “(ii) at least 15 percent of the total  
8 cost of the project financed if the project  
9 involves construction of a limited or single  
10 purposed building or structure;

11 “(iii) at least 20 percent of the total  
12 cost of the project financed if the project  
13 involves both of the conditions in clauses  
14 (i) and (ii); or

15 “(iv) at least 10 percent of the total  
16 cost of the project financed and not cov-  
17 ered by clauses (i), (ii), or (iii), at the dis-  
18 cretion of the certified development com-  
19 pany.

20 “(2) SELLER FINANCING.—Seller-provided fi-  
21 nancing may be used to meet the requirements of  
22 paragraph (1)(B), if the seller subordinates the in-  
23 terest of the seller in the property to the debenture  
24 guaranteed by the Administrator.

25 “(3) COLLATERALIZATION.—

1           “(A) IN GENERAL.—The collateral pro-  
2           vided by the small business concern shall gen-  
3           erally include a subordinate lien position on the  
4           property being financed under this title, and is  
5           only one of the factors to be evaluated in the  
6           credit determination. Additional collateral shall  
7           be required only if the Administrator deter-  
8           mines, on a case-by-case basis, that additional  
9           security is necessary to protect the interest of  
10          the Government.

11          “(B) APPRAISALS.—With respect to com-  
12          mercial real property provided by the small  
13          business concern as collateral, an appraisal of  
14          the property by a State licensed or certified ap-  
15          praiser—

16                 “(i) shall be required by the Adminis-  
17                 trator before disbursement of the loan if  
18                 the estimated value of that property is  
19                 more than \$400,000; or

20                 “(ii) may be required by the Adminis-  
21                 trator or the lender before disbursement of  
22                 the loan if the estimated value of that  
23                 property is \$400,000 or less, and such ap-  
24                 praisal is necessary for appropriate evalua-  
25                 tion of creditworthiness.

1           “(C) ADJUSTMENT.—The Administrator  
2 shall periodically adjust the amount under sub-  
3 paragraph (B) to account for the effects of in-  
4 flation, provided that no such adjustment shall  
5 be less than \$50,000.

6           “(4) LIMITATION ON LEASING.—

7           “(A) If the project funded under this sec-  
8 tion includes the acquisition of a facility or the  
9 construction of a new facility, the small busi-  
10 ness concern—

11           “(i) shall permanently occupy and use  
12 not less than 50 percent of the project  
13 property; and

14           “(ii) may, on a temporary or perma-  
15 nent basis, lease to others not more than  
16 50 percent of the project property.

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

19           “(i) the building and any exterior  
20 areas used in connection with the building  
21 or a part thereof and includes all of the  
22 parcels of real property included in the  
23 project in the aggregate; and

24           “(ii) occupancy and use of the project  
25 property by the operating company shall be



1                   deemed to be occupancy and use by the  
2                   small business concern that received fund-  
3                   ing under this section.

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

10          “(2) If the Administrator fails to promulgate the reg-  
11 ulations as provided in paragraph (1), all leases entered  
12 into, absent clear and convincing evidence of fraud, shall  
13 be deemed to be in compliance with the limitations on leas-  
14 ing in this subparagraph for purposes of honoring the  
15 guarantee on the debenture issued by the certified develop-  
16 ment company.

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

23          “(4) Any interpretation of the leasing provisions  
24 issued by the Administrator prior to the issuance of regu-  
25 lations required by paragraph (1) shall be considered null

1 and void and may be not be used in any court of com-  
2 petent jurisdiction, be it Federal or State court, to dis-  
3 honor any guarantee of a debenture issued by a certified  
4 development company for a project funded pursuant to  
5 this section.

6 “(e) OWNERSHIP CALCULATION.—Ownership re-  
7 quirements to determine the eligibility of a small business  
8 concern that applies for funding under this title shall be  
9 determined without regard to any ownership interest of  
10 a spouse arising solely from the application of the commu-  
11 nity property laws of a State for purposes of determining  
12 marital interests.

13 “(f) COMBINATION FINANCING.—Financing under  
14 this title may be provided to a borrower in the maximum  
15 amount provided in this section, and a loan guarantee  
16 under section 7(a) of the Small Business Act (15 U.S.C.  
17 636(a)) may be provided to the same borrower in the max-  
18 imum amount provided in section 7(a)(3)(A) of such Act,  
19 to the extent that the borrower otherwise qualifies for such  
20 assistance.

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

23 “(1) SIZE STANDARDS.—For purposes of deter-  
24 mining the size of a small business concern seeking  
25 funds for a project described in subsection (b)(3),

1 the size standard promulgated by the Administrator  
2 in section 121.201 of title 13, Code of Federal Reg-  
3 ulations, as in effect on January, 1, 2009, or any  
4 successor regulation, shall be increased by 25 per-  
5 cent.

6 “(2) PERSONAL LIQUIDITY.—

7 “(A) IN GENERAL.—The amount of per-  
8 sonal resources of an owner for a project de-  
9 scribed in subsection (b)(3) that are excluded  
10 from the amount required to reduce the portion  
11 of the project funded by the Administrator shall  
12 be not less than 25 percent more than that re-  
13 quired for funding of any other project de-  
14 scribed in subsection (b).

15 “(B) DEFINITION.—For purposes of sub-  
16 paragraph (A), the term ‘owner’ means any  
17 person that owns not less than 20 percent of  
18 the equity or has not less than 20 percent of  
19 the voting rights (in the case of a small busi-  
20 ness organized as a partnership) of a small  
21 business concern seeking funds under this sec-  
22 tion.

23 “(h) APPLICABILITY OF CREDIT ELSEWHERE AND  
24 PERSONAL RESOURCES REGULATIONS.—Except as pro-  
25 vided in subsection (c)(1)(B) with respect to project fund-

1 ing, the Administrator shall be prohibited from applying  
2 the regulations set forth in sections 120.101 and 120.102  
3 of title 13, Code of Federal Regulations, as in effect on  
4 January 1, 2009, or any successor regulation that applies  
5 a credit elsewhere or personal resources test to any appli-  
6 cation for a loan under this title pending or filed after  
7 the date of enactment of the Small Business Financing  
8 and Investment Act of 2009.”.

9 **SEC. 219. PRIVATE DEBENTURE SALES AND POOLING OF**  
10 **DEBENTURES.**

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

13 **“SEC. 509. PRIVATE DEBENTURE SALES AND POOLING OF**  
14 **DEBENTURES.**

15 “(a) PRIVATE DEBENTURE SALES.—Notwith-  
16 standing any other law, rule, or regulation, the Adminis-  
17 trator shall sell to investors, either publicly or by private  
18 placement, debentures issued by certified development  
19 companies pursuant to this title for the full amount of the  
20 program levels authorized in each fiscal year and if there  
21 is not authorization of a level, the amount of debentures  
22 actually issued.

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

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

5           “(2) any obligation which is an interest in any  
6 obligation which is an interest in any obligation de-  
7 scribed in paragraph (1); or

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

11       “(e) POOLING OF DEBENTURES.—

12           “(1) IN GENERAL.—The Administrator is au-  
13 thorized to issue trust certificates representing own-  
14 ership of all or a fractional part of debentures issued  
15 by certified development companies and guaranteed  
16 under this title if such trust certificates are based on  
17 and backed by a trust or pool approved by the Ad-  
18 ministrator and composed solely of guaranteed de-  
19 bentures.

20           “(2) GUARANTEE OF TRUST CERTIFICATES.—  
21 The Administrator is authorized, upon such terms  
22 and conditions as are deemed appropriate, to guar-  
23 antee the timely payment of the principal of and in-  
24 terest on trust certificates issued by the Adminis-  
25 trator or its agent for purposes of this section. Such

1     guarantee shall be limited to the extent of principal  
2     and interest on the guaranteed debentures which  
3     compose the trust or pool. In the event that a deben-  
4     ture in such trust or pool is prepaid, either volun-  
5     tarily or in the event of default, the guarantee of  
6     timely payment of principal and interest on the trust  
7     certificates shall be reduced in proportion to the  
8     amount of principal and interest such prepaid deben-  
9     ture represents in the trust or pool. Interest on pre-  
10    paid or defaulted debentures shall accrue and be  
11    guaranteed by the Administrator only through the  
12    date of payment on the guarantee. During the term  
13    of the trust certificate, it may be called for redemp-  
14    tion due to prepayment or default of all debentures  
15    constituting the pool.

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

22           “(4) PROHIBITION ON GUARANTEE FEE FOR  
23    POOLS.—The Administrator shall not collect any fee  
24    for any guarantee under this section, provided that  
25    nothing herein shall preclude any agent of the Ad-

1 administrator from collecting a fee approved by the  
2 Administrator for the functions performed in para-  
3 graph (6)(F).

4 “(5) SUBROGATION.—

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

9 “(B) ADMINISTRATOR EXERCISE OF  
10 RIGHTS.—No Federal, State, or local law shall  
11 preclude or limit the exercise by the Adminis-  
12 trator of its ownership rights in the debentures  
13 constituting the trust or pool against which the  
14 trust certificates are issued.

15 “(6) CENTRAL REGISTRATION.—

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

19 “(B) CONTRACT.—The Administrator shall  
20 contract with an agent to carry out on behalf  
21 of the Administrator the central registration  
22 functions of this section and the issuance of  
23 trust certificates to facilitate pooling.

24 “(C) BOND.—The Administrator shall re-  
25 quire the contractor to provide a fidelity bond

1 or insurance in such amounts as is deemed nec-  
2 essary to fully protect the interests of the Gov-  
3 ernment.

4 “(D) DISCLOSURE REQUIREMENTS.—The  
5 Administrator shall, prior to any sale, require  
6 the seller to disclose to a purchaser of a trust  
7 certificate issued pursuant to this section, infor-  
8 mation on terms, conditions, and yield of such  
9 instruments.

10 “(E) AUTHORITY TO REGULATE.—The Ad-  
11 ministrator shall have the authority to regulate  
12 brokers and dealers in trust certificates sold  
13 pursuant to this section.

14 “(F) BOOK ENTRY PERMITTED.—Nothing  
15 in this paragraph shall prohibit the utilization  
16 of a book-entry or other electronic form of reg-  
17 istration for trust certificates.”.

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

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

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

22 “(a) DELEGATION OF AUTHORITY.—In accordance  
23 with this section, the Administrator shall delegate to any  
24 certified development company that meets the eligibility  
25 requirements of subsection (b)(1), the authority to fore-



1 close and liquidate, or to otherwise treat in accordance  
2 with this section, defaulted loans in its portfolio that are  
3 funded with the proceeds of debentures guaranteed by the  
4 Administrator pursuant to this title.

5 “(b) ELIGIBILITY FOR DELEGATION.—

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

9 “(A) the certified development company—

10 “(i) has participated in the loan liq-  
11 uidation pilot program established by the  
12 Small Business Programs Improvement  
13 Act of 1996 (15 U.S.C. 695 note), before  
14 the enactment of the Small Business Fi-  
15 nancing and Investment Act of 2009;

16 “(ii) is an accredited or premier cer-  
17 tified development company; or

18 “(iii) during the 3 fiscal years imme-  
19 diately prior to seeking such a delegation,  
20 has made an average of not less than 10  
21 loans per year that are funded with the  
22 proceeds of debentures guaranteed under  
23 this title; and

24 “(B) the certified development company—

25 “(i) has one or more employees—

1           “(I) with not less than 2 years of  
2 substantive, decisionmaking experi-  
3 ence in administering the liquidation  
4 and workout of problem loans secured  
5 in a manner substantially similar to  
6 loans funded with the proceeds of de-  
7 bentures guaranteed under this title;  
8 and

9           “(II) who have completed a train-  
10 ing program on loan liquidation devel-  
11 oped by the Administrator in conjunc-  
12 tion with a certified development com-  
13 pany that meet the requirements of  
14 this paragraph; or

15           “(ii) submits to the Administrator  
16 documentation demonstrating that the  
17 company has contracted with a qualified  
18 third party to perform any liquidation ac-  
19 tivities and secures the approval of the  
20 contract by the Administrator with respect  
21 to the qualifications of the contractor and  
22 the terms and conditions of liquidation ac-  
23 tivities.

24           “(2) CONFIRMATION.—On the request, the Ad-  
25 ministrator shall examine the qualifications of any

1 certified development company described in sub-  
2 section (a) to determine if such company is eligible  
3 for the delegation of authority under this section. If  
4 the Administrator determines that a company is not  
5 eligible, the Administrator shall provide the com-  
6 pany, in writing, with the reasons for such ineligi-  
7 bility. The certified development company shall be  
8 entitled to request delegated authority and the Ad-  
9 ministrator shall review the request only to address  
10 whether the certified development company has rec-  
11 tified the reasons for the Administrator's original  
12 determination of ineligibility.

13 “(c) SCOPE OF DELEGATED AUTHORITY.—

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

18 “(A) perform all liquidation and fore-  
19 closure functions, including the purchase in ac-  
20 cordance with this subsection of any other in-  
21 debtedness secured by the property securing the  
22 loan, in a reasonable and sound manner accord-  
23 ing to commercially accepted practices, pursu-  
24 ant to a liquidation plan approved in advance  
25 by the Administrator under paragraph (2)(A);

1           “(B) litigate any matter relating to the  
2 performance of the functions described in sub-  
3 paragraph (A), except that the Administrator  
4 may—

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

6                           “(I) the outcome of the litigation  
7 may adversely affect the Administra-  
8 tor’s management of the program es-  
9 tablished under this title; or

10                           “(II) the Administrator is enti-  
11 tled to legal remedies not available to  
12 a certified development company and  
13 such remedies will benefit either the  
14 Administrator or the certified develop-  
15 ment company; and

16                           “(ii) oversee the conduct of any such  
17 litigation; and

18           “(C) take other appropriate actions to  
19 mitigate loan losses in lieu of total liquidation  
20 or foreclosures, including the restructuring of a  
21 loan in accordance with prudent loan servicing  
22 practices and pursuant to a workout plan ap-  
23 proved in advance by the Administrator under  
24 paragraph (2).

25           “(2) ADMINISTRATOR APPROVAL OF PLANS.—

1           “(A) CERTIFIED DEVELOPMENT COMPANY  
2 SUBMISSION OF PLANS.—Before carrying out  
3 functions described in paragraph (1)(A) or  
4 (1)(C), the certified development company shall  
5 submit to the Administrator a proposed liquida-  
6 tion plan, any proposal for the Administrator to  
7 the purchase of any other indebtedness secured  
8 by the property securing a defaulted loan, or a  
9 workout plan or any combination thereof.

10           “(B) ADMINISTRATOR APPROVAL PROCE-  
11 DURES.—

12           “(i) TIMING.—Not later than 15 busi-  
13 ness days after the plans described in sub-  
14 paragraph (A) are received by the Admin-  
15 istrator, the Administrator shall approve or  
16 reject the plan.

17           “(ii) NOTICE OF NO DECISION.—With  
18 respect to any plan that cannot be ap-  
19 proved or denied within the 15-day period  
20 required by clause (i), the Administrator  
21 shall within such period provide in accord-  
22 ance with subparagraph (E) notice to the  
23 company that submitted the plan.

24           “(C) ROUTINE ACTIONS.—In carrying out  
25 the functions described in paragraph (1)(A), a

1 certified development company may undertake  
2 routine actions not addressed in a liquidation or  
3 workout plan without obtaining additional ap-  
4 proval from the Administrator.

5 “(D) COMPROMISE OF INDEBTEDNESS.—  
6 In carrying out functions described in para-  
7 graph (1)(A), a certified development company  
8 may—

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

12 “(ii) pursuant to such offer, release  
13 any obligor or other party contingently lia-  
14 ble, if the company secures the written ap-  
15 proval of the Administrator.

16 “(E) CONTENTS OF NOTICE OF NO DECI-  
17 SION.—Any notice provided by the Adminis-  
18 trator pursuant to subparagraph (B)(ii) shall—

19 “(i) be in writing stating the specific  
20 reasons for which the Administrator was  
21 unable to act on the request submitted  
22 pursuant to subparagraph (A);

23 “(ii) provide an estimate of the addi-  
24 tional time needed for the Administrator to  
25 reach a decision on the request; and

1           “(iii) specify any additional informa-  
2           tion or documentation that the Adminis-  
3           trator needs to make a decision but was  
4           not provided in the plan submitted by the  
5           certified development company.

6           “(3) CONFLICT OF INTEREST.—In carrying out  
7           functions described in paragraph (1), a certified de-  
8           velopment company shall take no action that would  
9           result in an actual or apparent conflict of interest  
10          between the company (or any employee of the com-  
11          pany) and any third-party lender, associate of a  
12          third-party lender, or any other person participating  
13          in a liquidation, foreclosure, or loss mitigation ac-  
14          tion.

15          “(d) SUSPENSION OR REVOCATION OF AUTHOR-  
16          ITY.—

17                 “(1) IN GENERAL.—The Administrator may re-  
18                 voke or suspend a delegation of authority under this  
19                 section to a certified development company if the  
20                 Administrator determines that the company—

21                         “(A) does not meet the requirements of  
22                         subsection (b)(1);

23                         “(B) violated any applicable law or rule or  
24                         regulation of the Administrator that in the esti-

1           mation of the Administrator requires revoca-  
2           tion; or

3           “ (C) fails to comply with any reporting  
4           that may be established by the Administrator  
5           relating to the establishment of eligibility in  
6           subsection (b)(1) or carrying out the functions  
7           described in subsection (c)(1).

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

11          “(e) PARTICIPATION IN LIQUIDATION.—

12          “(1) IN GENERAL.—

13          “(A) CONTRACT WITH QUALIFIED THIRD  
14          PARTY.—A certified development company  
15          which elects not to apply for authority to fore-  
16          close and liquidate defaulted loans under this  
17          section, or which the Administrator determines  
18          to be ineligible for such authority, shall contract  
19          with a qualified third party to perform fore-  
20          closure and liquidation of defaulted loans in its  
21          portfolio.

22          “(B) CONTRACT APPROVAL.—The contract  
23          entered into by the certified development com-  
24          pany specified in subparagraph (A) shall be  
25          contingent upon approval by the Administrator



1 with respect to the qualifications of the con-  
2 tractor and the terms and conditions of liquida-  
3 tion activities. The Administrator shall not un-  
4 reasonably withhold such approval.

5 “(C) NOTIFICATION OF REJECTION.—If  
6 the Administrator rejects the contract, the Ad-  
7 ministrator shall provide a notice to the cer-  
8 tified development company, in writing, explain-  
9 ing the reasons for such rejection within ten  
10 business days after submission of the contract.

11 “(D) RESUBMITTAL.—The certified devel-  
12 opment company shall be permitted to resubmit  
13 the contract and the Administrator’s review of  
14 any such resubmittal shall be limited to  
15 insufficiencies described in the notification of  
16 rejection.

17 “(E) REGULATIONS.—The Administrator  
18 shall promulgate regulations, after notice and  
19 opportunity for comment, adopting standards  
20 for the approval of qualified third-party con-  
21 tractors within 90 days after the date of enact-  
22 ment of the Small Business Financing and In-  
23 vestment Act of 2009.

24 “(F) FAILURE TO PROMULGATE REGULA-  
25 TIONS.—If the Administrator fails to promul-

1           gate such regulations, any contract for liquida-  
2           tion entered into by a certified development  
3           company under this subsection shall be consid-  
4           ered valid for the purposes of this subsection  
5           and subsection (f).

6           “(G) EFFECT OF ADMINISTRATOR’S PRO-  
7           MULGATION OF REGULATIONS.—If the Adminis-  
8           trator promulgates regulations after the dead-  
9           line specified in subparagraph (E), those regu-  
10          lations shall not have any retroactive applica-  
11          tion with respect to contracts that are described  
12          in subparagraph (F).

13          “(2) COMMENCEMENT.—This subsection shall  
14          not require any certified development company to  
15          liquidate defaulted loans until the Administrator im-  
16          plements a system to compensate and reimburse cer-  
17          tified development companies for liquidation of any  
18          defaulted loans.

19          “(f) COMPENSATION AND REIMBURSEMENT.—

20          “(1) REIMBURSEMENT OF EXPENSES.—The  
21          Administrator shall reimburse each certified develop-  
22          ment company for all expenses paid by such com-  
23          pany as part of the foreclosure and liquidation ac-  
24          tivities taken to carry out this section, if the ex-  
25          penses—

1 “(A) were—

2 “(i) approved in advance by the Ad-  
3 ministrator, either specifically in a plan  
4 submitted pursuant to subsection (c) or  
5 generally, such as, but not limited to, ac-  
6 tions approved by the Administrator in  
7 regulations or other interpretative  
8 issuances; or

9 “(ii) incurred by the development  
10 company on an emergency basis without  
11 prior approval from the Administrator, if  
12 the Administrator determines that the ex-  
13 penses were reasonable and appropriate;  
14 and

15 “(B) are submitted by the certified devel-  
16 opment company to the Administrator not later  
17 than 3 years after the date the expense was in-  
18 curred or the bill therefore is submitted to the  
19 certified development company, whichever is  
20 later.

21 “(2) ALTERNATIVE REIMBURSEMENT.—As an  
22 alternative to the procedure in paragraph (1), a cer-  
23 tified development company may elect to obtain re-  
24 imbursement for all such expenses from the proceeds  
25 of any collateral provided by the borrower that was

1 liquidated by the certified development company if  
2 the expenses comply with the requirements of para-  
3 graph (1). Within 6 months of the reimbursement,  
4 the certified development company shall provide the  
5 Administrator with the same information and docu-  
6 mentation it would be required to submit to obtain  
7 payment from the Administrator.

8 “(3) REGULATIONS.—The Administrator shall  
9 promulgate regulations, after notice and comment to  
10 carry out the provisions of paragraphs (1) and (2).  
11 If the Administrator does not promulgate such regu-  
12 lations within one year, certified development compa-  
13 nies shall be authorized, notwithstanding the re-  
14 quirements of subsection (e)(2), to liquidate de-  
15 faulted loans and such costs and expenses incurred,  
16 absent clear and convincing evidence of fraud, shall  
17 be deemed to be approved.

18 “(4) COMPENSATION FOR RESULTS.—

19 “(A) DEVELOPMENT.—In regulations pro-  
20 mulgated pursuant to paragraph (3), the Ad-  
21 ministrator also shall develop a schedule of  
22 compensation that provides monetary incentives  
23 for certified development companies in order to  
24 increase recoveries on defaulted loans.

25 “(B) CRITERIA.—The schedule shall—

1           “(i) be based on a percentage of the  
2           net amount recovered, but shall not exceed  
3           a maximum amount; and

4           “(ii) not apply to any foreclosure  
5           which is conducted under a contract be-  
6           tween a certified development company and  
7           a qualified third party to perform the fore-  
8           closure and liquidation.

9           “(C) PAYMENT.—The Administrator shall  
10          transmit the compensation provided herein to  
11          the development company from the proceeds of  
12          liquidated collateral, unless the Administrator  
13          utilizes another source for funds, within 30  
14          days from the date when the liquidation case  
15          has been closed and documentation received.”.

16 **SEC. 221. REPORTS AND REGULATIONS.**

17          Title V of the Small Business Investment Act of 1958  
18          (15 U.S.C. 695 et seq.) is amended by adding at the end  
19          the following:

20 **“SEC. 511. REPORTS.**

21          “(a) PREMIER CERTIFIED DEVELOPMENT COMPA-  
22          NIES.—The Administrator shall report annually to the  
23          Committee on Small Business of the House of Representa-  
24          tives and the Committee on Small Business and Entrepre-

1 neurship of the Senate on the implementation of section  
2 504. Each report shall include—

3 “(1) the number of premier certified develop-  
4 ment companies;

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

7 “(3) a comparison of the loss rate for premier  
8 certified development companies to the loss rate for  
9 accredited or certified development companies; and

10 “(4) such other information as the Adminis-  
11 trator deems appropriate.

12 “(b) REPORTS ON LIQUIDATION AND FORE-  
13 CLOSURES.—

14 “(1) IN GENERAL.—Based on information pro-  
15 vided by certified development companies and the  
16 Administrator, the Administrator shall submit annu-  
17 ally to the Committee on Small Business and Entre-  
18 preneurship of the Senate and the Committee on  
19 Small Business of the House of Representatives a  
20 report on the results of delegation of authority under  
21 section 510.

22 “(2) CONTENTS.—Each report submitted under  
23 paragraph (1) shall include the following informa-  
24 tion:

1           “(A) With respect to each loan foreclosed  
2           or liquidated by a certified development com-  
3           pany, or for which losses were otherwise miti-  
4           gated by pursuant to a workout plan—

5                     “(i) the total cost of the project fi-  
6                     nanced with the loan;

7                     “(ii) the total original dollar amount  
8                     guaranteed by the Administration;

9                     “(iii) the total dollar amount of the  
10                    loan at the time of liquidation, foreclosure,  
11                    or mitigation of loss;

12                    “(iv) the total dollar losses resulting  
13                    from the liquidation, foreclosure, or mitiga-  
14                    tion of loss; and

15                    “(v) the total recoveries resulting  
16                    from the liquidation, foreclosure, or mitiga-  
17                    tion of loss, both as a percentage of the  
18                    amount guaranteed and the total cost of  
19                    the project financed.

20           “(B) With respect to each certified devel-  
21           opment company to which authority is dele-  
22           gated under section 510, the totals of each of  
23           the amounts described in clauses (i) through (v)  
24           of subparagraph (A).

1           “(C) With respect to each certified devel-  
2           opment company that contracts with a qualified  
3           third-party contractor pursuant to section  
4           510(e), the total of each of the amounts de-  
5           scribed in clauses (i) through (v) of subpara-  
6           graph (A).

7           “(D) With respect to all loans subject to  
8           foreclosure, liquidation, or mitigation under sec-  
9           tion 510, the totals of each of the amounts de-  
10          scribed in clauses (i) through (v) of subpara-  
11          graph (A).

12          “(E) A comparison between—

13                 “(i) the information provided under  
14                 subparagraph (D) with respect to the 12-  
15                 month period preceding the date on which  
16                 the report is submitted; and

17                 “(ii) the same information with re-  
18                 spect to loans foreclosed and liquidated, or  
19                 otherwise treated, by the Administrator  
20                 during the same period.

21          “(F) The number of times that the Admin-  
22          istrator has failed to approve or reject a liq-  
23          uidation plan, workout plan, request to pur-  
24          chase indebtedness, or failed to approve a third-  
25          party contractor under section 510, including



1 specific information regarding the reasons for  
2 the Administrator's failure and any delays that  
3 resulted.

4 “(c) REPORTS ON COMBINATION FINANCING.—

5 “(1) REPORTING REQUIREMENT.—Not later  
6 than 90 days after the date of enactment of the  
7 Small Business Financing and Investment Act of  
8 2009, and annually thereafter, the Administrator  
9 shall submit a report to the Committee on Small  
10 Business and Entrepreneurship of the Senate and  
11 the Committee on Small Business of the House of  
12 Representatives that—

13 “(A) includes the number of small business  
14 concerns that have financing under both section  
15 7(a) of the Small Business Act (15 U.S.C.  
16 636(a)) and title V of the Small Business In-  
17 vestment Act of 1958 (15 U.S.C. 695 et seq.)  
18 during the year before the year of that report;  
19 and

20 “(B) describes the total amount and gen-  
21 eral performance of the financing described in  
22 subparagraph (A).

23 “(d) REPORT ON OTHER ECONOMIC DEVELOPMENT  
24 ACTIVITY.—The Administrator shall compile and submit  
25 to the Committee on Small Business of the House of Rep-

1 representatives and the Committee on Small Business and  
2 Entrepreneurship of the Senate on an annual basis, com-  
3 mencing in the year that the Small Business Financing  
4 and Investment Act of 2009 is enacted, a report that de-  
5 scribes the economic and community development activi-  
6 ties, other than loan making under this title, of each cer-  
7 tified development company during the prior fiscal year.  
8 The Administrator may contract with another party, in-  
9 cluding non-governmental entities, to collect information  
10 or otherwise assist in the preparation of the report re-  
11 quired by this subsection.

12 **“SEC. 512. PROMULGATION OF REGULATIONS UNDER THIS**  
13 **TITLE.**

14 “(a) DEADLINES FOR IMPLEMENTING REGULA-  
15 TIONS.—Except as expressly provided elsewhere in the  
16 Small Business Financing and Investment Act of 2009,  
17 the Administrator shall promulgate regulations under this  
18 title, after providing notice and the opportunity for com-  
19 ment, within 180 days after the date of enactment of that  
20 Act.

21 “(b) NOTICE AND COMMENT REQUIREMENTS IN  
22 GENERAL.—Except as otherwise provided elsewhere in  
23 this title, the Administrator shall provide, after the date  
24 of enactment of the Small Business Financing and Invest-  
25 ment Act of 2009, notice of any proposed change to a reg-

1 ulation implementing this title (whether in existence on  
2 the date of enactment of the Small Business Financing  
3 and Investment Act of 2009 or subsequently adopted),  
4 publish such notification in the Federal Register, and pro-  
5 vide a comment period of not less than 60 days.”.

6 **SEC. 222. PROGRAM NAME.**

7 Title V of the Small Business Investment Act of 1958  
8 (15 U.S.C. 695 et seq.), as amended by this Act, is further  
9 amended by adding at the end the following:

10 **“SEC. 513 PROGRAM NAME.**

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

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

19 **Subtitle C—Miscellaneous**

20 **SEC. 231. REPORT ON STANDARD OPERATING PROCE-**  
21 **DURES.**

22 (a) REPORT.—The Administrator of the Small Busi-  
23 ness Administration shall submit to the Committee on  
24 Small Business of the House of Representatives and the  
25 Committee on Small Business and Entrepreneurship of

1 the Senate a report within 180 days after enactment of  
2 this Act identifying each Standard Operating Procedure  
3 issued after January 1, 1996, that relates to the operation  
4 of a development company (in any manner) under title V  
5 of the Small Business Investment Act of 1958, that is still  
6 in effect on the date of enactment of this Act, and the  
7 regulation codified in title 13 of the Code of Federal Regu-  
8 lations that authorizes the issuance of the Standard Oper-  
9 ating Procedure and separately identifies the regulation  
10 that the Standard Operating Procedure purports to inter-  
11 pret.

12 (b) INAPPLICABILITY.—If the Administrator fails to  
13 complete the report by the time specified in subsection (a),  
14 the Administrator shall, unless there is clear and con-  
15 vincing evidence of fraud, honor the terms and conditions  
16 of any debenture to the entity that issued the debenture  
17 pursuant to title V of the Small Business Investment Act  
18 of 1958 without regard to whether the entity complied  
19 with any of the Standard Operating Procedures described  
20 in subsection (a) until such time as the Administrator sub-  
21 mits the report required under subsection (a).

22 (c) DEFINITION.—For purposes of this section, the  
23 term “Standard Operating Procedure” has the meaning  
24 given that term in section 120.10 of title 13, Code of Fed-

1 eral Regulations, as in effect on January 1, 2009, and  
2 includes any reference to the acronym “SOP”.

3 **SEC. 232. ALTERNATIVE SIZE STANDARD.**

4 (a) REVIEW AND STUDY.—

5 (1) IN GENERAL.—The Administrator of the  
6 Small Business Administration shall study and re-  
7 view the optional size standard set forth in section  
8 121.301(b) of title 13, Code of Federal Regulations,  
9 as in effect on January 1, 2009, for eligibility of a  
10 small business concern for financing under title V of  
11 the Small Business Investment Act of 1958.

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

17 (3) SUBMISSION TO CONGRESS.—The Adminis-  
18 trator shall submit its study and conclusions within  
19 180 days after the date of enactment of the Small  
20 Business Financing and Investment Act of 2009 to  
21 the Committee on Small Business and Entrepre-  
22 neurship of the Senate and the Committee on Small  
23 Business of the House of Representatives.

24 (b) ISSUANCE OF REGULATIONS.—Any changes in  
25 the optional size standard described in subsection (a)(1)

1 shall be promulgated within 180 days of the submission  
2 of the report to committees referred to in paragraph (3)  
3 of subsection (a).

4 (c) INTERIM ALTERNATIVE SIZE STANDARD.—Until  
5 the Administrator promulgates regulations either re-  
6 adopting the size standard referred to in subsection (a)(1)  
7 or adopts a new alternative size standard, the alternative  
8 size standard shall be a maximum tangible net worth of  
9 not more than \$15,000,000 and an average net income  
10 after the payment of Federal taxes (but excluding any car-  
11 ryover losses) for the preceding two fiscal years not more  
12 than \$5,000,000.

### 13 **TITLE III—MICROLENDING** 14 **EXPANSION**

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

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

18 “(14) CREDIT REPORTING INFORMATION.—The  
19 Administrator shall establish a process, for use by  
20 an intermediary making a loan to a borrower under  
21 this subsection, under which the intermediary shall  
22 provide to the major credit reporting agencies the in-  
23 formation about the borrower, both positive and neg-  
24 ative, that is relevant to credit reporting, such as the  
25 payment activity of the borrower on the loan. Such

1 process shall allow an intermediary the option of  
2 providing information to the major credit reporting  
3 agencies through the Administration or independ-  
4 ently.”.

5 **SEC. 302. FLEXIBLE CREDIT TERMS.**

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 (1)(B)(i) by striking “short-  
9 term,”;

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

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

14 **SEC. 303. INCREASED PROGRAM PARTICIPATION.**

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

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

19 (2) by amending subparagraph (B) to read as  
20 follows:

21 “(B) has—

22 “(i) at least—

23 “(I) 1 year of experience making  
24 microloans to startup, newly estab-

1           lished, or growing small business con-  
2           cerns; or

3                   “(II) 1 full-time employee who  
4           has not less than 3 years of experi-  
5           ence making microloans to startup,  
6           newly established, or growing small  
7           business concerns; and

8           “(ii) at least—

9                   “(I) 1 year of experience pro-  
10          viding, as an integral part of its  
11          microloan program, intensive mar-  
12          keting, management, and technical as-  
13          sistance to its borrowers; or

14                   “(II) 1 full-time employee who  
15          has not less than 1 year of experience  
16          providing intensive marketing, man-  
17          agement, and technical assistance to  
18          borrowers.”.

19 **SEC. 304. INCREASED LIMIT ON INTERMEDIARY BOR-**  
20 **ROWING.**

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

23               (1) by striking “\$750,000” and inserting  
24          “\$1,000,000”;



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

3 (3) by adding at the end the following: “The  
4 Administrator may treat the amount of \$7,000,000  
5 in this subparagraph as if such amount is  
6 \$10,000,000 if the Administrator determines, with  
7 respect to an intermediary, that such treatment is  
8 appropriate.”.

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

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

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

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

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

17 Section 7(m) of the Small Business Act (15 U.S.C.  
18 636(m)), as amended by this Act, is further amended—

19 (1) in paragraph (3)(F)(iii) by striking  
20 “\$7,500” and inserting “\$10,000”;

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

23 (3) in paragraph (6)(C)(ii) by striking  
24 “\$7,500” and inserting “\$10,000”.

1 **SEC. 307. REPORTING REQUIREMENT.**

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

5 “(15) **REPORTING REQUIREMENT.**—Not later  
6 than 90 days after the end of each fiscal year, the  
7 Administrator shall submit to the Committee on  
8 Small Business of the House of Representatives and  
9 the Committee on Small Business and Entrepre-  
10 neurship of the Senate a report that includes, with  
11 respect to such fiscal year of the microloan program,  
12 the following:

13 “(A) The names and locations of each  
14 intermediary that received funds to make  
15 microloans or provide marketing, management,  
16 and technical assistance.

17 “(B) The amounts of each loan and each  
18 grant provided to each such intermediary in  
19 such fiscal year and in prior fiscal years.

20 “(C) A description of the contributions  
21 from non-Federal sources of each such inter-  
22 mediary.

23 “(D) The number and amounts of  
24 microloans made by each such intermediary to  
25 all borrowers and to each of the following:

1           “(i) Women entrepreneurs and busi-  
2           ness owners.

3           “(ii) Low-income entrepreneurs and  
4           business owners.

5           “(iii) Veteran entrepreneurs and busi-  
6           ness owners.

7           “(iv) Disabled entrepreneurs and busi-  
8           ness owners.

9           “(v) Minority entrepreneurs and busi-  
10          ness owners.

11          “(E) A description of the marketing, man-  
12          agement, and technical assistance provided by  
13          each such intermediary to all borrowers and to  
14          each of the following:

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

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

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

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

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

1           “(F) The number of jobs created and re-  
2           tained as a result of microloans and marketing,  
3           management, and technical assistance provided  
4           by each such intermediary.

5           “(G) The repayment history of each such  
6           intermediary.

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

9 **SEC. 308. SURPLUS INTEREST RATE SUBSIDY FOR BUSI-**  
10 **NESSES.**

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

14           “(16) INTEREST ASSISTANCE.—

15           “(A) IN GENERAL.—The Administrator is  
16           authorized to use amounts determined unlikely  
17           to be expended under subparagraph (B) to as-  
18           sist borrowers that receive a microloan under  
19           this subsection to reduce the interest paid with  
20           respect to such microloan.

21           “(B) AMOUNTS UNLIKELY TO BE EX-  
22           PENDED.—Not later than April 1 of each fiscal  
23           year, the Administrator shall determine if any  
24           amounts made available to carry out this sub-  
25           section for such fiscal year are unlikely to be

1           expended for activities under this subsection  
2           other than activities under this paragraph.”.

3 **SEC. 309. AUTHORIZATION OF APPROPRIATIONS.**

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 (g) the following:

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

9           “(1) PROGRAM LEVELS.—For the programs au-  
10 thorized by this Act, the Administration is author-  
11 ized to make during each of fiscal years 2010 and  
12 2011—

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

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

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

1 **TITLE IV—SMALL BUSINESS IN-**  
2 **VESTMENT COMPANY MOD-**  
3 **ERNIZATION**

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

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

8 **SEC. 402. EXPEDITED LICENSING FOR EXPERIENCED AP-**  
9 **PLICANTS.**

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

13 “(d) **LICENSES FOR EXPERIENCED APPLICANTS.**—

14 “(1) **IN GENERAL.**—Notwithstanding any other  
15 provision of this section, not later than 60 days after  
16 the initial receipt by the Administrator of any re-  
17 quest (which shall be deemed to be the application)  
18 for a license to operate as a small business invest-  
19 ment company under this Act, the Administrator  
20 shall approve the request and issue such license if  
21 each of the following requirements is satisfied:

22 “(A) At least 50 percent of the principal  
23 managers of the applicant consist of at least  
24 two-thirds of the principal managers of a small

1 business investment company that has been li-  
2 censed under this Act.

3 “(B) The licensed small business invest-  
4 ment company specified under subparagraph  
5 (A) has operated under such license for at least  
6 3 years prior to the receipt of the request speci-  
7 fied in this paragraph.

8 “(C) The licensed small business invest-  
9 ment company specified under subparagraph  
10 (A)—

11 “(i) either has invested at least 70  
12 percent of its private capital and drawn at  
13 least 50 percent of its projected leverage at  
14 the time of the receipt of the request speci-  
15 fied in this paragraph or reserved for in-  
16 vestment and expenses or some combina-  
17 tion of both at least 70 percent of its pri-  
18 vate capital in the one-year period prior to  
19 the date on which the application referred  
20 to in this paragraph was received by the  
21 Administrator;

22 “(ii) has maintained 6 consecutive  
23 quarters of profitable net investment in-  
24 come; and

1           “(iii) has made at least 3 exits from  
2           investments in small businesses that have  
3           realized profits from those respective in-  
4           vestments.

5           “(D) The applicant submits to the Admin-  
6           istrator, in writing, an application consisting of  
7           all of the following:

8                   “(i) A certification, in the form pre-  
9                   scribed by the Administrator, that such ap-  
10                  plicant satisfies the requirements of this  
11                  subsection and that all information con-  
12                  tained in the application is true and com-  
13                  plete.

14                  “(ii) A copy of the organizational doc-  
15                  uments of the applicant.

16                  “(iii) A copy of the operating plan of  
17                  the applicant demonstrating that at least  
18                  50 percent of the amount of the planned  
19                  investments of the applicant will be in the  
20                  same or substantially similar investment  
21                  stage and use the same or substantially  
22                  similar type of investment instruments as  
23                  the investments of the licensed small busi-  
24                  ness investment company specified under  
25                  subparagraph (A).



1           “(iv) A certification, in a form pre-  
2           scribed by the Administrator, that the ap-  
3           plicant satisfies the requirements of sub-  
4           sections (a) and (c) of section 302 of this  
5           Act.

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

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

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

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

18               “(B) no principal manager of the applicant  
19               has been found liable in a civil action for fraud  
20               if the Administrator makes a reasonable deter-  
21               mination based on evidence in the agency  
22               record that such liability has a material adverse  
23               effect on the ability of the applicant to perform  
24               obligations required by a license issued pursu-  
25               ant to this Act; and

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

10          “(3) LIMITATION.—

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

18           “(B) IN WRITING.—Such determination  
19           shall be made in writing and provided to the  
20           applicant no later than 10 calendar days after  
21           such determination is made. Failure to provide  
22           this determination to the applicant shall be  
23           deemed to be a permanent waiver of the Admin-  
24           istrator’s authority to remove an application  
25           pursuant to this subsection.

1           “(C) NON-DELEGABILITY.—The Adminis-  
2           trator may rely on agency personnel to collect  
3           data or other material relevant to establishing  
4           a record, but the decision to remove the appli-  
5           cation may not be delegated by the Adminis-  
6           trator to any subordinate personnel in the agen-  
7           cy.

8           “(4) NOTICE AND OPPORTUNITY TO CURE NON-  
9           CONFORMANCE.—

10           “(A) NOTICE OF NON-CONFORMANCE.—  
11           Except for a determination made pursuant to  
12           paragraph (3), the Administrator shall provide  
13           an applicant described in paragraph (1) within  
14           60 days after receipt of the application a writ-  
15           ten notice and description of any nonconform-  
16           ance with any requirement of this subsection  
17           based on evidence in the agency record.

18           “(B) OPPORTUNITY TO CURE.—The appli-  
19           cant shall have 30 days following the receipt of  
20           notice of nonconformance or the receipt of re-  
21           moval as set forth in paragraph (3) to cure  
22           such nonconformance.

23           “(C) FAILURE TO PROVIDE NOTICE.—Fail-  
24           ure to provide the notice within the time limit  
25           set forth in subparagraph (A) shall be deemed

1 to be acceptance by the Administrator of the  
2 applicant's conformance with the requirements  
3 of this subsection.

4 “(5) BACKGROUND REVIEWS.—The Adminis-  
5 trator shall ensure that a timely background check  
6 of the principal managers of each applicant is com-  
7 pleted with respect to paragraphs (2)(B) and (2)(C).

8 “(6) FEES.—The Administrator may charge an  
9 applicant additional fees for carrying out the back-  
10 ground reviews mandated by paragraph (5). Such  
11 fees shall not exceed \$10,000.

12 “(7) EFFECT OF NON-QUALIFICATION.—The  
13 failure of an applicant to qualify for expedited licen-  
14 sure under this subsection shall have no effect on an  
15 existing license or the ability for the applicant or  
16 any of its individual managers to apply for or receive  
17 a license to operate a small business investment  
18 company under the procedures established elsewhere  
19 in this Act or its implementing regulations.

20 “(8) REGULATIONS.—The Administrator shall  
21 develop forms and promulgate regulations to imple-  
22 ment this subsection after providing an opportunity  
23 for notice and comment. Regulations promulgated  
24 pursuant to this paragraph shall be published in the  
25 Code of Federal Regulations.”.

1 **SEC. 403. REVISED LEVERAGE LIMITATIONS FOR SUCCESS-**  
2 **FUL SBICS.**

3 (a) **MAXIMUM LEVERAGE.**—Section 303(b)(2) of the  
4 Small Business Investment Act of 1958 (15 U.S.C.  
5 683(b)(2)) is amended by striking so much of paragraph  
6 (2) as precedes subparagraph (C) and inserting the fol-  
7 lowing:

8 “(2) **MAXIMUM LEVERAGE.**—

9 “(A) **IN GENERAL.**—(i) The maximum  
10 amount of outstanding leverage made available  
11 to any one company licensed under section  
12 301(c) of this Act may not exceed the lesser  
13 of—

14 “(I) 300 percent of such com-  
15 pany’s private capital; or

16 “(II) \$150,000,000.

17 “(ii) In applying clause (i)(I) in the case of  
18 a debenture licensee which is in good standing  
19 without the imposition of additional regulatory  
20 standards and whose financings at cost are  
21 comprised of at least 50 percent of loans and  
22 debt securities, such licensee may be leveraged  
23 as follows:

24 “(I) The first one-third of private cap-  
25 ital to 300 percent.

1           “(II) The second one-third of private  
2           capital to 200 percent.

3           “(III) The last third of private capital  
4           to 100 percent.

5           “(iii) Notwithstanding clause (i), in the  
6           case of any company operating as a business  
7           development company (as such term is defined  
8           under section 2(a)(48) of the Investment Com-  
9           pany Act of 1940) or a majority-owned sub-  
10          sidiary of such a company that is in good  
11          standing without the imposition of additional  
12          regulatory requirements, the maximum amount  
13          of outstanding leverage made available to such  
14          company shall be \$250,000,000.

15          “(B) MULTIPLE LICENSEES UNDER COM-  
16          MON CONTROL.—The maximum amount of out-  
17          standing leverage made available to two or more  
18          debenture companies licensed under section  
19          301(c) of this Act that are commonly controlled  
20          (as determined by the Administrator) and not  
21          under capital impairment may not exceed  
22          \$350,000,000.”.

23          (b) REGULATIONS.—Section 303(b)(2) of the Small  
24          Business Investment Act of 1958 (15 U.S.C. 683(b)(2)),

1 as amended by this Act, is further amended by adding  
2 at the end the following:

3           “(E) REGULATIONS.—The Administrator  
4           shall promulgate regulations, after notice and  
5           opportunity for comment, establishing quantifi-  
6           able objective criteria under which a licensee’s  
7           private capital in its entirety may be leveraged  
8           up to 300 percent. Such regulations shall be  
9           published in the Code of Federal Regulations.”.

10       (c) INVESTMENTS IN LOW-INCOME GEOGRAPHIC  
11 AREAS.—Section 303(b)(2)(C)(ii) of the Small Business  
12 Investment Act of 1958 (15 U.S.C. 683(b)(2)(C)(ii)) is  
13 amended by striking “\$250,000,000” in subclause (II)  
14 and inserting “\$400,000,000”.

15 **SEC. 404. CONSISTENCY FOR COST CONTROL.**

16       Section 305(c) of the Small Business Investment Act  
17 of 1958 (15 U.S.C. 685(c)) is amended by adding at the  
18 end the following:

19       “In addition to the foregoing, with respect to a loan  
20 made, or debt with equity features acquired, under this  
21 section, the minimum coupon rate of interest (cost of  
22 money ceiling) imposed by the Administrator shall not be  
23 less than 19 percent per annum for a loan or a debt secu-  
24 rity, except that nothing herein shall alter or affect provi-  
25 sions permitting higher coupon rates of interest (cost of

1 money ceilings) and a company may charge up to an addi-  
2 tional 7 percent more than the interest rate set forth in  
3 the loan or debt security in the event of a default. For  
4 purposes of this subsection a default means the occurrence  
5 of any of the following:

6           “(1) Failure to pay an amount when due.

7           “(2) Failure to provide in a timely manner ma-  
8 terial information required under the applicable fi-  
9 nancing documents.

10           “(3) Failure to observe any material term, cov-  
11 enant, or other agreement contained in the applica-  
12 ble financing documents.

13           “(4) A representation, warranty, certification,  
14 or statement of fact made by or on behalf of a bor-  
15 rower in any applicable financing document or in  
16 any document delivered in connection therewith, that  
17 was materially incorrect or misleading when made.

18           “(5) Any material event of default specified in  
19 the applicable financing documents.”.

20 **SEC. 405. INVESTMENT IN VETERAN-OWNED SMALL BUSI-**  
21 **NESSES.**

22           Section 303(b)(2)(C) of the Small Business Invest-  
23 ment Act of 1958 (15 U.S.C. 683(b)(2)(C)) is amended  
24 as follows:



1 (1) In the heading, by inserting after “AREAS”  
2 the following: “AND VETERANS”.

3 (2) In clause (i), by inserting after “351)” the  
4 following: “or in a small business concern owned and  
5 controlled by veterans (as such term is defined in  
6 section 3(q)(3) of the Small Business Act)”.

7 (3) In clause (iii), by inserting after “351)” the  
8 following: “or in small business concerns owned and  
9 controlled by veterans (as such term is defined in  
10 section 3(q)(3) of the Small Business Act)”.

11 **SEC. 406. LIMITATIONS ON PREPAYMENT.**

12 Section 305 of the Small Business Investment Act  
13 of 1958 (15 U.S.C. 685) is amended by adding at the end  
14 the following:

15 “(g) A company may require a small business concern  
16 to accept reasonable and customary minimum prepayment  
17 amounts, terms, and notice requirements.

18 “(h) The private capital of a licensee may include  
19 funds transferred to an account of the Telecommuni-  
20 cations Development Fund created pursuant to section  
21 714 of the Communications Act of 1934 (47 U.S.C. 614)  
22 and which are described in section 309(j)(8)(C)(iii) of the  
23 Communications Act of 1934 (47 U.S.C.  
24 309(j)(8)(C)(iii)).

1       “(i) The authorization to make loans under sub-  
2 section (a) includes the authority to engage in venture  
3 leasing, equipment leasing, real estate sale leasebacks, and  
4 similar arrangements with small business concerns, so  
5 long as such arrangements have an economic purpose  
6 similar to traditional loans. Any transaction covered by  
7 this subsection involving real property shall require the oc-  
8 cupancy of at least 50 percent of the real property by the  
9 small business concern.”.

10 **SEC. 407. INVESTMENT WITH CERTAIN PASSIVE ENTITIES.**

11       Part A of title III of the Small Business Investment  
12 Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding  
13 at the end the following:

14 **“SEC. 321. INVESTMENT WITH CERTAIN PASSIVE ENTITIES.**

15       “A licensee may provide financing to a passive busi-  
16 ness as defined under section 107.720(b)(1) of title 13,  
17 Code of Federal Regulations, as in effect on January 1,  
18 2009, which is a corporation or limited liability company  
19 wholly-owned by the licensee and the sole purpose of which  
20 is to provide financing by the licensee to such concerns  
21 would cause investors in the licensee to incur with respect  
22 to regulated investment companies, income not qualifying  
23 under section 851(b)(2)(A) of the Internal Revenue Code  
24 of 1986. Nothing in this section shall affect the validity

1 of regulations permitting financings of passive businesses  
2 previously duly promulgated by the Administrator.”.

3 **SEC. 408. INVESTMENT IN SMALLER ENTERPRISES.**

4 Section 303(d) of the Small Business Investment Act  
5 of 1958 (15 U.S.C. 683(d)) is amended by adding at the  
6 end the following: “A licensee shall not be required to  
7 achieve any percentage of such financings (at cost) which  
8 is higher than 25 percent which may result from the appli-  
9 cation of prior statutory or regulatory requirements to all  
10 or any portion of the licensee’s portfolio.”

11 **SEC. 409. CAPITAL IMPAIRMENT.**

12 Section 303(e) of the Small Business Investment Act  
13 of 1958 (15 U.S.C. 683(e)) is amended by adding at the  
14 end the following:  
15 “A licensee with Earmarked Assets (as that term is de-  
16 fined by the Administrator) will not be in capital impair-  
17 ment during the first 72 months after its date of licensure,  
18 if its impairment does not exceed 85 percent.”.

19 **SEC. 410. TANGIBLE NET WORTH.**

20 Section 103 of the Small Business Investment Act  
21 of 1958 (15 U.S.C. 662), as amended by this Act, is fur-  
22 ther amended by striking “and” at the end of paragraph  
23 (23), by striking the period at the end of paragraph (24)  
24 and inserting “; and”, and by adding at the end the fol-  
25 lowing:

1           “(25) for purposes of the terms ‘small-business  
2           concern’ in paragraph (5) and ‘smaller enterprise’ in  
3           paragraph (12), tangible net worth shall, to the ex-  
4           tent used, mean the total net worth of the small  
5           business, in accordance with General Accepted Ac-  
6           counting Principles, minus all intangibles in accord-  
7           ance with General Accepted Accounting Principles.”.

8   **SEC. 411. DEVELOPMENT OF AGENCY RECORD.**

9           Part A of title III of the Small Business Investment  
10          Act of 1958 (15 U.S.C. 681 et seq.), as amended by this  
11          Act, is further amended by adding at the end the fol-  
12          lowing:

13   **“SEC. 322. AGENCY RECORD FOR LICENSING OF SMALL**  
14                           **BUSINESS INVESTMENT COMPANIES.**

15          “(a) RECORD.—The Associate Administrator for In-  
16          vestment shall establish an agency record of evidence re-  
17          ferring or relating to each application for a license to be-  
18          come a small business investment company.

19          “(b) WRITTEN NOTIFICATION.—The Administrator  
20          shall provide a written explanation of any denial of a li-  
21          cense application based upon evidence in the agency  
22          record. Absent an order by a Federal or State court of  
23          general jurisdiction, access to applications and the agency  
24          record shall be limited to the applicant and to the Admin-  
25          istrator and subordinate personnel of the Administrator.”.

1 **SEC. 412. PROGRAM LEVELS.**

2 Section 20 of the Small Business Act (15 U.S.C. 631  
3 note), as amended by this Act, is further amended by in-  
4 serting after subsection (h) the following:

5 “(i) PART A OF TITLE III OF THE SMALL BUSINESS  
6 INVESTMENT ACT OF 1958.—

7 “(1) PROGRAM LEVELS 2010.—For fiscal year  
8 2010, in carrying out the program authorized by  
9 part A of title III of the Small Business Investment  
10 Act of 1958, the Administrator is authorized to  
11 make \$5,000,000,000 in guarantees of debentures.

12 “(2) PROGRAM LEVELS 2011.—For fiscal year  
13 2011, in carrying out the program authorized by  
14 part A of title III of the Small Business Investment  
15 Act of 1958, the Administrator is authorized to  
16 make \$5,500,000,000 in guarantees of deben-  
17 tures.”.

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 graphic 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(e), 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. 689e(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-

1 cated in low-income geographic areas and en-  
 2 gaged primarily in manufacturing”; and

3 (3) in paragraph (2)—

4 (A) by striking “\$30,000,000” and insert-  
 5 ing “\$20,000,000”; and

6 (B) by inserting before the period at the  
 7 end the following: “, of which not less than 50  
 8 percent shall be used to make grants to compa-  
 9 nies engaged primarily in development of and  
 10 investment in small business concerns located in  
 11 low-income geographic areas and engaged pri-  
 12 marily in manufacturing”.

13 **Subtitle B—Expanded Investment**  
 14 **in Small Business Renewable**  
 15 **Energy**

16 **SEC. 521. EXPANDED INVESTMENT IN RENEWABLE EN-**  
 17 **ERGY.**

18 Part C of title III of the Small Business Investment  
 19 Act of 1958 (15 U.S.C. 690 et seq.) is amended—

20 (1) in the heading by striking “**RENEWABLE**  
 21 **FUEL CAPITAL INVESTMENT**” and inserting “**RE-**  
 22 **NEWABLE ENERGY CAPITAL INVESTMENT**”;

23 (2) in the heading of paragraph (4) of section  
 24 381 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           “(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 partici-  
10 piate 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 6571) 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.

○

Statement of the Honorable Kathy Dahlkemper  
October 21, 2009  
House Committee on Small Business  
Markup of the "Small Business Financing and Investment Act of 2009"

Thank you, Madam Chairwoman. As Congress continues its work to improve American healthcare, there are two issues that come up time and time again-- increased efficiency, and reduced cost. These are the primary goals of comprehensive reform on both sides of the aisle, and they are the greatest benefits of Health Information Technology, or HIT.

Electronic medical records streamline the flow of health care data, improving communication between doctors and hospitals.

Importantly, they also do a great deal to reign in costs. According to some estimates, wide scale adoption could bring annual savings of \$77 billion. Already, the majority of big hospitals are capitalizing on HIT's cost cutting benefits. And yet despite significant uptake amongst large providers, small practices are reluctant to adopt. In fact, only 13% of single-doctor practices use the technology. This is largely because of HIT's hefty price tag.

While most small practices are eager to implement electronic medical records, few can afford the cost of adoption. The starting price for an HIT system is \$32,000 per doctor, which means the typical 3-doctor practice pays close to \$100,000. That's a significant outlay for any business, let alone a small firm. Through the legislation we are discussing this afternoon, however, those expenses will be blunted considerably.

I'm proud to have introduced one part of today's larger bill--The Small Business Health Information Technology Financing Act. This measure will go a long way in making HIT affordable for small firms. To begin it will allow practices to defer payment on loans for the technology. Doing so will promote greater adoption amongst small practices, and create better options for consumers. After all, most Americans use small practices as their primary care providers. This is particularly true in rural areas. We need to be sure that every American is able to enjoy the benefits of a modernized medical system--not just those who live near big hospitals. That's why we're working to deliver better HIT financing to small practices.

Small healthcare providers-- like all other small ventures--are bearing the brunt of restricted lending and tightened credit. As a result, many offices that might have considered HIT in the past are now putting those purchases on hold. Today's legislation addresses that hesitancy, bringing loans for HIT within the reach of small business budgets. Importantly, we are going to slash lending fees. And we're doing so for both borrowers *and* lenders. By reducing servicing costs, we can encourage more lenders to offer loans to small practices. At a time when most banks are scaling back their small businesses options, this measure is especially important. Similarly, a move to increase loan guarantees to 90% will also go a long way in boosting lending.

Madam Chair, access to capital is a key issue for small firms in every industry. But within the medical field, it is of particular importance. As we work to improve America's healthcare system, small firms can play a vital role. By helping them afford HIT, this legislation will mark an important step toward increased efficiency, reduced costs, and a system that works for all Americans, regardless of location. I urge the passage of the bill and yield back the balance of my time.

Statement of the Honorable Brad Ellsworth  
October 21, 2009  
House Committee on Small Business  
Markup of the Small Business Financing and Investment Act of 2009

Thank you, Madam Chair.

As we know, one side effect of economic recessions is that they are often accompanied by a spurt in entrepreneurship. During a downturn, when large companies stop hiring, many Americans launch their own businesses to help support their families. Time and again, this pattern has led our nation back to recovery and offered many Americans another option for getting by when times are tough.



The Small Business Administration's microloan program helps entrepreneurs like these secure start-up capital to get new ventures off the ground. During economic downturns, when Americans are seeking new sources of income, these very small loans are even more important.

Unfortunately, the SBA's microloan program remains under-utilized. Too many of the funds Congress has provided to help these small businesses are being left on the table. At the same time, while this program is not fully used, many micro-businesses are struggling to find affordable capital. In parts of Indiana, fewer than 10 percent of entrepreneurs find the seed capital they need to launch their businesses. Clearly, we need to bridge this gap, so that more aspiring business owners use this program and find the credit they need to get started.

The legislation before us includes a bill I authored to improve how the SBA's microloan program functions. The "Small Business Microlending Expansion Act" makes a number of changes to improve this program and expand its reach to more small businesses.

Under the bill, we will allow unused funds to go toward reducing the interest rates that borrowers pay in the program. Rather than seeing those funds go to waste, we use them to make microloans more affordable.

The bill will also help more lenders to get involved in the program. And, it allows existing lenders to expand the amount of money they lend. These changes will expand the program's capacity – and increase the capital flowing to small businesses. This, in turn, gives businesses more options and makes it easier to access the microloan program.

Finally, the legislation increases the amount lenders can spend on technical assistance for small firms. Micro-lenders already provide valuable services, like teaching budding entrepreneurs how to write a workable business plan. Together, all of these steps will ensure that the SBA's microloan program better serves America's entrepreneurs.

Madam Chair, the American spirit of entrepreneurship is even more critical during times economic downturns. By improving the SBA's microloan program and getting more capital in the hands of small business owners, this bill will accelerate our nation's economic recovery. I urge the adoption of this bill and yield back the balance of my time.

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