

104TH CONGRESS  
2D SESSION

# H. R. 3719

To amend the Small Business Act and Small Business Investment Act of 1958.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 1996

Mrs. MEYERS of Kansas introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Act and Small Business Investment Act of 1958.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Small Business Programs Improvement Act of 1996”.

6 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

Sec. 2. Administrator defined.

Sec. 3. Effective date.

**TITLE I—AMENDMENTS TO SMALL BUSINESS ACT**

Sec. 101. References.

Sec. 102. Risk management database.

Sec. 103. Section 7(a) loan program.

Sec. 104. Disaster loan program.

- Sec. 105. Microloan demonstration program.
- Sec. 106. Small business development center program.
- Sec. 107. Women's demonstration grant program.
- Sec. 108. Nonjudicial foreclosure.
- Sec. 109. Miscellaneous authorities to provide loans and other financial assistance.
- Sec. 110. Small business competitiveness demonstration program.
- Sec. 111. Amendment to Small Business Guaranteed Credit Enhancement Act of 1993.

## TITLE II—AMENDMENTS TO SMALL BUSINESS INVESTMENT ACT

- Sec. 201. References.
- Sec. 202. Modifications to development company debenture program.
- Sec. 203. Required actions upon default.
- Sec. 204. Loan liquidation pilot program.
- Sec. 205. Registration of certificates.

### 1 **SEC. 2. ADMINISTRATOR DEFINED.**

2       In this Act, the term “Administrator” means the Ad-  
3 administrator of the Small Business Administration.

### 4 **SEC. 3. EFFECTIVE DATE.**

5       Except as otherwise expressly provided, this Act and  
6 the amendments made by this Act shall take effect on Oc-  
7 tober 1, 1996.

## 8       **TITLE I—AMENDMENTS TO** 9       **SMALL BUSINESS ACT**

### 10 **SEC. 101. REFERENCES.**

11       Except as otherwise expressly provided, whenever in  
12 this title an amendment or repeal is expressed in terms  
13 of an amendment to, or repeal of, a section or other provi-  
14 sion, the reference shall be considered to be made to a  
15 section or other provision of the Small Business Act (15  
16 U.S.C. 631 et seq.).

1 **SEC. 102. RISK MANAGEMENT DATA BASE.**

2 Section 4(b) (15 U.S.C. 633) is amended by inserting  
3 after paragraph (2) the following:

4 “(3) RISK MANAGEMENT DATABASE.—

5 “(A) ESTABLISHMENT.—The Administra-  
6 tion shall establish, within the management sys-  
7 tem for the loan programs authorized by sub-  
8 sections (a) and (b) of section 7 of this Act and  
9 title V of the Small Business Investment Act of  
10 1958, a management information system that  
11 will generate a database capable of providing  
12 timely and accurate information in order to  
13 identify loan underwriting, collections, recovery,  
14 and liquidation problems.

15 “(B) INFORMATION TO BE MAINTAINED.—  
16 In addition to such other information as the  
17 Administration considers appropriate, the  
18 database established under subparagraph (A)  
19 shall, with respect to each loan program de-  
20 scribed in subparagraph (A), include informa-  
21 tion relating to—

22 “(i) the identity of the institution  
23 making the guaranteed loan or issuing the  
24 debenture;

25 “(ii) the identity of the borrower;

1           “(iii) the total dollar amount of the  
2           loan or debenture;

3           “(iv) the total dollar amount of gov-  
4           ernment exposure in each loan;

5           “(v) the district of the Administration  
6           in which the borrower has its principal of-  
7           fice;

8           “(vi) the borrower’s principal line of  
9           business, as identified by Standard Indus-  
10          trial Classification Code (or any successor  
11          to that system);

12          “(vii) the delinquency rate for each  
13          program (including number of instances  
14          and days overdue);

15          “(viii) the number of defaults in each  
16          program (including losses and recoveries);

17          “(ix) the number of deferrals or  
18          forbearances in each program (including  
19          days and number of instances); and

20          “(x) comparisons on the basis of loan  
21          program, lender, Administration district  
22          and region, for all the data elements main-  
23          tained.

24          “(C) DEADLINE FOR OPERATIONAL CAPA-  
25          BILITY.—The database established under sub-

1 paragraph (A) shall be operational not later  
2 than March 31, 1997, and shall capture data  
3 beginning on the first day of the first quarter  
4 of fiscal year 1997 beginning after such date  
5 and thereafter.”.

6 **SEC. 103. SECTION 7(a) LOAN PROGRAM.**

7 (a) **SERVICING AND LIQUIDATION OF LOANS BY PRE-**  
8 **FERRED LENDERS.**—Section 7(a)(2)(C)(ii)(II) (15 U.S.C.  
9 636(a)(2)(C)(ii)(II)) is amended to read as follows:

10 “(II) complete authority to serv-  
11 ice and liquidate such loans without  
12 obtaining the prior specific approval  
13 of the Administration for routine serv-  
14 icing and liquidation activities.”.

15 (b) **CERTIFIED LENDERS PROGRAM.**—Section  
16 7(a)(19) (15 U.S.C. 636(a)(19)) is amended to read as  
17 follows:

18 “(19) **CERTIFIED LENDERS PROGRAM.**—

19 “(A) **ESTABLISHMENT.**—In addition to the  
20 Preferred Lenders Program authorized by the  
21 proviso in section 5(b)(7), the Administration is  
22 authorized to establish a Certified Lenders Pro-  
23 gram for lenders who establish their knowledge  
24 of Administration laws and regulations concern-

1 ing the guaranteed loan program and their pro-  
2 ficiency in program requirements.

3 “(B) DESIGNATION OF CERTIFIED LEND-  
4 ERS.—

5 “(i) REQUIREMENT.—The Adminis-  
6 tration may designate a lender as a cer-  
7 tified lender only if the lender has made in  
8 each of the preceding 2 fiscal years—

9 “(I) 8 or more loans guaranteed  
10 under this subsection to small busi-  
11 ness concerns located in areas other  
12 than a rural area; or

13 “(II) 4 or more loans guaranteed  
14 under this subsection to small busi-  
15 ness concerns located in a rural area.

16 “(ii) SUSPENSION AND REVOCA-  
17 TION.—The designation of a lender as a  
18 certified lender shall be suspended or re-  
19 voked at any time that the Administration  
20 determines that the lender is not adhering  
21 to its rules and regulations or that the loss  
22 experience of the lender is excessive as  
23 compared to other lenders, but such sus-  
24 pension or revocation shall not affect any  
25 outstanding guarantee.

1                   “(iii) RURAL AREA DEFINED.—In this  
2                   subparagraph, the term ‘rural area’ has  
3                   the meaning given such term by subsection  
4                   (m)(11)(C).

5                   “(C) UNIFORM AND SIMPLIFIED LOAN  
6                   FORMS.—In order to encourage all lending in-  
7                   stitutions and other entities making loans au-  
8                   thorized under this subsection to provide loans  
9                   of \$50,000 or less in guarantees to eligible  
10                  small business loan applicants, the Administra-  
11                  tion shall develop and allow participating lend-  
12                  ers to solely utilize a uniform and simplified  
13                  loan form for such loans.

14                  “(D) LOW DOCUMENTATION LOAN PRO-  
15                  GRAM.—The Administration may carry out the  
16                  low documentation loan program for loans of  
17                  \$100,000 or less only through preferred lenders  
18                  and certified lenders.”.

19                  (c) LIMITATION ON CONDUCTING PILOT  
20                  PROJECTS.—Section 7(a) (15 U.S.C. 636(a)) is amended  
21                  by adding at the end the following new paragraph:

22                  “(25) LIMITATION ON CONDUCTING PILOT  
23                  PROJECTS.—

24                  “(A) IN GENERAL.—Not more than 10  
25                  percent of the total number of loans guaranteed

1 in any fiscal year under this subsection may be  
2 awarded as part of a pilot program established  
3 by the Administration.

4 “(B) PILOT PROGRAM DEFINED.—In this  
5 paragraph, the term ‘pilot program’ means any  
6 lending program initiative, project, innovation,  
7 or other activity not specifically authorized by  
8 law.”.

9 (d) SECURITIZATION OF UNGUARANTEED PORTIONS  
10 OF SBA LOANS.—Section 5(f)(3) (15 U.S.C. 634(f)(3))  
11 is amended by adding at the end the following: “The Ad-  
12 ministration may not prohibit a lender from securitizing  
13 the non-guaranteed portion of any loan made under sec-  
14 tion 7(a) pursuant to the regulations contained in section  
15 120.420 of title 13, Code of Federal Regulations, solely  
16 due to the status of the lender as a depository institu-  
17 tion.”.

18 (e) CONDITIONS ON PURCHASE OF LOANS.—

19 (1) SERVICING FEE.—Section 5(g)(5) (15  
20 U.S.C. 634(g)(5)) is amended by adding at the end  
21 the following:

22 “(C) In the event the Administration pays a claim  
23 under a guarantee issued under this Act, the servicing fees  
24 paid to the lender from the earliest date of default to the



1 date of payment of the claim shall be no more than the  
2 agreed upon rate, minus one percent.

3 (2) PAYMENT OF ACCRUED INTEREST.—Section  
4 7(a)(17) is amended—

5 (A) by striking “(17) The Administration”  
6 and inserting “(17)(A) The Administration”;  
7 and

8 (B) by adding at the end the following:

9 “(B) Any bank or other lending institution  
10 making a claim for payment on the guaranteed por-  
11 tion of a loan made under this subsection shall be  
12 paid the accrued interest due on the loan from the  
13 earliest date of default to the date of payment of the  
14 claim at a rate not to exceed the rate of interest on  
15 the loan on the date of default, minus one percent.

16 (f) TRANSFER OF LOAN SERVICING FUNCTIONS TO  
17 CENTRALIZED CENTERS.—Not later than 60 days after  
18 the date of the enactment of this Act, the Administrator  
19 shall complete the transfer of loan servicing functions of  
20 the Administration, including arrangement for the trans-  
21 fer of appropriate personnel, from district offices to cen-  
22 tralized loan servicing centers.

23 (g) PREFERRED LENDER STANDARD REVIEW PRO-  
24 GRAM.—Not later than 30 days after the date of the en-  
25 actment of this Act, the Administrator shall implement the

1 standard review program for the Preferred Lender Pro-  
2 gram established pursuant to section 5(b)(7) of the Small  
3 Business Act (15 U.S.C. 634(b)(7)). The Administrator  
4 shall require such standard review for each new entrant  
5 to the Preferred Lender Program.

6 (h) INDEPENDENT STUDY OF LOAN PROGRAMS.—

7 (1) STUDY REQUIRED.—The Administrator  
8 shall conduct a comprehensive assessment of the  
9 performance of the loan programs authorized by sec-  
10 tion 7(a) of the Small Business Act (15 U.S.C.  
11 636(a)) and title V of the Small Business Invest-  
12 ment Act of 1958 (15 U.S.C. 661) addressing the  
13 matters described in paragraph (2) and resulting in  
14 a report to Congress pursuant to paragraph (5).

15 (2) MATTERS TO BE ASSESSED.—In addition to  
16 such other matters as the Administrator considers  
17 appropriate, the assessment required by paragraph  
18 (1) shall address, with respect to each loan program  
19 described in paragraph (1) for each of the fiscal  
20 years described in paragraph (3), the following:

21 (A) the number and frequency of deferrals  
22 and defaults;

23 (B) default rates;

24 (C) comparative loss rates, by—

1 (i) type of lender (separately address-  
2 ing preferred lenders, certified lenders, and  
3 general participation lenders);

4 (ii) term of the loan; and

5 (iii) dollar value of the loan at dis-  
6 bursement; and

7 (D) the economic models used by the Of-  
8 fice of Management and Budget to calculate the  
9 credit subsidy rate applicable to the loan pro-  
10 grams.

11 (3) PERIOD OF ASSESSMENT.—The assessments  
12 undertaken pursuant to paragraph (2) shall address  
13 data for the period beginning with the first full fiscal  
14 year of the implementation of each loan program de-  
15 scribed in paragraph (1) through fiscal year 1995.

16 (4) PERFORMANCE BY THE PRIVATE SECTOR.—

17 (A) CONTRACTOR PERFORMANCE.—A pri-  
18 vate sector contractor shall be used by the Ad-  
19 ministrator to conduct the assessment required  
20 by paragraph (1) and to prepare the report to  
21 Congress required by paragraph (3).

22 (B) SOLICITATION AND AWARD.—The con-  
23 tract shall be awarded pursuant to a solicitation  
24 issued not later than 60 days after the date of  
25 the enactment of this Act, which shall provide

1 for full and open competition. The Adminis-  
2 trator shall make every reasonable effort to  
3 award the contract not later than 60 days after  
4 the date specified in the solicitation for receipt  
5 of proposals.

6 (C) ACCESS TO INFORMATION.—The Ad-  
7 ministrator shall provide to the contractor ac-  
8 cess to any information collected by or available  
9 to the Administration with regard to the loan  
10 programs being assessed. The contractor shall  
11 preserve the confidentiality of any information  
12 for which confidentiality is protected by law or  
13 properly asserted by the person submitting such  
14 information.

15 (D) CONTRACT FUNDING.—The Adminis-  
16 trator shall fund the cost of the contract from  
17 the amounts appropriated for the salaries and  
18 expenses of the Administration for fiscal year  
19 1997.

20 (5) REPORT TO CONGRESS.

21 (A) CONTENTS.—The contractor shall sub-  
22 mit a report of—

23 (i) its analyses of the matters to be  
24 assessed pursuant to paragraph (2);

1                   (ii) its independent recommendations,  
2                   with respect to each loan program, regard-  
3                   ing the following:

4                   (I) improving the Administra-  
5                   tion's timely collection and subsequent  
6                   management of data to measure the  
7                   performance of each loan program de-  
8                   scribed in paragraph (1); and

9                   (II) reducing loss rates for each  
10                  such loan program.

11                 (B) SUBMISSION BY CONTRACTOR.—The  
12                 contractor shall submit the report required by  
13                 subparagraph (A) not later than 6 months after  
14                 the date of the contract award.

15                 (C) SUBMISSION TO CONGRESS.—The Ad-  
16                 ministrator shall submit the report received  
17                 from the contractor pursuant to subparagraph  
18                 (B) to the Committees on Small Business of the  
19                 House of Representatives and the Senate within  
20                 15 days of receipt of the report.

21 **SEC. 104. DISASTER LOAN PROGRAM.**

22                 (a) INTEREST RATE.—Section 7(c)(5) (15 U.S.C.  
23 636(c)(5)) is amended to read as follows:

24                   “(5) INTEREST RATE FOR DISASTERS COM-  
25                   MENCING AFTER OCTOBER 1, 1996.—Notwithstand-

1 ing any other provision of law, the interest rate on  
2 the Federal share of any loan made under para-  
3 graph (1) or (2) of subsection (b) on account of a  
4 disaster commencing on or after October 1, 1996,  
5 shall be the rate determined by the Secretary of the  
6 Treasury, taking into consideration the current aver-  
7 age market yield on outstanding marketable obliga-  
8 tions of the United States with remaining periods to  
9 maturity comparable to the average maturities of  
10 such loan plus an additional charge of 2 percent per  
11 year, adjusted to the nearest one-eighth of 1 per-  
12 cent.”.

13 (b) REPEAL OF OBSOLETE PROVISIONS.—

14 (1) The undesignated paragraph following sub-  
15 paragraph (D) of section 7(b)(2) (15 U.S.C. 636(b))  
16 is amended by striking the sentence that begins  
17 “Notwithstanding any other provision of law”  
18 through the end of subsection (b).

19 (2) Paragraphs (3) and (4) of section 7(c) (15  
20 U.S.C. 636(c)) are repealed.

21 (c) OUTSOURCING OF LOAN SERVICING.—

22 (1) PILOT PROGRAM.—The Administrator shall  
23 carry out a pilot program under which the servicing  
24 of not less than 20 percent of the total portfolio of  
25 loans made to homeowners under section 7(b) of the

1 Small Business Act (including loans made before the  
2 date of the enactment of this Act) will be carried  
3 out by 1 or more private entities under contracts  
4 entered into by the Administration.

5 (2) INITIATION DATE.—Not later than 90 days  
6 after the date of enactment of this Act, the Adminis-  
7 trator shall begin implementation of the pilot pro-  
8 gram.

9 (3) REPORT.—Not later than 2 fiscal years  
10 after the date of award of the contracts provided for  
11 in paragraph (1), the Administrator shall transmit  
12 to Congress a report containing a description and  
13 assessment of the results of the pilot program.

14 **SEC. 105. MICROLOAN DEMONSTRATION PROGRAM.**

15 (a) TECHNICAL ASSISTANCE GRANT REQUIRE-  
16 MENTS.—Section 7(m)(4) (15 U.S.C. 636(m)(4)) is  
17 amended—

18 (1) in subparagraph (A) by striking “25 per-  
19 cent” and inserting “20 percent”; and

20 (2) in subparagraph (B) by striking “25 per-  
21 cent” and inserting “35 percent”.

22 (b) LIMITATION ON SPENDING.— Section 7(m)(12)  
23 (15 U.S.C. 636(m)(12)) is amended by adding at the end  
24 the following new subparagraph:

1           “(D) LIMITATION ON SPENDING.—None of the  
2 amounts appropriated to carry out this subsection  
3 for fiscal year 1997 may be expended until such date  
4 as the Administrator has implemented the pilot pro-  
5 gram under this paragraph.”.

6 **SEC. 106. SMALL BUSINESS DEVELOPMENT CENTER PRO-**  
7 **GRAM.**

8           (a) ELIMINATION OF REQUIREMENT FOR LOCATION  
9 AT INSTITUTIONS OF HIGHER LEARNING.—Section  
10 21(a)(1) (15 U.S.C. 648(a)(1)) is amended by striking  
11 “: *Provided, That*” and all that follows through “small  
12 business community”.

13           (b) AUTHORITY TO CHARGE REASONABLE FEES.—

14                 (1) IN GENERAL.—Section 21(a)(3) (15 U.S.C.  
15 648(a)(3)) is amended by adding at the end the fol-  
16 lowing:

17                         “(D) FEES.—Small business development  
18 centers may charge reasonable and necessary  
19 fees for their services. Such fees may not exceed  
20 \$15.00 per hour and may not be mandated by  
21 the Administration.”.

22                 (2) CONFORMING AMENDMENTS.—Section 21  
23 (15 U.S.C. 648) is amended—

24                         (A) in subsection (a)(3)—



1 (i) by striking “(3) The Small Busi-  
2 ness” and inserting the following:

3 “(3) ADMINISTRATION OF PROGRAM.—

4 “(A) GENERAL MANAGEMENT AND OVER-  
5 SIGHT.—The Small Business”;

6 (ii) by striking “(A) Small Business”  
7 and inserting the following:

8 “(B) ASSOCIATION OF SMALL BUSINESS  
9 DEVELOPMENT CENTERS.—Small Business”;

10 (iii) by striking “(B) Provisions” and  
11 inserting the following:

12 “(C) AUDITS, COST PRINCIPALS, AND AD-  
13 MINISTRATIVE REQUIREMENTS.—Provisions”;

14 and

15 (iv) by aligning the remainder of the  
16 text of each of subparagraphs (A), (B),  
17 and (C), as designated by clauses (i), (ii),  
18 and (iii) of this subparagraph, with the  
19 text of subparagraph (D), as added by  
20 paragraph (1) of this subsection; and

21 (B) in subsection (k)(2) by striking “sub-  
22 section (a)(3)(A)” and inserting “subsection  
23 (a)(3)(B)”.

24 (c) ASSOCIATE ADMINISTRATOR FOR SMALL BUSI-  
25 NESS DEVELOPMENT CENTERS.—

1           (1) DUTIES.—Section 21(h) (15 U.S.C. 648(h))  
2           is amended to read as follows:

3           “(h) ASSOCIATE ADMINISTRATOR FOR SMALL BUSI-  
4           NESS DEVELOPMENT CENTERS.—

5           “(1) APPOINTMENT AND COMPENSATION.—The  
6           Administrator shall appoint an Associate Adminis-  
7           trator for Small Business Development Centers who  
8           shall report to an official who is not more than one  
9           level below the Office of the Administrator and who  
10          shall serve without regard to the provisions of title  
11          5 governing appointments in the competitive service,  
12          and without regard to chapter 51, and subchapter  
13          III of chapter 53 of such title relating to classifica-  
14          tion and General Schedule pay rates, but at a rate  
15          not less than the rate of GS-17 of the General  
16          Schedule.

17          “(2) DUTIES.—

18                 “(A) IN GENERAL.—The sole responsibility  
19                 of the Associate Administrator for Small Busi-  
20                 ness Development Centers shall be to admin-  
21                 ister the small business development center pro-  
22                 gram. Duties of the position shall include, but  
23                 are not limited to, recommending the annual  
24                 program budget, reviewing the annual budgets  
25                 submitted by each applicant, establishing appro-

1            appropriate funding levels therefore, selecting appli-  
2            cants to participate in this program, implement-  
3            ing the provisions of this section, maintaining a  
4            clearinghouse to provide for the dissemination  
5            and exchange of information between small  
6            business development centers and conducting  
7            audits of recipients of grants under this section.

8            “(B) CONSULTATION REQUIREMENTS.—In  
9            carrying out the duties described in this sub-  
10           section, the Associate Administrator shall con-  
11           fer with and seek the advice of the Board estab-  
12           lished by subsection (i) and Administration offi-  
13           cials in areas served by the small business de-  
14           velopment centers; however, the Associate Ad-  
15           ministrator shall be responsible for the manage-  
16           ment and administration of the program and  
17           shall not be subject to the approval or concur-  
18           rence of such Administration officials.”.

19           (2) REFERENCES TO ASSOCIATE ADMINIS-  
20           TRATOR.—Section 21 (15 U.S.C. 648) is amended—

21           (A) in subsection (c)(7) by striking “Dep-  
22           uty Associate Administrator of the Small Busi-  
23           ness Development Center program” and insert-  
24           ing “Associate Administrator for Small Busi-  
25           ness Development Centers”; and

1           (B) in subsection (i)(2) by striking “Dep-  
2           uty Associate Administrator for Management  
3           Assistance” and inserting “Associate Adminis-  
4           trator for Small Business Development Cen-  
5           ters”.

6           (d) EXTENSION OR RENEWAL OF COOPERATIVE  
7           AGREEMENTS.—Section 21(k)(3) (15 U.S.C. 648(k)(3)) is  
8           amended to read as follows:

9           “(3) EXTENSION OR RENEWAL OF COOPERA-  
10          TIVE AGREEMENTS.—

11           “(A) IN GENERAL.—In extending or re-  
12           newing a cooperative agreement of a small busi-  
13           ness development center, the Administration  
14           shall consider the results of the examination  
15           and certification program conducted pursuant  
16           to paragraphs (1) and (2).

17           “(B) CERTIFICATION REQUIREMENT.—  
18           After September 30, 2000, the Administration  
19           may not renew or extend any cooperative agree-  
20           ment with a small business development center  
21           unless the center has been approved under the  
22           certification program conducted pursuant to  
23           this subsection; except that the Associate Ad-  
24           ministrator for Small Business Development  
25           Centers may waive such certification require-

1           ment, in the discretion of the Associate Admin-  
2           istrator, upon a showing that the center is mak-  
3           ing a good faith effort to obtain certification.”.

4           (e) **TECHNICAL CORRECTION.**—Section 21(l) (15  
5 U.S.C. 648(l)) is amended to read as follows:

6           “(l) **CONTRACT AUTHORITY.**—The authority to enter  
7 into contracts shall be in effect for each fiscal year only  
8 to the extent and in the amounts as are provided in ad-  
9 vance in appropriations Acts. After the administration has  
10 entered a contract, either as a grant or a cooperative  
11 agreement, with any applicant under this section, it shall  
12 not suspend, terminate, or fail to renew or extend any  
13 such contract unless the Administration provides the ap-  
14 plicant with written notification setting forth the reasons  
15 therefor and affording the applicant an opportunity for a  
16 hearing, appeal, or other administrative proceeding under  
17 the provisions of chapter 7 of title 5, United States  
18 Code.”.

19 **SEC. 107. WOMEN’S DEMONSTRATION GRANT PROGRAM.**

20           Section 29(g) (15 U.S.C. 656(g)) is amended by  
21 striking “1997” and inserting “1996”.

22 **SEC. 108. NONJUDICIAL FORECLOSURE.**

23           The Small Business Act (15 U.S.C. 631 et seq.) is  
24 amended by redesignating section 30 as section 31 and  
25 by inserting after section 29 the following:

1 **“SEC. 30. NONJUDICIAL FORECLOSURE.**

2       “(a) GENERAL RULE.—The Administrator may fore-  
3 close a mortgage upon a breach of a covenant or condition  
4 in a debt instrument or mortgage if such debt instrument  
5 or mortgage authorizes acceleration or foreclosure.

6       “(b) DESIGNATION AND REMOVAL OF TRUSTEE.—

7               “(1) DESIGNATION.—The Administrator shall,  
8 in writing, designate by name, title, or position, a  
9 foreclosure trustee who shall have the power to con-  
10 duct a foreclosure sale pursuant to this section and  
11 shall supersede any trustee designated in the mort-  
12 gage. The Administrator may designate as fore-  
13 closure trustee—

14                       “(A) an officer or employee of the Small  
15 Business Administration;

16                       “(B) an individual who is a resident of the  
17 State in which the security property is located;  
18 or

19                       “(C) a partnership, association, or corpora-  
20 tion authorized to transact business under the  
21 laws of the State in which the security property  
22 is located.

23       “(2) AUTHORIZATION FOR MULTIPLE FORE-  
24 CLOSURE TRUSTEES.—The Administrator may des-  
25 ignate such foreclosure trustees as the Administrator  
26 determines necessary to carry out the purposes of

1 this section. The Administrator may designate one  
2 or more foreclosure trustees for the purpose of pro-  
3 ceedings with multiple foreclosures or a class of fore-  
4 closures.

5 “(3) REMOVAL OF FORECLOSURE TRUSTEES.—  
6 The Administrator may remove a foreclosure trustee  
7 and designate a successor trustee as provided in this  
8 section. The foreclosure sale shall continue, notwith-  
9 standing the removal of the foreclosure trustee and  
10 designation of a successor foreclosure trustee, unless  
11 otherwise postponed by the successor foreclosure  
12 trustee.

13 “(c) NOTICE OF FORECLOSURE SALE.—

14 “(1) IN GENERAL.—

15 “(A) Not earlier than 21 days nor later  
16 than twenty years after acceleration of a debt  
17 instrument or demand on a guaranty, the fore-  
18 closure trustee shall serve a notice of a fore-  
19 closure sale in accordance with this section. In  
20 computing the time period, all periods during  
21 which there is in effect a judicially imposed stay  
22 of foreclosure or a stay imposed by section 362  
23 of title 11, United States Code, shall be ex-  
24 cluded.

1           “(B) In the event of partial payment or  
2 written acknowledgement of the debt after ac-  
3 celeration of the debt instrument, the right to  
4 foreclosure shall be deemed to accrue again at  
5 the time of each such payment or acknowledge-  
6 ment.

7           “(2) REQUIREMENTS OF FORECLOSURE  
8 SALE.—The notice of foreclosure sale shall include—

9           “(A) the name, title, and business address  
10 of the foreclosure trustee as of the date of the  
11 notice;

12           “(B) the names of the original parties to  
13 the debt instrument and the mortgage, and any  
14 assignees of the mortgagor of record;

15           “(C) the street address or location of the  
16 security property, and a generally accepted des-  
17 ignation used to describe the security property,  
18 or so much thereof as is to be offered for sale,  
19 sufficient to identify the property to be sold;

20           “(D) the date of the mortgage, the office  
21 in which the mortgage is filed, and the location  
22 of the filing of the mortgage;

23           “(E) a statement that a default has oc-  
24 curred, and the date of the acceleration of the  
25 debt instrument;



1           “(F) the date, time, and place of the fore-  
2           closure sale;

3           “(G) a statement that the foreclosure is  
4           being conducted in accordance with this Act;

5           “(H) the types of costs, if any, to be paid  
6           by the purchaser upon transfer of title; and

7           “(I) the terms and conditions of sale, in-  
8           cluding the method and time of payment of the  
9           foreclosure purchase price.

10          “(3) SERVICE OF NOTICE OF FORECLOSURE  
11          SALE.—

12                 “(A) RECORD NOTICE.—Not later than 21  
13                 days before the date of the foreclosure sale, no-  
14                 tice of foreclosure sale shall be filed in the man-  
15                 ner authorized for filing a notice of an action  
16                 concerning real property according to the law of  
17                 the State in which the security property is lo-  
18                 cated.

19                 “(B) NOTICE BY MAIL.—

20                         “(i) Not later than 21 days before the  
21                         date of the foreclosure sale, notice of the  
22                         foreclosure shall be sent by registered or  
23                         certified mail, return receipt requested  
24                         to—

1           “(I) the current owner of record  
2           of the security property as the record  
3           appears on the date that the notice of  
4           foreclosure sale is recorded pursuant  
5           to subsection (a);

6           “(II) all debtors, including the  
7           mortgagor, assignees of record of the  
8           mortgagor, and guarantors of the debt  
9           instrument;

10           “(III) all persons having liens,  
11           interests or encumbrances of record  
12           upon the security property, as the  
13           record appears on the date that the  
14           notice of foreclosure sale is recorded  
15           pursuant to subsection (a); and

16           “(IV) any occupants of the secu-  
17           rity property.

18           If the names of the occupants of the security  
19           property are not known to the agency, or the  
20           security property has more than one dwelling  
21           unit, the notice shall be posted at the security  
22           property.

23           “(C) NOTICE BY PUBLICATION.—Notice of  
24           a foreclosure sale shall be published for three  
25           successive weeks prior to the sale in a news-

1 paper of general circulation in any county or  
2 counties in which the security property is lo-  
3 cated. In a case in which no newspaper has a  
4 weekly general circulation in at least one county  
5 in which the security property is located, a copy  
6 of the notice of foreclosure sale shall be posted  
7 at least 21 days prior to the sale at the court-  
8 house of any county or counties in which the  
9 property is located and at the place where the  
10 sale is to be held.

11 “(d) CANCELLATION OF FORECLOSURE SALE.—

12 “(1) IN GENERAL.—The foreclosure trustee  
13 shall cancel the foreclosure sale, at any time prior to  
14 the sale—

15 “(A) if the debtor or the holder of any sub-  
16 ordinate interest in the security property  
17 tenders the performance due under the debt in-  
18 strument and mortgage, including any amounts  
19 due because of the exercise of the right to accel-  
20 erate, and the expenses of proceeding to fore-  
21 closure incurred to the time of tender; or

22 “(B) if the security property is the prin-  
23 cipal dwelling of the debtor, and the debtor—

1           “(i) pays or tenders all sums which  
2           would have been due at the time of tender  
3           in the absence of any acceleration;

4           “(ii) performs any other obligation  
5           which would have been required in the ab-  
6           sence of any acceleration; and

7           “(iii) pays or tenders all costs of fore-  
8           closure incurred for which payment from  
9           the proceeds of the sale would be allowed;  
10          or

11          “(C) or any reason approved by the Ad-  
12          ministrators.

13          “(2) LIMITATION.—The debtor may not, with-  
14          out the approval of the Administrator, cure the de-  
15          fault under paragraph (1)(B) if, within the preced-  
16          ing 12 months, the debtor has cured a default after  
17          being served with a notice of foreclosure sale pursu-  
18          ant to this Act.

19          “(3) NOTICE OF CANCELLATION.—The fore-  
20          closure trustee shall file a notice of the cancellation  
21          in the same place and manner provided for the filing  
22          of the notice of foreclosure sale under paragraph (2).

23          “(e) STAY.—If, prior to the time of sale, foreclosure  
24          proceedings under this section are stayed in any manner,  
25          including the filing of bankruptcy, no person may there-

1 after cure the default under the provisions of subsection  
2 (d)(1)(B) without the approval of the Administrator. If  
3 the default is not cured at the time a stay is terminated,  
4 the foreclosure trustee shall proceed to sell the security  
5 property as provided in this section.

6 “(f) CONDUCT OF SALE.—

7 “(1) SALE PROCEDURES.—Any foreclosure sale  
8 conducted pursuant to this section shall be at a pub-  
9 lic auction between the hours of 9:00 a.m. and 4:00  
10 p.m. The foreclosure sale shall be held at the loca-  
11 tion specified in the notice of foreclosure sale, which  
12 shall be a location where real estate foreclosure auc-  
13 tions are customarily held in the county or one of  
14 the counties in which the property to be sold is lo-  
15 cated or at a courthouse therein, or upon the prop-  
16 erty to be sold. Sale of security property situated in  
17 two or more counties may be held in any one of the  
18 counties in which any part of the security property  
19 is situated. The foreclosure trustee may designate  
20 the order in which multiple tracts of security prop-  
21 erty are sold.

22 “(2) BIDDING REQUIREMENTS.—Written one-  
23 price sealed bids may be accepted by the foreclosure  
24 trustee, if submitted by the Administrator or other  
25 persons for entry by announcement by the fore-

1 closure trustee at the sale. The sealed bids shall be  
2 submitted in accordance with the terms set forth in  
3 the notice of foreclosure sale. The Administrator or  
4 any other person may bid at the foreclosure sale,  
5 even if the Administrator or other person previously  
6 submitted a written one-price bid. The Adminis-  
7 trator may bid a credit against the debt due without  
8 the tender or payment of cash. The foreclosure  
9 trustee may serve as auctioneer, or may employ an  
10 auctioneer who may be paid from the sale proceeds.  
11 If an auctioneer is employed, the foreclosure trustee  
12 is not required to attend the sale. The foreclosure  
13 trustee or an auctioneer may bid as directed by the  
14 Administrator.

15 “(3) POSTPONEMENT OF SALE.—The fore-  
16 closure trustee shall have discretion, prior to or at  
17 the time of sale, to postpone the foreclosure sale.  
18 The foreclosure trustee may postpone a sale to a  
19 later hour the same day by announcing or posting  
20 the new time and place of the foreclosure sale at the  
21 time and place originally scheduled for the fore-  
22 closure sale. The foreclosure trustee may instead  
23 postpone the foreclosure sale for not fewer than 9  
24 nor more than 31 days, by serving notice that the  
25 foreclosure sale has been postponed to a specified

1 date, and the notice may include any revisions the  
2 foreclosure trustee deems appropriate. The notice  
3 shall be served by publication, mailing, and, if ap-  
4 propriate, posting in accordance with subsection (c),  
5 except that publication may be made on any of three  
6 separate days prior to the new date of the fore-  
7 closure sale, and mailing may be made at any time  
8 at least 7 days prior to the new date of the fore-  
9 closure sale.

10 “(4) LIABILITY OF SUCCESSFUL BIDDER WHO  
11 FAILS TO COMPLY.—The foreclosure trustee may re-  
12 quire a bidder to make a cash deposit before the bid  
13 is accepted. The amount or percentage of the cash  
14 deposit shall be stated by the foreclosure trustee in  
15 the notice of foreclosure sale. A successful bidder at  
16 the foreclosure sale who fails to comply with the  
17 terms of the sale shall forfeit the cash deposit or, at  
18 the election of the foreclosure trustee, shall be liable  
19 to the agency on a subsequent sale of the property  
20 for all net losses incurred by the agency as a result  
21 of such failure.

22 “(5) EFFECT OF SALE.—Any foreclosure sale  
23 held in accordance with this Act shall be conclusively  
24 presumed to have been conducted in a legal, fair,  
25 and commercially reasonable manner. The sale price

1 shall be conclusively presumed to constitute the rea-  
2 sonably equivalent value of the security property.

3 “(g) TRANSFER OF TITLE AND POSSESSION.—

4 ‘(1) DEED.—After receipt of the purchase price in  
5 accordance with the terms of the sale as provided in  
6 the notice of foreclosure sale, the foreclosure trustee  
7 shall execute and deliver to the purchaser a deed  
8 conveying the security property to the purchaser  
9 that grants and conveys title to the security property  
10 without warranty or covenants to the purchaser. The  
11 execution of the foreclosure trustee’s deed shall have  
12 the effect of conveying all of the right, title, and in-  
13 terest in the security property covered by the mort-  
14 gage. Notwithstanding any other law provision of  
15 law, the foreclosure trustee’s deed shall constitute a  
16 conveyance of the security property.

17 “(2) DEATH OF PURCHASER PRIOR TO CON-  
18 SUMMATION OF SALE.—If a purchaser dies before  
19 execution and delivery of the deed conveying the se-  
20 curity property to the purchaser, the foreclosure  
21 trustee shall execute and deliver the deed to the rep-  
22 resentative of the purchaser’s estate upon payment  
23 of the purchase price in accordance with the terms  
24 of sale. Such delivery to the representative of the



1 purchaser's estate shall have the same effect as if  
2 accomplished during the lifetime of the purchaser.

3 “(3) PURCHASER CONSIDERED BONA FIDE PUR-  
4 CHASER WITHOUT NOTICE.—The purchaser of prop-  
5 erty under this Act shall be presumed to be a bona  
6 fide purchaser without notice of defects, if any, in  
7 the title conveyed to the purchaser.

8 “(4) POSSESSION BY PURCHASER; CONTINUING  
9 INTERESTS.—A purchaser at a foreclosure sale con-  
10 ducted pursuant to this Act shall be entitled to pos-  
11 session upon passage of title to the security prop-  
12 erty, subject to any interest or interests senior to  
13 that of the mortgage. The right to possession of any  
14 person without an interest senior to the mortgage  
15 who is in possession of the property shall terminate  
16 immediately upon the passage of title to the security  
17 property, and the person shall vacate the security  
18 property immediately. The purchaser shall be enti-  
19 tled to take any steps available under Federal law or  
20 State law to obtain possession.

21 “(5) RIGHT OF REDEMPTION; RIGHT OF POS-  
22 SESSION.—This Act shall preempt all Federal and  
23 State rights of redemption or possession under stat-  
24 utory or common law. Upon conclusion of the public

1 auction of the security property, no person shall  
2 have a right of redemption.

3 “(6) PROHIBITION OF IMPOSITION OF TAX ON  
4 CONVEYANCE BY THE AGENCY.—No tax, or fee in  
5 the nature of a tax, for the transfer of title to the  
6 security property by the foreclosure trustee’s deed  
7 shall be imposed upon or collected from the fore-  
8 closure trustee or the purchaser by any State or po-  
9 litical subdivision thereof.

10 “(h) RECORD OF FORECLOSURE AND SALE.—

11 “(1) RECITAL REQUIREMENTS.—The fore-  
12 closure trustee shall recite in the deed to the pur-  
13 chaser, or in an addendum to the foreclosure trust-  
14 ee’s deed, or shall prepare an affidavit stating—

15 “(A) the date, time, and place of sale;

16 “(B) the date of the mortgage, the office  
17 in which the mortgage is filed, and the location  
18 of the filing of the mortgage;

19 “(C) the persons served with the notice of  
20 foreclosure sale;

21 “(D) the date and place of filing of the no-  
22 tice of foreclosure sale under subsection (c)

23 “(E) that the foreclosure was conducted in  
24 accordance with the provisions of this Act; and

25 “(F) the sale amount.

1           “(2) EFFECT OF RECITALS.—The recitals set  
2           forth in paragraph (1) shall be prima facie evidence  
3           of the truth of such recitals. Compliance with the re-  
4           quirements of paragraph (1) shall create a conclu-  
5           sive presumption of the validity of the sale in favor  
6           of bona fide purchasers and encumbrancers for value  
7           without notice.

8           “(3) DEED TO BE ACCEPTED FOR FILING.—  
9           The register of deeds or other appropriate official of  
10          the county or counties where real estate deeds are  
11          regularly filed shall accept for filing and shall file  
12          the foreclosure trustee’s deed and affidavit, if any,  
13          and any other instruments submitted for filing in re-  
14          lation to the foreclosure of the security property  
15          under this Act.

16          “(h) EFFECT OF SALE.—A sale conducted under this  
17          Act to a bona fide purchaser shall bar all claims upon the  
18          security property by—

19                 “(1) any person to whom the notice of fore-  
20                 closure sale was mailed as provided in this Act who  
21                 claims an interest in the property subordinate to  
22                 that of the mortgage, and the heir, devisee, executor,  
23                 administrator, successor, or assignee claiming under  
24                 any such person;

1           “(2) any person claiming any interest in the  
2           property subordinate to that of the mortgage, if such  
3           person had actual knowledge of the sale;

4           “(3) any person so claiming, whose assignment,  
5           mortgage, or other conveyance was not filed in the  
6           proper place for filing, or whose judgment or decree  
7           was not filed in the proper place for filing, prior to  
8           the date of filing of the notice of foreclosure sale as  
9           required by subsection (c), and the heir, devisee, ex-  
10          ecutor, administrator, successor, or assignee of such  
11          a person; or

12          “(4) any other person claiming under a statu-  
13          tory lien or encumbrance not required to be filed  
14          and attaching to the title or interest of any person  
15          designated in any of the foregoing subsections of  
16          this section.

17          “(i) DISPOSITION OF SALE PROCEEDS.—

18                 “(1) DISTRIBUTION OF SALE PROCEEDS.—The  
19                 foreclosure trustee shall distribute the proceeds of  
20                 the foreclosure sale in the following order:

21                         “(A)(i) First, to pay the commission of the  
22                         foreclosure trustee, other than an agency em-  
23                         ployee, in an amount not to exceed 5 percent of  
24                         the sum collected, plus the foreclosure trustee’s  
25                         costs.

1           “(ii) The amounts described in clause (i)  
2 shall be computed on the gross proceeds of all  
3 security property sold at a single sale.

4           “(B) Thereafter, to pay the expense of any  
5 auctioneer employed by the foreclosure trustee,  
6 if any, except that the commission payable to  
7 the foreclosure trustee pursuant to subpara-  
8 graph (A) shall be reduced by the amount paid  
9 to an auctioneer, unless the Administrator de-  
10 termines that such reduction would adversely  
11 affect the ability of the Administrator to retain  
12 qualified foreclosure trustees or auctioneers.

13           “(C) Thereafter, to pay for the costs of  
14 foreclosure, including—

15                 “(i) reasonable and necessary adver-  
16 tising costs and postage incurred in giving  
17 notice pursuant to subsection (c);

18                 “(ii) mileage for posting notices and  
19 for the foreclosure trustee’s or auctioneer’s  
20 attendance at the sale at the rate provided  
21 in section 1921 of title 28, United States  
22 Code, for mileage by the most reasonable  
23 road distance;

1           “(iii) reasonable and necessary costs  
2           actually incurred in connection with any  
3           search of title and lien records; and

4           “(iv) necessary costs incurred by the  
5           foreclosure trustee to file documents.

6           “(D) Thereafter, to pay valid real property  
7           tax liens or assessments, if required by the no-  
8           tice of foreclosure sale.

9           “(E) Thereafter, to pay any liens senior to  
10          the mortgage, if required by the notice of fore-  
11          closure sale.

12          “(F) Thereafter, to pay service charges  
13          and advancements for taxes, assessments, and  
14          property insurance premiums.

15          “(G) Thereafter, to pay late charges and  
16          other administrative costs and the principal and  
17          interest balances secured by the mortgagee in-  
18          cluding expenditures for the necessary protec-  
19          tions preservation, and repair of the security  
20          property as authorized under the debt instru-  
21          ment or mortgage and interest thereon if pro-  
22          vided for in the debt instrument or mortgage,  
23          pursuant to the agency’s procedures.

24          “(2) INSUFFICIENT PROCEEDS.—In the event  
25          there are no proceeds of sale or the proceeds are in-

1 sufficient to pay the costs and expenses set forth in  
2 paragraph (1), the Administrator shall pay such  
3 costs and expenses as authorized by applicable law.

4 “(3) SURPLUS MONEYS.—

5 “(A) After making the payments required  
6 by paragraph (1), the foreclosure trustee  
7 shall—

8 “(i) distribute any surplus to pay liens  
9 in the order of priority under Federal law  
10 or the law of the State where the security  
11 property is located; and

12 “(ii) pay to the person who was the  
13 owner of record on the date the notice of  
14 foreclosure sale was filed the balance, if  
15 any, after any payments made pursuant to  
16 paragraph (1).

17 “(B) If the person to whom such surplus  
18 is to be paid cannot be located, or if the surplus  
19 available is insufficient to pay all claimants and  
20 the claimants cannot agree on the distribution  
21 of the surplus, that portion of the sale proceeds  
22 may be deposited by the foreclosure trustee  
23 with an appropriate official authorized under  
24 law to receive funds under such circumstances.

25 If such a procedure for the deposit of disputed

1 funds is not available, and the foreclosure trust-  
2 ee files a bill of interpleader or is sued as a  
3 stakeholder to determine entitlement to such  
4 funds, the foreclosure trustee's necessary costs  
5 in taking or defending such action shall be de-  
6 ducted first from the disputed funds.

7 “(j) DEFICIENCY JUDGMENT.—

8 “(1) IN GENERAL.—If after deducting the dis-  
9 bursements described in section 13, the price at  
10 which the security property is sold at a foreclosure  
11 sale is insufficient to pay the unpaid balance of the  
12 debt secured by the security property, counsel for  
13 the agency may commence an action or actions  
14 against any or all debtors to recover the deficiency,  
15 unless specifically prohibited by the mortgage. The  
16 agency is also entitled to recover any amount au-  
17 thorized by section 11 and costs of the action.

18 “(2) LIMITATION.—Any action commenced to  
19 recover the deficiency shall be brought within 6  
20 years of the last sale of security property.

21 “(3) CREDITS.—The amount payable by a pri-  
22 vate mortgage guaranty insurer shall be credited to  
23 the account of the debtor prior to the commence-  
24 ment of an action for any deficiency owed by the  
25 debtor. Nothing in this subsection shall curtail or



1 limit the subrogation rights of a private mortgage  
2 guaranty insurer.”.

3 **SEC. 109. MISCELLANEOUS AUTHORITIES TO PROVIDE**  
4 **LOANS AND OTHER FINANCIAL ASSISTANCE.**

5 (a) FUNDING LIMITATION; SEMINARS.—Section 7(d)  
6 (15 U.S.C. 636(d)) is repealed.

7 (b) TRADE ADJUSTMENT LOANS.—Section 7(e) (15  
8 U.S.C. 636(e)) is repealed.

9 (c) WAIVER OF CREDIT ELSEWHERE TEST FOR COL-  
10 LEGES AND UNIVERSITIES.—Section 7(f) (15 U.S.C.  
11 636(f)) is repealed.

12 (d) LOANS TO HANDICAPPED PERSONS AND ORGANI-  
13 ZATIONS FOR THE HANDICAPPED.—Section 7(h) (15  
14 U.S.C. 636(h)) is repealed.

15 (e) LOANS TO SMALL BUSINESS CONCERNS LO-  
16 CATED IN URBAN OR RURAL AREAS WITH HIGH PROPOR-  
17 TIONS OF UNEMPLOYED OR LOW-INCOME INDIVID-  
18 UALS.—Section 7(i) (15 U.S.C. 636(i)) is repealed.

19 (f) LOANS TO SMALL BUSINESS CONCERNS FOR  
20 SOLAR ENERGY AND ENERGY CONSERVATION MEAS-  
21 URES.—Section 7(l) (15 U.S.C. 636(l)) is repealed.

22 **SEC. 110. SMALL BUSINESS COMPETITIVENESS DEM-**  
23 **ONSTRATION PROGRAM.**

24 (a) EXTENSION OF DEMONSTRATION PROGRAM.—  
25 Section 711(c) of the Small Business Competitiveness

1 Demonstration Program Act of 1988 (15 U.S.C. 644 note;  
2 102 Stat. 3890) is amended by striking “September 30,  
3 1996” and inserting “September 30, 2000”.

4 (b) REPORTING OF SUBCONTRACT PARTICIPATION IN  
5 CONTRACTS FOR ARCHITECTURAL AND ENGINEERING  
6 SERVICES.—Section 714(b)(5) of the Small Business  
7 Competitiveness Demonstration Program Act of 1988 (15  
8 U.S.C. 644 note; 102 Stat. 3892) is amended to read as  
9 follows:

10 “(5) DURATION.—The system described in sub-  
11 section (a) shall be established not later than Octo-  
12 ber 1, 1996 (or as soon as practicable thereafter on  
13 the first day of a subsequent quarter of fiscal year  
14 1997), and shall terminate on September 30,  
15 2000.”.

16 (c) REFERENCES TO ARCHITECTURAL AND ENGI-  
17 NEERING SERVICES.—

18 (1) IN GENERAL.—The Small Business Com-  
19 petitiveness Demonstration Program Act of 1988  
20 (15 U.S.C. 644 note; 102 Stat. 3889 et seq.) is  
21 amended by striking “architectural and engineering  
22 services (including surveying and mapping)” each  
23 place it appears and inserting “architectural and en-  
24 gineering services (including surveying, mapping,  
25 and landscape architecture)”.

1           (2) DESIGNATED INDUSTRY GROUPS.—Section  
2           717(d) of the Small Business Competitiveness Dem-  
3           onstration Program Act of 1988 (15 U.S.C. 644  
4           note; 102 Stat. 3894) is amended by inserting  
5           “standard industrial classification codes 0731 and  
6           0739 (if identified as pertaining to mapping serv-  
7           ices),” after “(if identified as pertaining to mapping  
8           services),”.

9           (d) SMALL BUSINESS PARTICIPATION GOALS.—

10           (1) ENHANCED GOALS FOR DESIGNATED IN-  
11           DUSTRY GROUPS.—Section 712(a) of the Small  
12           Business Competitiveness Demonstration Program  
13           Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3890)  
14           is amended to read as follows:

15           “(a) ENHANCED GOALS FOR DESIGNATED INDUSTRY  
16           GROUPS.—Each participating agency shall establish an  
17           annual small business participation goal (calculated on the  
18           basis of the total dollar value of contract awards) that is—

19           “(1) 35 percent in the case of the designated  
20           industry group for architectural and engineering  
21           services (including surveying, mapping, and land-  
22           scape architecture); or

23           “(2) 40 percent in the case of each of the other  
24           designated industry groups.”.

25           (2) EMERGING SMALL BUSINESS CONCERNS.—

1           (A) REPEAL OF RESERVE.—Section 712(b)  
2           of the Small Business Competitiveness Dem-  
3           onstration Program Act of 1988 (15 U.S.C.  
4           644 note; 102 Stat. 3890–3891) is amended to  
5           read as follows:

6           “(b) **【Reserved】**.”

7           (B) CONFORMING AMENDMENT.—Section  
8           713(b) of the Small Business Competitiveness Dem-  
9           onstration Program Act of 1988 (15 U.S.C. 644  
10          note; 102 Stat. 3892) is amended by striking “,  
11          which are in excess of the reserve thresholds speci-  
12          fied pursuant to section 712(b)”.

13          (3) MODIFICATIONS TO SOLICITATION PRACTICES.—  
14          Section 712(d)(3) of the Small Business Competitiveness  
15          Demonstration Program Act of 1988 (15 U.S.C. 644 note;  
16          102 Stat. 3891) is amended by striking “40 percent of  
17          the contract awards” and inserting “the percentage appli-  
18          cable to the designated industry group pursuant to sub-  
19          section (a)”.

20          (e) PARTICIPATING AGENCY.—Section 718(e) of the  
21          Small Business Competitiveness Demonstration Program  
22          Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3894) is  
23          amended—

24                  (1) by striking “as part of the Program test  
25                  plan”;

1           (2) by redesignating paragraphs (2) through  
2           (10) as paragraphs (3) through (11), respectively;  
3           and

4           (3) by inserting after paragraph (1) the follow-  
5           ing:

6           “(2) the Department of Commerce,”.

7           (f) REPORTS TO CONGRESS.—

8           (1) IN GENERAL.—Section 716 of the Small  
9           Business Competitiveness Demonstration Program  
10          Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3893)  
11          is amended—

12                 (A) in subsection (a), by striking “fiscal  
13                 year 1991 and 1995” and inserting “each of  
14                 fiscal year beginning with fiscal year 1991 and  
15                 ending with fiscal year 1999”;

16                 (B) in subsection (a), by striking “results”  
17                 and inserting “cumulative results”; and

18                 (C) in subsection (c), by striking “1996”  
19                 and inserting “1999”.

20          (2) CUMULATIVE REPORT THROUGH FISCAL  
21          YEAR 1995.—A cumulative report of the results of  
22          the Small Business Competitiveness Demonstration  
23          Program for fiscal years 1991 through 1995 shall be  
24          submitted not later than 60 days after the date of  
25          the enactment of this Act pursuant to section 716(a)

1 of the Small Business Competitiveness Demonstra-  
 2 tion Program Act of 1988 (15 U.S.C. 644 note; 102  
 3 Stat. 3893), as amended by paragraph (1) of this  
 4 subsection.

5 **SEC. 111. AMENDMENT TO SMALL BUSINESS GUARANTEED**  
 6 **CREDIT ENHANCEMENT ACT OF 1993.**

7 Section 7 of the Small Business Guaranteed Credit  
 8 Enhancement Act of 1993 (Public Law 103–81; 15 U.S.C.  
 9 634 note) is repealed effective September 29, 1996.

10 **TITLE II—AMENDMENTS TO**  
 11 **SMALL BUSINESS INVEST-**  
 12 **MENT ACT**

13 **SEC. 201. REFERENCES.**

14 Except as otherwise expressly provided, whenever in  
 15 this title an amendment or repeal is expressed in terms  
 16 of an amendment to, or repeal of, a section or other provi-  
 17 sion, the reference shall be considered to be made to a  
 18 section or other provision of the Small Business Invest-  
 19 ment Act of 1958 (15 U.S.C. 661 et seq.).

20 **SEC. 202. MODIFICATIONS TO DEVELOPMENT COMPANY**  
 21 **DEBENTURE PROGRAM.**

22 (a) INCREASED LOAN TO VALUE RATIOS.—Section  
 23 502(3) (15 U.S.C. 696(3)) is amended to read as follows:

24 “(3) CRITERIA FOR ASSISTANCE.—

1           “(A) IN GENERAL.—Any development com-  
2           pany assisted under this section must meet the  
3           criteria established by the Administration, in-  
4           cluding the extent of participation to be re-  
5           quired or amount of paid-in capital to be used  
6           in each instance as is determined to be reason-  
7           able by the Administration.

8           “(B) COMMUNITY INJECTION FUNDS.—

9           “(i) SOURCES OF FUNDS.—Communi-  
10          ty injection funds may be derived, in  
11          whole or in part, from—

12                   “(I) State or local governments;

13                   “(II) banks or other financial in-  
14                   stitutions;

15                   “(III) foundations or other not-  
16                   for-profit institutions; or

17                   “(IV) the small business concern  
18                   (or its owners, stockholders, or affili-  
19                   ates) receiving assistance through a  
20                   body authorized by this title.

21           “(ii) FUNDING FROM INSTITU-  
22          TIONS.—Not less than 50 percent of the  
23          total cost of the project to be financed  
24          shall come from the institutions described

1 in subclauses (I), (II), and (III) of clause  
2 (i).

3 “(C) FUNDING FROM A SMALL BUSINESS  
4 CONCERN.—The small business concern (or its  
5 owners, stockholders, or affiliates) receiving as-  
6 sistance through a body authorized by this title  
7 shall provide—

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

12 “(ii) at least 15 percent of the total  
13 cost of the project financed if the project  
14 involves the construction of a limited or  
15 single purpose building or structure;

16 “(iii) at least 20 percent of the total  
17 cost of the project financed if the project  
18 involves both of the conditions set forth in  
19 clauses (i) and (ii); or

20 “(iv) at least 10 percent of the total  
21 cost of the project financed, in all other  
22 circumstances, at the discretion of the de-  
23 velopment company.”.

24 (b) GUARANTEE FEE FOR DEVELOPMENT COMPANY  
25 DEBENTURES.—Section 503(b)(7)(A) (15 U.S.C.



1 697(b)(7)(A)) is amended by striking “0.125 percent” and  
2 inserting “0.625 percent”.

3 (c) FEES TO OFFSET SUBSIDY COST.—Section  
4 503(d) (15 U.S.C. 697(d)) is amended to read as follows:

5 “(d) CHARGES FOR ADMINISTRATION EXPENSES.—

6 “(1) LEVEL OF CHARGES.—The Administration  
7 shall continue to impose charges for administrative  
8 expenses with respect to each debenture for which  
9 payment of principal and interest is guaranteed  
10 under subsection (a) at the level in effect on the  
11 date of the enactment of this paragraph. To the ex-  
12 tent that such charges exceed the administrative  
13 costs of the program as provided by non-govern-  
14 mental employees, such excess proceeds shall be used  
15 to offset the cost (as such term is defined in section  
16 502 of the Credit Reform Act of 1990) to the Ad-  
17 ministration of making guarantees under subsection  
18 (a).

19 “(2) PARTICIPATION FEE.—The Administration  
20 shall also impose a one-time fee of 50 basis points  
21 on the total participation in any project of any insti-  
22 tution described in subclause (I), (II), or (III) of  
23 section 502(3)(B)(i). Such fee shall be imposed only  
24 when the participation of the institution will occupy  
25 a senior credit position to that of the development

1 company. Such fee shall be collected by the develop-  
2 ment company, forwarded to the Administration,  
3 and used to offset the cost (as such term is defined  
4 in section 502 of the Credit Reform Act of 1990) to  
5 the Administration of making guarantees under sub-  
6 section (a).

7 “(3) DEVELOPMENT COMPANY FEE.—The Ad-  
8 ministration shall collect annually from each devel-  
9 opment company a fee of .0125 percent of the out-  
10 standing principal balance of any debenture guaran-  
11 teed by the Administration. Such fee shall be derived  
12 from the servicing fees collected by the development  
13 company pursuant to regulation, and shall not be  
14 derived from any additional fees imposed on small  
15 business concerns. All proceeds of the fee shall be  
16 used to offset the cost (as such term is defined in  
17 section 502 of the Credit Reform Act of 1990) to  
18 the Administration of making guarantees under sub-  
19 section (a).”.

20 (d) FEES COLLECTED BY AGENTS FOR CENTRAL  
21 REGISTRATION OF TRUST CERTIFICATES.—Section  
22 505(d) (15 U.S.C. 697b(d)) is amended by adding at the  
23 end the following: “The excess of any fees collected for  
24 the functions described in subsection (f)(2) shall be used  
25 to offset the cost (as such term is defined in section 502

1 of the Credit Reform Act of 1990) to the Administration  
2 of making guarantees under subsection (a).”.

3 **SEC. 203. REQUIRED ACTIONS UPON DEFAULT.**

4 Section 503 (15 U.S.C. 697) is amended by adding  
5 at the end the following:

6 “(f) REQUIRED ACTIONS UPON DEFAULT.—

7 “(1) DEADLINES.—

8 “(A) INITIAL ACTIONS.—Not later than  
9 the 45th day after the date on which a payment  
10 on a loan funded through a debenture guaran-  
11 teed under this section is due and not received,  
12 the Administration shall—

13 “(i) take all necessary steps to bring  
14 such a loan current; or

15 “(ii) implement a formal written de-  
16 ferral agreement.

17 “(B) PURCHASE OR ACCELERATION OF DE-  
18 BENTURE.—Not later than the 65th day after  
19 the date on which a payment on a loan de-  
20 scribed in subparagraph (A) is due and not re-  
21 ceived, and absent a formal written deferral  
22 agreement, the Administration shall take all  
23 necessary steps to purchase or accelerate the  
24 debenture.

1           “(2) PREPAYMENT PENALTIES.—The Adminis-  
2           tration shall—

3                   “(A) negotiate the elimination of any pre-  
4                   payment penalties on defaulted loans made  
5                   prior to September 30, 1996;

6                   “(B) decline to pay any prepayment pen-  
7                   alty on the default based purchase of loans is-  
8                   sued after September 30, 1996; and

9                   “(C) for any project financed after Sep-  
10                  tember 30, 1996, decline to pay any default in-  
11                  terest rate on the portion of any project funded  
12                  through community injection funds described in  
13                  section 502(3).”

14   **SEC. 204. LOAN LIQUIDATION PILOT PROGRAM.**

15           (a) IN GENERAL.—The Administrator shall carry out  
16   a loan liquidation pilot program (in this section referred  
17   to as the ‘pilot program’) in accordance with the require-  
18   ments of this section.

19           (b) SELECTION OF DEVELOPMENT COMPANIES.—  
20   Not later than 60 days after the date of the enactment  
21   of this Act, the Administrator shall—

22                   (1) select no more than 35 and no less than 15  
23                   development companies authorized to make loans  
24                   and issue debentures under title V of the Small  
25                   Business Investment Act of 1958 to participate in

1 the pilot program. The development companies se-  
2 lected shall—

3 (A) have a minimum of 6 years experience  
4 in the program established by such title V;

5 (B) have made an average of 10 loans per  
6 year through the program established by such  
7 title V; and

8 (C) have shown at least 2 years experience  
9 in liquidating loans under the authority of some  
10 other Federal, State, or local lending program.

11 (c) AUTHORITY OF DEVELOPMENT COMPANIES.—

12 The development companies selected under subsection (b)  
13 shall, for all loans in their portfolio of loans made through  
14 debentures guaranteed under title V of the Small Business  
15 Investment Act of 1958 that are in default after the date  
16 of enactment of this Act, be authorized to—

17 (1) perform all liquidation and foreclosure func-  
18 tions, including the acceleration or purchase of com-  
19 munity injection funds; and

20 (2) liquidate such loans in a reasonable and  
21 sound manner and according to commercially accept-  
22 ed practices.

23 (d) AUTHORITY OF THE ADMINISTRATOR.—In carry-  
24 ing out the pilot program, the Administrator shall—

1           (1) have full authority to rescind the authority  
2           granted any development company under this section  
3           upon a showing of good cause;

4           (2) consider the inclusion of additional develop-  
5           ment companies in the pilot program (subject to the  
6           criteria of subsection (b)(1)) in the event an insuffi-  
7           cient number of liquidations occur to enable a valid  
8           sample of the effectiveness of the pilot program; and

9           (3) implement the pilot program no later than  
10          90 days after the selection of the development com-  
11          panies specified in subsection (b).

12          (e) REPORT.—

13           (1) IN GENERAL.—The Administrator shall  
14           issue a report on the results of the pilot program to  
15           the Committees on Small Business of the House of  
16           Representatives and the Senate. The report shall in-  
17           clude information relating to—

18                   (A) the total dollar amount of each loan  
19                   and project liquidated;

20                   (B) the total dollar amount guaranteed by  
21                   the Administration;

22                   (C) total dollar losses;

23                   (D) total recoveries both as percentage of  
24                   the amount guaranteed and the total cost of the  
25                   project; and

1           (E) a comparison of the pilot program in-  
2           formation with the same information for liq-  
3           uidation conducted outside the pilot program  
4           over the period of time.

5           (2) REPORTING PERIOD.—The report shall be  
6           based on data from, and issued not later than 90  
7           days after the close of, the first eight 8 fiscal quar-  
8           ters of the pilot program’s operation after the date  
9           of implementation.”.

10 **SEC. 205. REGISTRATION OF CERTIFICATES.**

11           (a) CERTIFICATES SOLD PURSUANT TO SMALL BUSI-  
12           NESS ACT.—Section 5(h) of the Small Business Act (15  
13           U.S.C. 634(h)) is amended—

14           (1) by redesignating paragraphs (1) through  
15           (4) as subparagraphs (A) through (D);

16           (2) by striking “(h)” and inserting “(h)(1)”;

17           (3) by striking subparagraph (A), as redesi-  
18           gnated by paragraph (1) of this subsection, and in-  
19           serting the following:

20           “(A) provide for a central registration of all  
21           loans and trust certificates sold pursuant to sub-  
22           sections (f) and (g) of this section;” and

23           (4) by adding at the end the following:

24           “(2) Nothing in this subsection shall prohibit the uti-  
25           lization of a book entry or other electronic form of reg-

1 istration for trust certificates. The Administration may,  
2 with the consent of the Secretary of the Treasury, use the  
3 book-entry system of the Federal Reserve System.”.

4 (b) CERTIFICATES SOLD PURSUANT TO SMALL BUSI-  
5 NESS INVESTMENT COMPANY PROGRAM.—Section 321(f)  
6 (15 U.S.C. 6871(f)) is amended—

7 (1) in paragraph (1) by striking “Such central  
8 registration shall include” and all that follows  
9 through the period at the end of the paragraph; and

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

11 “(5) Nothing in this subsection shall prohibit the use  
12 of a book-entry or other electronic form of registration for  
13 trust certificates.”.

14 (c) CERTIFICATES SOLD PURSUANT TO DEVELOP-  
15 MENT COMPANY PROGRAM.—Section 505(f) of the Small  
16 Business Investment Act of 1958 (15 U.S.C. 697b(f)) is  
17 amended—

18 (1) by redesignating paragraphs (1) through  
19 (4) as subparagraphs (A) through (D);

20 (2) by striking “(f)” and inserting “(f)(1)”;

21 (3) by striking subparagraph (A), as redesi-  
22 gnated by paragraph (1) of this subsection, and in-  
23 serting the following:

24 “(A) provide for a central registration of all  
25 trust certificates sold pursuant to this section;” and



- 1           (4) by adding at the end the following:
- 2           “(2) Nothing in this subsection shall prohibit the uti-
- 3 lization of a book entry or other electronic form of reg-
- 4 istration for trust certificates.”.

○