

106TH CONGRESS
2^D SESSION

H. R. 4822

To amend the Housing and Community Development Act of 1974 and the Federal Home Loan Bank Act to increase capital available to communities for community and economic development projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2000

Mr. FATAH introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To amend the Housing and Community Development Act of 1974 and the Federal Home Loan Bank Act to increase capital available to communities for community and economic development projects, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Communities
5 Investment Act of 1999”.

1 **SEC. 2. COMMUNITY DEVELOPMENT LOAN GUARANTEES.**

2 (a) **MAXIMUM AMOUNT OF OUTSTANDING GUARAN-**
3 **TEES FOR A SINGLE ISSUER.**—Section 108 of the Housing
4 and Community Development Act of 1974 (42 U.S.C.
5 5308) is amended by striking subsection (b) and inserting
6 the following new subsection:

7 “(b) **MAXIMUM AMOUNT OF OUTSTANDING GUARAN-**
8 **TEES.**—The maximum aggregate outstanding amount of
9 notes and obligations of a single issuer guaranteed under
10 this section shall be an amount determined by the Sec-
11 retary based on the amount of the grant approval for the
12 issuer under section 106 or 107, the fiscal condition of
13 the issuer, and the potential return on investment of the
14 projects to be undertaken with the proceeds of such notes
15 and obligations, but may not in any case exceed the dis-
16 counted present value of the grants that the issuer would
17 receive over a period not to exceed 20 years if the issuer’s
18 annual grant amount over such period were equal to 80
19 percent of the current grant approval for the issuer.”.

20 (b) **STAKEHOLDER PARTICIPATION.**—Section 108 of
21 the Housing and Community Development Act of 1974
22 (42 U.S.C. 5308) is amended by adding at the end the
23 following new subsection:

24 “(s) **STAKEHOLDER PARTICIPATION.**—

25 “(1) **REQUIREMENT.**—The Secretary shall pro-
26 vide that an issuer of notes or obligations under this

1 section shall, in complying with any community par-
2 ticipation requirements (including the requirements
3 under section 104(a)) applicable to the development
4 of activities to be funded with the proceeds of such
5 notes or obligations guaranteed under this section,
6 include participation of major stakeholders in the
7 community in which such activities will be carried
8 out.

9 “(2) DEFINITION.—For purposes of this sub-
10 section, the term ‘stakeholder’ means a public or pri-
11 vate organizational entity whose future well-being
12 depends upon the applicant’s continued social and
13 economic viability, and includes the representatives
14 of the following community interests:

15 “(A) Business.

16 “(B) Banking.

17 “(C) Education.

18 “(D) Public health and safety.

19 “(E) Labor.

20 “(F) Community-based development orga-
21 nizations.

22 “(G) Arts, cultural, religious, philan-
23 thropic, professional, and civic organizations.”.

1 **SEC. 3. COLLATERAL FOR FHLB ADVANCES.**

2 Section 10(a)(4) of the Federal Home Loan Bank
3 Act (12 U.S.C. 1430(a)(4)) is amended by striking the
4 second sentence.

5 **SEC. 4. AUTHORITY TO MAKE ADVANCES TO NONMEMBER**
6 **MORTGAGEES.**

7 Section 10b of the Federal Home Loan Bank Act (12
8 U.S.C. 1430b) is amended to read as follows:

9 **“SEC. 10B. ADVANCES TO NONMEMBER MORTGAGEES.**

10 “(a) **AUTHORITY.**—Each Federal home loan bank
11 may make advances to a nonmember mortgagee, except
12 that such advances may be used only for community lend-
13 ing (as such term is defined in section 10(k)).

14 “(b) **NONMEMBER MORTGAGEE DEFINED.**—For pur-
15 poses of subsection (a), the term ‘nonmember mortgagee’
16 means any entity—

17 “(1) that is—

18 “(A) a State or local housing finance agen-
19 cy or Indian housing authority (including any
20 subsidiary of such agency or authority) ap-
21 proved under title II of the National Housing
22 Act, which—

23 “(i) is a chartered institution having
24 succession; and

25 “(ii) is subject to the inspection and
26 supervision of a governmental agency;

1 “(B) a community development financial
2 institution that—

3 “(i) is not an insured depository insti-
4 tution or a subsidiary of an insured depository
5 tory institution; and

6 “(ii) at the time an advance under
7 this section is made, is certified as a com-
8 munity development financial institution
9 under the Community Development Bank-
10 ing and Financial Institutions Act of 1994;
11 and

12 “(iii) is a chartered institution having
13 succession; or

14 “(C) a State or local economic development
15 agency that—

16 “(i) is chartered under State law; and

17 “(ii) is an institution having succes-
18 sion; and

19 “(2) whose principal activity in the mortgage
20 field consists of lending the institution’s own funds.

21 “(c) SECURITY.—Advances under subsection (a) shall
22 be secured in accordance with the requirements of section
23 10.

24 “(d) TERMS AND CONDITIONS.—Advances made
25 under this section shall be made at the same rates of inter-

1 est and upon the same terms and conditions as are com-
2 parable extensions of credit to member institutions.”.

3 **SEC. 5. COMMUNITY LENDING FUND.**

4 Section 10 of the Federal Home Loan Bank Act (12
5 U.S.C. 1430) is amended by adding at the end the fol-
6 lowing new subsection:

7 “(k) COMMUNITY LENDING FUND.—

8 “(1) IN GENERAL.—Subject to regulations pre-
9 scribed by the Board to carry out this subsection,
10 each Federal home loan bank shall establish a Com-
11 munity Lending Fund, which the bank shall use to
12 facilitate community lending by its members and
13 nonmember mortgagees.

14 “(2) USE OF ASSETS OF COMMUNITY LENDING
15 FUNDS.—A bank may use amounts in its Commu-
16 nity Lending Fund only to provide grants, subsidies,
17 and subsidized advances to its members and non-
18 member mortgagees for use for community lending
19 activities.

20 “(3) LOW- AND MODERATE-INCOME TAR-
21 GETING.—Not less than 70 percent of the aggregate
22 amount of assistance provided by a bank from a
23 Community Lending Fund shall be used for the sup-
24 port of community lending activities that benefit
25 low- and moderate-income persons.

1 “(4) LOCAL PRIORITIES.—Each bank—

2 “(A) shall give priority for assistance from
3 the Community Lending Fund of the bank for
4 projects located in empowerment zones and en-
5 terprise communities designated under part I of
6 subchapter U of chapter 1 of the Internal Rev-
7 enue Code of 1986 (26 U.S.C. 1391 et seq.);
8 and

9 “(B) may establish such other priorities
10 for the types of projects to receive assistance
11 from the Community Lending Fund of the bank
12 as the bank considers appropriate, and to which
13 the Board shall defer, if such priorities are con-
14 sistent with the safety and soundness of the
15 bank and the provisions of this subsection. .

16 “(5) COORDINATION OF ACTIVITIES.—The
17 Board shall require the banks, to the extent prac-
18 ticable, to coordinate their activities pursuant to this
19 subsection with any other State or Federal programs
20 intended to facilitate community lending.

21 “(6) REPORT.—Each member and nonmember
22 mortgagee receiving advances or assistance from a
23 Community Lending Fund established by a bank
24 shall report annually to the bank regarding the use
25 of such advances or assistance.

1 “(7) CONTRIBUTION TO FUND.—Each bank
2 shall annually contribute 10 percent of the net earn-
3 ings of that bank (after deducting expenses related
4 to section 10(j) and operating expenses) to its Com-
5 munity Lending Fund. Each bank may contribute
6 additional moneys to the Fund, and may accept for
7 deposit into the Fund moneys from other parties.

8 “(8) SUSPENSION OF CONTRIBUTIONS.—

9 “(A) IN GENERAL.— If a bank finds that
10 the payments required under paragraph (7) are
11 contributing to the financial instability of such
12 bank, it may apply to the Board for a tem-
13 porary suspension of such payments. The Board
14 shall make a determination of whether the bank
15 is financially unstable and whether such pay-
16 ments are contributing to such instability, and
17 [may/shall] suspend such bank’s payments to
18 its Community Lending Fund if finds in the af-
19 firmative with respect to both such questions.

20 “(B) FACTORS TO BE CONSIDERED.—In
21 determining the financial stability of a bank for
22 purposes of this paragraph, the Board shall
23 consider such factors as—

24 “(i) whether the bank’s earnings are
25 severely depressed;

1 “(ii) whether there has been a sub-
2 stantial decline in membership capital; and

3 “(iii) whether there has been a sub-
4 stantial reduction in advances outstanding.

5 “(C) REVIEW OF APPLICATIONS.—The
6 Board shall review any application under this
7 paragraph and any supporting financial data
8 and issue a written decision approving or dis-
9 approving such application. The Board’s deci-
10 sion shall be accompanied by specific findings
11 and reasons for its action.

12 “(D) DESIGNATION OF SUSPENSION PE-
13 RIOD.—If the Board grants a suspension, it
14 shall specify the period of time that such sus-
15 pension shall remain in effect and shall con-
16 tinue to monitor the bank’s financial condition
17 during such suspension.

18 “(E) SUSPENSIONS PROHIBITED UNDER
19 CERTAIN CIRCUMSTANCES.—The Board shall
20 not suspend payment to the Community Lend-
21 ing Fund of a bank if the bank’s reduction in
22 earnings is a result of—

23 “(i) a change in the terms for ad-
24 vances to members which is not justified
25 by market conditions;

1 “(ii) inordinate operating and admin-
2 istrative expenses; or

3 “(iii) mismanagement.

4 “(9) REGULATIONS.—

5 “(A) IN GENERAL.—Not later than 1 year
6 after the date of the enactment of this Act, the
7 Board shall prescribe regulations to implement
8 this subsection.

9 “(B) LIMITATIONS, RESTRICTIONS, AND
10 OTHER REQUIREMENTS.—Subject to the re-
11 quirements of this subsection, such
12 regulations—

13 “(i) may specify activities, restric-
14 tions, and limitations for the use by the
15 banks of amounts from Community Lend-
16 ing Funds;

17 “(ii) may specify priorities for the use
18 of such advances;

19 “(iii) shall ensure that assistance pro-
20 vided from a Community Lending Fund
21 will be used only for community lending to
22 assist projects for which adequate long-
23 term monitoring is available to guarantee
24 requirements established pursuant to this
25 subsection are satisfied;

1 “(iv) shall ensure that any subsidies
2 provided under this subsection by Banks to
3 member institutions and nonmember mort-
4 gagees are passed on to the ultimate bor-
5 rower;

6 “(v) shall specify standards for deter-
7 mining benefit for low- and moderate-in-
8 come persons, for purposes of paragraph
9 (3); and

10 “(vi) shall establish uniform standards
11 for assistance from Community Lending
12 Funds and community lending by member
13 institutions and nonmember mortgagees
14 supported by such assistance.

15 “(10) ADVISORY COUNCIL.—Each bank shall
16 appoint an Advisory Council of 7 to 15 persons
17 drawn from stakeholders (as such term is defined in
18 section 108(s) of the Housing and Community De-
19 velopment Act of 1974 (42 U.S.C. 5308(s)) in its
20 district. The Advisory Council shall meet with rep-
21 resentatives of the board of directors of the Bank
22 quarterly to advise the Bank on community lending
23 needs in the district and on the utilization of the
24 Community Lending Fund of the bank for meeting
25 such needs. Each Advisory Council established under

1 this paragraph shall submit to the Board at least
2 annually its analysis of the community lending ac-
3 tivities carried out with amounts from the Commu-
4 nity Lending Fund of the bank by which the Com-
5 mittee is appointed.

6 “(11) REPORTS TO CONGRESS.—

7 “(A) The Board shall monitor and annu-
8 ally submit a report to the Congress and the
9 Advisory Council for each bank the support of
10 community lending by the banks and the utili-
11 zation of amounts from Community Lending
12 Funds.

13 “(B) The analyses submitted by the Advi-
14 sory Councils to the Board under paragraph
15 (10) shall be included as part of the reports re-
16 quired by this paragraph.

17 “(C) The Comptroller General of the
18 United States shall audit and evaluate the pro-
19 gram under this subsection after such program
20 has been operating for 2 years. The Comp-
21 troller General shall submit a report to the
22 Congress on the conclusions of the audit and
23 recommend improvements or modifications to
24 the program.

1 “(12) DEFINITIONS.—For purposes of this sub-
2 section, the following definitions shall apply:

3 “(A) COMMUNITY LENDING.—The term
4 ‘community lending’ means providing financing
5 for activities that meet the requirements for eli-
6 gibility, under section 105 of the Housing and
7 Community Development Act of 1974 (42
8 U.S.C. 5305), for assistance with amounts for
9 grants under title I of such Act.

10 “(B) LOW- AND MODERATE-INCOME PER-
11 SONS.—The term ‘low- and moderate-income
12 persons has the meaning given such term in
13 section 102 of the Housing and Community De-
14 velopment Act of 1974 (42 U.S.C. 5302).

15 “(C) NONMEMBER MORTGAGE.—The term
16 ‘nonmember mortgagee’ has the meaning given
17 such term in section 10B(b) of this Act.”.

18 (b) FUNDING FOR COMMUNITY LENDING FUNDS.—
19 Section 21B(f)(2)(C) of the Federal Home Loan Bank Act
20 (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

21 “(C) PAYMENTS BY FEDERAL HOME LOAN
22 BANKS.—

23 “(i) REFCORP FUNDING.—To the ex-
24 tent that the amounts available pursuant
25 to subparagraphs (A) and (B) are insuffi-

1 cient to cover the amount of interest pay-
2 ments, each Federal home loan bank shall
3 pay to the Funding Corporation in each
4 calendar year, 10 percent of the net earn-
5 ings of that bank (after deducting expenses
6 relating to section 10(j) and operating ex-
7 penses).

8 “(ii) ANNUITY VALUE.—The Board
9 shall annually determine the extent to
10 which the value of the aggregate amounts
11 paid by the banks exceeds or falls short of
12 the value of an annuity of \$300,000,000
13 per year that commences on the issuance
14 date and ends on the final scheduled matu-
15 rity date of the obligations, and shall select
16 appropriate present value factors for mak-
17 ing such determinations.

18 “(iii) ADJUSTMENT OF PERIOD OF
19 BANKS’ OBLIGATIONS.—The Board shall
20 extend or shorten the term of the banks’
21 payment obligations under this subpara-
22 graph, as necessary to ensure that the
23 value of all payments made by the banks
24 under this paragraph is equivalent to the
25 value of such an annuity.

1 “(iv) EXTENSION OF PERIOD BEYOND
2 MATURITY DATES OF UNDERLYING OBLI-
3 GATIONS.—If the Board extends the term
4 of payments beyond the final scheduled
5 maturity date for the obligations, each
6 bank shall continue to pay 10 percent of
7 its net earnings (after deducting expenses
8 relating to section 10(j) and operating ex-
9 penses) to the general fund of the Treas-
10 ury until the value of all such payments by
11 the banks is equivalent to the value of such
12 an annuity.

13 “(v) FINAL YEAR ADJUSTMENT.—In
14 the final year in which the banks are re-
15 quired to make any payment to the general
16 fund of the Treasury under clause (iv), if
17 the dollar amount represented by 10 per-
18 cent of the net earnings of the banks ex-
19 ceeds the remaining obligation of the
20 banks to the Treasury, the Finance Board
21 shall reduce the percentage pro rata to a
22 level sufficient to pay the remaining obliga-
23 tion.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsections (a) and (b) shall become effective on January
3 1, 2000.

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