

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

# H. R. 3854

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for  
 5 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. Study and report on business stabilization loans.
- Sec. 120. Delayed repayment for small business concerns in areas with high un-  
employment.
- Sec. 121. SBA secondary market lending authority made permanent.
- Sec. 122. SBA secondary market lending authority expanded.
- Sec. 123. Increased loan limits.
- Sec. 124. Real estate appraisals.
- Sec. 125. Additional support for Express Loan Program.
- Sec. 126. Loans used to purchase unoccupied manufacturing centers or equip-  
ment.
- Sec. 127. 100 percent guarantee for small business concerns owned and con-  
trolled by veterans.
- Sec. 128. Deferred repayment for certain small business concerns.
- Sec. 129. 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. Young Entrepreneurs program.
- Sec. 307. Interest rates and loan size.
- Sec. 308. Reporting requirement.
- Sec. 309. Surplus interest rate subsidy for businesses.
- Sec. 310. Authorization of appropriations.

### TITLE IV—SMALL BUSINESS INVESTMENT COMPANY MODERNIZATION

- Sec. 401. Increased investment from States.
- Sec. 402. Expedited licensing for experienced applicants.
- Sec. 403. Revised leverage limitations for successful SBICs.
- Sec. 404. Consistency for cost control.
- Sec. 405. Investment in veteran-owned small businesses.
- Sec. 406. Tangible net worth.
- Sec. 407. Development of agency record.
- Sec. 408. 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. Financing with respect to veterans.
- Sec. 512. 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.
- Sec. 702. Prohibitions on earmarks.

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. Homeowners impacted by toxic drywall.
- Sec. 809. Authorization of appropriations.

TITLE IX—REGULATIONS

- Sec. 901. Regulations.

TITLE X—TEMPORARY EMPLOYEE SERVICES FRANCHISES

- Sec. 1001. Temporary employee services franchises.

TITLE XI—STUDY ON PRIVATE SECTOR LENDING

- Sec. 1101. Study on private sector lending.

TITLE XII—STUDY ON INCREASES IN CERTAIN CAPS

- Sec. 1201. Study on increases in certain caps.

TITLE XIII—RURAL OUTREACH

Sec. 1301. Rural outreach.

TITLE XIV—STUDY RELATING TO MEDICAL TECHNOLOGY

Sec. 1401. Study relating to medical technology.

TITLE XV—STUDY ON ADDITIONAL CREDIT RISK FACTORS

Sec. 1501. Study on additional credit risk factors.

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.”.

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

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

17          “(35) RURAL LENDING OUTREACH PROGRAM.—

18                 “(A) IN GENERAL.—The Administrator  
 19                 shall establish and carry out a rural lending  
 20                 outreach program (hereinafter referred to in  
 21                 this paragraph as the ‘program’) to provide

1 loans under this subsection in accordance with  
2 this paragraph.

3 “(B) MAXIMUM PARTICIPATION.—A loan  
4 under the program shall include the maximum  
5 participation levels by the Administrator per-  
6 mitted for loans made under this subsection.

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

10 “(D) USE OF RURAL LENDERS.—The pro-  
11 gram shall be carried out through lenders lo-  
12 cated in a rural area (as such term is defined  
13 under subsection (m)(11)(C)) or, if a small  
14 business concern located in a rural area does  
15 not have a lender located within 30 miles of the  
16 principal place of business of such concern,  
17 through any lender chosen by such concern that  
18 provides loans under this subsection.

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

22 “(F) DOCUMENTATION.—The program  
23 shall use abbreviated application and docu-  
24 mentation requirements.

1           “(G) CREDIT STANDARDS.—Minimum  
2 credit standards, as the Administrator considers  
3 necessary to limit the rate of default on loans  
4 made under the program, shall apply.”.

5 **SEC. 103. COMMUNITY EXPRESS PROGRAM MADE PERMA-**  
6 **NENT.**

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

10           “(36) COMMUNITY EXPRESS PROGRAM.—

11           “(A) IN GENERAL.—The Administrator  
12 shall carry out a Community Express Program  
13 to provide loans under this subsection in ac-  
14 cordance with this paragraph.

15           “(B) REQUIREMENTS.—For a loan made  
16 under the Community Express Program, the  
17 following shall apply:

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

20           “(ii) The loan shall be made to a  
21 small business concern the majority owner-  
22 ship interest of which is directly held by in-  
23 dividuals the Administrator determines  
24 are, without regard to the geographic loca-  
25 tion of such individuals, women, members

1 of qualified Indian tribes, socially or eco-  
2 nomically disadvantaged individuals, vet-  
3 erans, or members of the reserve compo-  
4 nents of the Armed Forces.

5 “(iii) The loan shall comply with the  
6 collateral policy of the Administration.

7 “(iv) The loan shall include terms re-  
8 quiring the lender to provide, at the ex-  
9 pense of the lender, technical assistance to  
10 the borrower through the lender or a third-  
11 party provider.

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

14 **SEC. 104. INCREASED VETERAN PARTICIPATION PROGRAM**  
15 **MADE PERMANENT.**

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

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

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

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

3 (B) by striking subparagraphs (C) and  
4 (F); and

5 (C) by redesignating subparagraphs (D)  
6 and (E) as subparagraphs (C) and (D), respec-  
7 tively.

8 **SEC. 105. LEASING POLICY.**

9 Section 7(a) of the Small Business Act (15 U.S.C.  
10 636(a)), as amended by this Act, is further amended by  
11 striking paragraph (28) and inserting the following:

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

15 “(A) shall permanently occupy and use not  
16 less than 50 percent of the space in such facil-  
17 ity; and

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

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

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

1           “(37) NATIONAL LENDER TRAINING PRO-  
2           GRAM.—

3           “(A) IN GENERAL.—The Administrator  
4           shall establish and carry out, through the re-  
5           gional offices of the Administration, a lender  
6           training program for new and existing lenders  
7           under this subsection with respect to the lend-  
8           ing systems, policies, and procedures of the Ad-  
9           ministration.

10           “(B) FEES.—The Administrator shall  
11           charge a fee for the program established under  
12           subparagraph (A) to reduce the cost of such  
13           program to zero.

14           “(C) LIMITATION.—The program estab-  
15           lished under subparagraph (A) may not be car-  
16           ried out by contract with a nongovernmental  
17           entity.”.

18           (b) PARTICIPATION.—An entity may not be permitted  
19           to participate in any program under the Small Business  
20           Act (15 U.S.C. 631 et seq.) or the Small Business Invest-  
21           ment Act of 1958 (15 U.S.C. 661 et seq.) that is estab-  
22           lished or amended under this Act, as a lending or invest-  
23           ment entity or as an agent of the Small Business Adminis-  
24           tration, unless such entity satisfies at least one of the fol-  
25           lowing:

1           (1) The entity has as the primary mission of  
2           the entity the financing or development of small  
3           business concerns.

4           (2) The entity is primarily engaged in the busi-  
5           ness of banking, investing, or entrepreneurial devel-  
6           opment and does not engage in activities which are  
7           not incidental to the business of banking, investing,  
8           or entrepreneurial development.

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

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

13           “(38) APPLICATIONS FOR REPURCHASE OF  
14   LOANS.—

15           “(A) IN GENERAL.—Not later than 45  
16           days after the date of the receipt of a claim  
17           from a lender for proper payment of the guar-  
18           anteed portion of a loan under this subsection  
19           due to default, the Administrator shall make a  
20           final determination with respect to the approval  
21           or denial of such claim.

22           “(B) LATE DETERMINATIONS.—If the Ad-  
23           ministrator does not make a final determination  
24           under subparagraph (A) in the time period

1 specified in such subparagraph, the claim shall  
2 be approved and paid promptly.

3 “(C) If the lender demonstrates, with re-  
4 spect to a claim for payment described in sub-  
5 paragraph (A), that it followed the applicable  
6 requirements of the National Lender Training  
7 Program as established under paragraph (37)  
8 of this section, the Administrator shall pay the  
9 claim unless the Administrator has clear and  
10 convincing evidence demonstrating that the  
11 lender failed to comply with regulatory require-  
12 ments established by the Administrator.”.

13 **SEC. 108. ALTERNATIVE SIZE STANDARD.**

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

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

24 (b) APPLICABILITY.—Until the Administrator estab-  
25 lishes under section 3(a)(5) of the Small Business Act,

1 as added by subsection (a) of this section, an alternative  
2 size standard for use by a lender making a loan under  
3 section 7(a) of such Act, the alternative size standard in  
4 section 121.301(b) of title 13, Code of Federal Regula-  
5 tions, shall apply in such a case.

6 **SEC. 109. PILOT PROGRAM AUTHORITY.**

7 Section 7(a) of the Small Business Act (15 U.S.C.  
8 636(a)), as amended by this Act, is further amended by  
9 striking paragraph (25) and inserting the following:

10 “(25) LIMITATION ON CONDUCTING PILOT  
11 PROJECTS.—

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

17 “(B) DOLLAR LIMITATIONS.—

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

1 programs to be in excess of 5 percent of  
2 the total amount of loans guaranteed in  
3 such fiscal year under this subsection.

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

16 “(C) EXPIRATION.—

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

21 “(ii) DESIGNATION AS NEW PRO-  
22 GRAM.—For purposes of this subpara-  
23 graph, a pilot program shall not be treated  
24 as a new pilot program solely on the basis

1 of a modification or change in the pilot  
2 program, including the change of its name.

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

11 “(D) REGULATIONS.—

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

18 “(I) issue regulations for such  
19 program after providing notice in the  
20 Federal Register and an opportunity  
21 for comment; and

22 “(II) ensure that such regula-  
23 tions are published in the Code of  
24 Federal Regulations.

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

9           “(E) REPEAL OF AUTHORITY TO WAIVE  
10          CERTAIN RULES.—

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

20           “(ii) EXISTING PILOT PROGRAMS.—  
21           Nothing under clause (i) may be construed  
22           to affect a pilot program in existence on  
23           the date of the enactment of the Small  
24           Business Financing and Investment Act of  
25           2009.

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

6 **SEC. 110. LOANS TO COOPERATIVES.**

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

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

13           “(A) is not organized as a tax-exempt enti-  
14           ty;

15           “(B) is engaged in a legal business activ-  
16           ity;

17           “(C) obtains financial benefits for the co-  
18           operative and for the members of such coopera-  
19           tive; and

20           “(D) is eligible under applicable size stand-  
21           ards of the Administration, including that any  
22           business entity that is a member of such coop-  
23           erative is eligible under applicable size stand-  
24           ards of the Administration.”.

1 **SEC. 111. CAPITAL BACKSTOP 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 “(40) CAPITAL BACKSTOP PROGRAM.—

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

18 “(B) PARTICIPATION OF LENDERS.—

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

1 writing, closing, and servicing the loan for  
2 which the applicant applied.

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

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

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

22 “(v) AUTHORITY OF ADMINISTRATION  
23 TO LEND.—If a lender described in clauses  
24 (iii) or (iv) does not agree to originate, un-  
25 derwrite, close, and service the loan applied

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

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

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

23          “(E) EFFECTIVE DATES.—This paragraph  
24          shall have effect on each date during the period  
25          beginning on the date of enactment of this

1 paragraph and ending on September 30, 2011,  
2 and on any other date after such period if—

3 “(i) such date occurs during a period  
4 that—

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

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

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

1           “(F) IMPLEMENTATION.—The Adminis-  
2           trator shall establish a group of at least 250 in-  
3           dividuals available to carry out activities under  
4           this paragraph on any date on which this para-  
5           graph has effect under subparagraph (E). The  
6           Administrator shall provide to such group the  
7           training necessary to carry out activities under  
8           this paragraph. The Administrator shall ensure  
9           that each individual in such group with loan ap-  
10          plication evaluation and underwriting respon-  
11          sibilities has at least 2 years experience with re-  
12          spect to such responsibilities.

13          “(G) APPLICATION OF OTHER LAW.—  
14          Nothing in this paragraph shall be construed to  
15          exempt any activity of the Administrator under  
16          this paragraph from the Federal Credit Reform  
17          Act of 1990 (2 U.S.C. 661 et seq.).

18          “(H) AUTHORIZATION OF APPROPRIA-  
19          TIONS.—

20                 “(i) PROGRAM LEVELS.—The Admin-  
21                 istrator is authorized to make loans under  
22                 this paragraph in an amount that is equal  
23                 to half the amount authorized for loans  
24                 under this subsection other than loans  
25                 under this paragraph.

1                   “(ii) AUTHORIZATION OF APPROPRIA-  
2                   TIONS.—In addition to amounts made  
3                   available to carry out this subsection, there  
4                   are authorized to be appropriated such  
5                   sums as may be necessary to carry out this  
6                   paragraph.”.

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

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

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

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

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

19                   (1) by redesignating section 44 as section 45;

20                   and

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

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

23                   “(a) APPELLATE PROCESS.—

24                   “(1) IN GENERAL.—Not later than 270 days  
25                   after the date of the enactment of the Small Busi-

1       ness Financing and Investment Act of 2009, the Ad-  
2       ministrator shall establish an independent appellate  
3       process within the Administration. The process shall  
4       be available to review material determinations made  
5       by the Administration that affect a lender or invest-  
6       ment company that participates or is applying to  
7       participate in a program administered by the Ad-  
8       ministration.

9               “(2) REVIEW PROCESS.—In establishing the  
10       independent appellate process under paragraph (1),  
11       the Administrator shall ensure that—

12                       “(A) any appeal of a material determina-  
13       tion by the Administration is heard and result-  
14       ing recommendations are provided expedi-  
15       tiously; and

16                       “(B) appropriate safeguards exist for pro-  
17       tecting the appellant from retaliation by Admin-  
18       istration employees.

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

1 “(b) AGENCY OMBUDSMAN.—

2 “(1) ESTABLISHMENT.—Not later than 180  
3 days after the date of the enactment of the Small  
4 Business Financing and Investment Act of 2009, the  
5 Administrator shall appoint an ombudsman.

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

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

16 “(B) ensure that safeguards exist to en-  
17 courage complainants to come forward and pre-  
18 serve confidentiality.

19 “(c) OTHER AUTHORITY.—An individual carrying  
20 out the independent appellate process established under  
21 subsection (a) or the position of ombudsman established  
22 under subsection (b) is authorized to—

23 “(1) examine records and documents relating to  
24 a matter under review pursuant to such subsections;  
25 and

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

6           “(d) LIMITATIONS.—

7           “(1) IN GENERAL.—An individual carrying out  
8 the independent appellate process established under  
9 subsection (a) or the position of ombudsman estab-  
10 lished under subsection (b) may not, as a result of  
11 the authority provided under this section—

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

14                   “(B) make binding decisions or determine  
15 rights;

16                   “(C) directly compel an entity to imple-  
17 ment the recommendations of such individual;  
18 or

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

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

23                   “(A) as a formal investigation, formal  
24 hearing, or binding decision;

1           “(B) as limiting any remedy or right of ap-  
2           peal;

3           “(C) as affecting any procedure concerning  
4           grievances, appeals, or administrative matters  
5           under law; or

6           “(D) as a substitute for an administrative  
7           or judicial proceeding.

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

17          “(f) DEFINITIONS.—In this section, the following  
18          apply:

19                 “(1) MATERIAL DETERMINATION.—The term  
20                 ‘material determination’ includes determinations re-  
21                 lating to—

22                         “(A) applications for payment relating to a  
23                         loan guarantee; and

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

1           “(2) INDEPENDENT APPELLATE PROCESS.—  
2           The term ‘independent appellate process’ means a  
3           review by an Administration official who does not di-  
4           rectly or indirectly report to the Administration offi-  
5           cial who made the material determination under re-  
6           view.”.

7   **SEC. 114. EXTENSION OF RECOVERY AND RELIEF LOAN**  
8                           **BENEFITS.**

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

12                  (1) in subsection (a) by striking “September  
13                  30, 2010” and inserting “September 30, 2011”; and

14                  (2) in subsection (c) by repealing paragraph  
15                  (2).

16          (b) **ECONOMIC STIMULUS LENDING PROGRAM FOR**  
17          **SMALL BUSINESSES.**—Section 502(f) of title V of division  
18          A of the American Recovery and Reinvestment Act of  
19          2009 (Public Law 111–5) is amended by striking “the  
20          date 12 months after the date of enactment of this Act”  
21          and inserting “September 30, 2011”.

22   **SEC. 115. REDUCED DOCUMENTATION FOR BUSINESS STA-**  
23                           **BILIZATION LOANS.**

24          Section 506(a) 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 adding at the end the following:  
2 “The Administrator shall give priority under such pro-  
3 gram to small business concerns in a city with an unem-  
4 ployment rate that is at least 125 percent of the unem-  
5 ployment rate of the State that includes such city. In car-  
6 rying out such program, the Administrator shall establish  
7 and utilize a one-page application for loans under this sec-  
8 tion and shall authorize lenders to utilize the same docu-  
9 mentation and procedural requirements for loans under  
10 this section as such lenders utilize for other loans of a  
11 similar size and type.”.

12 **SEC. 116. EXPANDED ELIGIBILITY FOR BUSINESS STA-**  
13 **BILIZATION LOANS.**

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

18 **SEC. 117. INCREASED AMOUNT OF BUSINESS STABILIZA-**  
19 **TION LOANS.**

20 Section 506(d) of title V of division A of the Amer-  
21 ican Recovery and Reinvestment Act of 2009 (Public Law  
22 111–5) is amended by striking “\$35,000” and inserting  
23 “\$50,000 (except as provided under subsection (l))”.

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

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

6 **SEC. 119. STUDY AND REPORT ON BUSINESS STABILIZA-**  
7 **TION LOANS.**

8 (a) STUDY.—The Administrator of the Small Busi-  
9 ness Administration shall conduct a study on the business  
10 stabilization program established under section 506 of  
11 title V of division A of the American Recovery and Rein-  
12 vestment Act of 2009 (Public Law 111–5), including—

13 (1) how the program has been implemented;

14 (2) the amount of time involved in processing  
15 applications;

16 (3) the volume of applications received and the  
17 effect on application processing;

18 (4) impediments to participation in the program  
19 by small business concerns and lenders;

20 (5) courses of action that might expedite action  
21 by the Administrator on applications;

22 (6) courses of action that might expand partici-  
23 pation by such concerns and lenders; and

24 (7) a cost benefit analysis with regard to  
25 changes to the program, including—

26 (A) increases in loan limits;

1 (B) expanding eligibility requirements;  
2 (C) changes to interest rates to lenders;  
3 and  
4 (D) any other change the Administrator  
5 determines appropriate.

6 (b) REPORT.—Not later than 90 days after the date  
7 of enactment of this Act, the Administrator of the Small  
8 Business Administration shall submit to Congress a report  
9 that includes—

10 (1) the results of the study under subsection

11 (a); and

12 (2) recommendations on how to change the pro-  
13 gram—

14 (A) to expand participation by small busi-  
15 ness concerns and lenders; and

16 (B) to decrease the amount of time in-  
17 volved in processing applications.

18 (c) OUTREACH.—In conducting the study under sub-  
19 section (a) and preparing the report under subsection (b),  
20 the Administrator of the Small Business Administration  
21 shall meet with and solicit the views of relevant stake-  
22 holders, including lenders.

1 **SEC. 120. DELAYED REPAYMENT FOR SMALL BUSINESS**  
2 **CONCERNS IN AREAS WITH HIGH UNEMPLOY-**  
3 **MENT.**

4 Section 506 of title V of division A of the American  
5 Recovery and Reinvestment Act of 2009 (Public Law 111–  
6 5) is amended by adding at the end the following:

7 “(1) SMALL BUSINESS CONCERNS IN AREAS WITH  
8 HIGH UNEMPLOYMENT.—

9 “(1) INCREASE LOAN LIMITS.—Notwithstanding  
10 subsection (d), a loan made under this section to a  
11 small business concern in what the Administrator  
12 determines to be an area with high unemployment  
13 may not exceed \$75,000.

14 “(2) DELAYED REPAYMENT.—Notwithstanding  
15 subsection (g), repayment for a loan made under  
16 this section after the date of the enactment of the  
17 Small Business Financing and Investment Act of  
18 2009 to a small business concern described in para-  
19 graph (1) shall not begin until 18 months after the  
20 final disbursement of funds is made.”.

21 **SEC. 121. SBA SECONDARY MARKET LENDING AUTHORITY**  
22 **MADE PERMANENT.**

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

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

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

3 **SEC. 122. SBA SECONDARY MARKET LENDING AUTHORITY**

4                                   **EXPANDED.**

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

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

14          (2) in subsection (e), as so redesignated by sec-  
15          tion 120 of this Act, by adding at the end the fol-  
16          lowing: “To the extent that the cost of an elimi-  
17          nation or reduction of fees is offset by appropria-  
18          tions, the Administrator shall in lieu of the fee oth-  
19          erwise applicable under this subsection collect no fee  
20          or reduce fees to the maximum extent possible.”.

21 **SEC. 123. INCREASED LOAN LIMITS.**

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

24                           (1) in paragraph (2)(A)—

25                                   (A) in clause (i)—

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

4 (ii) by striking “or” at the end;

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

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

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

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

14 **SEC. 124. REAL ESTATE APPRAISALS.**

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

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

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

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

1 **SEC. 125. ADDITIONAL SUPPORT FOR EXPRESS LOAN PRO-**  
2 **GRAM.**

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

8 **SEC. 126. LOANS USED TO PURCHASE UNOCCUPIED MANU-**  
9 **FACTURING CENTERS OR EQUIPMENT.**

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

13 “(42) LOANS USED TO PURCHASE UNOCCUPIED  
14 MANUFACTURING CENTERS OR EQUIPMENT.—The  
15 Administration may provide loans under this sub-  
16 section for the purchase of what the Administrator  
17 determines to be unoccupied manufacturing centers  
18 or equipment.”.

19 **SEC. 127. 100 PERCENT GUARANTEE FOR SMALL BUSINESS**  
20 **CONCERNS OWNED AND CONTROLLED BY**  
21 **VETERANS.**

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

24 (1) in paragraph (3)(A) by striking the semi-  
25 colon at the end and inserting the following: “or in  
26 paragraph (42);”; and

1 (2) by adding at the end the following:

2 “(42) 100 PERCENT GUARANTEE FOR SMALL  
3 BUSINESS CONCERNS OWNED AND CONTROLLED BY  
4 VETERANS.—Notwithstanding paragraph (2), in an  
5 agreement to participate in a loan on a deferred  
6 basis under this subsection with respect to a small  
7 business concern owned and controlled by veterans,  
8 participation by the Administrator may be equal to  
9 100 percent. The total amount outstanding and  
10 committed (by participation or otherwise) with re-  
11 spect to a loan to such a small business concern  
12 from the business loan and investment fund estab-  
13 lished by this Act may not exceed \$3,000,000.”.

14 **SEC. 128. DEFERRED REPAYMENT FOR CERTAIN SMALL**  
15 **BUSINESS CONCERNS.**

16 Section 7(a)(7) of the Small Business Act (15 U.S.C.  
17 636(a)(7)) is amended by adding at the end the following:  
18 “If a small business concern classified in sector 23 of the  
19 North American Industry Classification System receives a  
20 loan under this subsection after the date of the enactment  
21 of the Small Business Financing and Investment Act of  
22 2009, such concern may defer repayment on such loan for  
23 a period of not more than 12 months beginning on the  
24 date that such concern receives the final disbursement of  
25 such loan.”.

1 **SEC. 129. AUTHORIZATION OF APPROPRIATIONS.**

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

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

7 “(1) PROGRAM LEVELS.—For the programs au-  
8 thorized by this Act, in each of fiscal years 2010 and  
9 2011 commitments for general business loans au-  
10 thorized under section 7(a) may not exceed  
11 \$20,000,000,000.

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

15 **TITLE II—CDC ECONOMIC**  
16 **DEVELOPMENT LOAN PROGRAM**  
17 **Subtitle A—General Provisions**

18 **SEC. 201. PROGRAM LEVELS.**

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

22 “(g) PROGRAM LEVELS WITH RESPECT TO CDC  
23 ECONOMIC DEVELOPMENT LOAN PROGRAM.—

24 “(1) FISCAL YEAR 2010.—For financings au-  
25 thorized by section 7(a)(13) of this Act and title V  
26 of the Small Business Investment Act of 1958, the

1 Administrator is authorized to make \$9,000,000,000  
2 in guarantees of debentures for fiscal year 2010.

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

9 **SEC. 202. DEFINITIONS.**

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

12 (1) By amending paragraph (6) to read as fol-  
13 lows:

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

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

24 “(20) the term ‘certified development company’  
25 means a development company that the Adminis-

1       trator has determined meets the criteria set forth in  
2       section 501;

3           “(21) the term ‘local governmental entity’  
4       means—

5           “(A) a State or a political subdivision of a  
6       State; or

7           “(B) a combination of political subdivisions  
8       which—

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

11           “(ii) is composed of representatives of  
12       the State or a political subdivision acting  
13       in their official capacity; and

14           “(iii) includes an area in an adjacent  
15       State if it is part of a local economic area,  
16       a rural area, or has a population deter-  
17       mined by the Administrator to be insuffi-  
18       cient to support the formation of a sepa-  
19       rate development company;

20       such term includes entities meeting the require-  
21       ments of clauses (i) through (iii), such as, but  
22       not limited to, a council of governments, re-  
23       gional development corporation, regional plan-  
24       ning commission, or economic development dis-  
25       trict;

1           “(22) the term ‘member’ means any person au-  
 2           thorized to vote for a director of a corporation or the  
 3           dissolution or merger of a company (for purposes of  
 4           this definition, a shareholder of a for-profit corpora-  
 5           tion shall be considered a member);

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

10           “(24) the term ‘small manufacturer’ means a  
 11           small business concern—

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

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

## 17   **Subtitle B—Certified Development** 18                   **Companies**

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

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

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

23           “(a) CERTIFIED DEVELOPMENT COMPANY DEBEN-  
 24           TURE AUTHORITY.—Only development companies cer-

1 tified by the Administrator shall have the authority to  
2 issue debentures under this Act.

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

7 “(1) SMALL CONCERN.—

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

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

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

18 “(2) EXCEPTIONS.—

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

1           “(B) AFFILIATION GRANDFATHER.—Any  
2           company that was authorized by the Adminis-  
3           trator to issue debentures before December 31,  
4           2005, shall be eligible for certification without  
5           regard to its status as part of, or its affiliation  
6           with, any other not-for-profit corporation or  
7           local governmental entity unless that not-for-  
8           profit corporation or local governmental entity  
9           is another entity that issues debentures under  
10          this title.

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

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

22          “(4) MEMBERSHIP.—

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

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

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

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

11                   “(i) A local governmental entity.

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

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

21                   “(iv) A for-profit business, other than  
22 a financial institution described in clause  
23 (ii).

24           “(E) EMPLOYMENT STATUS.—Membership  
25 in a development company shall not be predi-

1 cated on employment status and an individual  
2 who retired from or was terminated (for rea-  
3 sons other than fraud or the commission of a  
4 crime) from an entity described in subpara-  
5 graph (D) shall be deemed to be from the orga-  
6 nization described in that subparagraph.

7 “(5) BOARD OF DIRECTORS.—

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

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

24 “(C) AFFILIATED ENTITY REPRESENTA-  
25 TION RESTRICTIONS.—A development company

1 that is described in paragraph (1)(C) may have  
2 any or all of its board members appointed by  
3 entities affiliated with the company and may in-  
4 clude common members who also serve on the  
5 affiliate's board of directors if the appointment  
6 of board members was exercised by an affiliate  
7 prior to December 31, 2005.

8 “(D) SPECIAL RULE FOR CERTAIN DEVEL-  
9 OPMENT COMPANIES.—The board of directors  
10 for any development company issuing deben-  
11 tures before December 31, 2005, and incor-  
12 porated under a State law requiring, or which  
13 is interpreted by the State's legal department  
14 as imposing specific requirements on, the num-  
15 ber and selection of members, board members,  
16 or both, and the rights and privileges conferred  
17 by such State law, may adhere to such provi-  
18 sions.

19 “(6) PROFESSIONAL MANAGEMENT AND  
20 STAFF.—

21 “(A) IN GENERAL.—The development com-  
22 pany shall have full-time independent profes-  
23 sional management, including a chief executive  
24 officer to manage the daily operations and a

1 full-time professional staff qualified to carry out  
2 the functions authorized under this title.

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

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

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

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

1 “(c) APPLICATIONS.—

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

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

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

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

23           “(ii) For those development companies  
24 that submit contracts under subparagraph  
25 (A)(ii), the Administrator is limited in rejecting

1 the application only if the Administrator finds  
2 that the entity servicing the applicant is no  
3 longer able to provide the employees or services  
4 needed by the applicant to perform the func-  
5 tions that would be authorized under this title.

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

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

1           tion for purposes of chapter 7 of title 5, United  
2           States Code.

3           “(E) GRANDFATHERING.—

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

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

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

1                   “(iv) FAILURE TO OBTAIN CERTIFI-  
2                   CATION.—Any development company that  
3                   fails to obtain certification in accordance  
4                   with the procedures set forth in this para-  
5                   graph during the period set forth in clause  
6                   (i) shall be considered to be a new develop-  
7                   ment company and the procedures of para-  
8                   graph (2) shall apply. The authority to  
9                   issue debentures shall cease for any devel-  
10                  opment company covered by this subpara-  
11                  graph that has failed to obtain certification  
12                  from the Administrator during the time  
13                  period set forth in clause (i).

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

23                  “(G) SAVINGS CLAUSE.—Any action taken  
24                  by a development company or the Administrator  
25                  pursuant to this paragraph shall have no im-

1 pact on any guarantee of a debenture issued  
2 prior to the date of enactment of the Small  
3 Business Financing and Investment Act of  
4 2009.

5 “(2) APPLICATION PROCESS FOR NEW DEVEL-  
6 OPMENT COMPANIES.—

7 “(A) IN GENERAL.—For any development  
8 company that has not issued debentures prior  
9 to September 30, 2009, the Administrator shall  
10 develop no later than 180 days after the date  
11 of enactment of the Small Business Financing  
12 and Investment Act of 2009, after an oppor-  
13 tunity for notice and comment, an application  
14 form for certification that provides the Admin-  
15 istrator with sufficient information to insure  
16 that the applicant meets the standards set forth  
17 in subsection (b). The Administrator shall cer-  
18 tify such development company or reject the ap-  
19 plication within 60 calendar days from the date  
20 the initial submission was received by the Ad-  
21 ministrator. If the Administrator rejects the ap-  
22 plication, the Administrator shall provide in  
23 writing within 7 business days after the deci-  
24 sion, the reason for rejecting the application.

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

5 **SEC. 212. CERTIFIED DEVELOPMENT COMPANY; OPER-**  
6           **ATIONAL REQUIREMENTS.**

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

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

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

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

22           “(1) IN GENERAL.—A certified development  
23           company, its officers, employees, and contractors  
24           shall act ethically and avoid activities which con-  
25           stitute a conflict of interest or appear to constitute

1 a conflict of interest. For purposes of this sub-  
2 section, conduct that is unethical includes, but is not  
3 limited to, the actions specified in section 120.140 of  
4 title 13, Code of Federal Regulations, as in effect on  
5 January 1, 2009.

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

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

22 “(A) The ability to appoint or remove a  
23 member of the company or member of its board  
24 of directors.

1           “(B) The ability to modify or approve rate  
2 or fee changes affecting revenues of the cer-  
3 tified development company.

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

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

12           “(E) The ability to access the certified de-  
13 velopment company’s resources or amend its  
14 budget.

15           “(F) The ability to control another cer-  
16 tified development company pursuant to provi-  
17 sions in a contract.

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

21           “(d) LOAN COMMITTEES.—The board of directors of  
22 a certified development company may use a loan com-  
23 mittee to process loans in the State in which it operates  
24 as well as adjacent local economic areas. Members of the  
25 loan committee shall be residents of the certified develop-

1 ment company's State of operation or the adjacent local  
2 economic area. Such loan committees shall meet on a peri-  
3 odic basis as set forth by the board of directors.

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

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

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

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

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

23 “(2) EXCEPTION.—The prohibition in para-  
24 graph (1) shall not apply to any certified develop-  
25 ment company that is affiliated with an entity au-

1       thorized by the Administrator to operate under sec-  
2       tion 7(a) of the Small Business Act if such affili-  
3       ation occurred on or before November 6, 2003.

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

10              “(g) SERVICING AND PACKAGING GUARANTEED  
11       LOANS.—A certified development company is authorized  
12       to prepare applications for loans under sections 7(a) or  
13       7(c) of the Small Business Act (15 U.S.C. 636(a) or (c)),  
14       to service such loans, and to charge a reasonable fee for  
15       servicing such loans.

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

23                      “(1) operating reserves;

24                      “(2) expanding the area in which the certified  
25       development company operates through the methods

1 authorized in section 505 (relating to multi-State  
2 operation);

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

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

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

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

22 “(2) provide a debenture under this title to a  
23 small business concern that has financing with a  
24 small business investment company in which the cer-

1       tified development company has invested excess  
2       funds.

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

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

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

14       “(k) RESTRICTIONS ON ASSISTANCE.—

15              “(1) IN GENERAL.—After the date of enact-  
16              ment of the Small Business Financing and Invest-  
17              ment Act of 2009, no certified development company  
18              may accept funding from any source, including any  
19              Federal agency (as that term is defined in section  
20              551 of title 5, United States Code) if the source im-  
21              poses—

22                      “(A) conditions on the types of small busi-  
23                      ness concerns that a certified development com-  
24                      pany may provide assistance to under this title;  
25                      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          “(1) REVOCATION AND SUSPENSION.—The Adminis-  
12          trator may suspend or revoke a certified develop-  
13          ment company’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 accred-  
8 ited 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 Ad-  
17 ministrator shall make a determination within 30  
18 days after a complete application has been filed by  
19 the certified development company.

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

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       “(c) 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           ministrator 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 accred-  
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 “(c) 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 “(5) APPLICABILITY.—This subsection shall  
24 apply only to a premier certified development com-  
25 pany designated as a premier certified development

1 company by the Administrator under this section on  
2 or after the date of the enactment of the Small  
3 Business Financing and Investment Act of 2009.  
4 The loan loss reserve requirements relating to any  
5 premier certified development company certified  
6 prior to the date of the enactment of such Act shall  
7 continue to be governed by regulations in effect on  
8 the date of the enactment of such Act.

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

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

19 “(2) ANNUAL REVIEW.—The Bureau estab-  
20 lished in paragraph (1) annually shall review the fi-  
21 nancing made by each premier certified development  
22 company. Such review shall include the premier cer-  
23 tified development company’s credit decisions and  
24 general compliance with the eligibility requirements

1 for each financing approved as a result of its status  
2 as a premier certified development company.

3 “(3) RANDOM AUDITS.—The Bureau shall de-  
4 velop and implement a method for sampling the de-  
5 bentures issued by premier certified development  
6 companies. Such sampling shall be similar to the  
7 random file audits of development companies that  
8 utilize the Abridged Submission Method described in  
9 chapter 4 of subpart C of Standard Operating Pro-  
10 cedure 50 10 (5)(A) as was in effect on March 2,  
11 2009.

12 “(4) REVIEW OF LENDERS PROVIDING SENIOR  
13 FINANCING.—

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

22 “(B) NOTIFICATION.—If the Bureau deter-  
23 mines that the loss rate on debentures involving  
24 an individual lender exceeds the average for all

1 debentures approved under this section, it shall  
2 advise the Administrator.

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

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

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

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

1           “(A) provides prospective purchasers with  
2           the opportunity to examine the Administration’s  
3           records with respect to such loan; and

4           “(B) provides the notice required by para-  
5           graph (1).

6           “(g) LOAN APPROVAL AUTHORITY.—

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

21          “(2) PROGRAM GOALS.—Each premier certified  
22          development company shall establish a goal of proc-  
23          essing no less than 50 percent of the applications for  
24          assistance under this title that the premier certified  
25          development company receives. Failure to meet this

1 goal shall have no affect on the company’s status as  
2 a premier certified development company under this  
3 section.

4 “(3) SCOPE OF REVIEW.—The approval of a  
5 loan and guarantee of a debenture by a premier cer-  
6 tified development company shall be subject to final  
7 approval as to the eligibility of any guarantee by the  
8 Administrator as set forth in section 506, but such  
9 final approval shall not include review of decisions  
10 by the premier certified development company in-  
11 volving creditworthiness, loan closing, or compliance  
12 with legal requirements imposed by law or regula-  
13 tion.

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

1 certified development company conducted pursuant to sub-  
2 section (e) in determining whether to suspend or revoke  
3 an accredited development company’s premier status.  
4 Such suspension or revocation shall have no effect on the  
5 development company’s status as an accredited certified  
6 development company.

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

10 “(j) RULE OF CONSTRUCTION.—Any reference to the  
11 term ‘premier certified lender’ or ‘PCL’ in legislation en-  
12 acted, or regulations adopted, prior to the enactment of  
13 the Small Business Financing and Investment Act of 2009  
14 shall be deemed to be a reference to the term ‘premier  
15 certified development company’.”

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

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

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

20 “(a) AUTHORIZATION.—The Administrator shall per-  
21 mit an accredited or premier certified development com-  
22 pany to make loans or issue debentures in any State that  
23 is contiguous to the State of incorporation of that com-  
24 pany only if the company—

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

4           “(2) has a board of directors that contains not  
5           fewer than 2 members from each State in which the  
6           company makes loans and issues debentures and are  
7           residents of that State;

8           “(3) maintains a separate loan committee to  
9           process loans in each expansion State and the mem-  
10          bers of the loan committee are solely residents of the  
11          expansion State; and

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

14               “(A) notice of the intention to make loans  
15               in multiple States;

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

18               “(C) a list of members in each expansion  
19               State; and

20               “(D) a detailed statement on how the com-  
21               pany will comply with the requirements of this  
22               subsection.

23          “(b) LOAN COMMITTEES.—The requirements of  
24          paragraph (3) of subsection (a) shall not require a devel-  
25          opment company to establish a loan committee in its State

1 of incorporation or in a local economic area outside the  
2 State of incorporation unless such area is part of an ex-  
3 pansion State.

4 “(c) REVIEW.—

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

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

18 “(3) APPLICATION RESUBMITTAL.—If the Ad-  
19 ministrator rejects the application for expansion, the  
20 Administrator shall provide in writing the reasons  
21 for denial within 10 calendar days of the decision.  
22 The applicant then may resubmit the application but  
23 the review of such resubmitted applications will be  
24 limited only to the areas in which the Administrator  
25 found the original application deficient. The dead-

1 lines in paragraph (2) shall apply to resubmitted ap-  
2 plications.

3 “(4) APPEAL.—If a resubmitted application is  
4 denied, the applicant may, within 10 calendar days  
5 after receipt of the disapproval, appeal such dis-  
6 approval. The Administrator shall conduct a hearing  
7 to determine such appeal pursuant to sections 554,  
8 556, and 557 of title 5, United States Code, and  
9 shall issue a decision not later than 45 days after  
10 the appeal is filed. The decision on appeal shall con-  
11 stitute final agency action for purposes of chapter 7  
12 of title 5, United States Code.

13 “(d) FAILURE TO DEVELOP APPLICATION.—If the  
14 Administrator fails to develop an application as required  
15 in subsection (a)(4) within 60 days of the enactment of  
16 the Small Business Financing and Investment Act of  
17 2009, an accredited or premier certified development com-  
18 pany only need submit the information required in sub-  
19 section (a) to the Administrator to be deemed eligible to  
20 commence operations authorized by this section. Such eli-  
21 gibility shall not be terminated if the Administrator devel-  
22 ops an application after the 60-day period set forth in this  
23 subsection.

24 “(e) AGGREGATE ACCOUNTING.—An accredited or  
25 premier certified development company authorized to op-

1 erate in multiple States pursuant to this section may  
2 maintain an aggregate accounting of all revenue and ex-  
3 penses of the company for purposes of this title.

4 “(f) LOCAL JOB CREATION REQUIREMENTS.—

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

10 “(2) APPLICABILITY.—Any company operating  
11 under the authority of this section shall be required  
12 to meet any job creation or retention requirement of  
13 this title on the date that is 2 years after the cer-  
14 tified development company closed its first loan in  
15 its new State of operation.

16 “(g) CONTIGUOUS STATES.—For the purposes of this  
17 section, the States of Alaska and Hawaii shall be deemed  
18 to be contiguous to any State abutting the Pacific Ocean.  
19 Territories of the United States located in the Pacific  
20 Ocean shall be deemed to be contiguous to any State abut-  
21 ting the Pacific Ocean, including Alaska and Hawaii, and  
22 territories of the United States located in the Caribbean  
23 Sea shall be deemed contiguous to any State abutting the  
24 Gulf of Mexico.

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

10 **SEC. 216. GUARANTY OF DEBENTURES.**

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

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

14       “(a) AUTHORITY TO GUARANTEE.—Except as pro-  
15 vided in subsection (c), the Administrator may guarantee  
16 the timely payment of all principal and interest as sched-  
17 uled on any debenture issued by a certified development  
18 company.

19       “(b) TERMS AND CONDITIONS OF THE GUAR-  
20 ANTEE.—Such guarantees may be made on such terms  
21 and conditions as the Administrator may by regulation,  
22 published in the Code of Federal Regulations, determine  
23 to be appropriate, except that the Administrator shall not  
24 decline to issue such guarantee when the ownership inter-  
25 ests of the small business concern and the ownership inter-

1 ests of the property to be financed with the proceeds of  
2 the loan made pursuant to subsection (e)(1) are not iden-  
3 tical because one or more of the following classes of rel-  
4 atives have an ownership interest in either the small busi-  
5 ness concern or the property: father, mother, son, daugh-  
6 ter, wife, husband, brother, or sister, if the Administrator  
7 or his designee has determined on a case-by-case basis  
8 that such ownership interest, such guarantee, and the pro-  
9 ceeds of such loan, will substantially benefit the small  
10 business concern.

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

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

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

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

1           “(2) the interest rate on such debentures is not  
2 less than the rate of interest determined by the Sec-  
3 retary of the Treasury for purposes of section  
4 303(b);

5           “(3) the aggregate amount of such debenture  
6 does not exceed the amount of the loans to be made  
7 from the proceeds of such debenture plus, at the  
8 election of the borrower, other amounts attributable  
9 to the administrative and closing costs of such loans,  
10 except for the attorney fees of the borrower;

11           “(4) the amount of any loan to be made from  
12 such proceeds does not exceed an amount equal to  
13 50 percent of the cost of the project with respect to  
14 which such loan is made;

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

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

21           “(A) assesses and collects a fee, which  
22 shall be payable by the borrower, in an amount  
23 established annually by the Administration,  
24 which amount shall not exceed—

25           “(i) the lesser of—

1                   “(I) 0.9375 percent per year of  
2                   the outstanding balance of the loan;  
3                   or

4                   “(II) the minimum amount nec-  
5                   essary to reduce the cost (as defined  
6                   in section 502 of the Federal Credit  
7                   Reform Act of 1990) to the Adminis-  
8                   trator of purchasing and guaranteeing  
9                   debentures under this title to zero;  
10                  and

11                  “(ii) 50 percent of the amount estab-  
12                  lished under clause (i) in the case of a loan  
13                  made during the 2-year period beginning  
14                  on October 1, 2002, for the life of the  
15                  loan; and

16                  “(B) uses the proceeds of such fee to offset  
17                  the cost (as such term is defined in section 502  
18                  of the Federal Credit Reform Act of 1990) to  
19                  the Administrator of making guarantees under  
20                  this section.

21                  “(f) INTEREST RATES ON COMMERCIAL LOANS.—  
22                  Notwithstanding the provisions of the constitution or laws  
23                  of any State limiting the rate or amount of interest which  
24                  may be charged, taken, received, or reserved, the max-  
25                  imum legal rate of interest on any commercial loan which

1 funds any portion of the cost of the project financed pur-  
2 suant to this title which is not funded by a debenture  
3 guaranteed under this section shall be a rate which is es-  
4 tablished by the Administrator who shall publish such rate  
5 quarterly in, at a minimum, the Federal Register and on  
6 the Administration's website.

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

10       “(h) CHARGES FOR ADMINISTRATOR'S EXPENSES.—  
11 The Administrator may impose an additional charge for  
12 administrative expenses with respect to each debenture for  
13 which payment of principal and interest is guaranteed  
14 under this section. Such administrative expenses may in-  
15 clude—

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

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

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

23       “(i) PARTICIPATION FEE.—The Administrator shall  
24 collect a one-time fee in an amount equal to 50 basis  
25 points on the total participation in any project of any

1 State or local government, bank, other financial institu-  
2 tion, or foundation or not-for-profit institution. Such fee  
3 shall be imposed only when the participation of the entity  
4 described in the previous sentence will occupy a senior  
5 credit position to that of the development company. All  
6 proceeds of the fee shall be used to offset the cost (as  
7 that term is defined in section 502 of the Credit Reform  
8 Act of 1990) to the Administrator of making guarantees  
9 under this section.

10 “(j) CERTIFIED DEVELOPMENT COMPANY FEE.—

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

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

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

9       “(m) ACTIONS UPON DEFAULT.—

10       “(1) INITIAL ACTIONS.—Not later than the  
11       45th day after the date on which a payment on a  
12       loan funded through a debenture guaranteed under  
13       this section is due and not received, the Adminis-  
14       trator shall—

15               “(A) take all necessary steps to bring such  
16       loan current; or

17               “(B) implement a formal written deferral  
18       agreement.

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

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

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

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

11           “(C) shall not pay a default interest rate  
12 higher than the interest rate on the note prior  
13 to the date of default for any project financed  
14 after September 30, 1996.

15           “(4) COLLECTION AND SERVICING.—

16           “(A) IN GENERAL.—In the event of the de-  
17 fault of any loan and the repurchase of a de-  
18 benture guaranteed by the Administrator under  
19 this title, the Administrator shall continue to  
20 delegate to the central servicing agent that was  
21 contracted for that service as of January 1,  
22 2009, or successor contractor the authority to  
23 collect and disburse all funds or payments re-  
24 ceived on such defaulted loans, including pay-  
25 ments from guarantors or on notes in com-

1 promise of the original note. The central serv-  
2 icing agent shall continue to provide an ac-  
3 counting of income and expenses for any such  
4 loan on the same basis it does for any other  
5 loan issued under this title. The central serv-  
6 icing agent shall make the accounting of income  
7 and expenses and reports thereon available as  
8 requested by the certified development company  
9 that issued the debenture or the Administrator.

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

15 **SEC. 217. ECONOMIC DEVELOPMENT THROUGH DEBEN-**  
16 **TURES.**

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

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

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

24 “(1) The creation of job opportunities within  
25 two years of the completion of the project or the

1 preservation or retention of jobs attributable to the  
2 project.

3 “(2) Improving the economy of the locality,  
4 such as stimulating other business development in  
5 the community, bringing new income into the area,  
6 or assisting the community in diversifying and stabi-  
7 lizing its economy.

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

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

16 “(B) Expansion of exports.

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

19 “(D) Rural development.

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

1           “(F) Enhanced economic competition, in-  
2           cluding the advancement of technology, plan re-  
3           tooling, conversion to robotics, or competition  
4           with imports.

5           “(G) Changes necessitated by Federal  
6           budget cutbacks, including defense related in-  
7           dustries.

8           “(H) Business restructuring arising from  
9           federally mandated standards or policies affect-  
10          ing the environment or the safety and health of  
11          employees.

12          “(I) Reduction of energy consumption by  
13          at least 10 percent.

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

20          “(K) Plant, equipment, and process up-  
21          grades of renewable energy sources such as the  
22          small-scale production of energy for individual  
23          buildings or communities consumption, com-  
24          monly known as micropower, or renewable fuels

1 producers including biodiesel and ethanol pro-  
2 ducers.

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

5 “(b) JOB CREATION AND RETENTION REQUIRE-  
6 MENTS.—

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

13 “(2) EXCEPTIONS.—

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

21 “(B) For projects in Alaska, Hawaii,  
22 State-designated enterprise zones, empower-  
23 ment zones, enterprise communities, or labor  
24 surplus areas designated by the Administrator,  
25 the certified development company’s portfolio

1           may average not more than \$75,000 per job  
2           created or retained.

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

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

14          “(d) COMPOSITION OF THE PROJECT.—

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

24                 “(2) DEBT REFINANCING.—Any financing ap-  
25                 proved under this title may include a limited amount

1 of debt refinancing if the project involves the expansion  
2 of a small business concern.

3 “(3) LIMITATION.—The amount of the existing  
4 indebtedness may be refinanced and added to the expansion  
5 cost if—

6 “(A) the existing indebtedness does not exceed  
7 50 percent of the project cost of the expansion;  
8

9 “(B) the proceeds of the indebtedness were  
10 used to acquire land, including a building situated  
11 thereon, to construct a building thereon, or  
12 to purchase equipment;

13 “(C) the existing indebtedness is  
14 collateralized by fixed assets;

15 “(D) the existing indebtedness was incurred  
16 for the benefit of the small business concern;  
17

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

22 “(F) the financing under this title will provide  
23 a substantial benefit to the borrower when  
24 prepayment penalties, financing fees, and other  
25 financing costs are accounted for;

1           “(G) the borrower has been current on all  
2           payments due on the existing debt for not less  
3           than 1 year preceding the date of refinancing;  
4           and

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

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

16          **SEC. 218. PROJECT FUNDING REQUIREMENTS.**

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

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

20          “(a) IN GENERAL.—Any project described in section  
21          507 must meet the funding standards set forth in this sec-  
22          tion.

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

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

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

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

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

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

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

16          “(7) \$10,000,000 for each project for a small  
17          business concern that constitutes a major source of  
18          employment as that term is used in section  
19          7(b)(3)(E) of the Small Business Act (15 U.S.C.  
20          636(b)(3)(E)).

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

24                 “(1) IN GENERAL.—Any project financed pur-  
25                 suant to this title must have the following contribu-

1 tions from parties other than the debenture issued  
2 by the certified development company:

3 “(A) FUNDING FROM INSTITUTIONS.—If a  
4 small business concern provides—

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

12 “(ii) more than the minimum con-  
13 tribution required under subparagraph  
14 (B), any excess contribution may be used  
15 to reduce the amount required from insti-  
16 tutions described in clause (i), except that  
17 the amount provided by such institution  
18 may not be reduced to an amount that is  
19 less than the amount of the loan made by  
20 the Administrator.

21 “(B) FUNDING FROM SMALL BUSINESS  
22 CONCERNS.—The small business concern (or its  
23 owners, stockholders, or affiliates) that will  
24 have a project financed pursuant to this title  
25 shall provide—

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

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

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

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

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

23          “(3) COLLATERALIZATION.—

24                 “(A) IN GENERAL.—The collateral pro-  
25                 vided by the small business concern shall gen-

1 erally include a subordinate lien position on the  
2 property being financed under this title, and is  
3 only one of the factors to be evaluated in the  
4 credit determination. Additional collateral shall  
5 be required only if the Administrator deter-  
6 mines, on a case-by-case basis, that additional  
7 security is necessary to protect the interest of  
8 the Government.

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

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

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

24 “(C) ADJUSTMENT.—The Administrator  
25 shall periodically adjust the amount under sub-

1 paragraph (B) to account for the effects of in-  
2 flation, provided that no such adjustment shall  
3 be less than \$50,000.

4 “(4) LIMITATION ON LEASING.—

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

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

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

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

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

22 “(ii) occupancy and use of the project  
23 property by the operating company shall be  
24 deemed to be occupancy and use by the

1                   small business concern that received fund-  
2                   ing under this section.

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

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

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

22           “(4) Any interpretation of the leasing provisions  
23 issued by the Administrator prior to the issuance of regu-  
24 lations required by paragraph (1) shall be considered null  
25 and void and may be not be used in any court of com-

1 petent jurisdiction, be it Federal or State court, to dis-  
2 honor any guarantee of a debenture issued by a certified  
3 development company for a project funded pursuant to  
4 this section.

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

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

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

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

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

5 “(2) PERSONAL LIQUIDITY.—

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

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

22 “(h) APPLICABILITY OF CREDIT ELSEWHERE AND  
23 PERSONAL RESOURCES REGULATIONS.—Except as pro-  
24 vided in subsection (c)(1)(B) with respect to project fund-  
25 ing, the Administrator shall be prohibited from applying

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

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

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

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

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

22 “(b) FEDERAL FINANCING BANK.—Nothing in any  
23 provision of law shall be construed to authorize the Fed-  
24 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       “(c) 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 debenture  
4       in such trust or pool is prepaid, either voluntarily  
5       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 debenture  
9       represents in the trust or pool. Interest on prepaid  
10      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 redemption  
14      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.—Not  
5 later than 90 days after the date of enactment of the  
6 Small Business Financing and Investment Act of 2009,  
7 and annually thereafter, the Administrator shall submit  
8 a report to the Committee on Small Business and Entre-  
9 preneurship of the Senate and the Committee on Small  
10 Business of the House of Representatives that—

11           “(1) includes the number of small business con-  
12 cerns that have financing under both section 7(a) of  
13 the Small Business Act (15 U.S.C. 636(a)) and title  
14 V of the Small Business Investment Act of 1958 (15  
15 U.S.C. 695 et seq.) during the year before the year  
16 of that report; and

17           “(2) describes the total amount and general  
18 performance of the financing described in paragraph  
19 (1).

20           “(d) REPORT ON OTHER ECONOMIC DEVELOPMENT  
21 ACTIVITY.—The Administrator shall compile and submit  
22 to the Committee on Small Business of the House of Rep-  
23 resentatives and the Committee on Small Business and  
24 Entrepreneurship of the Senate on an annual basis, com-  
25 mencing in the year that the Small Business Financing

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

9 **“SEC. 512. PROMULGATION OF REGULATIONS UNDER THIS**  
10 **TITLE.**

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

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

1 publish such notification in the Federal Register, and pro-  
2 vide a comment period of not less than 60 days.”.

3 **SEC. 222. PROGRAM NAME.**

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

7 **“SEC. 513 PROGRAM NAME.**

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

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

16 **Subtitle C—Miscellaneous**

17 **SEC. 231. REPORT ON STANDARD OPERATING PROCE-**  
18 **DURES.**

19 (a) REPORT.—The Administrator of the Small Busi-  
20 ness Administration shall submit to the Committee on  
21 Small Business of the House of Representatives and the  
22 Committee on Small Business and Entrepreneurship of  
23 the Senate a report within 180 days after enactment of  
24 this Act identifying each Standard Operating Procedure  
25 issued after January 1, 1996, that relates to the operation

1 of a development company (in any manner) under title V  
2 of the Small Business Investment Act of 1958, that is still  
3 in effect on the date of enactment of this Act, and the  
4 regulation codified in title 13 of the Code of Federal Regu-  
5 lations that authorizes the issuance of the Standard Oper-  
6 ating Procedure and separately identifies the regulation  
7 that the Standard Operating Procedure purports to inter-  
8 pret.

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

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

24 **SEC. 232. ALTERNATIVE SIZE STANDARD.**

25 (a) REVIEW AND STUDY.—

1           (1) IN GENERAL.—The Administrator of the  
2           Small Business Administration shall study and re-  
3           view the optional size standard set forth in section  
4           121.301(b) of title 13, Code of Federal Regulations,  
5           as in effect on January 1, 2009, for eligibility of a  
6           small business concern for financing under title V of  
7           the Small Business Investment Act of 1958.

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

13          (3) SUBMISSION TO CONGRESS.—The Adminis-  
14          trator shall submit its study and conclusions within  
15          180 days after the date of enactment of the Small  
16          Business Financing and Investment Act of 2009 to  
17          the Committee on Small Business and Entrepre-  
18          neurship of the Senate and the Committee on Small  
19          Business of the House of Representatives.

20          (b) ISSUANCE OF REGULATIONS.—Any changes in  
21          the optional size standard described in subsection (a)(1)  
22          shall be promulgated within 180 days of the submission  
23          of the report to committees referred to in paragraph (3)  
24          of subsection (a).

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

10 **TITLE III—MICROLENDING**  
11 **EXPANSION**

12 **SEC. 301. MICROLOAN CREDIT BUILDING INITIATIVE.**

13 Section 7(m) of the Small Business Act (15 U.S.C.  
14 636(m)) is amended by adding at the end the following:

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

1 agencies through the Administration or independ-  
2 ently.”.

3 **SEC. 302. FLEXIBLE CREDIT TERMS.**

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

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

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

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

12 **SEC. 303. INCREASED PROGRAM PARTICIPATION.**

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

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

17 (2) by amending subparagraph (B) to read as  
18 follows:

19 “(B) has—

20 “(i) at least—

21 “(I) 1 year of experience making  
22 microloans to startup, newly estab-  
23 lished, or growing small business con-  
24 cerns; or

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

6                   “(ii) at least—

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

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

17 **SEC. 304. INCREASED LIMIT ON INTERMEDIARY BOR-**  
18 **ROWING.**

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

21                   (1) by striking “\$750,000” and inserting  
22                   “\$1,000,000”;

23                   (2) by striking “\$3,500,000” and inserting  
24                   “\$7,000,000”; and

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

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

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

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

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

14 **SEC. 306. YOUNG ENTREPRENEURS PROGRAM.**

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

18                   “(G) YOUNG ENTREPRENEURS PRO-  
19                   GRAM.—

20                           “(i) IN GENERAL.—An intermediary  
21                           that receives a grant under paragraph  
22                           (1)(B)(ii) may establish a program for the  
23                           geographic area served by such inter-  
24                           mediary that provides to young entre-

preneurs technical assistance regarding the following:

“(I) Establishing or operating a small business concern in the geographic area served by the intermediary.

“(II) Acquiring or securing financing to carry out the activities described in subclause (I).

“(ii) YOUNG ENTREPRENEUR DEFINED.—For purposes of this subparagraph, a young entrepreneur is an individual who—

“(I) is 25 years of age or younger; and

“(II) has resided in the geographic area served by the intermediary for not less than 2 years.

“(iii) GOOD FAITH EFFORT REQUIREMENT.—If a young entrepreneur who receives technical assistance under this subparagraph from an intermediary establishes or operates a small business concern, the young entrepreneur shall make a good faith effort to establish or operate such

1 concern in the geographic area served by  
2 the intermediary.

3 “(iv) DEFERRED REPAYMENT.—If a  
4 small business concern established or oper-  
5 ated by a young entrepreneur receives a  
6 loan under this subsection, such concern  
7 may defer repayment on such loan for a  
8 period of not more than 6 months begin-  
9 ning on the date that such concern receives  
10 the final disbursement of such loan.”.

11 **SEC. 307. INTEREST RATES AND LOAN SIZE.**

12 Section 7(m) of the Small Business Act (15 U.S.C.  
13 636(m)), as amended by this Act, is further amended—

14 (1) in paragraph (3)(F)(iii) by striking  
15 “\$7,500” and inserting “\$10,000”;

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

18 (3) in paragraph (6)(C)(ii) by striking  
19 “\$7,500” and inserting “\$10,000”.

20 **SEC. 308. REPORTING REQUIREMENT.**

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

24 “(15) REPORTING REQUIREMENT.—Not later  
25 than 90 days after the end of each fiscal year, the

1 Administrator shall submit to the Committee on  
2 Small Business of the House of Representatives and  
3 the Committee on Small Business and Entrepre-  
4 neurship of the Senate a report that includes, with  
5 respect to such fiscal year of the microloan program,  
6 the following:

7 “(A) The names and locations of each  
8 intermediary that received funds to make  
9 microloans or provide marketing, management,  
10 and technical assistance.

11 “(B) The amounts of each loan and each  
12 grant provided to each such intermediary in  
13 such fiscal year and in prior fiscal years.

14 “(C) A description of the contributions  
15 from non-Federal sources of each such inter-  
16 mediary.

17 “(D) The number and amounts of  
18 microloans made by each such intermediary to  
19 all borrowers and to each of the following:

20 “(i) Women entrepreneurs and busi-  
21 ness owners.

22 “(ii) Low-income entrepreneurs and  
23 business owners.

24 “(iii) Veteran entrepreneurs and busi-  
25 ness owners.

1                   “(iv) Disabled entrepreneurs and busi-  
2                   ness owners.

3                   “(v) Minority entrepreneurs and busi-  
4                   ness owners.

5                   “(E) A description of the marketing, man-  
6                   agement, and technical assistance provided by  
7                   each such intermediary to all borrowers and to  
8                   each of the following:

9                   “(i) Women entrepreneurs and busi-  
10                  ness owners.

11                  “(ii) Low-income entrepreneurs and  
12                  business owners.

13                  “(iii) Veteran entrepreneurs and busi-  
14                  ness owners.

15                  “(iv) Disabled entrepreneurs and busi-  
16                  ness owners.

17                  “(v) Minority entrepreneurs and busi-  
18                  ness owners.

19                  “(F) The number of jobs created and re-  
20                  tained as a result of microloans and marketing,  
21                  management, and technical assistance provided  
22                  by each such intermediary.

23                  “(G) The repayment history of each such  
24                  intermediary.

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

3 **SEC. 309. SURPLUS INTEREST RATE SUBSIDY FOR BUSI-**  
4           **NESSES.**

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

8           “(16) INTEREST ASSISTANCE.—The Adminis-  
9           trator is authorized to make grants to intermediaries  
10          for the purposes of reducing interest rates charged  
11          to borrowers that receive financing under this sub-  
12          section.”.

13 **SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “(3) LIMITATION.—

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

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

1 such determination is made. Failure to provide  
2 this determination to the applicant shall be  
3 deemed to be a permanent waiver of the Admin-  
4 istrator’s authority to remove an application  
5 pursuant to this subsection.

6 “(C) NON-DELEGABILITY.—The Adminis-  
7 trator may rely on agency personnel to collect  
8 data or other material relevant to establishing  
9 a record, but the decision to remove the appli-  
10 cation may not be delegated by the Adminis-  
11 trator to any subordinate personnel in the agen-  
12 cy.

13 “(4) NOTICE AND OPPORTUNITY TO CURE NON-  
14 CONFORMANCE.—

15 “(A) NOTICE OF NON-CONFORMANCE.—  
16 Except for a determination made pursuant to  
17 paragraph (3), the Administrator shall provide  
18 an applicant described in paragraph (1) within  
19 60 days after receipt of the application a writ-  
20 ten notice and description of any nonconform-  
21 ance with any requirement of this subsection  
22 based on evidence in the agency record.

23 “(B) OPPORTUNITY TO CURE.—The appli-  
24 cant shall have 30 days following the receipt of  
25 notice of nonconformance or the receipt of re-

1           moval as set forth in paragraph (3) to cure  
2           such nonconformance.

3           “(C) FAILURE TO PROVIDE NOTICE.—Fail-  
4           ure to provide the notice within the time limit  
5           set forth in subparagraph (A) shall be deemed  
6           to be acceptance by the Administrator of the  
7           applicant’s conformance with the requirements  
8           of this subsection.

9           “(5) BACKGROUND REVIEWS.—The Adminis-  
10          trator shall ensure that a timely background check  
11          of the principal managers of each applicant is com-  
12          pleted with respect to paragraphs (2)(B) and (2)(C).

13          “(6) FEES.—The Administrator may charge an  
14          applicant additional fees for carrying out the back-  
15          ground reviews mandated by paragraph (5). Such  
16          fees shall not exceed \$10,000.

17          “(7) EFFECT OF NON-QUALIFICATION.—The  
18          failure of an applicant to qualify for expedited licen-  
19          sure under this subsection shall have no effect on an  
20          existing license or the ability for the applicant or  
21          any of its individual managers to apply for or receive  
22          a license to operate a small business investment  
23          company under the procedures established elsewhere  
24          in this Act or its implementing regulations.

1           “(8) REGULATIONS.—The Administrator shall  
2           develop forms and promulgate regulations to imple-  
3           ment this subsection after providing an opportunity  
4           for notice and comment. Regulations promulgated  
5           pursuant to this paragraph shall be published in the  
6           Code of Federal Regulations.”.

7   **SEC. 403. REVISED LEVERAGE LIMITATIONS FOR SUCCESS-**  
8                           **FUL SBICS.**

9           (a) MAXIMUM LEVERAGE.—Section 303(b)(2) of the  
10          Small Business Investment Act of 1958 (15 U.S.C.  
11          683(b)(2)) is amended by striking so much of paragraph  
12          (2) as precedes subparagraph (C) and inserting the fol-  
13          lowing:

14                       “(2) MAXIMUM LEVERAGE.—

15                           “(A) IN GENERAL.—(i) The maximum  
16                           amount of outstanding leverage made available  
17                           to any one company licensed under section  
18                           301(c) of this Act may not exceed the lesser  
19                           of—

20                                       “(I) 300 percent of such com-  
21                                       pany’s private capital; or

22                                       “(II) \$150,000,000.

23                           “(ii) In applying clause (i)(I) in the case of  
24                           a debenture licensee which is in good standing  
25                           without the imposition of additional regulatory

1 standards and whose financings at cost are  
2 comprised of at least 50 percent of loans and  
3 debt securities, such licensee may be leveraged  
4 as follows:

5 “(I) The first one-third of private cap-  
6 ital to 300 percent.

7 “(II) The second one-third of private  
8 capital to 200 percent.

9 “(III) The last third of private capital  
10 to 100 percent.

11 “(iii) Notwithstanding clause (i), in the  
12 case of any company operating as a business  
13 development company (as such term is defined  
14 under section 2(a)(48) of the Investment Com-  
15 pany Act of 1940) or a majority-owned sub-  
16 sidiary of such a company that is in good  
17 standing without the imposition of additional  
18 regulatory requirements, the maximum amount  
19 of outstanding leverage made available to such  
20 company shall be \$250,000,000.

21 “(B) MULTIPLE LICENSEES UNDER COM-  
22 MON CONTROL.—The maximum amount of out-  
23 standing leverage made available to two or more  
24 debenture companies licensed under section  
25 301(c) of this Act that are commonly controlled

1 (as determined by the Administrator) and not  
2 under capital impairment may not exceed  
3 \$350,000,000.”.

4 (b) REGULATIONS.—Section 303(b)(2) of the Small  
5 Business Investment Act of 1958 (15 U.S.C. 683(b)(2)),  
6 as amended by this Act, is further amended by adding  
7 at the end the following:

8 “(E) REGULATIONS.—The Administrator  
9 shall promulgate regulations, after notice and  
10 opportunity for comment, establishing quantifi-  
11 able objective criteria under which a licensee’s  
12 private capital in its entirety may be leveraged  
13 up to 300 percent. Such regulations shall be  
14 published in the Code of Federal Regulations.”.

15 (c) INVESTMENTS IN LOW-INCOME GEOGRAPHIC  
16 AREAS.—Section 303(b)(2)(C)(ii) of the Small Business  
17 Investment Act of 1958 (15 U.S.C. 683(b)(2)(C)(ii)) is  
18 amended by striking “\$250,000,000” in subclause (II)  
19 and inserting “\$400,000,000”.

20 **SEC. 404. CONSISTENCY FOR COST CONTROL.**

21 Section 305(c) of the Small Business Investment Act  
22 of 1958 (15 U.S.C. 685(c)) is amended by adding at the  
23 end the following:

24 “In addition to the foregoing, with respect to a loan  
25 made, or debt with equity features acquired, under this

1 section, the minimum coupon rate of interest (cost of  
2 money ceiling) imposed by the Administrator shall not be  
3 less than 19 percent per annum for a loan or a debt secu-  
4 rity, except that nothing herein shall alter or affect provi-  
5 sions permitting higher coupon rates of interest (cost of  
6 money ceilings) and a company may charge up to an addi-  
7 tional 7 percent more than the interest rate set forth in  
8 the loan or debt security in the event of a default. For  
9 purposes of this subsection a default means the occurrence  
10 of any of the following:

11           “(1) Failure to pay an amount when due.

12           “(2) Failure to provide in a timely manner ma-  
13 terial information required under the applicable fi-  
14 nancing documents.

15           “(3) Failure to observe any material term, cov-  
16 enant, or other agreement contained in the applica-  
17 ble financing documents.

18           “(4) A representation, warranty, certification,  
19 or statement of fact made by or on behalf of a bor-  
20 rower in any applicable financing document or in  
21 any document delivered in connection therewith, that  
22 was materially incorrect or misleading when made.

23           “(5) Any material event of default specified in  
24 the applicable financing documents.”.

1 **SEC. 405. INVESTMENT IN VETERAN-OWNED SMALL BUSI-**  
2 **NESSES.**

3 Section 303(b)(2)(C) of the Small Business Invest-  
4 ment Act of 1958 (15 U.S.C. 683(b)(2)(C)) is amended  
5 as follows:

6 (1) In the heading, by inserting after “AREAS”  
7 the following: “AND VETERANS”.

8 (2) In clause (i), by inserting after “351)” the  
9 following: “or in a small business concern owned and  
10 controlled by veterans (as such term is defined in  
11 section 3(q)(3) of the Small Business Act)”.

12 (3) In clause (iii), by inserting after “351)” the  
13 following: “or in small business concerns owned and  
14 controlled by veterans (as such term is defined in  
15 section 3(q)(3) of the Small Business Act)”.

16 **SEC. 406. TANGIBLE NET WORTH.**

17 Section 103 of the Small Business Investment Act  
18 of 1958 (15 U.S.C. 662), as amended by this Act, is fur-  
19 ther amended by striking “and” at the end of paragraph  
20 (23), by striking the period at the end of paragraph (24)  
21 and inserting “; and”, and by adding at the end the fol-  
22 lowing:

23 “(25) for purposes of the terms ‘small-business  
24 concern’ in paragraph (5) and ‘smaller enterprise’ in  
25 paragraph (12), tangible net worth shall, to the ex-  
26 tent used, mean the total net worth of the small

1 business, in accordance with General Accepted Ac-  
2 counting Principles, minus all intangibles in accord-  
3 ance with General Accepted Accounting Principles.”.

4 **SEC. 407. DEVELOPMENT OF AGENCY RECORD.**

5 Part A of title III of the Small Business Investment  
6 Act of 1958 (15 U.S.C. 681 et seq.), as amended by this  
7 Act, is further amended by adding at the end the fol-  
8 lowing:

9 **“SEC. 321. AGENCY RECORD FOR LICENSING OF SMALL**  
10 **BUSINESS INVESTMENT COMPANIES.**

11 “(a) RECORD.—The Associate Administrator for In-  
12 vestment shall establish an agency record of evidence re-  
13 ferring or relating to each application for a license to be-  
14 come a small business investment company.

15 “(b) WRITTEN NOTIFICATION.—The Administrator  
16 shall provide a written explanation of any denial of a li-  
17 cense application based upon evidence in the agency  
18 record. Absent an order by a Federal or State court of  
19 general jurisdiction, access to applications and the agency  
20 record shall be limited to the applicant and to the Admin-  
21 istrator and subordinate personnel of the Administrator.”.

22 **SEC. 408. PROGRAM LEVELS.**

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

1 “(i) PART A OF TITLE III OF THE SMALL BUSINESS  
2 INVESTMENT ACT OF 1958.—

3 “(1) PROGRAM LEVELS 2010.—For fiscal year  
4 2010, in carrying out the program authorized by  
5 part A of title III of the Small Business Investment  
6 Act of 1958, the Administrator is authorized to  
7 make \$5,000,000,000 in guarantees of debentures.

8 “(2) PROGRAM LEVELS 2011.—For fiscal year  
9 2011, in carrying out the program authorized by  
10 part A of title III of the Small Business Investment  
11 Act of 1958, the Administrator is authorized to  
12 make \$5,500,000,000 in guarantees of debentures.”.

14 **TITLE V—INVESTMENT IN**  
15 **SMALL MANUFACTURERS**  
16 **AND RENEWABLE ENERGY**  
17 **SMALL BUSINESSES**

18 **Subtitle A—Enhanced New**  
19 **Markets Venture Capital Program**

20 **SEC. 501. EXPANSION OF NEW MARKETS VENTURE CAPITAL**  
21 **PROGRAM.**

22 (a) ADMINISTRATION PARTICIPATION REQUIRED.—  
23 Section 353 of the Small Business Investment Act of 1958  
24 (15 U.S.C. 689b) is amended by striking “under which

1 the Administrator may” and inserting “under which the  
2 Administrator shall”.

3 (b) REPORT TO CONGRESS.—Not later than 1 year  
4 after the date of the enactment of this Act, the Adminis-  
5 trator of the Small Business Administration shall submit  
6 to Congress a report describing any expansion of the New  
7 Markets Venture Capital Program as a result of this sec-  
8 tion.

9 **SEC. 502. IMPROVED NATIONWIDE DISTRIBUTION.**

10 Section 354 of the Small Business Investment Act  
11 of 1958 (15 U.S.C. 689c) is amended by adding at the  
12 end the following:

13 “(f) GEOGRAPHIC EXPANSION.—From among com-  
14 panies submitting applications under subsection (b), the  
15 Administrator shall consider the selection criteria and pro-  
16 motion of nationwide distribution under subsection (c) and  
17 shall, to the extent practicable, approve at least one com-  
18 pany from each geographic region of the Small Business  
19 Administration.”.

20 **SEC. 503. INCREASED INVESTMENT IN SMALL BUSINESS**  
21 **CONCERNS ENGAGED PRIMARILY IN MANU-**  
22 **FACTURING.**

23 (a) DEVELOPMENTAL VENTURE CAPITAL AND PAR-  
24 TICIPATION AGREEMENTS.—Section 351 of the Small

1 Business Investment Act of 1958 (15 U.S.C. 689) is  
2 amended—

3           (1) in paragraph (1) by inserting after “geo-  
4 graphic areas” the following: “or encouraging the  
5 growth or continuation of small business concerns  
6 located in low-income geographic areas and engaged  
7 primarily in manufacturing”; and

8           (2) in paragraph (6)(B) by inserting after “geo-  
9 graphic areas” the following: “or in small business  
10 concerns located in low-income geographic areas at  
11 least 80 percent of which are engaged primarily in  
12 manufacturing”.

13       (b) PURPOSES.—Section 352(2) of the Small Busi-  
14 ness Investment Act of 1958 (15 U.S.C. 689a(2)) is  
15 amended—

16           (1) in the matter preceding subparagraph (A)  
17 by inserting after “geographic areas” the following:  
18 “and small business concerns located in low-income  
19 geographic areas and engaged primarily in manufac-  
20 turing”;

21           (2) in subparagraph (B) by inserting after “ge-  
22 ographic areas” the following: “or in small business  
23 concerns located in low-income geographic areas and  
24 engaged primarily in manufacturing”; and

1           (3) in subparagraph (C) by inserting after  
2           “smaller enterprises” the following: “and small busi-  
3           ness concerns”.

4           (c) ELIGIBILITY, APPLICATIONS, AND REQUIRE-  
5           MENTS FOR FINAL APPROVAL.—Section 354 of the Small  
6           Business Investment Act of 1958 (15 U.S.C. 689e), as  
7           amended by this Act, is further amended—

8           (1) in subsection (a)(3) by inserting after “geo-  
9           graphic areas” the following: “or investing in small  
10          business concerns located in low-income geographic  
11          areas and engaged primarily in manufacturing”;

12          (2) in subsection (b)—

13                (A) in paragraph (1) by inserting after  
14                “geographic areas” the following: “or in small  
15                business concerns located in low-income geo-  
16                graphic areas and engaged primarily in manu-  
17                facturing”; and

18                (B) in paragraph (4) by inserting after  
19                “smaller enterprises” the following: “or small  
20                business concerns”; and

21          (3) in subsection (d)—

22                (A) in paragraph (1)—

23                       (i) by striking “Each” and inserting  
24                       the following:

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), each”;

3                   (ii) by adding at the end the fol-  
4           lowing:

5           “(B) SMALL BUSINESS CONCERNS EN-  
6           GAGED PRIMARILY IN MANUFACTURING.—Each  
7           conditionally approved company engaged pri-  
8           marily in development of and investment in  
9           small business concerns located in low-income  
10          geographic areas and engaged primarily in  
11          manufacturing shall raise not less than  
12          \$3,000,000 of private capital or binding capital  
13          commitments from one or more investors (other  
14          than agencies or departments of the Federal  
15          Government) who met criteria established by  
16          the Administrator.”; and

17                   (B) in paragraph (2)(A) by inserting after  
18          “smaller enterprises” the following: “or small  
19          business concerns”.

20          (d) OPERATIONAL ASSISTANCE GRANTS.—Section  
21          358 of the Small Business Investment Act of 1958 (15  
22          U.S.C. 689g) is amended—

23                   (1) in subsection (a)(1) by inserting after  
24          “smaller enterprises” the following: “and small busi-  
25          ness concerns”; and

1           (2) in subsection (b)(1) by inserting after  
2           “smaller enterprises” the following: “and small busi-  
3           ness concerns”.

4   **SEC. 504. EXPANDED USES FOR OPERATIONAL ASSISTANCE**  
5                                   **IN MANUFACTURING.**

6           Section 351 of the Small Business Investment Act  
7   of 1958 (15 U.S.C. 689), as amended by this Act, is fur-  
8   ther amended in paragraph (5) by inserting after “busi-  
9   ness development” the following: “or assistance that as-  
10  sists a small business concern located in a low-income geo-  
11  graphic area and engaged primarily in manufacturing with  
12  retooling, updating, or replacing machinery or equip-  
13  ment”.

14   **SEC. 505. UPDATING DEFINITION OF LOW-INCOME GEO-**  
15                                   **GRAPHIC AREA.**

16           Section 351 of the Small Business Investment Act  
17   of 1958 (15 U.S.C. 689), as amended by this Act, is fur-  
18   ther amended—

19           (1) by striking paragraphs (2) and (3);

20           (2) by inserting after paragraph (1) the fol-  
21   lowing:

22           “(2) **LOW-INCOME GEOGRAPHIC AREA.**—The  
23   term ‘low-income geographic area’ has the meaning  
24   given the term ‘low-income community’ in section  
25   45D(e) of the Internal Revenue Code of 1986, ex-

1       cept that, without regard to such meaning, such  
2       term includes an area that the Administrator deter-  
3       mines to be an area with high unemployment.”; and

4               (3) by redesignating paragraphs (4) through  
5       (8) as paragraphs (3) through (7), respectively.

6       **SEC. 506. EXPANDING OPERATIONAL ASSISTANCE TO CON-**  
7                               **DITIONALLY APPROVED COMPANIES.**

8       Section 358(a) of the Small Business Investment Act  
9       of 1958 (15 U.S.C. 689g(a)) is amended by adding at the  
10      end the following:

11               “(6) GRANTS TO CONDITIONALLY APPROVED  
12      COMPANIES.—

13                       “(A) IN GENERAL.—Subject to the provi-  
14                       sions of this paragraph, upon the request of a  
15                       company conditionally approved under section  
16                       354(c), the Administrator shall make a grant to  
17                       the company under this subsection.

18                       “(B) REPAYMENT BY COMPANIES NOT AP-  
19                       PROVED.—If a company receives a grant under  
20                       this paragraph and does not receive final ap-  
21                       proval under section 354(e), the company shall  
22                       repay the amount of the grant to the Adminis-  
23                       trator.

24                       “(C) DEDUCTION FROM GRANT TO AP-  
25                       PROVED COMPANY.—If a company receives a

1 grant under this paragraph and receives final  
2 approval under section 354(e), the Adminis-  
3 trator shall deduct the amount of such grant  
4 from the amount of any immediately succeeding  
5 grant the company receives for operational as-  
6 sistance.

7 “(D) AMOUNT OF GRANT.—No company  
8 may receive a grant of more than \$50,000  
9 under this paragraph.”.

10 **SEC. 507. LIMITATION ON TIME FOR FINAL APPROVAL.**

11 Section 354(d) of the Small Business Investment Act  
12 of 1958 (15 U.S.C. 689c(d)) is amended in the matter  
13 preceding paragraph (1) by striking “a period of time, not  
14 to exceed 2 years,” and inserting “2 years”.

15 **SEC. 508. STREAMLINED APPLICATION FOR NEW MARKETS**  
16 **VENTURE CAPITAL PROGRAM.**

17 Not later than 60 days after the date of the enact-  
18 ment of this Act, the Administrator of the Small Business  
19 Administration shall prescribe standard documents for a  
20 New Markets Venture Capital company final approval ap-  
21 plication under section 354(e) of the Small Business In-  
22 vestment Act of 1958 (15 U.S.C. 689c(e)). The Adminis-  
23 trator shall ensure that the standard documents are de-  
24 signed to substantially reduce the cost burden of the appli-  
25 cation process for companies.

1 **SEC. 509. ELIMINATION OF MATCHING REQUIREMENT.**

2 Section 354(d)(2)(A)(i) of the Small Business Invest-  
3 ment Act of 1958 (15 U.S.C. 689c(d)(2)(A)(i)) is amend-  
4 ed—

5 (1) in subclause (I) by adding “and” at the  
6 end;

7 (2) in subclause (II) by striking “and” at the  
8 end; and

9 (3) by striking subclause (III).

10 **SEC. 510. SIMPLIFIED FORMULA FOR OPERATIONAL AS-**  
11 **SISTANCE GRANTS.**

12 Section 358(a)(4)(A) of the Small Business Invest-  
13 ment Act of 1958 (15 U.S.C. 689g(a)(4)(A)) is amend-  
14 ed—

15 (1) by striking “shall be equal to” and all that  
16 follows through the period at the end and inserting  
17 “shall be equal to the lesser of—”; and

18 (2) by adding at the end the following:

19 “(i) 10 percent of the resources (in  
20 cash or in-kind) raised by the company  
21 under section 354(d)(2); or

22 “(ii) \$1,000,000.”.

23 **SEC. 511. FINANCING WITH RESPECT TO VETERANS.**

24 Section 354 of the Small Business Investment Act  
25 of 1958 (15 U.S.C. 689c), as amended by this Act, is fur-  
26 ther amended by adding at the end the following:

1       “(g) FINANCING WITH RESPECT TO VETERANS.—A  
2 New Markets Venture Capital company shall, to the extent  
3 practicable, provide financing to small business concerns  
4 owned and controlled by veterans, as defined in section  
5 3(q) of the Small Business Act (15 U.S.C. 632(q)), lo-  
6 cated in low-income geographic areas.”.

7 **SEC. 512. AUTHORIZATION OF APPROPRIATIONS AND EN-**  
8 **HANCED ALLOCATION FOR SMALL MANUFAC-**  
9 **TURING.**

10       Section 368(a) of the Small Business Investment Act  
11 of 1958 (15 U.S.C. 689q(a)) is amended—

12           (1) in the matter preceding paragraph (1) by  
13 striking “fiscal years 2001 through 2006” and in-  
14 sserting “fiscal years 2010 and 2011”;

15           (2) in paragraph (1)—

16               (A) by striking “\$150,000,000” and in-  
17 sserting “\$100,000,000”; and

18               (B) by inserting before the period at the  
19 end the following: “, of which not less than 50  
20 percent shall be used to guarantee debentures  
21 of companies engaged primarily in development  
22 of and investment in small business concerns lo-  
23 cated in low-income geographic areas and en-  
24 gaged primarily in manufacturing”; and

25           (3) in paragraph (2)—

1 (A) by striking “\$30,000,000” and insert-  
2 ing “\$20,000,000”; and

3 (B) by inserting before the period at the  
4 end the following: “, of which not less than 50  
5 percent shall be used to make grants to compa-  
6 nies engaged primarily in development of and  
7 investment in small business concerns located in  
8 low-income geographic areas and engaged pri-  
9 marily in manufacturing”.

10 **Subtitle B—Expanded Investment**  
11 **in Small Business Renewable**  
12 **Energy**

13 **SEC. 521. EXPANDED INVESTMENT IN RENEWABLE EN-**  
14 **ERGY.**

15 Part C of title III of the Small Business Investment  
16 Act of 1958 (15 U.S.C. 690 et seq.) is amended—

17 (1) in the heading by striking “**RENEWABLE**  
18 **FUEL CAPITAL INVESTMENT**” and inserting “**RE-**  
19 **NEWABLE ENERGY CAPITAL INVESTMENT**”;

20 (2) in the heading of paragraph (4) of section  
21 381 by striking “**RENEWABLE FUEL CAPITAL IN-**  
22 **VESTMENT**” and inserting “**RENEWABLE ENERGY**  
23 **CAPITAL INVESTMENT**”;

24 (3) in the heading of section 384 by striking  
25 “**RENEWABLE FUEL CAPITAL INVESTMENT**” and

1 inserting “**RENEWABLE ENERGY CAPITAL IN-**  
2 **VESTMENT**”; and

3 (4) by striking “Renewable Fuel Capital Invest-  
4 ment” each place it appears and inserting “Renew-  
5 able Energy Capital Investment”.

6 **SEC. 522. RENEWABLE ENERGY CAPITAL INVESTMENT PRO-**  
7 **GRAM MADE PERMANENT.**

8 Part C of title III of the Small Business Investment  
9 Act of 1958 (15 U.S.C. 690 et seq.), as amended by this  
10 Act, is further amended—

11 (1) in the heading by striking “**PILOT**”; and

12 (2) by striking section 398.

13 **SEC. 523. EXPANDED ELIGIBILITY FOR SMALL BUSINESSES.**

14 Part C of title III of the Small Business Investment  
15 Act of 1958 (15 U.S.C. 690 et seq.), as amended by this  
16 Act, is further amended by striking “smaller enterprises”  
17 each place it appears and inserting “small business con-  
18 cerns”.

19 **SEC. 524. EXPANDED USES FOR OPERATIONAL ASSISTANCE**  
20 **IN MANUFACTURING AND SMALL BUSI-**  
21 **NESSES.**

22 Section 381(1) of the Small Business Investment Act  
23 of 1958 (15 U.S.C. 690(1)) is amended by inserting after  
24 “business development” the following: “, assistance that  
25 assists a small business concern to reduce energy con-

1 sumption, or assistance that assists a small business con-  
2 cern engaged primarily in manufacturing with retooling,  
3 updating, or replacing machinery or equipment”.

4 **SEC. 525. EXPANSION OF RENEWABLE ENERGY CAPITAL IN-**  
5 **VESTMENT PROGRAM.**

6 (a) ADMINISTRATION PARTICIPATION REQUIRED.—  
7 Section 383 of the Small Business Investment Act of 1958  
8 (15 U.S.C. 690b) is amended by striking “under which  
9 the Administrator may” and inserting “under which the  
10 Administrator shall”.

11 (b) REPORTS TO CONGRESS.—At quarterly intervals  
12 after the date of the enactment of this Act, the Adminis-  
13 trator of the Small Business Administration shall submit  
14 to Congress a report describing the Administrator’s  
15 progress towards the expansion of the Renewable Energy  
16 Capital Investment Program as a result of amendments  
17 made by this title.

18 (c) REGULATIONS.—The Administrator of the Small  
19 Business Administration shall promulgate such regula-  
20 tions as are necessary to carry out the Renewable Energy  
21 Capital Investment Program established pursuant to this  
22 title within 180 days after the enactment of this Act.

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           “(H) A State-licensed, a State-certified, or  
16 a nationally accredited home health care pro-  
17 vider.

18           “(3) The term ‘qualified eligible professional’  
19 means an eligible professional whose office can be  
20 classified as a small business concern by the Admin-  
21 istrator for purposes of this Act under size stand-  
22 ards established under section 3 of this Act.

23           “(4) The term ‘qualified medical  
24 transcriptionist’ means a specialist in medical lan-  
25 guage and the healthcare documentation process

1 who interprets and transcribes dictation by physi-  
2 cians and other healthcare professionals to ensure  
3 accurate, complete, and consistent documentation of  
4 healthcare encounters.

5 “(b) LOAN GUARANTEES FOR QUALIFIED ELIGIBLE  
6 PROFESSIONALS.—

7 “(1) IN GENERAL.—Subject to paragraph (2),  
8 the Administrator may guarantee up to 90 percent  
9 of the amount of a loan made to a qualified eligible  
10 professional to be used for the acquisition of health  
11 information technology for use in such eligible pro-  
12 fessional’s medical practice and for the costs associ-  
13 ated with the installation of such technology. Except  
14 as otherwise provided in this section, the terms and  
15 conditions that apply to loans made under section  
16 7(a) of this Act shall apply to loan guarantees made  
17 under this section.

18 “(2) LIMITATIONS ON GUARANTEE AMOUNTS.—  
19 The maximum amount of loan principal guaranteed  
20 under this subsection may not exceed—

21 “(A) \$350,000 with respect to any single  
22 qualified eligible professional; and

23 “(B) \$2,000,000 with respect to a single  
24 group of affiliated qualified eligible profes-  
25 sionals.

1       “(c) FEES.—(1) The Administrator may impose a  
2 guarantee fee on the borrower for the purpose of reducing  
3 the cost (as defined in section 502(5) of the Federal Credit  
4 Reform Act of 1990) of the guarantee to zero in an  
5 amount not to exceed 2 percent of the total guaranteed  
6 portion of any loan guaranteed under this section. The Ad-  
7 ministrator may also impose annual servicing fees on lend-  
8 ers not to exceed 0.5 percent of the outstanding balance  
9 of the guarantees on lenders’ books.

10       “(2) No service fees, processing fees, origination fees,  
11 application fees, points, brokerage fees, bonus points, or  
12 other fees may be charged to a loan applicant or recipient  
13 by a lender in the case of a loan guaranteed under this  
14 section.

15       “(d) DEFERRAL PERIOD.—Loans guaranteed under  
16 this section shall carry a deferral period of not less than  
17 1 year and not more than 3 years. The Administrator shall  
18 have the authority to subsidize interest during the deferral  
19 period.

20       “(e) EFFECTIVE DATE.—No loan may be guaranteed  
21 under this section until the meaningful EHR use require-  
22 ments have been determined by the Secretary of Health  
23 and Human Services.

24       “(f) SUNSET.—No loan may be guaranteed under  
25 this section after the date that is 7 years after meaningful

1 EHR use requirements have been determined by the Sec-  
2 retary of Health and Human Services.

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated such sums as are nec-  
5 essary for the cost (as defined in section 502(5) of the  
6 Federal Credit Reform Act of 1990) of guaranteeing  
7 \$10,000,000,000 in loans under this section. The Admin-  
8 istrator shall determine such program cost separately and  
9 distinctly from other programs operated by the Adminis-  
10 trator.”.

11 **TITLE VII—SMALL BUSINESS**  
12 **EARLY-STAGE INVESTMENT**  
13 **PROGRAM**

14 **SEC. 701. SMALL BUSINESS EARLY-STAGE INVESTMENT**  
15 **PROGRAM.**

16 Title III of the Small Business Investment Act of  
17 1958 (15 U.S.C. 681 et seq.) is amended by adding at  
18 the end the following:

19 **“PART D—SMALL BUSINESS EARLY-STAGE**  
20 **INVESTMENT PROGRAM**

21 **“SEC. 399A. ESTABLISHMENT OF PROGRAM.**

22 “The Administrator shall establish and carry out an  
23 early-stage investment program (hereinafter referred to in  
24 this part as the ‘program’) to provide equity investment

1 financing to support early-stage small businesses in tar-  
2 geted industries in accordance with this part.

3 **“SEC. 399B. ADMINISTRATION OF PROGRAM.**

4 “The program shall be administered by the Adminis-  
5 trator acting through the Associate Administrator de-  
6 scribed under section 201.

7 **“SEC. 399C. APPLICATIONS.**

8 “(a) IN GENERAL.—Any incorporated body, limited  
9 liability company, or limited partnership organized and  
10 chartered or otherwise existing under Federal or State law  
11 for the purpose of performing the functions and con-  
12 ducting the activities contemplated under the program and  
13 any small business investment company may submit to the  
14 Administrator an application to participate in the pro-  
15 gram.

16 “(b) REQUIREMENTS FOR APPLICATION.—An appli-  
17 cation to participate in the program shall include the fol-  
18 lowing:

19 “(1) A business plan describing how the appli-  
20 cant intends to make successful venture capital in-  
21 vestments in early-stage small businesses in targeted  
22 industries.

23 “(2) Information regarding the relevant venture  
24 capital investment qualifications and backgrounds of

1 the individuals responsible for the management of  
2 the applicant.

3 “(3) A description of the extent to which the  
4 applicant meets the selection criteria under section  
5 399D.

6 “(c) APPLICATIONS FROM SMALL BUSINESS INVEST-  
7 MENT COMPANIES.—The Administrator shall establish an  
8 abbreviated application process for small business invest-  
9 ment companies that have received a license under section  
10 301 and that are applying to participate in the program.  
11 Such abbreviated process shall incorporate a presumption  
12 that such small business investment companies satisfac-  
13 torily meet the selection criteria under paragraphs (3) and  
14 (5) of section 399D(b).

15 **“SEC. 399D. SELECTION OF PARTICIPATING INVESTMENT**  
16 **COMPANIES.**

17 “(a) IN GENERAL.—Not later than 90 days after the  
18 date on which the Administrator receives an application  
19 from an applicant under section 399C, the Administrator  
20 shall make a final determination to approve or disapprove  
21 such applicant to participate in the program and shall  
22 transmit such determination to the applicant in writing.

23 “(b) SELECTION CRITERIA.—In making a determina-  
24 tion under subsection (a), the Administrator shall consider  
25 each of the following:

1           “(1) The likelihood that the applicant will meet  
2 the goals specified in the business plan of the appli-  
3 cant.

4           “(2) The likelihood that the investments of the  
5 applicant will create or preserve jobs, both directly  
6 and indirectly.

7           “(3) The character and fitness of the manage-  
8 ment of the applicant.

9           “(4) The experience and background of the  
10 management of the applicant.

11           “(5) The extent to which the applicant will con-  
12 centrate investment activities on early-stage small  
13 businesses in targeted industries.

14           “(6) The likelihood that the applicant will  
15 achieve profitability.

16           “(7) The experience of the management of the  
17 applicant with respect to establishing a profitable in-  
18 vestment track record.

19 **“SEC. 399E. GRANTS.**

20           “(a) IN GENERAL.—The Administrator may make  
21 one or more grants to a participating investment company.

22           “(b) GRANT AMOUNTS.—

23           “(1) NON-FEDERAL CAPITAL.—A grant made  
24 to a participating investment company under the  
25 program may not be in an amount that exceeds the

1 amount of the capital of such company that is not  
2 from a Federal source and that is available for in-  
3 vestment on or before the date on which a grant is  
4 drawn upon. Such capital may include legally bind-  
5 ing commitments with respect to capital for invest-  
6 ment.

7 “(2) LIMITATION ON AGGREGATE AMOUNT.—  
8 The aggregate amount of all grants made to a par-  
9 ticipating investment company under the program  
10 may not exceed \$100,000,000.

11 “(c) GRANT PROCESS.—In making a grant under the  
12 program, the Administrator shall commit a grant amount  
13 to a participating investment company and the amount of  
14 each such commitment shall remain available to be drawn  
15 upon by such company—

16 “(1) for new-named investments during the 5-  
17 year period beginning on the date on which each  
18 such commitment is first drawn upon; and

19 “(2) for follow-on investments and management  
20 fees during the 10-year period beginning on the date  
21 on which each such commitment is first drawn upon,  
22 with not more than 2 additional 1-year periods avail-  
23 able at the discretion of the Administrator.

1 **“SEC. 399F. INVESTMENTS IN EARLY-STAGE SMALL BUSI-**  
2 **NESSES IN TARGETED INDUSTRIES.**

3 “(a) IN GENERAL.—As a condition of receiving a  
4 grant under the program, a participating investment com-  
5 pany shall make all of the investments of such company  
6 in small business concerns, of which at least 50 percent  
7 shall be early-stage small businesses in targeted indus-  
8 tries.

9 “(b) EVALUATION OF COMPLIANCE.—With respect to  
10 a grant amount committed to a participating investment  
11 company under section 399E, the Administrator shall  
12 evaluate the compliance of such company with the require-  
13 ments under this section if such company has drawn upon  
14 50 percent of such commitment.

15 **“SEC. 399G. PRO RATA INVESTMENT SHARES.**

16 “Each investment made by a participating invest-  
17 ment company under the program shall be treated as com-  
18 prised of capital from grants under the program according  
19 to the ratio that capital from grants under the program  
20 bears to all capital available to such company for invest-  
21 ment.

22 **“SEC. 399H. GRANT INTEREST.**

23 “(a) GRANT INTEREST.—

24 “(1) IN GENERAL.—As a condition of receiving  
25 a grant under the program, a participating invest-

1       ment company shall convey a grant interest to the  
2       Administrator in accordance with paragraph (2).

3               “(2) EFFECT OF CONVEYANCE.—The grant in-  
4       terest conveyed under paragraph (1) shall have all  
5       the rights and attributes of other investors attrib-  
6       utable to their interests in the participating invest-  
7       ment company, but shall not denote control or vot-  
8       ing rights to the Administrator. The grant interest  
9       shall entitle the Administrator to a pro rata portion  
10      of any distributions made by the participating in-  
11      vestment company equal to the percentage of capital  
12      in the participating investment company that the  
13      grant comprises. The Administrator shall receive dis-  
14      tributions from the participating investment com-  
15      pany at the same times and in the same amounts as  
16      any other investor in the company with a similar in-  
17      terest. The investment company shall make alloca-  
18      tions of income, gain, loss, deduction, and credit to  
19      the Administrator with respect to the grant interest  
20      as if the Administrator were an investor.

21              “(b) MANAGER PROFITS.—As a condition of receiv-  
22      ing a grant under the program, the manager profits inter-  
23      est payable to the managers of a participating investment  
24      company under the program shall not exceed 20 percent  
25      of profits, exclusive of any profits that may accrue as a

1 result of the capital contributions of any such managers  
2 with respect to such company. Any excess of this amount,  
3 less taxes payable thereon, shall be returned by the man-  
4 agers and paid to the investors and the Administrator in  
5 proportion to the capital contributions and grants paid in.  
6 No manager profits interest (other than a tax distribution)  
7 shall be paid prior to the repayment to the investors and  
8 the Administrator of all contributed capital and grants  
9 made.

10 “(c) DISTRIBUTION REQUIREMENTS.—As a condition  
11 of receiving a grant under the program, a participating  
12 investment company shall make all distributions to all in-  
13 vestors in cash and shall make distributions within a rea-  
14 sonable time after exiting investments, including following  
15 a public offering or market sale of underlying investments.

16 **“SEC. 399I. FUND.**

17 “There is hereby created within the Treasury a sepa-  
18 rate fund for grants which shall be available to the Admin-  
19 istrator subject to annual appropriations as a revolving  
20 fund to be used for the purposes of the program. All  
21 amounts received by the Administrator, including any  
22 moneys, property, or assets derived by the Administrator  
23 from operations in connection with the program, shall be  
24 deposited in the fund. All expenses and payments, exclud-  
25 ing administrative expenses, pursuant to the operations of

1 the Administrator under the program shall be paid from  
2 the fund.

3 **“SEC. 399J. APPLICATION OF OTHER SECTIONS.**

4 “To the extent not inconsistent with requirements  
5 under this part, the Administrator may apply sections  
6 309, 311, 312, 313, and 314 to activities under this part  
7 and an officer, director, employee, agent, or other partici-  
8 pant in a participating investment company shall be sub-  
9 ject to the requirements under such sections.

10 **“SEC. 399K. DEFINITIONS.**

11 “In this part, the following definitions apply:

12 “(1) EARLY-STAGE SMALL BUSINESS IN A TAR-  
13 GETED INDUSTRY.—The term ‘early-stage small  
14 business in a targeted industry’ means a small busi-  
15 ness concern that—

16 “(A) is domiciled in a State;

17 “(B) has not generated gross annual sales  
18 revenues exceeding \$15,000,000 in any of the  
19 previous 3 years; and

20 “(C) is engaged primarily in researching,  
21 developing, manufacturing, producing, or bring-  
22 ing to market goods, products, or services with  
23 respect to any of the following business sectors:

24 “(i) Agricultural technology.

25 “(ii) Energy technology.

1 “(iii) Environmental technology.

2 “(iv) Life science.

3 “(v) Information technology.

4 “(vi) Digital media.

5 “(vii) Clean technology.

6 “(viii) Defense technology.

7 “(ix) Photonics technology.

8 “(2) PARTICIPATING INVESTMENT COMPANY.—

9 The term ‘participating investment company’ means  
10 an applicant approved under section 399D to par-  
11 ticipate in the program.

12 “(3) SMALL BUSINESS CONCERN.—The term  
13 ‘small business concern’ has the same meaning given  
14 such term under section 3(a) of the Small Business  
15 Act (15 U.S.C. 632(a)).

16 **“SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.**

17 “There is authorized to be appropriated to carry out  
18 the program \$200,000,000 for the first full fiscal year be-  
19 ginning after the date of the enactment of this part.”.

20 **SEC. 702. PROHIBITIONS ON EARMARKS.**

21 None of the funds appropriated for the program es-  
22 tablished under part D of title III of the Small Business  
23 Investment Act of 1958, as added by this title, may be  
24 used for a Congressional earmark as defined in clause 9(d)  
25 of rule XXI of the Rules of the House of Representatives.

1           **TITLE VIII—SBA DISASTER**  
2                           **PROGRAM REFORM**

3   **SEC. 801. REVISED COLLATERAL REQUIREMENTS.**

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

6                   (1) by striking “(e) [RESERVED].” and “(f)  
7 [RESERVED].”; and

8                   (2) in subsection (f), as added by section  
9 12068(a)(2) of the Small Business Disaster Re-  
10 sponse and Loan Improvements Act of 2008 (sub-  
11 title B of title XII of the Food, Conservation, and  
12 Energy Act of 2008; Public Law 110–246), by add-  
13 ing at the end the following:

14                   “(2) REVISED COLLATERAL REQUIREMENTS.—  
15 In making a loan with respect to a business under  
16 subsection (b), if the total approved amount of such  
17 loan is less than or equal to \$250,000, the Adminis-  
18 trator may not require the borrower to use the bor-  
19 rower’s home as collateral.”.

20   **SEC. 802. INCREASED LIMITS.**

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

23                   (1) in paragraph (3)(E) by striking  
24 “\$1,500,000” each place it appears and inserting  
25 “\$3,000,000”; and

1           (2) in paragraph (8)(A) by striking  
2           “\$2,000,000” and inserting “\$3,000,000”.

3 **SEC. 803. REVISED REPAYMENT TERMS.**

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

6           “(3) REVISED REPAYMENT TERMS.—In making  
7           loans under subsection (b), the Administrator—

8                   “(A) may not require repayment to begin  
9                   until the date that is 12 months after the date  
10                  on which the final disbursement of approved  
11                  amounts is made; and

12                  “(B) shall calculate the amount of repay-  
13                  ment based solely on the amounts disbursed.”.

14 **SEC. 804. REVISED DISBURSEMENT PROCESS.**

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

18           “(4) REVISED DISBURSEMENT PROCESS.—In  
19           making a loan under subsection (b), the Adminis-  
20           trator shall disburse loan amounts in accordance  
21           with the following:

22                   “(A) If the total amount approved with re-  
23                   spect to such loan is less than or equal to  
24                   \$150,000—

1           “(i) the first disbursement with re-  
2           spect to such loan shall consist of 40 per-  
3           cent of the total loan amount, or a lesser  
4           percentage of the total loan amount if the  
5           Administrator and the borrower agree on  
6           such a lesser percentage;

7           “(ii) the second disbursement shall  
8           consist of 50 percent of the loan amounts  
9           that remain after the first disbursement,  
10          and shall be made when the borrower has  
11          produced satisfactory receipts to dem-  
12          onstrate the proper use of 50 percent of  
13          the first disbursement; and

14          “(iii) the third disbursement shall  
15          consist of the loan amounts that remain  
16          after the preceding disbursements, and  
17          shall be made when the borrower has pro-  
18          duced satisfactory receipts to demonstrate  
19          the proper use of the first disbursement  
20          and 50 percent of the second disburse-  
21          ment.

22          “(B) If the total amount approved with re-  
23          spect to such loan is more than \$150,000 but  
24          less than or equal to \$500,000—

1           “(i) the first disbursement with re-  
2           spect to such loan shall consist of 20 per-  
3           cent of the total loan amount, or a lesser  
4           percentage of the total loan amount if the  
5           Administrator and the borrower agree on  
6           such a lesser percentage;

7           “(ii) the second disbursement shall  
8           consist of 30 percent of the loan amounts  
9           that remain after the first disbursement,  
10          and shall be made when the borrower has  
11          produced satisfactory receipts to dem-  
12          onstrate the proper use of 50 percent of  
13          the first disbursement;

14          “(iii) the third disbursement shall  
15          consist of 25 percent of the loan amounts  
16          that remain after the first and second dis-  
17          bursements, and shall be made when the  
18          borrower has produced satisfactory receipts  
19          to demonstrate the proper use of the first  
20          disbursement and 50 percent of the second  
21          disbursement; and

22          “(iv) the fourth disbursement shall  
23          consist of the loan amounts that remain  
24          after the preceding disbursements, and  
25          shall be made when the borrower has pro-

1           duced satisfactory receipts to demonstrate  
2           the proper use of the first and second dis-  
3           bursements and 50 percent of the third  
4           disbursement.

5           “(C) If the total amount approved with re-  
6           spect to such loan is more than \$500,000—

7                   “(i) the first disbursement with re-  
8                   spect to such loan shall consist of at least  
9                   \$100,000, or a lesser amount if the Ad-  
10                  ministrator and the borrower agree on  
11                  such a lesser amount; and

12                   “(ii) the number of disbursements  
13                   after the first, and the amount of each  
14                   such disbursement, shall be in the discre-  
15                   tion of the Administrator, but the amount  
16                   of each such disbursement shall be at least  
17                   \$100,000.”.

18 **SEC. 805. GRANT PROGRAM.**

19           Section 7(b) of the Small Business Act (15 U.S.C.  
20           636(b)), as amended by this Act, is further amended by  
21           inserting after paragraph (9) the following:

22                   “(10) GRANTS TO DISASTER-AFFECTED SMALL  
23                   BUSINESSES.—

24                   “(A) IN GENERAL.—If the Administrator  
25                   declares eligibility for additional disaster assist-

1           ance under paragraph (9), the Administrator  
2           may make a grant, in an amount not exceeding  
3           \$100,000, to a small business concern that—

4                   “(i) is located in an area affected by  
5                   the applicable major disaster;

6                   “(ii) submits to the Administrator a  
7                   certification by the owner of the concern  
8                   that such owner intends to reestablish the  
9                   concern in the same county in which the  
10                  concern was originally located;

11                  “(iii) has applied for, and was rejected  
12                  for, a conventional disaster assistance loan  
13                  under this subsection; and

14                  “(iv) was in existence for at least 2  
15                  years before the date on which the applica-  
16                  ble disaster declaration was made.

17                  “(B) PRIORITY.—In making grants under  
18                  this paragraph, the Administrator shall give  
19                  priority to a small business concern that the  
20                  Administrator determines is economically viable  
21                  but unable to meet short-term financial obliga-  
22                  tions.

23                  “(C) PROGRAM LEVEL AND AUTHORIZA-  
24                  TION OF APPROPRIATIONS.—

1                   “(i) PROGRAM LEVEL.—The Adminis-  
2                   trator is authorized to make \$100,000,000  
3                   in grants under this paragraph for each of  
4                   fiscal years 2010 and 2011.

5                   “(ii) AUTHORIZATION OF APPROPRIA-  
6                   TIONS.—There are authorized to be appro-  
7                   priated to the Administrator such sums as  
8                   may be necessary to carry out this para-  
9                   graph.”.

10 **SEC. 806. REGIONAL DISASTER WORKING GROUPS.**

11           Section 40 of the Small Business Act (15 U.S.C.  
12 657l) is amended—

13                   (1) in subsection (a), in the matter preceding  
14                   paragraph (1), by striking “or” and inserting “and”;

15                   (2) by redesignating subsection (d) as sub-  
16                   section (e); and

17                   (3) by inserting after subsection (e) the fol-  
18                   lowing:

19                   “(d) REGIONAL DISASTER WORKING GROUPS.—In  
20                   carrying out the responsibilities pertaining to loan making  
21                   activities under subsection (a), the Administrator, acting  
22                   through the regional administrators of the regional offices  
23                   of the Administration, shall develop a disaster prepared-  
24                   ness and response plan for each region of the Administra-  
25                   tion. Each such plan shall be developed in cooperation

1 with Federal, State, and local emergency response authori-  
2 ties and representatives of businesses located in the region  
3 to which such plan applies. Each such plan shall identify  
4 and include a plan relating to the 3 disasters, natural or  
5 manmade, most likely to occur in the region to which such  
6 plan applies.”.

7 **SEC. 807. OUTREACH GRANTS FOR LOAN APPLICANT AS-**  
8 **SISTANCE.**

9 Section 7(b) of the Small Business Act (15 U.S.C.  
10 636(b)), as amended by this Act, is further amended by  
11 inserting after paragraph (10) the following:

12 “(11) OUTREACH GRANTS FOR LOAN APPLI-  
13 CANT ASSISTANCE.—

14 “(A) IN GENERAL.—From amounts made  
15 available for administrative expenses relating to  
16 activities under this subsection, the Adminis-  
17 trator is authorized to make grants to the fol-  
18 lowing:

19 “(i) A women’s business center in an  
20 area affected by a disaster.

21 “(ii) A small business development  
22 center in an area affected by a disaster.

23 “(iii) A Veteran Business Outreach  
24 Center in an area affected by a disaster.

1                   “(iv) A chamber of commerce in an  
2                   area affected by a disaster.

3                   “(B) USE OF GRANT.—An entity specified  
4                   under subparagraph (A) shall use a grant re-  
5                   ceived under this paragraph to provide applica-  
6                   tion preparation assistance to applicants for a  
7                   loan under this subsection.

8                   “(C) PROGRAM LEVEL.—The Adminis-  
9                   trator is authorized to make \$50,000,000 in  
10                  grants under this paragraph for each of fiscal  
11                  years 2010 and 2011.”.

12 **SEC. 808. HOMEOWNERS IMPACTED BY TOXIC DRYWALL.**

13                  Section 7(b) of the Small Business Act (15 U.S.C.  
14                  636(b)), as amended by this Act, is further amended by  
15                  inserting after paragraph (11) the following:

16                  “(12) HOMEOWNERS IMPACTED BY TOXIC  
17                  DRYWALL.—The Administrator may make a loan  
18                  under this subsection to any homeowner if the pri-  
19                  mary residence of such homeowner has been ad-  
20                  versely impacted by the installation of toxic drywall  
21                  manufactured in China. A loan under this paragraph  
22                  may be used only for the repair or replacement of  
23                  such toxic drywall.”.

1 **SEC. 809. 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.

20 **TITLE X—TEMPORARY EM-**  
21 **PLOYEE SERVICES FRAN-**  
22 **CHISES**

23 **SEC. 1001. TEMPORARY EMPLOYEE SERVICES FRANCHISES.**

24 In determining whether a franchisee is affiliated with  
25 a franchiser in the temporary employee services industry  
26 for the purposes of Small Business Administration lending

1 programs, the Administrator of the Small Business Ad-  
2 ministration shall—

3 (1) continue to apply its historically-considered  
4 affiliation factors in determining whether a business  
5 is affiliated with another business or the franchiser  
6 in the temporary staffing industry;

7 (2) promulgate such other rules and regulations  
8 as necessary to determine affiliation within the tem-  
9 porary employee services industry as the Adminis-  
10 trator determines consistent with the Small Business  
11 Act; and

12 (3) consider the processing of payroll and bill-  
13 ing by a franchiser as customary and common prac-  
14 tice in the temporary employee services industry that  
15 does not provide probative weight on affiliation, to  
16 the extent that the temporary staffing personnel are  
17 interviewed, hired, trained, assigned, and subject to  
18 discharge by the franchisee.

## 19 **TITLE XI—STUDY ON PRIVATE** 20 **SECTOR LENDING**

### 21 **SEC. 1101. STUDY ON PRIVATE SECTOR LENDING.**

22 (a) IN GENERAL.—Not later than 90 days after the  
23 date of the enactment of this Act, the Administrator of  
24 the Small Business Administration shall submit to the  
25 Committee on Small Business of the House of Representa-

1 tives and the Committee on Small Business and Entrepre-  
2 neurship of the Senate a report that describes lending to  
3 small business concerns by the private sector, including  
4 the following:

5 (1) The total amount of lending to small busi-  
6 ness concerns by private sector financial institutions  
7 during each of fiscal years 2006 through 2009.

8 (2) The total amount of lending to small busi-  
9 ness concerns by the 10 largest private sector finan-  
10 cial institutions (as determined by the Administrator  
11 in terms of amounts lent during fiscal year 2006)  
12 during each of fiscal years 2006 through 2009.

13 (b) COORDINATION.—The Administrator of the Small  
14 Business Administration shall, if necessary, coordinate  
15 with the heads of other Federal departments and agencies  
16 to complete the report under subsection (a).

17 (c) SMALL BUSINESS CONCERNS DEFINED.—In this  
18 section, the term “small business concern” has the mean-  
19 ing given such term under section 3(a) of the Small Busi-  
20 ness Act (15 U.S.C. 632(a)).

21 **TITLE XII—STUDY ON**  
22 **INCREASES IN CERTAIN CAPS**

23 **SEC. 1201. STUDY ON INCREASES IN CERTAIN CAPS.**

24 Not later than 90 days after the date of enactment  
25 of this Act, the Administrator of the Small Business Ad-

1 ministration shall submit to Congress a report that de-  
2 scribes the anticipated effects of the following potential  
3 changes to programs, including whether such changes ade-  
4 quately meet the financing needs of small businesses:

5 (1) Increasing—

6 (A) the maximum amount of a loan that  
7 may be guaranteed under section 7(a) of the  
8 Small Business Act (15 U.S.C. 636(a)) to  
9 \$3,000,000; and

10 (B) participation by the Administrator  
11 with regard to such a loan.

12 (2) Increasing—

13 (A) the maximum amount of a debenture  
14 that may be guaranteed under title V of the  
15 Small Business Investment Act of 1958 (15  
16 U.S.C. 695 et seq.); and

17 (B) the maximum amount of a loan that  
18 may be made with the proceeds of such debenture.  
19

20 (3) Increasing the maximum amount of a  
21 microloan that may be made under section 7(m) of  
22 the Small Business Act (15 U.S.C. 636(m)).

1     **TITLE XIII—RURAL OUTREACH**

2     **SEC. 1301. RURAL OUTREACH.**

3             The Small Business Act (15 U.S.C. 631 et seq.), as  
4 amended by this Act, is further amended—

5                 (1) by redesignating section 46 as section 47;

6             and

7                 (2) by inserting after section 45 the following:

8     **“SEC. 46. RURAL OUTREACH.**

9             “The Administrator shall ensure that each district of-  
10 fice of the Administration that includes a rural area—

11                 “(1) establishes a plan to provide small busi-  
12 ness concerns in rural areas with information on the  
13 financing and investment programs of the Adminis-  
14 tration of use to such concerns;

15                 “(2) designates an employee of the office as a  
16 rural business financing outreach specialist, who is  
17 responsible for providing advice concerning the lend-  
18 ing and investment programs of the Administration  
19 to small business concerns; and

20                 “(3) hosts at least one outreach seminar in a  
21 rural area each year to provide information de-  
22 scribed under paragraph (1) to small business con-  
23 cerns in rural areas.”.

1 **TITLE XIV—STUDY RELATING TO**  
2 **MEDICAL TECHNOLOGY**

3 **SEC. 1401. STUDY RELATING TO MEDICAL TECHNOLOGY.**

4 Not later than one year after the date of the enact-  
5 ment of this Act, the Administrator of the Small Business  
6 Administration shall submit to Congress a report describ-  
7 ing recommendations for and the feasibility of a pro-  
8 gram—

9 (1) to increase investment in the research, de-  
10 velopment, and commercialization of medical tech-  
11 nology by small business concerns; and

12 (2) that is administered in a manner similar to  
13 the program under part C of title III of the Small  
14 Business Investment Act of 1958 (15 U.S.C. 690 et  
15 seq.).

16 **TITLE XV—STUDY ON ADDI-**  
17 **TIONAL CREDIT RISK FAC-**  
18 **TORS**

19 **SEC. 1501. STUDY ON ADDITIONAL CREDIT RISK FACTORS.**

20 (a) IN GENERAL.—With respect to loans made under  
21 programs established or amended under this Act, the Ad-  
22 ministrator of the Small Business Administration shall  
23 conduct a study on whether the failure of such loans to  
24 achieve one or more of the public policy goals specified  
25 in subsection (b) negatively impacts the ability of busi-

1 nesses receiving such loans to make timely repayment of  
2 such loans.

3 (b) PUBLIC POLICY GOALS.—The public policy goals  
4 referred to in subsection (a) are the provision of adequate  
5 access to capital to assist small business concerns with one  
6 or more of the following:

7 (1) Offsetting the costs to such concerns result-  
8 ing from the imposition of a surtax on the income  
9 of small business owners.

10 (2) Offsetting the costs to such concerns result-  
11 ing from the enactment of a requirement that such  
12 concerns offer health care of a minimum acceptable  
13 coverage level.

14 (3) Offsetting the costs to such concerns result-  
15 ing from an increase in the marginal tax rates of  
16 small business owners.

17 (4) Offsetting the reduction in capital available  
18 for such concerns resulting from an increase in the  
19 tax on capital gains.

20 (5) Offsetting the reduction in capital available  
21 for such concerns resulting from an increase in the  
22 taxes on carried interest.

23 (6) Offsetting the increased energy costs for  
24 such concerns resulting from the enactment of a cap  
25 on carbon dioxide emissions.

1           (7) Offsetting the increased costs to such con-  
2           cerns resulting from a change in Federal law that  
3           allows unions to be organized through a card check  
4           process.

5           (8) Offsetting the reduction in capital available  
6           for such concerns resulting from new regulations on  
7           financial products.

8           (9) Offsetting the increased costs to such con-  
9           cerns resulting from the imposition of net neutrality  
10          rules on the Internet.

11          (c) USE OF STUDY.—Not later than 180 days after  
12          the date of the enactment of this Act, the Administrator  
13          of the Small Business Administration shall submit to Con-  
14          gress a report on the results of the study conducted under  
15          subsection (a) and shall use such results to evaluate and  
16          adjust, as appropriate, the potential credit risk to the Gov-  
17          ernment through the provision of loans under programs  
18          established or amended under this Act.

          Passed the House of Representatives October 29,  
2009.

Attest:

*Clerk.*

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

**H. R. 3854**

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**AN ACT**

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.