

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2130

To amend the Small Business Investment Act of 1958 to modify requirements for payment and prepayment of debentures issued by State and local development companies.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1993

Mr. MACHTLEY (for himself, Mr. WYDEN, Mrs. MEYERS of Kansas, Mr. MAZZOLI, Mr. BILBRAY, Mr. MFUME, Mr. SARPALIUS, Mr. EMERSON, Mr. OXLEY, Mr. DURBIN, Mr. HUGHES, Mr. STRICKLAND, Mr. THOMAS of Wyoming, and Mr. LANCASTER) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Investment Act of 1958 to modify requirements for payment and prepayment of debentures issued by State and local development companies.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as “The Small Business 503  
5 Loan Refinancing Assistance Act of 1993”.

1 **SEC. 2. PAYMENT AND PREPAYMENT OF DEVELOPMENT**  
2 **COMPANY DEBENTURES.**

3 (a) IN GENERAL.—Title V of the Small Business In-  
4 vestment Act of 1958 (15 U.S.C. 695 et seq.) is amended  
5 by adding at the end the following new section:

6 **“SEC. 507. PAYMENT AND PREPAYMENT OF DEVELOPMENT**  
7 **COMPANY DEBENTURES.**

8 “(a) IN GENERAL.—The issuer of a debenture pur-  
9 chased by the Federal Financing Bank and guaranteed  
10 by the Administration under section 503 may, at the elec-  
11 tion of the borrower whose loan secures the debenture—

12 “(1) continue to make payments on the debenture  
13 in accordance with the original terms of the  
14 debenture;

15 “(2) if the requirements of subsection (b) are  
16 met, make payments on the debenture at an ad-  
17 justed rate of interest; or

18 “(3) if the requirements of subsection (c) are  
19 met, prepay the debenture.

20 “(b) ADJUSTMENT OF INTEREST RATES.—

21 “(1) IN GENERAL.—The issuer of a debenture  
22 described in subsection (a) may, at the election of  
23 the borrower whose loan secures the debenture, sub-  
24 mit to the Federal Financing Bank a request for an  
25 adjustment in the rate of interest charged on the  
26 debenture.

1           “(2) APPROVAL.—The Federal Financing Bank  
2           shall approve a request submitted by the issuer of a  
3           debenture under paragraph (1) if—

4                   “(A) the request is submitted on or before  
5                   the date which is 5 years after the date of the  
6                   enactment of this section;

7                   “(B) no other request under this sub-  
8                   section has been approved with respect to the  
9                   debenture;

10                  “(C) the debenture is outstanding and nei-  
11                  ther the debenture nor the borrower’s loan that  
12                  secures the debenture is in default on the date  
13                  of the request; and

14                  “(D) the issuer agrees to make an equiva-  
15                  lent adjustment in the rate of interest charged  
16                  on the loan which secures the debenture.

17           “(3) DETERMINATION OF INTEREST RATE.—  
18           Upon approving a request submitted by the issuer of  
19           a debenture under paragraph (1), the Federal Fi-  
20           nancing Bank shall adjust the rate of interest  
21           charged on the debenture. The adjusted rate shall be  
22           the rate determined by the Secretary of the Treas-  
23           ury (as of the close of the calendar month preceding  
24           the month in which the adjustment is made) to be  
25           equal to the current average market yield on out-

1 standing marketable obligations of the United States  
2 with remaining periods of maturity comparable to  
3 the remaining term of the debenture plus 4½ per-  
4 centage points, except that such rate shall be at  
5 least 8 percent and shall not exceed 12 percent.

6 “(4) OTHER TERMS AND CONDITIONS.—An ad-  
7 justment under this subsection in the rate of interest  
8 charged on a debenture shall not affect other terms  
9 and conditions applicable to the debenture.

10 “(c) PREPAYMENT.—

11 “(1) IN GENERAL.—If the requirements of  
12 paragraph (3) are met, the issuer of a debenture de-  
13 scribed in subsection (a) may, at the election of the  
14 borrower whose loan secures such debenture, prepay  
15 the debenture by paying to the Federal Financing  
16 Bank, the amount that is equal to the sum of the  
17 unpaid principal balance (adjusted for funds in the  
18 borrower’s escrow reserve account) due on the de-  
19 benture on the date of prepayment (plus accrued in-  
20 terest at the coupon rate on the debenture) and the  
21 amount of the repurchase premium described in  
22 paragraph (2)(A).

23 “(2) REPURCHASE PREMIUM.—

1           “(A) AMOUNT.—The amount of the repur-  
 2           chase premium described in this paragraph is  
 3           the product of—

4                   “(i) the unpaid principal balance (ad-  
 5                   justed for funds in the borrower’s escrow  
 6                   reserve account) due on the debenture on  
 7                   the date of prepayment;

8                   “(ii) the interest rate of the deben-  
 9                   ture; and

10                  “(iii) the factor ‘P’, as determined  
 11                  under subparagraph (B).

12                  “(B) APPLICABLE PERCENT.—For pur-  
 13                  poses of subparagraph (A)(iii), the factor ‘P’  
 14                  means the applicable percent determined in ac-  
 15                  cordance with the following table:

Year in which prepayment of debenture is made (from date of original issuance):	Applicable percent		
	10-year term loan	15-year term loan	20 or 25- year term loan
1 .....	1.00	1.00	1.00
2 .....	.80	.85	.90
3 .....	.60	.70	.80
4 .....	.40	.55	.70
5 .....	.20	.40	.60
6 .....	0	.25	.50
7 .....	0	.10	.40
8 .....	0	0	.30
9 .....	0	0	.20
10 .....	0	0	.10
11 through 25 .....		0	0

16                  “(3) REQUIREMENTS.—The requirements of  
 17                  this paragraph are met if—

1           “(A) the debenture referred to in sub-  
2           section (a) is outstanding and neither the de-  
3           benture nor the borrower’s loan that secures  
4           the debenture is in default on the date of pre-  
5           payment;

6           “(B) only non-Federal funds are used to  
7           prepay the debenture;

8           “(C) the debenture is prepaid on or before  
9           the date which is 5 years after the date of the  
10          enactment of this section; and

11          “(D) the issuer extinguishes the borrower’s  
12          loan which secured such debenture.

13          “(d) PROHIBITION OF OTHER FEES AND PEN-  
14          ALTIES.—Notwithstanding any other law, no fees or pen-  
15          alties other than those specified in this section may be im-  
16          posed against the issuer, the borrower, or the Administra-  
17          tion as a condition for adjusting a rate of interest under  
18          subsection (b) or as a condition of prepayment under sub-  
19          section (c).

20          “(e) REGULATIONS.—The Administrator shall issue  
21          regulations to carry out this section not later than 30 days  
22          after the date of the enactment of this section.

23          “(f) DEFINITIONS.—For purposes of this section, the  
24          following definitions apply:

1           “(1) BORROWER.—The term ‘borrower’ means  
2           a small business concern.

3           “(2) ISSUER.—The term ‘issuer’ means a quali-  
4           fied State or local development company.

5           “(3) QUALIFIED STATE OR LOCAL DEVELOP-  
6           MENT COMPANY.—The term ‘qualified State or local  
7           development company’ has the meaning given such  
8           term in section 503(e).”.

9           (b) CLERICAL AMENDMENT.—The table of contents  
10          of title V of the Small Business Investment Act of 1958  
11          is amended by adding at the end the following new item:

          “Sec. 507. Payment and prepayment of development company debentures.”.

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