

106TH CONGRESS
2D SESSION

H. R. 4923

AN ACT

To amend the Internal Revenue Code of 1986 to provide tax incentives for the renewal of distressed communities, to provide for nine additional empowerment zones and increased tax incentives for empowerment zone development, to encourage investments in new markets, and for other purposes.

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To amend the Internal Revenue Code of 1986 to provide tax incentives for the renewal of distressed communities, to provide for nine additional empowerment zones and increased tax incentives for empowerment zone development, to encourage investments in new markets, 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; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Community Renewal and New Markets Act of 2000”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
 7 wise expressly provided, whenever in this Act an amend-
 8 ment or repeal is expressed in terms of an amendment
 9 to, or repeal of, a section or other provision, the reference
 10 shall be considered to be made to a section or other provi-
 11 sion of the Internal Revenue Code of 1986.

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1 **TITLE I—TAX INCENTIVES FOR** 2 **RENEWAL COMMUNITIES**

3 **SEC. 101. DESIGNATION OF AND TAX INCENTIVES FOR RE-** 4 **NEWAL COMMUNITIES.**

5 (a) IN GENERAL.—Chapter 1 is amended by adding
6 at the end the following new subchapter:

7 **“Subchapter X—Renewal Communities**

“Part I. Designation.

“Part II. Renewal community capital gain; renewal community business.

“Part III. Additional incentives.

1

“PART I—DESIGNATION

“Sec. 1400E. Designation of renewal communities.

2

“SEC. 1400E. DESIGNATION OF RENEWAL COMMUNITIES.

3

“(a) DESIGNATION.—

4

“(1) DEFINITIONS.—For purposes of this title, the term ‘renewal community’ means any area—

6

“(A) which is nominated by one or more

7

local governments and the State or States in

8

which it is located for designation as a renewal

9

community (hereafter in this section referred to

10

as a ‘nominated area’), and

11

“(B) which the Secretary of Housing and

12

Urban Development designates as a renewal

13

community, after consultation with—

14

“(i) the Secretaries of Agriculture,

15

Commerce, Labor, and the Treasury; the

16

Director of the Office of Management and

17

Budget, and the Administrator of the

18

Small Business Administration, and

19

“(ii) in the case of an area on an In-

20

dian reservation, the Secretary of the Inte-

21

rior.

22

“(2) NUMBER OF DESIGNATIONS.—

1 “(A) IN GENERAL.—The Secretary of
2 Housing and Urban Development may des-
3 ignate not more than 40 nominated areas as re-
4 newal communities.

5 “(B) MINIMUM DESIGNATION IN RURAL
6 AREAS.—Of the areas designated under para-
7 graph (1), at least eight must be areas—

8 “(i) which are within a local govern-
9 ment jurisdiction or jurisdictions with a
10 population of less than 50,000,

11 “(ii) which are outside of a metropoli-
12 tan statistical area (within the meaning of
13 section 143(k)(2)(B)), or

14 “(iii) which are determined by the
15 Secretary of Housing and Urban Develop-
16 ment, after consultation with the Secretary
17 of Commerce, to be rural areas.

18 “(3) AREAS DESIGNATED BASED ON DEGREE
19 OF POVERTY, ETC.—

20 “(A) IN GENERAL.—Except as otherwise
21 provided in this section, the nominated areas
22 designated as renewal communities under this
23 subsection shall be those nominated areas with
24 the highest average ranking with respect to the
25 criteria described in subparagraphs (B), (C),

1 and (D) of subsection (c)(3). For purposes of
2 the preceding sentence, an area shall be ranked
3 within each such criterion on the basis of the
4 amount by which the area exceeds such cri-
5 terion, with the area which exceeds such cri-
6 terion by the greatest amount given the highest
7 ranking.

8 “(B) EXCEPTION WHERE INADEQUATE
9 COURSE OF ACTION, ETC.—An area shall not be
10 designated under subparagraph (A) if the Sec-
11 retary of Housing and Urban Development de-
12 termines that the course of action described in
13 subsection (d)(2) with respect to such area is
14 inadequate.

15 “(4) LIMITATION ON DESIGNATIONS.—

16 “(A) PUBLICATION OF REGULATIONS.—
17 The Secretary of Housing and Urban Develop-
18 ment shall prescribe by regulation no later than
19 4 months after the date of the enactment of
20 this section, after consultation with the officials
21 described in paragraph (1)(B)—

22 “(i) the procedures for nominating an
23 area under paragraph (1)(A),

1 “(ii) the parameters relating to the
2 size and population characteristics of a re-
3 newal community, and

4 “(iii) the manner in which nominated
5 areas will be evaluated based on the cri-
6 teria specified in subsection (d).

7 “(B) TIME LIMITATIONS.—The Secretary
8 of Housing and Urban Development may des-
9 ignate nominated areas as renewal communities
10 only during the 24-month period beginning on
11 the first day of the first month following the
12 month in which the regulations described in
13 subparagraph (A) are prescribed.

14 “(C) PROCEDURAL RULES.—The Secretary
15 of Housing and Urban Development shall not
16 make any designation of a nominated area as a
17 renewal community under paragraph (2)
18 unless—

19 “(i) the local governments and the
20 States in which the nominated area is lo-
21 cated have the authority—

22 “(I) to nominate such area for
23 designation as a renewal community,

1 “(II) to make the State and local
2 commitments described in subsection
3 (d), and

4 “(III) to provide assurances sat-
5 isfactory to the Secretary of Housing
6 and Urban Development that such
7 commitments will be fulfilled,

8 “(ii) a nomination regarding such
9 area is submitted in such a manner and in
10 such form, and contains such information,
11 as the Secretary of Housing and Urban
12 Development shall by regulation prescribe,
13 and

14 “(iii) the Secretary of Housing and
15 Urban Development determines that any
16 information furnished is reasonably accu-
17 rate.

18 “(5) NOMINATION PROCESS FOR INDIAN RES-
19 ERVATIONS.—For purposes of this subchapter, in
20 the case of a nominated area on an Indian reserva-
21 tion, the reservation governing body (as determined
22 by the Secretary of the Interior) shall be treated as
23 being both the State and local governments with re-
24 spect to such area.

1 “(b) PERIOD FOR WHICH DESIGNATION IS IN EF-
2 FECT.—

3 “(1) IN GENERAL.—Any designation of an area
4 as a renewal community shall remain in effect dur-
5 ing the period beginning on July 1, 2001, and end-
6 ing on the earliest of—

7 “(A) December 31, 2009,

8 “(B) the termination date designated by
9 the State and local governments in their nomi-
10 nation, or

11 “(C) the date the Secretary of Housing
12 and Urban Development revokes such designa-
13 tion.

14 “(2) REVOCATION OF DESIGNATION.—The Sec-
15 retary of Housing and Urban Development may re-
16 voke the designation under this section of an area if
17 such Secretary determines that the local government
18 or the State in which the area is located—

19 “(A) has modified the boundaries of the
20 area, or

21 “(B) is not complying substantially with,
22 or fails to make progress in achieving, the State
23 or local commitments, respectively, described in
24 subsection (d).

1 “(3) EARLIER TERMINATION OF CERTAIN BEN-
2 EFITS IF EARLIER TERMINATION OF DESIGNA-
3 TION.—If the designation of an area as a renewal
4 community terminates before December 31, 2009—

5 “(A) the date of such termination shall be
6 substituted for ‘December 31, 2009’ in section
7 198(h) with respect to such area, and

8 “(B) the day after the date of such termi-
9 nation shall be substituted for ‘January 1,
10 2010’ each place it appears in sections 1400F
11 and 1400J with respect to such area.

12 “(c) AREA AND ELIGIBILITY REQUIREMENTS.—

13 “(1) IN GENERAL.—The Secretary of Housing
14 and Urban Development may designate a nominated
15 area as a renewal community under subsection (a)
16 only if the area meets the requirements of para-
17 graphs (2) and (3) of this subsection.

18 “(2) AREA REQUIREMENTS.—A nominated area
19 meets the requirements of this paragraph if—

20 “(A) the area is within the jurisdiction of
21 one or more local governments,

22 “(B) the boundary of the area is contin-
23 uous, and

24 “(C) the area—

1 “(i) has a population of not more than
2 200,000 and at least—

3 “(I) 4,000 if any portion of such
4 area (other than a rural area de-
5 scribed in subsection (a)(2)(B)(i)) is
6 located within a metropolitan statis-
7 tical area (within the meaning of sec-
8 tion 143(k)(2)(B)) which has a popu-
9 lation of 50,000 or greater, or

10 “(II) 1,000 in any other case, or

11 “(ii) is entirely within an Indian res-
12 ervation (as determined by the Secretary of
13 the Interior).

14 “(3) ELIGIBILITY REQUIREMENTS.—A nomi-
15 nated area meets the requirements of this paragraph
16 if the State and the local governments in which it
17 is located certify in writing (and the Secretary of
18 Housing and Urban Development, after such review
19 of supporting data as he deems appropriate, accepts
20 such certification) that—

21 “(A) the area is one of pervasive poverty,
22 unemployment, and general distress;

23 “(B) the unemployment rate in the area,
24 as determined by the most recent available
25 data, was at least 1½ times the national unem-

1 ployment rate for the period to which such data
2 relate;

3 “(C) the poverty rate for each population
4 census tract within the nominated area is at
5 least 20 percent; and

6 “(D) in the case of an urban area, at least
7 70 percent of the households living in the area
8 have incomes below 80 percent of the median
9 income of households within the jurisdiction of
10 the local government (determined in the same
11 manner as under section 119(b)(2) of the
12 Housing and Community Development Act of
13 1974).

14 “(4) CONSIDERATION OF HIGH INCIDENCE OF
15 CRIME.—The Secretary of Housing and Urban De-
16 velopment shall take into account, in selecting nomi-
17 nated areas for designation as renewal communities
18 under this section, the extent to which such areas
19 have a high incidence of crime.

20 “(5) CONSIDERATION OF COMMUNITIES IDENTI-
21 FIED IN GAO STUDY.—The Secretary of Housing
22 and Urban Development shall take into account, in
23 selecting nominated areas for designation as renewal
24 communities under this section, if the area has cen-
25 sus tracts identified in the May 12, 1998, report of

1 the General Accounting Office regarding the identi-
2 fication of economically distressed areas.

3 “(d) REQUIRED STATE AND LOCAL COMMIT-
4 MENTS.—

5 “(1) IN GENERAL.—The Secretary of Housing
6 and Urban Development may designate any nomi-
7 nated area as a renewal community under subsection
8 (a) only if—

9 “(A) the local government and the State in
10 which the area is located agree in writing that,
11 during any period during which the area is a
12 renewal community, such governments will fol-
13 low a specified course of action which meets the
14 requirements of paragraph (2) and is designed
15 to reduce the various burdens borne by employ-
16 ers or employees in such area, and

17 “(B) the economic growth promotion re-
18 quirements of paragraph (3) are met.

19 “(2) COURSE OF ACTION.—

20 “(A) IN GENERAL.—A course of action
21 meets the requirements of this paragraph if
22 such course of action is a written document,
23 signed by a State (or local government) and
24 neighborhood organizations, which evidences a
25 partnership between such State or government

1 and community-based organizations and which
2 commits each signatory to specific and measur-
3 able goals, actions, and timetables. Such course
4 of action shall include at least four of the fol-
5 lowing:

6 “(i) A reduction of tax rates or fees
7 applying within the renewal community.

8 “(ii) An increase in the level of effi-
9 ciency of local services within the renewal
10 community.

11 “(iii) Crime reduction strategies, such
12 as crime prevention (including the provi-
13 sion of crime prevention services by non-
14 governmental entities).

15 “(iv) Actions to reduce, remove, sim-
16 plify, or streamline governmental require-
17 ments applying within the renewal commu-
18 nity.

19 “(v) Involvement in the program by
20 private entities, organizations, neighbor-
21 hood organizations, and community
22 groups, particularly those in the renewal
23 community, including a commitment from
24 such private entities to provide jobs and
25 job training for, and technical, financial, or

1 other assistance to, employers, employees,
2 and residents from the renewal community.

3 “(vi) The gift (or sale at below fair
4 market value) of surplus real property
5 (such as land, homes, and commercial or
6 industrial structures) in the renewal com-
7 munity to neighborhood organizations,
8 community development corporations, or
9 private companies.

10 “(B) RECOGNITION OF PAST EFFORTS.—

11 For purposes of this section, in evaluating the
12 course of action agreed to by any State or local
13 government, the Secretary of Housing and
14 Urban Development shall take into account the
15 past efforts of such State or local government
16 in reducing the various burdens borne by em-
17 ployers and employees in the area involved.

18 “(3) ECONOMIC GROWTH PROMOTION REQUIRE-
19 MENTS.—The economic growth promotion require-
20 ments of this paragraph are met with respect to a
21 nominated area if the local government and the
22 State in which such area is located certify in writing
23 that such government and State (respectively) have
24 repealed or reduced, will not enforce, or will reduce

1 within the nominated area at least four of the fol-
2 lowing:

3 “(A) Licensing requirements for occupa-
4 tions that do not ordinarily require a profes-
5 sional degree.

6 “(B) Zoning restrictions on home-based
7 businesses which do not create a public nui-
8 sance.

9 “(C) Permit requirements for street ven-
10 dors who do not create a public nuisance.

11 “(D) Zoning or other restrictions that im-
12 pede the formation of schools or child care cen-
13 ters.

14 “(E) Franchises or other restrictions on
15 competition for businesses providing public
16 services, including taxicabs, jitneys, cable tele-
17 vision, or trash hauling.

18 This paragraph shall not apply to the extent that
19 such regulation of businesses and occupations is nec-
20 essary for and well-tailored to the protection of
21 health and safety.

22 “(e) COORDINATION WITH TREATMENT OF EM-
23 POWERMENT ZONES AND ENTERPRISE COMMUNITIES.—
24 For purposes of this title, the designation under section
25 1391 of any area as an empowerment zone or enterprise

1 community shall cease to be in effect as of the date that
2 the designation of any portion of such area as a renewal
3 community takes effect.

4 “(f) DEFINITIONS AND SPECIAL RULES.—For pur-
5 poses of this subchapter—

6 “(1) GOVERNMENTS.—If more than one govern-
7 ment seeks to nominate an area as a renewal com-
8 munity, any reference to, or requirement of, this sec-
9 tion shall apply to all such governments.

10 “(2) LOCAL GOVERNMENT.—The term ‘local
11 government’ means—

12 “(A) any county, city, town, township, par-
13 ish, village, or other general purpose political
14 subdivision of a State, and

15 “(B) any combination of political subdivi-
16 sions described in subparagraph (A) recognized
17 by the Secretary of Housing and Urban Devel-
18 opment.

19 “(3) APPLICATION OF RULES RELATING TO
20 CENSUS TRACTS.—The rules of section 1392(b)(4)
21 shall apply.

22 “(4) CENSUS DATA.—Population and poverty
23 rate shall be determined by using 1990 census data.

24 “(g) PRIORITY FOR DISTRICT OF COLUMBIA NOMI-
25 NATED AREA.—For purposes of this subchapter—

1 “(1) IN GENERAL.—Any nominated area within
 2 the District of Columbia shall be treated for pur-
 3 poses of subsection (a)(3) as having the highest av-
 4 erage with respect to the criteria described in sub-
 5 paragraphs (B), (C), and (D) of subsection (c)(3).

6 “(2) DATE OF DESIGNATION.—Notwithstanding
 7 subsection (b)(1), the designation of a nominated
 8 area within the District of Columbia as a renewal
 9 community shall take effect on January 1, 2003.

10 “(3) NOMINATION.—The District of Columbia
 11 shall be treated as being both a State and local gov-
 12 ernment with respect to such area.

13 **“PART II—RENEWAL COMMUNITY CAPITAL GAIN;
 14 RENEWAL COMMUNITY BUSINESS**

 “Sec. 1400F. Renewal community capital gain.

 “Sec. 1400G. Renewal community business defined.

15 **“SEC. 1400F. RENEWAL COMMUNITY CAPITAL GAIN.**

16 “(a) GENERAL RULE.—Gross income does not in-
 17 clude any qualified capital gain from the sale or exchange
 18 of a qualified community asset held for more than 5 years.

19 “(b) QUALIFIED COMMUNITY ASSET.—For purposes
 20 of this section—

21 “(1) IN GENERAL.—The term ‘qualified com-
 22 munity asset’ means—

23 “(A) any qualified community stock,

1 “(B) any qualified community partnership
2 interest, and

3 “(C) any qualified community business
4 property.

5 “(2) QUALIFIED COMMUNITY STOCK.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), the term ‘qualified commu-
8 nity stock’ means any stock in a domestic cor-
9 poration if—

10 “(i) such stock is acquired by the tax-
11 payer after June 30, 2001, and before
12 January 1, 2010, at its original issue (di-
13 rectly or through an underwriter) from the
14 corporation solely in exchange for cash,

15 “(ii) as of the time such stock was
16 issued, such corporation was a renewal
17 community business (or, in the case of a
18 new corporation, such corporation was
19 being organized for purposes of being a re-
20 newal community business), and

21 “(iii) during substantially all of the
22 taxpayer’s holding period for such stock,
23 such corporation qualified as a renewal
24 community business.

1 “(B) REDEMPTIONS.—A rule similar to
2 the rule of section 1202(c)(3) shall apply for
3 purposes of this paragraph.

4 “(3) QUALIFIED COMMUNITY PARTNERSHIP IN-
5 TEREST.—The term ‘qualified community partner-
6 ship interest’ means any capital or profits interest in
7 a domestic partnership if—

8 “(A) such interest is acquired by the tax-
9 payer after June 30, 2001, and before January
10 1, 2010, from the partnership solely in ex-
11 change for cash,

12 “(B) as of the time such interest was ac-
13 quired, such partnership was a renewal commu-
14 nity business (or, in the case of a new partner-
15 ship, such partnership was being organized for
16 purposes of being a renewal community busi-
17 ness), and

18 “(C) during substantially all of the
19 taxpayer’s holding period for such interest,
20 such partnership qualified as a renewal commu-
21 nity business.

22 A rule similar to the rule of paragraph (2)(B) shall
23 apply for purposes of this paragraph.

24 “(4) QUALIFIED COMMUNITY BUSINESS PROP-
25 PERTY.—

1 “(A) IN GENERAL.—The term ‘qualified
2 community business property’ means tangible
3 property if—

4 “(i) such property was acquired by
5 the taxpayer by purchase (as defined in
6 section 179(d)(2)) after June 30, 2001,
7 and before January 1, 2010,

8 “(ii) the original use of such property
9 in the renewal community commences with
10 the taxpayer, and

11 “(iii) during substantially all of the
12 taxpayer’s holding period for such prop-
13 erty, substantially all of the use of such
14 property was in a renewal community busi-
15 ness of the taxpayer.

16 “(B) SPECIAL RULE FOR SUBSTANTIAL IM-
17 PROVEMENTS.—The requirements of clauses (i)
18 and (ii) of subparagraph (A) shall be treated as
19 satisfied with respect to—

20 “(i) property which is substantially
21 improved by the taxpayer before January
22 1, 2010, and

23 “(ii) any land on which such property
24 is located.

1 The determination of whether a property is sub-
2 stantially improved shall be made under clause
3 (ii) of section 1400B(b)(4)(B), except that
4 ‘June 30, 2001’ shall be substituted for ‘De-
5 cember 31, 1997’ in such clause.

6 “(c) QUALIFIED CAPITAL GAIN.—For purposes of
7 this section—

8 “(1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the term ‘qualified capital
10 gain’ means any gain recognized on the sale or ex-
11 change of—

12 “(A) a capital asset, or

13 “(B) property used in the trade or busi-
14 ness (as defined in section 1231(b)).

15 “(2) GAIN BEFORE JULY 1, 2001, OR AFTER 2014
16 NOT QUALIFIED.—The term ‘qualified capital gain’
17 shall not include any gain attributable to periods be-
18 fore July 1, 2001, or after December 31, 2014.

19 “(3) CERTAIN RULES TO APPLY.—Rules similar
20 to the rules of paragraphs (3), (4), and (5) of sec-
21 tion 1400B(e) shall apply for purposes of this sub-
22 section.

23 “(d) CERTAIN RULES TO APPLY.—For purposes of
24 this section, rules similar to the rules of paragraphs (5),
25 (6), and (7) of subsection (b), and subsections (f) and

1 (g), of section 1400B shall apply; except that for such pur-
 2 poses section 1400B(g)(2) shall be applied by substituting
 3 ‘July 1, 2001’ for ‘January 1, 1998’ and ‘December 31,
 4 2014’ for ‘December 31, 2007’.

5 “(e) REGULATIONS.—The Secretary shall prescribe
 6 such regulations as may be appropriate to carry out the
 7 purposes of this section, including regulations to prevent
 8 the avoidance of the purposes of this section.

9 **“SEC. 1400G. RENEWAL COMMUNITY BUSINESS DEFINED.**

10 “For purposes of this subchapter, the term ‘renewal
 11 community business’ means any entity or proprietorship
 12 which would be a qualified business entity or qualified pro-
 13 prietorship under section 1397C if references to renewal
 14 communities were substituted for references to empower-
 15 ment zones in such section.

16 **“PART III—ADDITIONAL INCENTIVES**

“Sec. 1400H. Renewal community employment credit.

“Sec. 1400I. Commercial revitalization deduction.

“Sec. 1400J. Increase in expensing under section 179.

17 **“SEC. 1400H. RENEWAL COMMUNITY EMPLOYMENT CREDIT.**

18 “(a) IN GENERAL.—Subject to the modification in
 19 subsection (b), a renewal community shall be treated as
 20 an empowerment zone for purposes of section 1396 with
 21 respect to wages paid or incurred after June 30, 2001.

22 “(b) MODIFICATION.—In applying section 1396 with
 23 respect to renewal communities—

1 “(1) the applicable percentage shall be 15 per-
2 cent, and

3 “(2) subsection (c) thereof shall be applied by
4 substituting ‘\$10,000’ for ‘\$15,000’ each place it ap-
5 pears.

6 **“SEC. 1400I. COMMERCIAL REVITALIZATION DEDUCTION.**

7 “(a) GENERAL RULE.—At the election of the tax-
8 payer, either—

9 “(1) one-half of any qualified revitalization ex-
10 penditures chargeable to capital account with respect
11 to any qualified revitalization building shall be allow-
12 able as a deduction for the taxable year in which the
13 building is placed in service, or

14 “(2) a deduction for all such expenditures shall
15 be allowable ratably over the 120-month period be-
16 ginning with the month in which the building is
17 placed in service.

18 “(b) QUALIFIED REVITALIZATION BUILDINGS AND
19 EXPENDITURES.—For purposes of this section—

20 “(1) QUALIFIED REVITALIZATION BUILDING.—
21 The term ‘qualified revitalization building’ means
22 any building (and its structural components) if—

23 “(A) the building is placed in service by
24 the taxpayer in a renewal community and the

1 original use of the building begins with the tax-
2 payer, or

3 “(B) in the case of such building not de-
4 scribed in subparagraph (A), such building—

5 “(i) is substantially rehabilitated
6 (within the meaning of section
7 47(c)(1)(C)) by the taxpayer, and

8 “(ii) is placed in service by the tax-
9 payer after the rehabilitation in a renewal
10 community.

11 “(2) QUALIFIED REVITALIZATION EXPENDI-
12 TURE.—

13 “(A) IN GENERAL.—The term ‘qualified
14 revitalization expenditure’ means any amount
15 properly chargeable to capital account for prop-
16 erty for which depreciation is allowable under
17 section 168 (without regard to this section) and
18 which is—

19 “(i) nonresidential real property (as
20 defined in section 168(e)), or

21 “(ii) section 1250 property (as defined
22 in section 1250(c)) which is functionally
23 related and subordinate to property de-
24 scribed in clause (i).

1 “(B) CERTAIN EXPENDITURES NOT IN-
2 CLUDED.—

3 “(i) ACQUISITION COST.—In the case
4 of a building described in paragraph
5 (1)(B), the cost of acquiring the building
6 or interest therein shall be treated as a
7 qualified revitalization expenditure only to
8 the extent that such cost does not exceed
9 30 percent of the aggregate qualified re-
10 vitalization expenditures (determined with-
11 out regard to such cost) with respect to
12 such building.

13 “(ii) CREDITS.—The term ‘qualified
14 revitalization expenditure’ does not include
15 any expenditure which the taxpayer may
16 take into account in computing any credit
17 allowable under this title unless the tax-
18 payer elects to take the expenditure into
19 account only for purposes of this section.

20 “(c) DOLLAR LIMITATION.—The aggregate amount
21 which may be treated as qualified revitalization expendi-
22 tures with respect to any qualified revitalization building
23 shall not exceed the lesser of—

24 “(1) \$10,000,000, or

1 “(2) the commercial revitalization expenditure
2 amount allocated to such building under this section
3 by the commercial revitalization agency for the State
4 in which the building is located.

5 “(d) COMMERCIAL REVITALIZATION EXPENDITURE
6 AMOUNT.—

7 “(1) IN GENERAL.—The aggregate commercial
8 revitalization expenditure amount which a commer-
9 cial revitalization agency may allocate for any cal-
10 endar year is the amount of the State commercial
11 revitalization expenditure ceiling determined under
12 this paragraph for such calendar year for such agen-
13 cy.

14 “(2) STATE COMMERCIAL REVITALIZATION EX-
15 PENDITURE CEILING.—The State commercial re-
16 vitalization expenditure ceiling applicable to any
17 State—

18 “(A) for the period after June 30, 2001,
19 and before January 1, 2002, is \$6,000,000 for
20 each renewal community in the State,

21 “(B) for each calendar year after 2001
22 and before 2010 is \$12,000,000 for each re-
23 newal community in the State, and

24 “(C) for each calendar year thereafter is
25 zero.

1 “(3) COMMERCIAL REVITALIZATION AGENCY.—
2 For purposes of this section, the term ‘commercial
3 revitalization agency’ means any agency authorized
4 by a State to carry out this section.

5 “(4) TIME AND MANNER OF ALLOCATIONS.—
6 Allocations under this section shall be made at the
7 same time and in the same manner as under para-
8 graphs (1) and (7) of section 42(h).

9 “(e) RESPONSIBILITIES OF COMMERCIAL REVITAL-
10 IZATION AGENCIES.—

11 “(1) PLANS FOR ALLOCATION.—Notwith-
12 standing any other provision of this section, the
13 commercial revitalization expenditure amount with
14 respect to any building shall be zero unless—

15 “(A) such amount was allocated pursuant
16 to a qualified allocation plan of the commercial
17 revitalization agency which is approved (in ac-
18 cordance with rules similar to the rules of sec-
19 tion 147(f)(2) (other than subparagraph (B)(ii)
20 thereof)) by the governmental unit of which
21 such agency is a part; and

22 “(B) such agency notifies the chief execu-
23 tive officer (or its equivalent) of the local juris-
24 diction within which the building is located of
25 such allocation and provides such individual a

1 reasonable opportunity to comment on the allo-
2 cation.

3 “(2) QUALIFIED ALLOCATION PLAN.—For pur-
4 poses of this subsection, the term ‘qualified alloca-
5 tion plan’ means any plan—

6 “(A) which sets forth selection criteria to
7 be used to determine priorities of the commer-
8 cial revitalization agency which are appropriate
9 to local conditions,

10 “(B) which considers—

11 “(i) the degree to which a project con-
12 tributes to the implementation of a stra-
13 tegic plan that is devised for a renewal
14 community through a citizen participation
15 process,

16 “(ii) the amount of any increase in
17 permanent, full-time employment by reason
18 of any project, and

19 “(iii) the active involvement of resi-
20 dents and nonprofit groups within the re-
21 newal community, and

22 “(C) which provides a procedure that the
23 agency (or its agent) will follow in monitoring
24 compliance with this section.

25 “(f) SPECIAL RULES.—

1 “(1) DEDUCTION IN LIEU OF DEPRECIATION.—

2 The deduction provided by this section for qualified
3 revitalization expenditures shall—

4 “(A) with respect to the deduction deter-
5 mined under subsection (a)(1), be in lieu of any
6 depreciation deduction otherwise allowable on
7 account of one-half of such expenditures, and

8 “(B) with respect to the deduction deter-
9 mined under subsection (a)(2), be in lieu of any
10 depreciation deduction otherwise allowable on
11 account of all of such expenditures.

12 “(2) BASIS ADJUSTMENT, ETC.—For purposes
13 of sections 1016 and 1250, the deduction under this
14 section shall be treated in the same manner as a de-
15 preciation deduction. For purposes of section
16 1250(b)(5), the straight line method of adjustment
17 shall be determined without regard to this section.

18 “(3) SUBSTANTIAL REHABILITATIONS TREATED
19 AS SEPARATE BUILDINGS.—A substantial rehabilita-
20 tion (within the meaning of section 47(e)(1)(C)) of
21 a building shall be treated as a separate building for
22 purposes of subsection (a).

23 “(4) CLARIFICATION OF ALLOWANCE OF DE-
24 DUCTION UNDER MINIMUM TAX.—Notwithstanding
25 section 56(a)(1), the deduction under this section

1 shall be allowed in determining alternative minimum
2 taxable income under section 55.

3 “(g) REGULATIONS.—For purposes of this section,
4 the Secretary shall, by regulations, provide for the applica-
5 tion of rules similar to the rules of section 49 and sub-
6 sections (a) and (b) of section 50.

7 “(h) TERMINATION.—This section shall not apply to
8 any building placed in service after December 31, 2009.

9 **“SEC. 1400J. INCREASE IN EXPENSING UNDER SECTION 179.**

10 “(a) IN GENERAL.—For purposes of section
11 1397A—

12 “(1) a renewal community shall be treated as
13 an empowerment zone,

14 “(2) a renewal community business shall be
15 treated as an empowerment zone business, and

16 “(3) qualified renewal property shall be treated
17 as enterprise zone property.

18 “(b) QUALIFIED RENEWAL PROPERTY.—For pur-
19 poses of this section—

20 “(1) IN GENERAL.—The term ‘qualified renewal
21 property’ means any property to which section 168
22 applies (or would apply but for section 179) if—

23 “(A) such property was acquired by the
24 taxpayer by purchase (as defined in section

1 179(d)(2)) after June 30, 2001, and before
2 January 1, 2010, and

3 “(B) such property would be qualified zone
4 property (as defined in section 1397D) if ref-
5 erences to renewal communities were sub-
6 stituted for references to empowerment zones in
7 section 1397D.

8 “(2) CERTAIN RULES TO APPLY.—The rules of
9 subsections (a)(2) and (b) of section 1397D shall
10 apply for purposes of this section.”

11 (b) EXCEPTION FOR COMMERCIAL REVITALIZATION
12 DEDUCTION FROM PASSIVE LOSS RULES.—

13 (1) Paragraph (3) of section 469(i) is amended
14 by redesignating subparagraphs (C), (D), and (E) as
15 subparagraphs (D), (E), and (F), respectively, and
16 by inserting after subparagraph (B) the following
17 new subparagraph:

18 “(C) EXCEPTION FOR COMMERCIAL REVI-
19 TALIZATION DEDUCTION.—Subparagraph (A)
20 shall not apply to any portion of the passive ac-
21 tivity loss for any taxable year which is attrib-
22 utable to the commercial revitalization deduc-
23 tion under section 1400I.”

1 (2) Subparagraph (E) of section 469(i)(3), as
2 redesignated by subparagraph (A), is amended to
3 read as follows:

4 “(E) ORDERING RULES TO REFLECT EX-
5 CEPTIONS AND SEPARATE PHASE-OUTS.—If
6 subparagraph (B), (C), or (D) applies for a tax-
7 able year, paragraph (1) shall be applied—

8 “(i) first to the portion of the passive
9 activity loss to which subparagraph (C)
10 does not apply,

11 “(ii) second to the portion of the pas-
12 sive activity credit to which subparagraph
13 (B) or (D) does not apply,

14 “(iii) third to the portion of such
15 credit to which subparagraph (B) applies,

16 “(iv) fourth to the portion of such loss
17 to which subparagraph (C) applies, and

18 “(v) then to the portion of such credit
19 to which subparagraph (D) applies.”.

20 (3)(A) Subparagraph (B) of section 469(i)(6) is
21 amended by striking “or” at the end of clause (i),
22 by striking the period at the end of clause (ii) and
23 inserting “, or”, and by adding at the end the fol-
24 lowing new clause:

1 “(iii) any deduction under section
2 1400I (relating to commercial revitaliza-
3 tion deduction).”.

4 (B) The heading for such subparagraph (B) is
5 amended by striking “OR REHABILITATION CREDIT”
6 and inserting “, REHABILITATION CREDIT, OR COM-
7 MERCIAL REVITALIZATION DEDUCTION”.

8 (c) CLERICAL AMENDMENT.—The table of sub-
9 chapters for chapter 1 is amended by adding at the end
10 the following new item:

“Subchapter X. Renewal Communities.”.

11 **SEC. 102. EXTENSION OF EXPENSING OF ENVIRONMENTAL**
12 **REMEDATION COSTS TO RENEWAL COMMU-**
13 **NITIES; EXTENSION OF TERMINATION DATE**
14 **FOR RENEWAL COMMUNITIES AND EM-**
15 **POWERMENT ZONES.**

16 (a) EXTENSION.—

17 (1) IN GENERAL.—Subparagraph (A) of section
18 198(c)(2) (defining targeted area) is amended by
19 striking “and” at the end of clause (iii), by striking
20 the period at the end of clause (iv) and inserting “,
21 and”, and by adding at the end the following new
22 clause:

23 “(v) any renewal community (as de-
24 fined in section 1400E).”.

1 **TITLE II—EXTENSION AND EX-**
2 **PANSION OF EMPOWERMENT**
3 **ZONE INCENTIVES**

4 **SEC. 201. AUTHORITY TO DESIGNATE NINE ADDITIONAL**
5 **EMPOWERMENT ZONES.**

6 Section 1391 is amended by adding at the end the
7 following new subsection:

8 “(h) **ADDITIONAL DESIGNATIONS PERMITTED.**—

9 “(1) **IN GENERAL.**—In addition to the areas
10 designated under subsections (a) and (g), the appro-
11 priate Secretaries may designate in the aggregate an
12 additional nine nominated areas as empowerment
13 zones under this section, subject to the availability
14 of eligible nominated areas. Of that number, not
15 more than seven may be designated in urban areas
16 and not more than two may be designated in rural
17 areas.

18 “(2) **PERIOD DESIGNATIONS MAY BE MADE AND**
19 **TAKE EFFECT.**—A designation may be made under
20 this subsection after the date of the enactment of
21 this subsection and before January 1, 2002. Subject
22 to subparagraphs (B) and (C) of subsection (d)(1),
23 such designations shall remain in effect during the
24 period beginning on January 1, 2002, and ending on
25 December 31, 2009.

1 “(3) MODIFICATIONS TO ELIGIBILITY CRITERIA,
2 ETC.—The rules of subsection (g)(3) shall apply to
3 designations under this subsection.”.

4 **SEC. 202. EXTENSION OF ENTERPRISE ZONE TREATMENT**
5 **THROUGH 2009.**

6 Subparagraph (A) of section 1391(d)(1) (relating to
7 period for which designation is in effect) is amended to
8 read as follows:

9 “(A) December 31, 2009,”.

10 **SEC. 203. 20 PERCENT EMPLOYMENT CREDIT FOR ALL EM-**
11 **POWERMENT ZONES**

12 (a) 20 PERCENT CREDIT.—Subsection (b) of section
13 1396 (relating to empowerment zone employment credit)
14 is amended to read as follows:

15 “(b) APPLICABLE PERCENTAGE.—For purposes of
16 this section, the applicable percentage is 20 percent.”.

17 (b) ALL EMPOWERMENT ZONES ELIGIBLE FOR
18 CREDIT.—Section 1396 is amended by striking subsection
19 (e).

20 (c) CONFORMING AMENDMENT.—Subsection (d) of
21 section 1400 is amended to read as follows:

22 “(d) SPECIAL RULE FOR APPLICATION OF EMPLOY-
23 MENT CREDIT.—With respect to the DC Zone, section
24 1396(d)(1)(B) (relating to empowerment zone employ-

1 ment credit) shall be applied by substituting ‘the District
2 of Columbia’ for ‘such empowerment zone’.”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to wages paid or incurred after
5 December 31, 2001.

6 **SEC. 204. INCREASED EXPENSING UNDER SECTION 179.**

7 (a) IN GENERAL.—Subparagraph (A) of section
8 1397A(a)(1) is amended by striking “\$20,000” and in-
9 serting “\$35,000”.

10 (b) EXPENSING FOR PROPERTY USED IN DEVELOP-
11 ABLE SITES.—Section 1397A is amended by striking sub-
12 section (c).

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2001.

16 **SEC. 205. HIGHER LIMITS ON TAX-EXEMPT EMPOWERMENT**
17 **ZONE FACILITY BONDS.**

18 (a) IN GENERAL.—Paragraph (3) of section 1394(f)
19 (relating to bonds for empowerment zones designated
20 under section 1391(g)) is amended to read as follows:

21 “(3) EMPOWERMENT ZONE FACILITY BOND.—
22 For purposes of this subsection, the term ‘empower-
23 ment zone facility bond’ means any bond which
24 would be described in subsection (a) if—

1 “(A) in the case of obligations issued be-
 2 fore January 1, 2002, only empowerment zones
 3 designated under section 1391(g) were taken
 4 into account under sections 1397C and 1397D,
 5 and

6 “(B) in the case of obligations issued after
 7 December 31, 2001, all empowerment zones
 8 (other than the District of Columbia) were
 9 taken into account under sections 1397C and
 10 1397D.”.

11 (b) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to obligations issued after Decem-
 13 ber 31, 2001.

14 **SEC. 206. NONRECOGNITION OF GAIN ON ROLLOVER OF**
 15 **EMPOWERMENT ZONE INVESTMENTS.**

16 (a) IN GENERAL.—Part III of subchapter U of chap-
 17 ter 1 is amended—

18 (1) by redesignating subpart C as subpart D;

19 (2) by redesignating sections 1397B and 1397C
 20 as sections 1397C and 1397D, respectively; and

21 (3) by inserting after subpart B the following
 22 new subpart:

23 **“Subpart C—Nonrecognition of Gain on Rollover of**
 24 **Empowerment Zone Investments**

“Sec. 1397B. Nonrecognition of Gain on Rollover of Empower-
 ment Zone Investments.

1 **“SEC. 1397B. NONRECOGNITION OF GAIN ON ROLLOVER OF**
2 **EMPOWERMENT ZONE INVESTMENTS.**

3 “(a) NONRECOGNITION OF GAIN.—In the case of any
4 sale of a qualified empowerment zone asset held by the
5 taxpayer for more than 1 year and with respect to which
6 such taxpayer elects the application of this section, gain
7 from such sale shall be recognized only to the extent that
8 the amount realized on such sale exceeds—

9 “(1) the cost of any qualified empowerment
10 zone asset (with respect to the same zone as the
11 asset sold) purchased by the taxpayer during the 60-
12 day period beginning on the date of such sale, re-
13 duced by

14 “(2) any portion of such cost previously taken
15 into account under this section.

16 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
17 poses of this section—

18 “(1) QUALIFIED EMPOWERMENT ZONE
19 ASSET.—

20 “(A) IN GENERAL.—The term ‘qualified
21 empowerment zone asset’ means any property
22 which would be a qualified community asset (as
23 defined in section 1400F) if in section 1400F—

24 “(i) references to empowerment zones
25 were substituted for references to renewal
26 communities,

1 “(ii) references to enterprise zone
2 businesses (as defined in section 1397C)
3 were substituted for references to renewal
4 community businesses, and

5 “(iii) the date of the enactment of this
6 paragraph were substituted for ‘December
7 31, 2001’ each place it appears.

8 “(B) TREATMENT OF DC ZONE.—The Dis-
9 trict of Columbia Enterprise Zone shall not be
10 treated as an empowerment zone for purposes
11 of this section.

12 “(2) CERTAIN GAIN NOT ELIGIBLE FOR ROLL-
13 OVER.—This section shall not apply to—

14 “(A) any gain which is treated as ordinary
15 income for purposes of this subtitle, and

16 “(B) any gain which is attributable to real
17 property, or an intangible asset, which is not an
18 integral part of an enterprise zone business.

19 “(3) PURCHASE.—A taxpayer shall be treated
20 as having purchased any property if, but for para-
21 graph (4), the unadjusted basis of such property in
22 the hands of the taxpayer would be its cost (within
23 the meaning of section 1012).

24 “(4) BASIS ADJUSTMENTS.—If gain from any
25 sale is not recognized by reason of subsection (a),

1 such gain shall be applied to reduce (in the order ac-
2 quired) the basis for determining gain or loss of any
3 qualified empowerment zone asset which is pur-
4 chased by the taxpayer during the 60-day period de-
5 scribed in subsection (a). This paragraph shall not
6 apply for purposes of section 1202.

7 “(5) HOLDING PERIOD.—For purposes of deter-
8 mining whether the nonrecognition of gain under
9 subsection (a) applies to any qualified empowerment
10 zone asset which is sold—

11 “(A) the taxpayer’s holding period for such
12 asset and the asset referred to in subsection
13 (a)(1) shall be determined without regard to
14 section 1223, and

15 “(B) only the first year of the taxpayer’s
16 holding period for the asset referred to in sub-
17 section (a)(1) shall be taken into account for
18 purposes of paragraphs (2)(A)(iii), (3)(C), and
19 (4)(A)(iii) of section 1400F(b).”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Paragraph (23) of section 1016(a) is
22 amended—

23 (A) by striking “or 1045” and inserting
24 “1045, or 1397B”; and

1 (B) by striking “or 1045(b)(4)” and in-
2 serting “1045(b)(4), or 1397B(b)(4)”.

3 (2) Paragraph (15) of section 1223 is amended
4 to read as follows:

5 “(15) Except for purposes of sections
6 1202(a)(2), 1202(c)(2)(A), 1400B(b), and
7 1400F(b), in determining the period for which the
8 taxpayer has held property the acquisition of which
9 resulted under section 1045 or 1397B in the non-
10 recognition of any part of the gain realized on the
11 sale of other property, there shall be included the pe-
12 riod for which such other property has been held as
13 of the date of such sale.”.

14 (3) Paragraph (2) of section 1394(b) is
15 amended—

16 (A) by striking “section 1397C” and in-
17 serting “section 1397D”; and

18 (B) by striking “section 1397C(a)(2)” and
19 inserting “section 1397D(a)(2)”.

20 (4) Paragraph (3) of section 1394(b) is
21 amended—

22 (A) by striking “section 1397B” each place
23 it appears and inserting “section 1397C”; and

24 (B) by striking “section 1397B(d)” and in-
25 serting “section 1397C(d)”.

1 (5) Sections 1400(e) and 1400B(c) are each
2 amended by striking “section 1397B” each place it
3 appears and inserting “section 1397C”.

4 (6) The table of subparts for part III of sub-
5 chapter U of chapter 1 is amended by striking the
6 last item and inserting the following new items:

 “Subpart C. Nonrecognition of gain on rollover of empowerment
 zone investments.

 “Subpart D. General provisions.”.

7 (7) The table of sections for subpart D of such
8 part III is amended to read as follows:

 “Sec. 1397C. Enterprise zone business defined.

 “Sec. 1397D. Qualified zone property defined.”.

9 (c) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to qualified empowerment zone as-
11 sets acquired after the date of the enactment of this Act.

12 **SEC. 207. INCREASED EXCLUSION OF GAIN ON SALE OF EM-**
13 **POWERMENT ZONE STOCK.**

14 (a) **IN GENERAL.**—Subsection (a) of section 1202 is
15 amended to read as follows:

16 “(a) **EXCLUSION.**—

17 “(1) **IN GENERAL.**—In the case of a taxpayer
18 other than a corporation, gross income shall not in-
19 clude 50 percent of any gain from the sale or ex-
20 change of qualified small business stock held for
21 more than 5 years.

22 “(2) **EMPOWERMENT ZONE BUSINESSES.**—

1 “(A) IN GENERAL.—In the case of quali-
2 fied small business stock acquired after the date
3 of the enactment of this paragraph in a cor-
4 poration which is a qualified business entity (as
5 defined in section 1397C(b)) during substan-
6 tially all of the taxpayer’s holding period for
7 such stock, paragraph (1) shall be applied by
8 substituting ‘60 percent’ for ‘50 percent’.

9 “(B) CERTAIN RULES TO APPLY.—Rules
10 similar to the rules of paragraphs (5) and (7)
11 of section 1400B(b) shall apply for purposes of
12 this paragraph.

13 “(C) GAIN AFTER 2014 NOT QUALIFIED.—
14 Subparagraph (A) shall not apply to gain at-
15 tributable to periods after December 31, 2014.

16 “(D) TREATMENT OF DC ZONE.—The Dis-
17 trict of Columbia Enterprise Zone shall not be
18 treated as an empowerment zone for purposes
19 of this paragraph.”.

20 (b) CONFORMING AMENDMENT.—Paragraph (8) of
21 section 1(h) is amended by striking “means” and all that
22 follows and inserting “means the excess of—

23 “(A) the gain which would be excluded
24 from gross income under section 1202 but for

1 the percentage limitation in section 1202(a),
2 over

3 “(B) the gain excluded from gross income
4 under section 1202.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to stock acquired after the date
7 of the enactment of this Act.

8 **TITLE III—NEW MARKETS TAX**
9 **CREDIT**

10 **SEC. 301. NEW MARKETS TAX CREDIT.**

11 (a) IN GENERAL.—Subpart D of part IV of sub-
12 chapter A of chapter 1 (relating to business-related cred-
13 its) is amended by adding at the end the following new
14 section:

15 **“SEC. 45D. NEW MARKETS TAX CREDIT.**

16 “(a) ALLOWANCE OF CREDIT.—

17 “(1) IN GENERAL.—For purposes of section 38,
18 in the case of a taxpayer who holds a qualified eq-
19 uity investment on a credit allowance date of such
20 investment which occurs during the taxable year, the
21 new markets tax credit determined under this sec-
22 tion for such taxable year is an amount equal to the
23 applicable percentage of the amount paid to the
24 qualified community development entity for such in-
25 vestment at its original issue.

1 “(2) APPLICABLE PERCENTAGE.—For purposes
2 of paragraph (1), the applicable percentage is—

3 “(A) 5 percent with respect to the first
4 three credit allowance dates, and

5 “(B) 6 percent with respect to the remain-
6 der of the credit allowance dates.

7 “(3) CREDIT ALLOWANCE DATE.—For purposes
8 of paragraph (1), the term ‘credit allowance date’
9 means, with respect to any qualified equity
10 investment—

11 “(A) the date on which such investment is
12 initially made, and

13 “(B) each of the six anniversary dates of
14 such date thereafter.

15 “(b) QUALIFIED EQUITY INVESTMENT.—For pur-
16 poses of this section—

17 “(1) IN GENERAL.—The term ‘qualified equity
18 investment’ means any equity investment in a quali-
19 fied community development entity if—

20 “(A) such investment is acquired by the
21 taxpayer at its original issue (directly or
22 through an underwriter) solely in exchange for
23 cash,

24 “(B) substantially all of such cash is used
25 by the qualified community development entity

1 to make qualified low-income community invest-
2 ments, and

3 “(C) such investment is designated for
4 purposes of this section by the qualified com-
5 munity development entity.

6 Such term shall not include any equity investment
7 issued by a qualified community development entity
8 more than 5 years after the date that such entity re-
9 ceives an allocation under subsection (f). Any alloca-
10 tion not used within such 5-year period may be re-
11 allocated by the Secretary under subsection (f).

12 “(2) LIMITATION.—The maximum amount of
13 equity investments issued by a qualified community
14 development entity which may be designated under
15 paragraph (1)(C) by such entity shall not exceed the
16 portion of the limitation amount allocated under
17 subsection (f) to such entity.

18 “(3) SAFE HARBOR FOR DETERMINING USE OF
19 CASH.—The requirement of paragraph (1)(B) shall
20 be treated as met if at least 85 percent of the aggre-
21 gate gross assets of the qualified community devel-
22 opment entity are invested in qualified low-income
23 community investments.

24 “(4) TREATMENT OF SUBSEQUENT PUR-
25 CHASERS.—The term ‘qualified equity investment’

1 includes any equity investment which would (but for
2 paragraph (1)(A)) be a qualified equity investment
3 in the hands of the taxpayer if such investment was
4 a qualified equity investment in the hands of a prior
5 holder.

6 “(5) REDEMPTIONS.—A rule similar to the rule
7 of section 1202(e)(3) shall apply for purposes of this
8 subsection.

9 “(6) EQUITY INVESTMENT.—The term ‘equity
10 investment’ means—

11 “(A) any stock (other than nonqualified
12 preferred stock as defined in section 351(g)(2))
13 in an entity which is a corporation, and

14 “(B) any capital interest in an entity
15 which is a partnership.

16 “(c) QUALIFIED COMMUNITY DEVELOPMENT ENTI-
17 TY.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified com-
19 munity development entity’ means any domestic cor-
20 poration or partnership if—

21 “(A) the primary mission of the entity is
22 serving, or providing investment capital for,
23 low-income communities or low-income persons,

24 “(B) the entity maintains accountability to
25 residents of low-income communities through

1 representation on governing or advisory boards
2 or otherwise, and

3 “(C) the entity is certified by the Secretary
4 for purposes of this section as being a qualified
5 community development entity.

6 “(2) SPECIAL RULES FOR CERTAIN ORGANIZA-
7 TIONS.—The requirements of paragraph (1) shall be
8 treated as met by—

9 “(A) any specialized small business invest-
10 ment company (as defined in section
11 1044(c)(3)), and

12 “(B) any community development financial
13 institution (as defined in section 103 of the
14 Community Development Banking and Finan-
15 cial Institutions Act of 1994 (12 U.S.C. 4702)).

16 “(d) QUALIFIED LOW-INCOME COMMUNITY INVEST-
17 MENTS.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified low-in-
19 come community investment’ means—

20 “(A) any equity investment in, or loan to,
21 any qualified active low-income community busi-
22 ness,

23 “(B) the purchase from another commu-
24 nity development entity of any loan made by

1 such entity which is a qualified low-income com-
2 munity investment,

3 “(C) financial counseling and other serv-
4 ices specified in regulations prescribed by the
5 Secretary to businesses located in, and resi-
6 dents of, low-income communities, and

7 “(D) any equity investment in, or loan to,
8 any qualified community development entity.

9 “(2) QUALIFIED ACTIVE LOW-INCOME COMMU-
10 NITY BUSINESS.—

11 “(A) IN GENERAL.—For purposes of para-
12 graph (1), the term ‘qualified active low-income
13 community business’ means, with respect to any
14 taxable year, any corporation or partnership if
15 for such year—

16 “(i) at least 50 percent of the total
17 gross income of such entity is derived from
18 the active conduct of a qualified business
19 within any low-income community,

20 “(ii) a substantial portion of the use
21 of the tangible property of such entity
22 (whether owned or leased) is within any
23 low-income community,

24 “(iii) a substantial portion of the serv-
25 ices performed for such entity by its em-

1 ployees are performed in any low-income
2 community,

3 “(iv) less than 5 percent of the aver-
4 age of the aggregate unadjusted bases of
5 the property of such entity is attributable
6 to collectibles (as defined in section
7 408(m)(2)) other than collectibles that are
8 held primarily for sale to customers in the
9 ordinary course of such business, and

10 “(v) less than 5 percent of the aver-
11 age of the aggregate unadjusted bases of
12 the property of such entity is attributable
13 to nonqualified financial property (as de-
14 fined in section 1397C(e)).

15 “(B) PROPRIETORSHIP.—Such term shall
16 include any business carried on by an individual
17 as a proprietor if such business would meet the
18 requirements of subparagraph (A) were it incor-
19 porated.

20 “(C) PORTIONS OF BUSINESS MAY BE
21 QUALIFIED ACTIVE LOW-INCOME COMMUNITY
22 BUSINESS.—The term ‘qualified active low-in-
23 come community business’ includes any trades
24 or businesses which would qualify as a qualified
25 active low-income community business if such

1 trades or businesses were separately incor-
2 porated.

3 “(3) QUALIFIED BUSINESS.—For purposes of
4 this subsection, the term ‘qualified business’ has the
5 meaning given to such term by section 1397C(d); ex-
6 cept that—

7 “(A) in lieu of applying paragraph (2)(B)
8 thereof, the rental to others of real property lo-
9 cated in any low-income community shall be
10 treated as a qualified business if there are sub-
11 stantial improvements located on such property,

12 “(B) paragraph (3) thereof shall not apply,
13 and

14 “(C) such term shall not include any busi-
15 ness if a significant portion of the equity inter-
16 ests in such business are held by any person
17 who holds a significant portion of the equity in-
18 vestments in the community development entity.

19 “(e) LOW-INCOME COMMUNITY.—For purposes of
20 this section—

21 “(1) IN GENERAL.—The term ‘low-income com-
22 munity’ means any population census tract if—

23 “(A) the poverty rate for such tract is at
24 least 20 percent, or

1 “(B)(i) in the case of a tract not located
2 within a metropolitan area, the median family
3 income for such tract does not exceed 80 per-
4 cent of statewide median family income, or

5 “(ii) in the case of a tract located within
6 a metropolitan area, the median family income
7 for such tract does not exceed 80 percent of the
8 greater of statewide median family income or
9 the metropolitan area median family income.

10 “(2) AREAS NOT WITHIN CENSUS TRACTS.—In
11 the case of an area which is not tracted for popu-
12 lation census tracts, the equivalent county divisions
13 (as defined by the Bureau of the Census for pur-
14 poses of defining poverty areas) shall be used for
15 purposes of determining poverty rates and median
16 family income.

17 “(f) NATIONAL LIMITATION ON AMOUNT OF INVEST-
18 MENTS DESIGNATED.—

19 “(1) IN GENERAL.—There is a new markets tax
20 credit limitation for each calendar year. Such limita-
21 tion is—

22 “(A) \$1,000,000,000 for 2001,

23 “(B) \$1,500,000,000 for 2002 and 2003,

24 “(C) \$2,000,000,000 for 2004 and 2005,

25 and

1 “(D) \$3,500,000,000 for 2006 and 2007.

2 “(2) ALLOCATION OF LIMITATION.—The limita-
3 tion under paragraph (1) shall be allocated by the
4 Secretary among qualified community development
5 entities selected by the Secretary. In making alloca-
6 tions under the preceding sentence, the Secretary
7 shall give priority to entities with records of having
8 successfully provided capital or technical assistance
9 to disadvantaged businesses or communities.

10 “(3) CARRYOVER OF UNUSED LIMITATION.—If
11 the new markets tax credit limitation for any cal-
12 endar year exceeds the aggregate amount allocated
13 under paragraph (2) for such year, such limitation
14 for the succeeding calendar year shall be increased
15 by the amount of such excess. No amount may be
16 carried under the preceding sentence to any calendar
17 year after 2014.

18 “(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

19 “(1) IN GENERAL.—If, at any time during the
20 7-year period beginning on the date of the original
21 issue of a qualified equity investment in a qualified
22 community development entity, there is a recapture
23 event with respect to such investment, then the tax
24 imposed by this chapter for the taxable year in

1 which such event occurs shall be increased by the
2 credit recapture amount.

3 “(2) CREDIT RECAPTURE AMOUNT.—For pur-
4 poses of paragraph (1), the credit recapture amount
5 is an amount equal to the sum of—

6 “(A) the aggregate decrease in the credits
7 allowed to the taxpayer under section 38 for all
8 prior taxable years which would have resulted if
9 no credit had been determined under this sec-
10 tion with respect to such investment, plus

11 “(B) interest at the overpayment rate es-
12 tablished under section 6621 on the amount de-
13 termined under subparagraph (A) for each
14 prior taxable year for the period beginning on
15 the due date for filing the return for the prior
16 taxable year involved.

17 No deduction shall be allowed under this chapter for
18 interest described in subparagraph (B).

19 “(3) RECAPTURE EVENT.—For purposes of
20 paragraph (1), there is a recapture event with re-
21 spect to an equity investment in a qualified commu-
22 nity development entity if—

23 “(A) such entity ceases to be a qualified
24 community development entity,

1 “(B) the proceeds of the investment cease
2 to be used as required of subsection (b)(1)(B),
3 or

4 “(C) such investment is redeemed by such
5 entity.

6 “(4) SPECIAL RULES.—

7 “(A) TAX BENEFIT RULE.—The tax for
8 the taxable year shall be increased under para-
9 graph (1) only with respect to credits allowed
10 by reason of this section which were used to re-
11 duce tax liability. In the case of credits not so
12 used to reduce tax liability, the carryforwards
13 and carrybacks under section 39 shall be appro-
14 priately adjusted.

15 “(B) NO CREDITS AGAINST TAX.—Any in-
16 crease in tax under this subsection shall not be
17 treated as a tax imposed by this chapter for
18 purposes of determining the amount of any
19 credit under this chapter or for purposes of sec-
20 tion 55.

21 “(h) BASIS REDUCTION.—The basis of any qualified
22 equity investment shall be reduced by the amount of any
23 credit determined under this section with respect to such
24 investment. This subsection shall not apply for purposes
25 of sections 1202, 1400B, and 1400F.

1 “(i) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be appropriate to carry out this
3 section, including regulations—

4 “(1) which limit the credit for investments
5 which are directly or indirectly subsidized by other
6 Federal tax benefits (including the credit under sec-
7 tion 42 and the exclusion from gross income under
8 section 103),

9 “(2) which prevent the abuse of the purposes of
10 this section,

11 “(3) which provide rules for determining wheth-
12 er the requirement of subsection (b)(1)(B) is treated
13 as met,

14 “(4) which impose appropriate reporting re-
15 quirements, and

16 “(5) which apply the provisions of this section
17 to newly formed entities.”.

18 (b) CREDIT MADE PART OF GENERAL BUSINESS
19 CREDIT.—

20 (1) IN GENERAL.—Subsection (b) of section 38
21 is amended by striking “plus” at the end of para-
22 graph (11), by striking the period at the end of
23 paragraph (12) and inserting “, plus”, and by add-
24 ing at the end the following new paragraph:

1 “(13) the new markets tax credit determined
2 under section 45D(a).”.

3 (2) LIMITATION ON CARRYBACK.—Subsection
4 (d) of section 39 is amended by adding at the end
5 the following new paragraph:

6 “(9) NO CARRYBACK OF NEW MARKETS TAX
7 CREDIT BEFORE JANUARY 1, 2001.—No portion of
8 the unused business credit for any taxable year
9 which is attributable to the credit under section 45D
10 may be carried back to a taxable year ending before
11 January 1, 2001.”.

12 (c) DEDUCTION FOR UNUSED CREDIT.—Subsection
13 (c) of section 196 is amended by striking “and” at the
14 end of paragraph (7), by striking the period at the end
15 of paragraph (8) and inserting “, and”, and by adding
16 at the end the following new paragraph:

17 “(9) the new markets tax credit determined
18 under section 45D(a).”.

19 (d) CLERICAL AMENDMENT.—The table of sections
20 for subpart D of part IV of subchapter A of chapter 1
21 is amended by adding at the end the following new item:

 “Sec. 45D. New markets tax credit.”.

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to investments made after Decem-
24 ber 31, 2000.

1 (f) REGULATIONS ON ALLOCATION OF NATIONAL
2 LIMITATION.—Not later than 60 days after the date of
3 the enactment of this Act, the Secretary of the Treasury
4 or the Secretary’s delegate shall prescribe regulations
5 which specify—

6 (1) how entities shall apply for an allocation
7 under section 45D(f)(2) of the Internal Revenue
8 Code of 1986, as added by this section;

9 (2) the competitive procedure through which
10 such allocations are made; and

11 (3) the actions that such Secretary or delegate
12 shall take to ensure that such allocations are prop-
13 erly made to appropriate entities.

14 **TITLE IV—IMPROVEMENTS IN**
15 **LOW-INCOME HOUSING CREDIT**

16 **SEC. 401. MODIFICATION OF STATE CEILING ON LOW-IN-**
17 **COME HOUSING CREDIT.**

18 (a) IN GENERAL.—Clauses (i) and (ii) of section
19 42(h)(3)(C) (relating to State housing credit ceiling) are
20 amended to read as follows:

21 “(i) the unused State housing credit
22 ceiling (if any) of such State for the pre-
23 ceding calendar year,

24 “(ii) the greater of—

1 “(I) the applicable amount under
2 subparagraph (H) multiplied by the
3 State population, or

4 “(II) \$2,000,000.”

5 (b) APPLICABLE AMOUNT.—Paragraph (3) of section
6 42(h) (relating to housing credit dollar amount for agen-
7 cies) is amended by adding at the end the following new
8 subparagraph:

9 “(H) APPLICABLE AMOUNT OF STATE
10 CEILING.—For purposes of subparagraph
11 (C)(ii), the applicable amount shall be deter-
12 mined under the following table:

“For calendar year:	The applicable amount is:
2001	\$1.35
2002	1.45
2003	1.55
2004	1.65
2005	1.70
2006 and thereafter	1.75.”

13 (c) ADJUSTMENT OF STATE CEILING FOR INCREASES
14 IN COST-OF-LIVING.—Paragraph (3) of section 42(h) (re-
15 lating to housing credit dollar amount for agencies), as
16 amended by subsection (c), is amended by adding at the
17 end the following new subparagraph:

18 “(I) COST-OF-LIVING ADJUSTMENT.—

19 “(i) IN GENERAL.—In the case of a
20 calendar year after 2006, the \$2,000,000
21 in subparagraph (C) and the \$1.75 amount

1 in subparagraph (H) shall each be in-
2 creased by an amount equal to—

3 “(I) such dollar amount, multi-
4 plied by

5 “(II) the cost-of-living adjust-
6 ment determined under section 1(f)(3)
7 for such calendar year by substituting
8 ‘calendar year 2005’ for ‘calendar
9 year 1992’ in subparagraph (B) there-
10 of.

11 “(ii) ROUNDING.—

12 “(I) In the case of the amount in
13 subparagraph (C), any increase under
14 clause (i) which is not a multiple of
15 \$5,000 shall be rounded to the next
16 lowest multiple of \$5,000.

17 “(II) In the case of the amount
18 in subparagraph (H), any increase
19 under clause (i) which is not a mul-
20 tiple of 5 cents shall be rounded to
21 the next lowest multiple of 5 cents.”.

22 (d) CONFORMING AMENDMENTS.—

23 (1) Section 42(h)(3)(C), as amended by sub-
24 section (a), is amended—

1 (A) by striking “clause (ii)” in the matter
2 following clause (iv) and inserting “clause (i)”;
3 and

4 (B) by striking “clauses (i)” in the matter
5 following clause (iv) and inserting “clauses
6 (ii)”.

7 (2) Section 42(h)(3)(D)(ii) is amended—

8 (A) by striking “subparagraph (C)(ii)” and
9 inserting “subparagraph (C)(i)”; and

10 (B) by striking “clauses (i)” in subclause
11 (II) and inserting “clauses (ii)”.

12 (e) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to calendar years after 2000.

14 **SEC. 402. MODIFICATION OF CRITERIA FOR ALLOCATING**
15 **HOUSING CREDITS AMONG PROJECTS.**

16 (a) SELECTION CRITERIA.—Subparagraph (C) of
17 section 42(m)(1) (relating to certain selection criteria
18 must be used) is amended—

19 (1) by inserting “, including whether the project
20 includes the use of existing housing as part of a
21 community revitalization plan” before the comma at
22 the end of clause (iii); and

23 (2) by striking clauses (v), (vi), and (vii) and
24 inserting the following new clauses:

1 “(v) tenant populations with special
2 housing needs,
3 “(vi) public housing waiting lists,
4 “(vii) tenant populations of individ-
5 uals with children, and
6 “(viii) projects intended for eventual
7 tenant ownership.”.

8 (b) PREFERENCE FOR COMMUNITY REVITALIZATION
9 PROJECTS LOCATED IN QUALIFIED CENSUS TRACTS.—
10 Clause (ii) of section 42(m)(1)(B) is amended by striking
11 “and” at the end of subclause (I), by adding “and” at
12 the end of subclause (II), and by inserting after subclause
13 (II) the following new subclause:

14 “(III) projects which are located
15 in qualified census tracts (as defined
16 in subsection (d)(5)(C)) and the devel-
17 opment of which contributes to a con-
18 certed community revitalization
19 plan,”.

20 **SEC. 403. ADDITIONAL RESPONSIBILITIES OF HOUSING**
21 **CREDIT AGENCIES.**

22 (a) MARKET STUDY; PUBLIC DISCLOSURE OF RA-
23 TIONALE FOR NOT FOLLOWING CREDIT ALLOCATION
24 PRIORITIES.—Subparagraph (A) of section 42(m)(1) (re-
25 lating to responsibilities of housing credit agencies) is

1 amended by striking “and” at the end of clause (i), by
2 striking the period at the end of clause (ii) and inserting
3 a comma, and by adding at the end the following new
4 clauses:

5 “(iii) a comprehensive market study
6 of the housing needs of low-income individ-
7 uals in the area to be served by the project
8 is conducted before the credit allocation is
9 made and at the developer’s expense by a
10 disinterested party who is approved by
11 such agency, and

12 “(iv) a written explanation is available
13 to the general public for any allocation of
14 a housing credit dollar amount which is
15 not made in accordance with established
16 priorities and selection criteria of the hous-
17 ing credit agency.”.

18 (b) **SITE VISITS.**—Clause (iii) of section 42(m)(1)(B)
19 (relating to qualified allocation plan) is amended by insert-
20 ing before the period “and in monitoring for noncompli-
21 ance with habitability standards through regular site vis-
22 its”.

1 **SEC. 404. MODIFICATIONS TO RULES RELATING TO BASIS**
2 **OF BUILDING WHICH IS ELIGIBLE FOR CRED-**
3 **IT.**

4 (a) ADJUSTED BASIS TO INCLUDE PORTION OF CER-
5 TAIN BUILDINGS USED BY LOW-INCOME INDIVIDUALS
6 WHO ARE NOT TENANTS AND BY PROJECT EMPLOY-
7 EES.—Paragraph (4) of section 42(d) (relating to special
8 rules relating to determination of adjusted basis) is
9 amended—

10 (1) by striking “subparagraph (B)” in subpara-
11 graph (A) and inserting “subparagraphs (B) and
12 (C)”;

13 (2) by redesignating subparagraph (C) as sub-
14 paragraph (D); and

15 (3) by inserting after subparagraph (B) the fol-
16 lowing new subparagraph:

17 “(C) INCLUSION OF BASIS OF PROPERTY
18 USED TO PROVIDE SERVICES FOR CERTAIN
19 NONTENANTS.—

20 “(i) IN GENERAL.—The adjusted
21 basis of any building located in a qualified
22 census tract (as defined in paragraph
23 (5)(C)) shall be determined by taking into
24 account the adjusted basis of property (of
25 a character subject to the allowance for de-
26 preciation and not otherwise taken into ac-

1 count) used throughout the taxable year in
2 providing any community service facility.

3 “(ii) LIMITATION.—The increase in
4 the adjusted basis of any building which is
5 taken into account by reason of clause (i)
6 shall not exceed 10 percent of the eligible
7 basis of the qualified low-income housing
8 project of which it is a part. For purposes
9 of the preceding sentence, all community
10 service facilities which are part of the same
11 qualified low-income housing project shall
12 be treated as one facility.

13 “(iii) COMMUNITY SERVICE FACIL-
14 ITY.—For purposes of this subparagraph,
15 the term ‘community service facility’
16 means any facility designed to serve pri-
17 marily individuals whose income is 60 per-
18 cent or less of area median income (within
19 the meaning of subsection (g)(1)(B)).”.

20 (b) CERTAIN NATIVE AMERICAN HOUSING ASSIST-
21 ANCE DISREGARDED IN DETERMINING WHETHER BUILD-
22 ING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE
23 LOW-INCOME HOUSING CREDIT.—Subparagraph (E) of
24 section 42(i)(2) (relating to determination of whether
25 building is federally subsidized) is amended—

1 (1) in clause (i), by inserting “or the Native
2 American Housing Assistance and Self-Determina-
3 tion Act of 1996 (25 U.S.C. 4101 et seq.) (as in ef-
4 fect on October 1, 1997)” after “this subpara-
5 graph”); and

6 (2) in the subparagraph heading, by inserting
7 “OR NATIVE AMERICAN HOUSING ASSISTANCE” after
8 “HOME ASSISTANCE”.

9 **SEC. 405. OTHER MODIFICATIONS.**

10 (a) ALLOCATION OF CREDIT LIMIT TO CERTAIN
11 BUILDINGS.—

12 (1) The first sentence of section 42(h)(1)(E)(ii)
13 is amended by striking “(as of” the first place it ap-
14 pears and inserting “(as of the later of the date
15 which is 6 months after the date that the allocation
16 was made or”.

17 (2) The last sentence of section 42(h)(3)(C) is
18 amended by striking “project which” and inserting
19 “project which fails to meet the 10 percent test
20 under paragraph (1)(E)(ii) on a date after the close
21 of the calendar year in which the allocation was
22 made or which”.

23 (b) DETERMINATION OF WHETHER BUILDINGS ARE
24 LOCATED IN HIGH COST AREAS.—The first sentence of
25 section 42(d)(5)(C)(ii)(I) is amended—

1 (1) by inserting “either” before “in which 50
2 percent”; and

3 (2) by inserting before the period “or which has
4 a poverty rate of at least 25 percent”.

5 **SEC. 406. CARRYFORWARD RULES.**

6 (a) **IN GENERAL.**—Clause (ii) of section 42(h)(3)(D)
7 (relating to unused housing credit carryovers allocated
8 among certain States) is amended by striking “the excess”
9 and all that follows and inserting “the excess (if any) of—

10 “(I) the unused State housing
11 credit ceiling for the year preceding
12 such year, over

13 “(II) the aggregate housing cred-
14 it dollar amount allocated for such
15 year.”.

16 (b) **CONFORMING AMENDMENT.**—The second sen-
17 tence of section 42(h)(3)(C) (relating to State housing
18 credit ceiling) is amended by striking “clauses (i) and
19 (iii)” and inserting “clauses (i) through (iv)”.

20 **SEC. 407. EFFECTIVE DATE.**

21 Except as otherwise provided in this title, the amend-
22 ments made by this title shall apply to—

23 (1) housing credit dollar amounts allocated
24 after December 31, 2000; and

1 (2) buildings placed in service after such date
 2 to the extent paragraph (1) of section 42(h) of the
 3 Internal Revenue Code of 1986 does not apply to
 4 any building by reason of paragraph (4) thereof, but
 5 only with respect to bonds issued after such date.

6 **TITLE V—PRIVATE ACTIVITY**
 7 **BOND VOLUME CAP**

8 **SEC. 501. ACCELERATION OF PHASE-IN OF INCREASE IN**
 9 **VOLUME CAP ON PRIVATE ACTIVITY BONDS.**

10 (a) IN GENERAL.—The table contained in section
 11 146(d)(2) (relating to per capita limit; aggregate limit) is
 12 amended to read as follows:

“Calendar Year	Per Capita Limit	Aggregate Limit
2001	\$55.00	\$165,000,000
2002	60.00	180,000,000
2003	65.00	195,000,000
2004, 2005, and 2006	70.00	210,000,000
2007 and thereafter	75.00	225,000,000.”.

13 (b) EFFECTIVE DATE.—The amendment made by
 14 this section shall apply to calendar years beginning after
 15 2000.

16 **TITLE VI—AMERICA’S PRIVATE**
 17 **INVESTMENT COMPANIES**

18 **SEC. 601. SHORT TITLE.**

19 This title may be cited as the “America’s Private In-
 20 vestment Companies Act”.

21 **SEC. 602. FINDINGS AND PURPOSES.**

22 (a) FINDINGS.—The Congress finds that—

1 (1) people living in distressed areas, both urban
2 and rural, that are characterized by high levels of
3 joblessness, poverty, and low incomes have not bene-
4 fited adequately from the economic expansion experi-
5 enced by the Nation as a whole;

6 (2) unequal access to economic opportunities
7 continues to make the social costs of joblessness and
8 poverty to our Nation very high; and

9 (3) there are significant untapped markets in
10 our Nation, and many of these are in areas that are
11 underserved by institutions that can make equity
12 and credit investments.

13 (b) PURPOSES.—The purposes of this title are to—

14 (1) license private for profit community devel-
15 opment entities that will focus on making equity and
16 credit investments for large-scale business develop-
17 ments that benefit low-income communities;

18 (2) provide credit enhancement for those enti-
19 ties for use in low-income communities; and

20 (3) provide a vehicle under which the economic
21 and social returns on financial investments made
22 pursuant to this title may be available both to the
23 investors in these entities and to the residents of the
24 low-income communities.

1 **SEC. 603. DEFINITIONS.**

2 As used in this title:

3 (1) ADMINISTRATOR.—The term “Adminis-
4 trator” means the Administrator of the Small Busi-
5 ness Administration.

6 (2) AGENCY.—The term “agency” has the
7 meaning given such term in section 551(1) of title
8 5, United States Code.

9 (3) APIC.—The term “APIC” means a busi-
10 ness entity that has been licensed under the terms
11 of this title as an America’s Private Investment
12 Company, and the license of which has not been re-
13 voked.

14 (4) COMMUNITY DEVELOPMENT ENTITY.—The
15 term “community development entity” means an en-
16 tity the primary mission of which is serving or pro-
17 viding investment capital for low-income commu-
18 nities or low-income persons and which maintains
19 accountability to residents of low-income commu-
20 nities.

21 (5) HUD.—The term “HUD” means the Sec-
22 retary of Housing and Urban Development or the
23 Department of Housing and Urban Development, as
24 the context requires.

25 (6) LICENSE.—The term “license” means a li-
26 cense issued by HUD as provided in section 604.

1 (7) LOW-INCOME COMMUNITY.—The term “low-
2 income community” means—

3 (A) a census tract or tracts that have—

4 (i) a poverty rate of 20 percent or
5 greater, based on the most recent census
6 data; or

7 (ii) a median family income that does
8 not exceed 80 percent of the greater of: (I)
9 the median family income for the metro-
10 politan area in which such census tract or
11 tracts are located; or (II) the median fam-
12 ily income for the State in which such cen-
13 sus tract or tracts are located; or

14 (B) a property that was located on a mili-
15 tary installation that was closed or realigned
16 pursuant to title II of the Defense Authoriza-
17 tion Amendments and Base Closure and Re-
18 alignment Act (Public Law 100–526; 10 U.S.C.
19 2687 note), the Defense Base Closure and Re-
20 alignment Act of 1990 (part A of title XXIX of
21 Public Law 101–510; 10 U.S.C. 2687 note),
22 section 2687 of title 10, United States Code, or
23 any other similar law enacted after the date of
24 the enactment of this Act that provides for clo-
25 sure or realignment of military installations.

1 (8) LOW-INCOME PERSON.—The term “low-in-
2 come person” means a person who is a member of
3 a low-income family, as such term is defined in sec-
4 tion 104 of the Cranston-Gonzalez National Afford-
5 able Housing Act (42 U.S.C. 12704).

6 (9) PRIVATE EQUITY CAPITAL.—

7 (A) IN GENERAL.—The term “private eq-
8 uity capital”—

9 (i) in the case of a corporate entity,
10 the paid-in capital and paid-in surplus of
11 the corporate entity;

12 (ii) in the case of a partnership entity,
13 the contributed capital of the partners of
14 the partnership entity;

15 (iii) in the case of a limited liability
16 company entity, the equity investment of
17 the members of the limited liability com-
18 pany entity; and

19 (iv) earnings from investments of the
20 entity that are not distributed to investors
21 and are available for reinvestment by the
22 entity.

23 (B) EXCLUSIONS.—Such term does not in-
24 clude any—

1 (i) funds borrowed by an entity from
2 any source or obtained through the
3 issuance of leverage; except that this clause
4 may not be construed to exclude amounts
5 evidenced by a legally binding and irrev-
6 ocable investment commitment in the enti-
7 ty, or the use by an entity of a pledge of
8 such investment commitment to obtain
9 bridge financing from a private lender to
10 fund the entity's activities on an interim
11 basis; or

12 (ii) funds obtained directly or indi-
13 rectly from any Federal, State, or local
14 government or any government agency, ex-
15 cept for—

16 (I) funds invested by an employee
17 welfare benefit plan or pension plan;
18 and

19 (II) credits against any Federal,
20 State, or local taxes.

21 (10) QUALIFIED ACTIVE BUSINESS.—The term
22 “qualified active business” means a business or
23 trade—

24 (A) that, at the time that an investment is
25 made in the business or trade, is deriving at

1 least 50 percent of its gross income from the
2 conduct of trade or business activities in low-in-
3 come communities;

4 (B) a substantial portion of the use of the
5 tangible property of which is used within low-
6 income communities;

7 (C) a substantial portion of the services
8 that the employees of which perform are per-
9 formed in low-income communities; and

10 (D) less than 5 percent of the aggregate
11 unadjusted bases of the property of which is at-
12 tributable to certain financial property, as the
13 Secretary shall set forth in regulations, or in
14 collectibles, other than collectibles held pri-
15 marily for sale to customers.

16 (11) QUALIFIED DEBENTURE.—The term
17 “qualified debenture” means a debt instrument hav-
18 ing terms that meet the requirements established
19 pursuant to section 606(c)(1).

20 (12) QUALIFIED LOW-INCOME COMMUNITY IN-
21 VESTMENT.—The term “qualified low-income com-
22 munity investment” mean an equity investment in,
23 or a loan to, a qualified active business.

1 (13) SECRETARY.—The term “Secretary”
2 means the Secretary of Housing and Urban Develop-
3 ment, unless otherwise specified in this title.

4 **SEC. 604. AUTHORIZATION.**

5 (a) LICENSES.—The Secretary is authorized to li-
6 cense community development entities as America’s Pri-
7 vate Investment Companies, in accordance with the terms
8 of this title.

9 (b) REGULATIONS.—The Secretary shall regulate
10 APICs for compliance with sound financial management
11 practices, and the program and procedural goals of this
12 title and other related Acts, and other purposes as re-
13 quired or authorized by this title, or determined by the
14 Secretary. The Secretary shall issue such regulations as
15 are necessary to carry out the licensing and regulatory and
16 other duties under this title, and may issue notices and
17 other guidance or directives as the Secretary determines
18 are appropriate to carry out such duties.

19 (c) USE OF CREDIT SUBSIDY FOR LICENSES.—

20 (1) NUMBER OF LICENSES.—The number of
21 APICs licensed at any one time may not exceed—

22 (A) the number that may be supported by
23 the amount of budget authority appropriated in
24 accordance with section 504(b) of the Federal
25 Credit Reform Act of 1990 (2 U.S.C. 661c) for

1 the cost (as such term is defined in section 502
2 of such Act) of the subsidy and the investment
3 strategies of such APICs; or

4 (B) to the extent the limitation under sec-
5 tion 605(e)(1) applies, the number authorized
6 under such section.

7 (2) USE OF ADDITIONAL CREDIT SUBSIDY.—
8 Subject to the limitation under paragraph (1), the
9 Secretary may use any budget authority available
10 after credit subsidy has been allocated for the APICs
11 initially licensed pursuant to section 605 as follows:

12 (A) ADDITIONAL LICENSES.—To license
13 additional APICs.

14 (B) CREDIT SUBSIDY INCREASES.—To in-
15 crease the credit subsidy allocated to an APIC
16 as an award for high performance under this
17 title, except that such increases may be made
18 only in accordance with the following require-
19 ments and limitations:

20 (i) TIMING.—An increase may only be
21 provided for an APIC that has been li-
22 censed for a period of not less than 2
23 years.

24 (ii) COMPETITION.—An increase may
25 only be provided for a fiscal year pursuant

1 to a competition for such fiscal year among
2 APICs eligible for, and requesting, such an
3 increase. The competition shall be based
4 upon criteria that the Secretary shall es-
5 tablish, which shall include the financial
6 soundness and performance of the APICs,
7 as measured by achievement of the public
8 performance goals included in the APICs
9 statements required under section
10 605(a)(6) and audits conducted under sec-
11 tion 609(b)(2). Among the criteria estab-
12 lished by the Secretary to determine pri-
13 ority for selection under this section, the
14 Secretary shall include making investments
15 in and loans to qualified active businesses
16 in urban or rural areas that have been des-
17 ignated under subchapter U of Chapter 1
18 of the Internal Revenue Code of 1986 as
19 empowerment zones or enterprise commu-
20 nities.

21 (d) COOPERATION AND COORDINATION.—

22 (1) PROGRAM POLICIES.—The Secretary is au-
23 thorized to coordinate and cooperate, through memo-
24 randa of understanding, an APIC liaison committee,
25 or otherwise, with the Administrator, the Secretary

1 of the Treasury, and other agencies in the discretion
2 of the Secretary, on implementation of this title, in-
3 cluding regulation, examination, and monitoring of
4 APICs under this title.

5 (2) FINANCIAL SOUNDNESS REQUIREMENTS.—

6 The Secretary shall consult with the Administrator
7 and the Secretary of the Treasury, and may consult
8 with such other heads of agencies as the Secretary
9 may consider appropriate, in establishing any regu-
10 lations, requirements, guidelines, or standards for fi-
11 nancial soundness or management practices of
12 APICs or entities applying for licensing as APICs.
13 In implementing and monitoring compliance with
14 any such regulations, requirements, guidelines, and
15 standards, the Secretary shall enter into such agree-
16 ments and memoranda of understanding with the
17 Administrator and the Secretary of the Treasury as
18 may be appropriate to provide for such officials to
19 provide any assistance that may be agreed to.

20 (3) OPERATIONS.—The Secretary may carry
21 out this title—

22 (A) directly, through agreements with
23 other Federal entities under section 1535 of
24 title 31, United States Code, or otherwise; or

1 (B) indirectly, under contracts or agree-
2 ments, as the Secretary shall determine.

3 (e) FEES AND CHARGES FOR ADMINISTRATIVE
4 COSTS.—To the extent provided in appropriations Acts,
5 the Secretary is authorized to impose fees and charges for
6 application, review, licensing, and regulation, or other ac-
7 tions under this title, and to pay for the costs of such
8 activities from the fees and charges collected.

9 (f) GUARANTEE FEES.—The Secretary is authorized
10 to set and collect fees for loan guarantee commitments and
11 loan guarantees that the Secretary makes under this title.

12 (g) FUNDING.—

13 (1) AUTHORIZATION OF APPROPRIATIONS FOR
14 LOAN GUARANTEE COMMITMENTS.—For each of fis-
15 cal years 2000, 2001, 2002, 2003, and 2004, there
16 is authorized to be appropriated up to \$36,000,000
17 for the cost (as such term is defined in section
18 502(5) of the Federal Credit Reform Act of 1990)
19 of annual loan guarantee commitments under this
20 title. Amounts appropriated under this paragraph
21 shall remain available until expended.

22 (2) AGGREGATE LOAN GUARANTEE COMMIT-
23 MENT LIMITATION.—The Secretary may make com-
24 mitments to guarantee loans only to the extent that
25 the total loan principal, any part of which is guaran-

1 teed, will not exceed \$1,000,000,000, unless another
2 such amount is specified in appropriation Acts for
3 any fiscal year.

4 (3) AUTHORIZATION OF APPROPRIATIONS FOR
5 ADMINISTRATIVE EXPENSES.—For each of the fiscal
6 years 2000, 2001, 2002, 2003, and 2004, there is
7 authorized to be appropriated \$1,000,000 for admin-
8 istrative expenses for carrying out this title. The
9 Secretary may transfer amounts appropriated under
10 this paragraph to any appropriation account of
11 HUD or another agency, to carry out the program
12 under this title. Any agency to which the Secretary
13 may transfer amounts under this title is authorized
14 to accept such transferred amounts in any appro-
15 priation account of such agency.

16 **SEC. 605. SELECTION OF APICS.**

17 (a) ELIGIBLE APPLICANTS.—An entity shall be eligi-
18 ble to be selected for licensing under section 604 as an
19 APIC only if the entity submits an application in compli-
20 ance with the requirements established pursuant to sub-
21 section (b) and the entity meets or complies with the fol-
22 lowing requirements:

23 (1) ORGANIZATION.—The entity shall be a pri-
24 vate, for-profit entity that qualifies as a community
25 development entity for the purposes of the New Mar-

1 kets Tax Credits, to the extent such credits are es-
2 tablished under Federal law.

3 (2) MINIMUM PRIVATE EQUITY CAPITAL.—The
4 amount of private equity capital reasonably available
5 to the entity, as determined by the Secretary, at the
6 time that a license is approved may not be less than
7 \$25,000,000.

8 (3) QUALIFIED MANAGEMENT.—The manage-
9 ment of the entity shall, in the determination of the
10 Secretary, meet such standards as the Secretary
11 shall establish to ensure that the management of the
12 APIC is qualified, and has the financial expertise,
13 knowledge, experience, and capability necessary, to
14 make investments for community and economic de-
15 velopment in low-income communities.

16 (4) CONFLICT OF INTEREST.—The entity shall
17 demonstrate that, in accordance with sound financial
18 management practices, the entity is structured to
19 preclude financial conflict of interest between the
20 APIC and a manager or investor.

21 (5) INVESTMENT STRATEGY.—The entity shall
22 prepare and submit to the Secretary an investment
23 strategy that includes benchmarks for evaluation of
24 its progress, that includes an analysis of existing lo-
25 cally owned businesses in the communities in which

1 the investments under the strategy will be made,
2 that prioritizes such businesses for investment op-
3 portunities, and that fulfills the specific public pur-
4 pose goals of the entity.

5 (6) STATEMENT OF PUBLIC PURPOSE GOALS.—

6 The entity shall prepare and submit to the Secretary
7 a statement of the public purpose goals of the entity,
8 which shall—

9 (A) set forth goals that shall promote com-
10 munity and economic development, which shall
11 include—

12 (i) making investments in low-income
13 communities that further economic devel-
14 opment objectives by targeting such invest-
15 ments in businesses or trades that comply
16 with the requirements under subpara-
17 graphs (A) through (C) of section 603(10)
18 relating to low-income communities in a
19 manner that benefits low-income persons;

20 (ii) creating jobs in low-income com-
21 munities for residents of such commu-
22 nities;

23 (iii) involving community-based orga-
24 nizations and residents in community de-
25 velopment activities;

1 (iv) such other goals as the Secretary
2 shall specify; and

3 (v) such elements as the entity may
4 set forth to achieve specific public purpose
5 goals;

6 (B) include such other elements as the
7 Secretary shall specify; and

8 (C) include proposed measurements and
9 strategies for meeting the goals.

10 (7) COMPLIANCE WITH LAWS.—The entity shall
11 agree to comply with applicable laws, including Fed-
12 eral Executive orders, Office of Management and
13 Budget circulars, and requirements of the Depart-
14 ment of the Treasury, and such operating and regu-
15 latory requirements as the Secretary may impose
16 from time-to-time.

17 (8) OTHER.—The entity shall satisfy any other
18 application requirements that the Secretary may im-
19 pose by regulation or Federal Register notice.

20 (b) COMPETITIONS.—The Secretary shall select eligi-
21 ble entities under subsection (a) to be licensed under sec-
22 tion 604 as APICs on the basis of competitions. The Sec-
23 retary shall announce each such competition by causing
24 a notice to be published in the Federal Register that in-
25 vites applications for licenses and sets forth the require-

1 ments for application and such other terms of the competi-
2 tion not otherwise provided for, as determined by the Sec-
3 retary.

4 (c) SELECTION.—In competitions under subsection
5 (b), the Secretary shall select eligible entities under sub-
6 section (a) for licensing as APICs on the basis of—

7 (1) the extent to which the entity is expected to
8 achieve the goals of this title by meeting or exceed-
9 ing criteria established under subsection (d); and

10 (2) to the extent practicable and subject to the
11 existence of approvable applications, ensuring geo-
12 graphical diversity among the applicants selected
13 and diversity of APICs investment strategies, so that
14 urban and rural communities are both served, in the
15 determination of the Secretary, by the program
16 under this title.

17 (d) SELECTION CRITERIA.—The Secretary shall es-
18 tablish selection criteria for competitions under subsection
19 (b), which shall include the following criteria:

20 (1) CAPACITY.—

21 (A) MANAGEMENT.—The extent to which
22 the entity's management has the quality, expe-
23 rience, and expertise to make and manage suc-
24 cessful investments for community and eco-
25 nomic development in low-income communities.

1 (B) STATE AND LOCAL COOPERATION.—

2 The extent to which the entity demonstrates a
3 capacity to cooperate with States or units of
4 general local government and with community-
5 based organizations and residents of low-income
6 communities.

7 (2) INVESTMENT STRATEGY.—The quality of
8 the entity's investment strategy submitted in accord-
9 ance with subsection (a)(5) and the extent to which
10 the investment strategy furthers the goals of this
11 title pursuant to paragraph (3) of this subsection.

12 (3) PUBLIC PURPOSE GOALS.—With respect to
13 the statement of public purpose goals of the entity
14 submitted in accordance with subsection (a)(6), and
15 the strategy and measurements included therein—

16 (A) the extent to which such goals promote
17 community and economic development;

18 (B) the extent to which such goals provide
19 for making qualified investments in low-income
20 communities that further economic development
21 objectives, such as—

22 (i) creating, within 2 years of the
23 completion of the initial such investment,
24 job opportunities, opportunities for owner-
25 ship, and other economic opportunities

1 within a low-income community, both
2 short-term and of a longer duration;

3 (ii) improving the economic vitality of
4 a low-income community, including stimu-
5 lating other business development;

6 (iii) bringing new income into a low-
7 income community and assisting in the re-
8 vitalization of such community;

9 (iv) converting real property for the
10 purpose of creating a site for business in-
11 cubation and location, or business district
12 revitalization;

13 (v) enhancing economic competition,
14 including the advancement of technology;

15 (vi) rural development;

16 (vii) mitigating, rehabilitating, and
17 reusing real property considered subject to
18 the Solid Waste Disposal Act (42 U.S.C.
19 6901 et seq.; commonly referred to as the
20 Resource Conservation and Recovery Act)
21 or restoring coal mine-scarred land;

22 (viii) creation of local wealth through
23 investments in employee stock ownership
24 companies or resident-owned ventures; and

1 (ix) any other objective that the Sec-
2 retary may establish to further the pur-
3 poses of this title;

4 (C) the quality of jobs to be created for
5 residents of low-income communities, taking
6 into consideration such factors as the payment
7 of higher wages, job security, employment bene-
8 fits, opportunity for advancement, and personal
9 asset building;

10 (D) the extent to which achievement of
11 such goals will involve community-based organi-
12 zations and residents in community develop-
13 ment activities; and

14 (E) the extent to which the investments re-
15 ferred to in subparagraph (B) are likely to ben-
16 efit existing small business in low-income com-
17 munities or will encourage the growth of small
18 business in such communities.

19 (4) OTHER.—Any other criteria that the Sec-
20 retary may establish to carry out the purposes of
21 this title.

22 (e) FIRST YEAR REQUIREMENTS.—

23 (1) NUMERICAL LIMITATION.—The number of
24 APICs may not, at any time during the 1-year pe-

1 riod that begins upon the Secretary awarding the
2 first license for an APIC under this title, exceed 15.

3 (2) LIMITATION ON ALLOCATION OF AVAILABLE
4 CREDIT SUBSIDY.—Of the amount of budget author-
5 ity initially made available for allocation under this
6 title for APICs, the amount allocated for any single
7 APIC may not exceed 20 percent.

8 (3) NATIVE AMERICAN PRIVATE INVESTMENT
9 COMPANY.—Subject only to the absence of an ap-
10 provable application from an entity, during the 1-
11 year period referred to in paragraph (1), of the enti-
12 ties selected and licensed by the Secretary as APICs,
13 at least one shall be an entity that has as its pri-
14 mary purpose the making of qualified low-income
15 community investments in areas that are within In-
16 dian country (as such term is defined in section
17 1151 of title 18, United States Code) or within
18 lands that have status as Hawaiian home land under
19 section 204 of the Hawaiian Homes Commission
20 Act, 1920 (42 Stat. 108) or are acquired pursuant
21 to such Act. The Secretary may establish specific se-
22 lection criteria for applicants under this paragraph.

23 (f) COMMUNICATIONS BETWEEN HUD AND APPLI-
24 CANTS.—

1 (1) IN GENERAL.—The Secretary shall set forth
2 in regulations the procedures under which HUD and
3 applicants for APIC licenses, and others, may com-
4 municate. Such regulations shall—

5 (A) specify by position the HUD officers
6 and employees who may communicate with such
7 applicants and others;

8 (B) permit HUD officers and employees to
9 request and discuss with the applicant and oth-
10 ers (such as banks or other credit or business
11 references, or potential investors, that the appli-
12 cant specifies in writing) any more detailed in-
13 formation that may be desirable to facilitate
14 HUD’s review of the applicant’s application;

15 (C) restrict HUD officers and employees
16 from revealing to any applicant—

17 (i) the fact or chances of award of a
18 license to such applicant, unless there has
19 been a public announcement of the results
20 of the competition; and

21 (ii) any information with respect to
22 any other applicant; and

23 (D) set forth requirements for making and
24 keeping records of any communications con-
25 ducted under this subsection, including require-

1 ments for making such records available to the
2 public after the award of licenses under an ini-
3 tial or subsequent notice, as appropriate, under
4 subsection (a).

5 (2) **TIMING.**—Regulations under this subsection
6 may be issued as interim rules for effect on or be-
7 fore the date of publication of the first notice under
8 subsection (a), and shall apply only with respect to
9 applications under such notice. Regulations to imple-
10 ment this subsection with respect to any notice after
11 the first such notice shall be subject to notice and
12 comment rulemaking.

13 (3) **INAPPLICABILITY OF DEPARTMENT OF HUD**
14 **ACT PROVISION.**—Section 12(e)(2) of the Depart-
15 ment of Housing and Urban Development Act (42
16 U.S.C. 3537a(e)(2)) is amended by inserting before
17 the period at the end the following: “or any license
18 provided under the America’s Private Investment
19 Companies Act”.

20 **SEC. 606. OPERATIONS OF APICS.**

21 (a) **POWERS AND AUTHORITIES.**—

22 (1) **IN GENERAL.**—An APIC shall have any
23 powers or authorities that—

1 (A) the APIC derives from the jurisdiction
2 in which it is organized, or that the APIC oth-
3 erwise has;

4 (B) may be conferred by a license under
5 this title; and

6 (C) the Secretary may prescribe by regula-
7 tion.

8 (2) NEW MARKET ASSISTANCE.—Nothing in
9 this title shall preclude an APIC or its investors
10 from receiving an allocation of New Market Tax
11 Credits (to the extent such credits are established
12 under Federal law) if the APIC satisfies any appli-
13 cable terms and conditions under the Internal Rev-
14 enue Code of 1986.

15 (b) INVESTMENT LIMITATIONS.—

16 (1) QUALIFIED LOW-INCOME COMMUNITY IN-
17 VESTMENTS.—Substantially all investments that an
18 APIC makes shall be qualified low-income commu-
19 nity investments if the investments are financed
20 with—

21 (A) amounts available from the proceeds of
22 the issuance of an APIC's qualified debenture
23 guaranteed under this title;

24 (B) proceeds of the sale of obligations de-
25 scribed under subsection (c)(3)(C)(iii); or

1 (C) the use of private equity capital, as de-
2 termined by the Secretary, in an amount speci-
3 fied in the APIC's license.

4 (2) SINGLE BUSINESS INVESTMENTS.—An
5 APIC shall not, as a matter of sound financial prac-
6 tice, invest in any one business an amount that ex-
7 ceeds an amount equal to 35 percent of the sum
8 of—

9 (A) the APIC's private equity capital; plus

10 (B) an amount equal to the percentage
11 limit that the Secretary determines that an
12 APIC may have outstanding at any one time,
13 under subsection (c)(2)(A).

14 (c) BORROWING POWERS; QUALIFIED DEBEN-
15 TURES.—

16 (1) ISSUANCE.—An APIC may issue qualified
17 debentures. The Secretary shall, by regulation, speci-
18 fy the terms and requirements for debentures to be
19 considered qualified debentures for purposes of this
20 title, except that the term to maturity of any quali-
21 fied debenture may not exceed 21 years and each
22 qualified debenture shall bear interest during all or
23 any part of that time period at a rate or rates ap-
24 proved by the Secretary.

1 (2) LEVERAGE LIMITS.—In general, as a mat-
2 ter of sound financial management practices—

3 (A) the total amount of qualified debentures that an APIC issues under this title that
4 an APIC may have outstanding at any one time
5 shall not exceed an amount equal to 200 per-
6 cent of the private equity capital of the APIC,
7 as determined by the Secretary; and

8 (B) an APIC shall not have more than
9 \$300,000,000 in face value of qualified debentures issued under this title outstanding at any
10 one time.

11 (3) REPAYMENT.—

12 (A) CONDITION OF BUSINESS WIND-UP.—
13 An APIC shall have repaid, or have otherwise
14 been relieved of indebtedness, with respect to
15 any interest or principal amounts of borrowings
16 under this subsection no less than 2 years be-
17 fore the APIC may dissolve or otherwise com-
18 plete the wind-up of its business.

19 (B) TIMING.—An APIC may repay any in-
20 terest or principal amounts of borrowings under
21 this subsection at any time: *Provided*, That the
22 repayment of such amounts shall not relieve an
23 APIC of any duty otherwise applicable to the
24 APIC of any duty otherwise applicable to the
25

1 APIC under this title, unless the Secretary or-
2 ders such relief.

3 (C) USE OF INVESTMENT PROCEEDS BE-
4 FORE REPAYMENT.—Until an APIC has repaid
5 all interest and principal amounts on APIC bor-
6 rowings under this subsection, an APIC may
7 use the proceeds of investments, in accordance
8 with regulations issued by the Secretary, only
9 to—

10 (i) pay for proper costs and expenses
11 the APIC incurs in connection with such
12 investments;

13 (ii) pay for the reasonable administra-
14 tive expenses of the APIC;

15 (iii) purchase Treasury securities;

16 (iv) repay interest and principal
17 amounts on APIC borrowings under this
18 subsection;

19 (v) make interest, dividend, or other
20 distributions to or on behalf of an investor;
21 or

22 (vi) undertake such other purposes as
23 the Secretary may approve.

24 (D) USE OF INVESTMENT PROCEEDS
25 AFTER REPAYMENT.—After an APIC has re-

1 paid all interest and principal amounts on
2 APIC borrowings under this subsection, and
3 subject to continuing compliance with sub-
4 section (a), the APIC may use the proceeds
5 from investments to make interest, dividend, or
6 other distributions to or on behalf of investors
7 in the nature of returns on capital, or the with-
8 drawal of private equity capital, without regard
9 to subparagraph (C) but in conformity with the
10 APIC's investment strategy and statement of
11 public purpose goals.

12 (d) REUSE OF QUALIFIED DEBENTURE PRO-
13 CEEDS.—An APIC may use the proceeds of sale of Treas-
14 ury securities purchased under subsection (c)(3)(C)(iii) to
15 make qualified low-income community investments, sub-
16 ject to the Secretary's approval. In making the request
17 for the Secretary's approval, the APIC shall follow the
18 procedures applicable to an APIC's request for HUD
19 guarantee action, as the Secretary may modify such proce-
20 dures for implementation of this subsection. Such proce-
21 dures shall include the description and certifications that
22 an APIC must include in all requests for guarantee action,
23 and the environmental certification applicable to initial ex-
24 penditures for a project or activity.

1 (e) ANTIPIRATING.—Notwithstanding any other pro-
 2 vision of law, an APIC may not use any private equity
 3 capital required to be contributed under this title, or the
 4 proceeds from the sale of any qualified debenture under
 5 this title, to make an investment, as determined by the
 6 Secretary, to assist directly in the relocation of any indus-
 7 trial or commercial plant, facility, or operation, from one
 8 area to another area, if the relocation is likely to result
 9 in a significant loss of employment in the labor market
 10 area from which the relocation occurs.

11 (f) EXCLUSION OF APIC FROM DEFINITION OF
 12 DEBTOR UNDER BANKRUPTCY PROVISIONS.—Section
 13 109(b)(2) of title 11, United States Code, is amended by
 14 inserting before “credit union” the following: “America’s
 15 Private Investment Company licensed under the America’s
 16 Private Investment Companies Act,”.

17 **SEC. 607. CREDIT ENHANCEMENT BY THE FEDERAL GOV-**
 18 **ERNMENT.**

19 (a) ISSUANCE AND GUARANTEE OF QUALIFIED DE-
 20 BENTURES.—

21 (1) AUTHORITY.—To the extent consistent with
 22 the Federal Credit Reform Act of 1990, the Sec-
 23 retary is authorized to make commitments to guar-
 24 antee and guarantee the timely payment of all prin-
 25 cipal and interest as scheduled on qualified debentures.

1 tures issued by APICs. Such commitments and
2 guarantees may only be made in accordance with the
3 terms and conditions established under paragraph
4 (2).

5 (2) TERMS AND CONDITIONS.—The Secretary
6 shall establish such terms and conditions as the Sec-
7 retary determines to be appropriate for commit-
8 ments and guarantees under this subsection, includ-
9 ing terms and conditions relating to amounts, expi-
10 ration, number, priorities of repayment, security,
11 collateral, amortization, payment of interest (includ-
12 ing the timing thereof), and fees and charges. The
13 terms and conditions applicable to any particular
14 commitment or guarantee may be established in doc-
15 uments that the Secretary approves for such com-
16 mitment or guarantee.

17 (3) SENIORITY.—Notwithstanding any other
18 provision of Federal law or any law or the constitu-
19 tion of any State, qualified debentures guaranteed
20 under this subsection by the Secretary shall be sen-
21 ior to any other debt obligation, equity contribution
22 or earnings, or the distribution of dividends, inter-
23 est, or other amounts, of an APIC.

24 (b) ISSUANCE OF TRUST CERTIFICATES.—The Sec-
25 retary, or an agent or entity selected by the Secretary,

1 is authorized to issue trust certificates representing own-
2 ership of all or a fractional part of guaranteed qualified
3 debentures issued by APICs and held in trust.

4 (c) GUARANTEE OF TRUST CERTIFICATES.—

5 (1) IN GENERAL.—The Secretary is authorized,
6 upon such terms and conditions as the Secretary de-
7 termines to be appropriate, to guarantee the timely
8 payment of the principal of and interest on trust
9 certificates issued by the Secretary, or an agent or
10 other entity, for purposes of this section. Such guar-
11 antee shall be limited to the extent of principal and
12 interest on the guaranteed qualified debentures
13 which compose the trust.

14 (2) SUBSTITUTION OPTION.—The Secretary
15 shall have the option to replace in the corpus of the
16 trust any prepaid or defaulted qualified debenture
17 with a debenture, another full faith and credit in-
18 strument, or any obligations of the United States,
19 that may reasonably substitute for such prepaid or
20 defaulted qualified debenture.

21 (3) PROPORTIONATE REDUCTION OPTION.—In
22 the event that the Secretary elects not to exercise
23 the option under paragraph (2), and a qualified de-
24 benture in such trust is prepaid, or in the event of
25 default of a qualified debenture, the guarantee of

1 timely payment of principal and interest on the trust
2 certificate shall be reduced in proportion to the
3 amount of principal and interest that such prepaid
4 qualified debenture represents in the trust. Interest
5 on prepaid or defaulted qualified debentures shall
6 accrue and be guaranteed by the Secretary only
7 through the date of payment of the guarantee. Dur-
8 ing the term of a trust certificate, it may be called
9 for redemption due to prepayment or default of all
10 qualified debentures that are in the corpus of the
11 trust.

12 (d) FULL FAITH AND CREDIT BACKING OF GUARAN-
13 TEES.—The full faith and credit of the United States is
14 pledged to the timely payment of all amounts which may
15 be required to be paid under any guarantee by the Sec-
16 retary pursuant to this section.

17 (e) SUBROGATION AND LIENS.—

18 (1) SUBROGATION.—In the event the Secretary
19 pays a claim under a guarantee issued under this
20 section, the Secretary shall be subrogated fully to
21 the rights satisfied by such payment.

22 (2) PRIORITY OF LIENS.—No State or local
23 law, and no Federal law, shall preclude or limit the
24 exercise by the Secretary of its ownership rights in

1 the debentures in the corpus of a trust under this
2 section.

3 (f) REGISTRATION.—

4 (1) IN GENERAL.—The Secretary shall provide
5 for a central registration of all trust certificates
6 issued pursuant to this section.

7 (2) AGENTS.—The Secretary may contract with
8 an agent or agents to carry out on behalf of the Sec-
9 retary the pooling and the central registration func-
10 tions of this section notwithstanding any other provi-
11 sion of law, including maintenance on behalf of and
12 under the direction of the Secretary, such commer-
13 cial bank accounts or investments in obligations of
14 the United States as may be necessary to facilitate
15 trusts backed by qualified debentures guaranteed
16 under this title and the issuance of trust certificates
17 to facilitate formation of the corpus of the trusts.
18 The Secretary may require such agent or agents to
19 provide a fidelity bond or insurance in such amounts
20 as the Secretary determines to be necessary to pro-
21 tect the interests of the Government.

22 (3) FORM.—Book-entry or other electronic
23 forms of registration for trust certificates under this
24 title are authorized.

1 (g) TIMING OF ISSUANCE OF GUARANTEES OF
2 QUALIFIED DEBENTURES AND TRUST CERTIFICATES.—
3 The Secretary may, from time to time in the Secretary's
4 discretion, exercise the authority to issue guarantees of
5 qualified debentures under this title or trust certificates
6 under this title.

7 **SEC. 608. APIC REQUESTS FOR GUARANTEE ACTIONS.**

8 (a) IN GENERAL.—The Secretary may issue a guar-
9 antee under this title for a qualified debenture that an
10 APIC intends to issue only pursuant to a request to the
11 Secretary by the APIC for such guarantee that is made
12 in accordance with regulations governing the content and
13 procedures for such requests, that the Secretary shall pre-
14 scribe. Such regulations shall provide that each such re-
15 quest shall include—

16 (1) a description of the manner in which the
17 APIC intends to use the proceeds from the qualified
18 debenture;

19 (2) a certification by the APIC that the APIC
20 is in substantial compliance with—

21 (A) this title and other applicable laws, in-
22 cluding any requirements established under this
23 title by the Secretary;

24 (B) all terms and conditions of its license,
25 any cease-and-desist order issued under section

1 610, and of any penalty or condition that may
2 have arisen from examination or monitoring by
3 the Secretary or otherwise, including the satis-
4 faction of any financial audit exception that
5 may have been outstanding; and

6 (C) all requirements relating to the alloca-
7 tion and use of New Markets Tax Credits, to
8 the extent such credits are established under
9 Federal law; and

10 (3) any other information or certification that
11 the Secretary considers appropriate.

12 (b) REQUESTS FOR GUARANTEE OF QUALIFIED DE-
13 BENTURES THAT INCLUDE FUNDING FOR INITIAL EX-
14 PENDITURE FOR A PROJECT OR ACTIVITY.—In addition
15 to the description and certification that an APIC is re-
16 quired to supply in all requests for guarantee action under
17 subsection (a), in the case of an APIC’s request for a
18 guarantee that includes a qualified debenture, the pro-
19 ceeds of which the APIC expects to be used as its initial
20 expenditure for a project or activity in which the APIC
21 intends to invest, and the expenditure for which would re-
22 quire an environmental assessment under the National
23 Environmental Policy Act of 1969 and other related laws
24 that further the purposes of such Act, such request for
25 guarantee action shall include evidence satisfactory to the

1 Secretary of the certification of the completion of environ-
2 mental review of the project or activity required of the cog-
3 nizant State or local government under subsection (c). If
4 the environmental review responsibility for the project or
5 activity has not been assumed by a State or local govern-
6 ment under subsection (c), then the Secretary shall be re-
7 sponsible for carrying out the applicable responsibilities
8 under the National Environmental Policy Act of 1969 and
9 other provisions of law that further the purposes of such
10 Act that relate to the project or activity, and the Secretary
11 shall execute such responsibilities before acting on the
12 APIC's request for the guarantee that is covered by this
13 subsection.

14 (c) RESPONSIBILITY FOR ENVIRONMENTAL RE-
15 VIEWS.—

16 (1) EXECUTION OF RESPONSIBILITY BY THE
17 SECRETARY.—This subsection shall apply to guaran-
18 tees by the Secretary of qualified debentures under
19 this title, the proceeds of which would be used in
20 connection with qualified low-income community in-
21 vestments of APICs under this title.

22 (2) ASSUMPTION OF RESPONSIBILITY BY COG-
23 NIZANT UNIT OF GENERAL GOVERNMENT.—

24 (A) GUARANTEE OF QUALIFIED DEBEN-
25 TURES.—In order to assure that the policies of

1 the National Environmental Policy Act of 1969
2 and other provisions of law that further the
3 purposes of such Act (as specified in regula-
4 tions issued by the Secretary) are most effec-
5 tively implemented in connection with the ex-
6 penditure of funds under this title, and to as-
7 sure to the public undiminished protection of
8 the environment, the Secretary may, under such
9 regulations, in lieu of the environmental protec-
10 tion procedures otherwise applicable, provide for
11 the guarantee of qualified debentures, any part
12 of the proceeds of which are to fund particular
13 qualified low-income community investments of
14 APICs under this title, if a State or unit of
15 general local government, as designated by the
16 Secretary in accordance with regulations issued
17 by the Secretary, assumes all of the responsibil-
18 ities for environmental review, decisionmaking,
19 and action pursuant to the National Environ-
20 mental Policy Act of 1969 and such other pro-
21 visions of law that further such Act as the reg-
22 ulations of the Secretary specify, that would
23 otherwise apply to the Secretary were the Sec-
24 retary to undertake the funding of such invest-
25 ments as a Federal action.

1 (B) IMPLEMENTATION.—The Secretary
2 shall issue regulations to carry out this sub-
3 section only after consultation with the Council
4 on Environmental Quality. Such regulations
5 shall—

6 (i) specify any other provisions of law
7 which further the purposes of the National
8 Environmental Policy Act of 1969 and to
9 which the assumption of responsibility as
10 provided in this subsection applies;

11 (ii) provide eligibility criteria and pro-
12 cedures for the designation of a State or
13 unit of general local government to assume
14 all of the responsibilities in this subsection;

15 (iii) specify the purposes for which
16 funds may be committed without regard to
17 the procedure established under paragraph
18 (3);

19 (iv) provide for monitoring of the per-
20 formance of environmental reviews under
21 this subsection;

22 (v) in the discretion of the Secretary,
23 provide for the provision or facilitation of
24 training for such performance; and

1 (vi) subject to the discretion of the
2 Secretary, provide for suspension or termi-
3 nation by the Secretary of the assumption
4 under subparagraph (A).

5 (C) RESPONSIBILITIES OF STATES AND
6 UNITS OF GENERAL LOCAL GOVERNMENT.—The
7 Secretary's duty under subparagraph (B) shall
8 not be construed to limit any responsibility as-
9 sumed by a State or unit of general local gov-
10 ernment with respect to any particular request
11 for guarantee under subparagraph (A), or the
12 use of funds for a qualified investment.

13 (3) PROCEDURE.—Subject to compliance by the
14 APIC with the requirements of this title, the Sec-
15 retary shall approve the request for guarantee of a
16 qualified debenture, any part of the proceeds of
17 which is to fund particular qualified low-income
18 community investments of an APIC under this title,
19 that is subject to the procedures authorized by this
20 subsection only if, not less than 15 days prior to
21 such approval and prior to any commitment of funds
22 to such investment (except for such purposes speci-
23 fied in the regulations issued under paragraph
24 (2)(B)), the APIC submits to the Secretary a re-
25 quest for guarantee of a qualified debenture that is

1 accompanied by evidence of a certification of the
2 State or unit of general local government which
3 meets the requirements of paragraph (4). The ap-
4 proval by the Secretary of any such certification
5 shall be deemed to satisfy the Secretary's respon-
6 sibilities pursuant to paragraph (1) under the Na-
7 tional Environmental Policy Act of 1969 and such
8 other provisions of law as the regulations of the Sec-
9 retary specify insofar as those responsibilities relate
10 to the guarantees of qualified debentures, any parts
11 of the proceeds of which are to fund such invest-
12 ments, which are covered by such certification.

13 (4) CERTIFICATION.—A certification under the
14 procedures authorized by this subsection shall—

15 (A) be in a form acceptable to the Sec-
16 retary;

17 (B) be executed by the chief executive offi-
18 cer or other officer of the State or unit of gen-
19 eral local government who qualifies under regu-
20 lations of the Secretary;

21 (C) specify that the State or unit of gen-
22 eral local government under this subsection has
23 fully carried out its responsibilities as described
24 under paragraph (2); and

25 (D) specify that the certifying officer—

1 (i) consents to assume the status of a
2 responsible Federal official under the Na-
3 tional Environmental Policy Act of 1969
4 and each provision of law specified in regu-
5 lations issued by the Secretary insofar as
6 the provisions of such Act or other such
7 provision of law apply pursuant to para-
8 graph (2); and

9 (ii) is authorized and consents on be-
10 half of the State or unit of general local
11 government and himself or herself to ac-
12 cept the jurisdiction of the Federal courts
13 for the purpose of enforcement of the re-
14 sponsibilities as such an official.

15 **SEC. 609. EXAMINATION AND MONITORING OF APICS.**

16 (a) IN GENERAL.—The Secretary shall, under regula-
17 tions, through audits, performance agreements, license
18 conditions, or otherwise, examine and monitor the oper-
19 ations and activities of APICs for compliance with sound
20 financial management practices, and for satisfaction of the
21 program and procedural goals of this title and other re-
22 lated Acts. The Secretary may undertake any responsi-
23 bility under this section in cooperation with an APIC liai-
24 son committee, or any agency that is a member of such
25 a committee, or other agency.

1 (b) MONITORING, UPDATING, AND PROGRAM RE-
2 VIEW.—

3 (1) REPORTING AND UPDATING.—The Sec-
4 retary shall establish such annual or more frequent
5 reporting requirements for APICs, and such require-
6 ments for the updating of the statement of public
7 purpose goals, investment strategy (including the
8 benchmarks in such strategy), and other documents
9 that may have been used in the license application
10 process under this title, as the Secretary determines
11 necessary to assist the Secretary in monitoring the
12 compliance and performance of APICs.

13 (2) ANNUAL AUDITS.—The Secretary shall re-
14 quire each APIC to have an independent audit con-
15 ducted annually of the operations of the APIC. The
16 Secretary, in consultation with the Administrator
17 and the Secretary of the Treasury, shall establish re-
18 quirements and standards for such audits, including
19 requirements that such audits be conducted in ac-
20 cordance with generally accepted accounting prin-
21 ciples, that the APIC submit the results of the audit
22 to Secretary, and that specify the information to be
23 submitted.

24 (3) EXAMINATIONS.—The Secretary shall, no
25 less often than once every 2 years, examine the oper-

1 ations and portfolio of each APIC licensed under
2 this title for compliance with sound financial man-
3 agement practices, and for compliance with this title.

4 (4) EXAMINATION STANDARDS.—

5 (A) SOUND FINANCIAL MANAGEMENT
6 PRACTICES.—The Secretary shall examine each
7 APIC to ensure, as a matter of sound financial
8 management practices, substantial compliance
9 with this and other applicable laws, including
10 Federal executive orders, Department of Treas-
11 ury and Office of Management and Budget
12 guidance, circulars, and application and licens-
13 ing requirements on a continuing basis. The
14 Secretary may, by regulation, establish any ad-
15 ditional standards for sound financial manage-
16 ment practices, including standards that ad-
17 dress solvency and financial exposure.

18 (B) PERFORMANCE AND OTHER EXAMINA-
19 TIONS.—The Secretary shall monitor each
20 APIC's progress in meeting the goals in the
21 APIC's statement of public purpose goals, exe-
22 cuting the APIC's investment strategy, and
23 other matters.

24 (c) INSPECTOR GENERAL RESPONSIBILITY.—In car-
25 rying out monitoring of HUD's responsibilities under this

1 title and for purposes of ensuring that the program under
2 this title is operated in accordance with sound financial
3 management practices, the Inspector General of the De-
4 partment of Housing and Urban Development shall con-
5 sult with the Inspector General of the Department of the
6 Treasury and the Inspector General of the Small Business
7 Administration, as appropriate, and may enter into such
8 agreements and memoranda of understanding as may be
9 necessary to obtain the cooperation of the Inspectors Gen-
10 eral of the Department of the Treasury and the Small
11 Business Administration in carrying out such function.

12 (d) ANNUAL REPORT BY SECRETARY.—The Sec-
13 retary shall submit a report to the Congress annually re-
14 garding the operations, activities, financial health, and
15 achievements of the APIC program under this title. The
16 report shall list each investment made by an APIC and
17 include a summary of the examinations conducted under
18 subsection (b)(3), the guarantee actions of HUD, and any
19 regulatory or policy actions taken by HUD. The report
20 shall distinguish recently licensed APICs from APICs that
21 have held licenses for a longer period for purposes of indi-
22 cating program activities and performance.

23 (e) GAO REPORT.—

24 (1) REQUIREMENT.—Not later than 2 years
25 after the date of the enactment of this Act, the

1 Comptroller General of the United States shall sub-
2 mit a report to the Congress regarding the operation
3 of the program under this title for licensing and
4 guarantees for APICs.

5 (2) CONTENTS.—The report shall include—

6 (A) an analysis of the operations and mon-
7 itoring by HUD of the APIC program under
8 this title;

9 (B) the administrative and capacity needs
10 of HUD required to ensure the integrity of the
11 program;

12 (C) the extent and adequacy of any credit
13 subsidy appropriated for the program; and

14 (D) the management of financial risk and
15 liability of the Federal Government under the
16 program.

17 **SEC. 610. PENALTIES.**

18 (a) VIOLATIONS SUBJECT TO PENALTY.—The Sec-
19 retary may impose a penalty under this subsection on any
20 APIC or manager of an APIC that, by any act, practice,
21 or failure to act, engages in fraud, mismanagement, or
22 noncompliance with this title, the regulations under this
23 title, or a condition of the APIC's license under this title.
24 The Secretary shall, by regulation, identify, by generic de-

1 scription of a role or responsibilities, any manager of an
2 APIC that is subject to a penalty under this section.

3 (b) PENALTIES REQUIRING NOTICE AND AN OPPOR-
4 TUNITY TO RESPOND.—If, after notice in writing to an
5 APIC or the manager of an APIC that the APIC or man-
6 ager has engaged in any action, practice, or failure to act
7 that, under subsection (a), is subject to a penalty, and
8 after an opportunity for the APIC or manager to respond
9 to the notice, the Secretary determines that the APIC or
10 manager engaged in such action or failure to act, the Sec-
11 retary may, in addition to other penalties imposed—

12 (1) assess a civil money penalty, except than
13 any civil money penalty under this subsection shall
14 be in an amount not exceeding \$10,000;

15 (2) issue an order to cease and desist with re-
16 spect to such action, practice, or failure to act of the
17 APIC or manager;

18 (3) suspend, or condition the use of, the APIC's
19 license, including deferring, for the period of the
20 suspension, any commitment to guarantee any new
21 qualified debenture of the APIC, except that any
22 suspension or condition under this paragraph may
23 not exceed 90 days; and

1 (4) impose any other penalty that the Secretary
2 determines to be less burdensome to the APIC than
3 a penalty under subsection (c).

4 (c) PENALTIES REQUIRING NOTICE AND HEAR-
5 ING.—If, after notice in writing to an APIC or the man-
6 ager of an APIC that an APIC or manager has engaged
7 in any action, practice, or failure to act that, under sub-
8 section (a), is subject to a penalty, and after an oppor-
9 tunity for administrative hearing, the Secretary deter-
10 mines that the APIC or manager engaged in such action
11 or failure to act, the Secretary may—

12 (1) assess a civil money penalty against the
13 APIC or a manager in any amount;

14 (2) require the APIC to divest any interest in
15 an investment, on such terms and conditions as the
16 Secretary may impose; or

17 (3) revoke the APIC’s license.

18 (d) EFFECTIVE DATE OF PENALTIES.—

19 (1) PRIOR NOTICE REQUIREMENT.—Except as
20 provided in paragraph (2) of this subsection, a pen-
21 alty under subsection (b) or (c) shall not be due and
22 payable and shall not otherwise take effect or be
23 subject to enforcement by an order of a court, before
24 notice of the penalty is published in the Federal
25 Register.

1 (2) CEASE-AND-DESIST ORDERS AND SUSPEN-
2 SION OR CONDITIONING OF LICENSE.—In the case of
3 a cease-and-desist order under subsection (b)(2) or
4 the suspension or conditioning of an APIC’s license
5 under subsection (b)(3), the following procedures
6 shall apply:

7 (A) ACTION WITHOUT PUBLISHED NO-
8 TICE.—The Secretary may order an APIC or
9 manager to cease and desist from an action,
10 practice, or failure to act or may suspend or
11 condition an APIC’s license, for not more than
12 45 days without prior publication of notice in
13 the Federal Register, but such cease-and-desist
14 order or suspension or conditioning shall take
15 effect only after the Secretary has issued a
16 written notice (which may include a writing in
17 electronic form) of such action to the APIC.
18 Notwithstanding subsection (b), such written
19 notice shall be effective without regard to
20 whether the APIC has been accorded an oppor-
21 tunity to respond. Upon such notice, such
22 cease-and-desist order or suspension or condi-
23 tioning shall be subject to enforcement by an
24 order of a court.

1 (B) PUBLICATION OF NOTICE OF SUSPEN-
2 SION OR CONDITIONING OF LICENSE.—Upon a
3 suspension or conditioning of a license taking
4 effect pursuant to subparagraph (A), the Sec-
5 retary shall promptly cause a notice of suspen-
6 sion or conditioning of such license for a period
7 of not more than 90 days to be published in the
8 Federal Register. The Secretary shall provide
9 the APIC an opportunity to respond to such no-
10 tice. For purposes of the determining the dura-
11 tion of the period of any suspension or condi-
12 tioning under this subparagraph, the first day
13 of such period shall be the day of issuance of
14 the written notice under this paragraph of the
15 suspension or conditioning.

16 (C) REVOCATION OF LICENSE.—During
17 the period of the suspension or conditioning of
18 an APIC's license, the Secretary may take ac-
19 tion under subsection (c)(3) to revoke the li-
20 cense of the APIC, in accordance with the pro-
21 cedures applicable to such subsection. Notwith-
22 standing any other provision of this section, if
23 the Secretary takes such action, the Secretary
24 may extend the suspension or conditioning of
25 the APIC's license, for one or more periods of

1 not more than 90 days each, by causing notice
2 of such action to be published in the Federal
3 Register—

4 (i) for the first such extension, before
5 the expiration of the period under subpara-
6 graph (B); and

7 (ii) for any subsequent extension, be-
8 fore the expiration of the preceding exten-
9 sion period under this subparagraph.

10 (D) **TERM OF EFFECTIVENESS.**—A cease-and-
11 desist order or the suspension or conditioning of an
12 APIC’s license by the Secretary under this para-
13 graph shall remain in effect in accordance with the
14 terms of the order, suspension, or conditioning until
15 final adjudication in any action undertaken to chal-
16 lenge the order, or the suspension or conditioning, or
17 the revocation, of an APIC’s license.

18 **SEC. 611. EFFECTIVE DATE.**

19 (a) **IN GENERAL.**—Except as provided in subsection
20 (b), this title shall take effect upon the expiration of the
21 6-month period beginning on the date of the enactment
22 of this Act.

23 (b) **ISSUANCE OF REGULATIONS AND GUIDELINES.**—
24 Any authority under this title of the Secretary, the Admin-
25 istrator, and the Secretary of the Treasury to issue regula-

1 tions, standards, guidelines, or licensing requirements,
2 and any authority of such officials to consult or enter into
3 agreements or memoranda of understanding regarding
4 such issuance, shall take effect on the date of the enact-
5 ment of this Act.

6 **SEC. 612. SUNSET.**

7 After the expiration of the 5-year period beginning
8 upon the date that the Secretary awards the first license
9 for an APIC under this title—

10 (1) the Secretary may not license any APIC;

11 and

12 (2) no amount may be appropriated for the
13 costs (as such term is defined in section 502 of the
14 Federal Credit Reform Act of 1990 (2 U.S.C. 661e))
15 of any guarantee under this title for any debenture
16 issued by an APIC.

17 This section may not be construed to prohibit, limit, or
18 affect the award, allocation, or use of any budget authority
19 for the costs of such guarantees that is appropriated be-
20 fore the expiration of such period.

1 **TITLE VII—OTHER COMMUNITY**
2 **RENEWAL AND NEW MAR-**
3 **KETS ASSISTANCE**

4 **SEC. 701. TRANSFER OF UNOCCUPIED AND SUBSTANDARD**
5 **HUD-HELD HOUSING TO LOCAL GOVERN-**
6 **MENTS AND COMMUNITY DEVELOPMENT**
7 **CORPORATIONS.**

8 Section 204 of the Departments of Veterans Affairs
9 and Housing and Urban Development, and Independent
10 Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–
11 11a) is amended—

12 (1) by striking “FLEXIBLE AUTHORITY.—” and
13 inserting “DISPOSITION OF HUD-OWNED PROP-
14 erties. (a) FLEXIBLE AUTHORITY FOR MULTI-
15 FAMILY PROJECTS.—”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(b) TRANSFER OF UNOCCUPIED AND SUBSTANDARD
19 HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY
20 DEVELOPMENT CORPORATIONS.—

21 “(1) TRANSFER AUTHORITY.—Notwithstanding
22 the authority under subsection (a) and the last sen-
23 tence of section 204(g) of the National Housing Act
24 (12 U.S.C. 1710(g)), the Secretary of Housing and
25 Urban Development shall transfer ownership of any

1 qualified HUD property, subject to the requirements
2 of this section, to a unit of general local government
3 having jurisdiction for the area in which the prop-
4 erty is located or to a community development cor-
5 poration which operates within such a unit of gen-
6 eral local government in accordance with this sub-
7 section, but only to the extent that units of general
8 local government and community development cor-
9 porations consent to transfer and the Secretary de-
10 termines that such transfer is practicable.

11 “(2) QUALIFIED HUD PROPERTIES.—For pur-
12 poses of this subsection, the term ‘qualified HUD
13 property’ means any property for which, as of the
14 date that notification of the property is first made
15 under paragraph (3)(B), not less than 6 months
16 have elapsed since the later of the date that the
17 property was acquired by the Secretary or the date
18 that the property was determined to be unoccupied
19 or substandard, that is owned by the Secretary and
20 is—

21 “(A) an unoccupied multifamily housing
22 project;

23 “(B) a substandard multifamily housing
24 project; or

1 “(C) an unoccupied single family property
2 that—

3 “(i) has been determined by the Sec-
4 retary not to be an eligible asset under sec-
5 tion 204(h) of the National Housing Act
6 (12 U.S.C. 1710(h)); or

7 “(ii) is an eligible asset under such
8 section 204(h), but—

9 “(I) is not subject to a specific
10 sale agreement under such section;
11 and

12 “(II) has been determined by the
13 Secretary to be inappropriate for con-
14 tinued inclusion in the program under
15 such section 204(h) pursuant to para-
16 graph (10) of such section.

17 “(3) TIMING.—The Secretary shall establish
18 procedures that provide for—

19 “(A) time deadlines for transfers under
20 this subsection;

21 “(B) notification to units of general local
22 government and community development cor-
23 porations of qualified HUD properties in their
24 jurisdictions;

1 “(C) such units and corporations to ex-
2 press interest in the transfer under this sub-
3 section of such properties;

4 “(D) a right of first refusal for transfer of
5 qualified HUD properties to units of general
6 local government and community development
7 corporations, under which—

8 “(i) the Secretary shall establish a pe-
9 riod during which the Secretary may not
10 transfer such properties except to such
11 units and corporations;

12 “(ii) the Secretary shall offer qualified
13 HUD properties that are single family
14 properties for purchase by units of general
15 local government at a cost of \$1 for each
16 property, but only to the extent that the
17 costs to the Federal Government of dis-
18 posal at such price do not exceed the costs
19 to the Federal Government of disposing of
20 property subject to the procedures for sin-
21 gle family property established by the Sec-
22 retary pursuant to the authority under the
23 last sentence of section 204(g) of the Na-
24 tional Housing Act (12 U.S.C. 1710(g));

1 “(iii) the Secretary may accept an
2 offer to purchase a property made by a
3 community development corporation only if
4 the offer provides for purchase on a cost
5 recovery basis; and

6 “(iv) the Secretary shall accept an
7 offer to purchase such a property that is
8 made during such period by such a unit or
9 corporation and that complies with the re-
10 quirements of this paragraph;

11 “(E) a written explanation, to any unit of
12 general local government or community develop-
13 ment corporation making an offer to purchase
14 a qualified HUD property under this subsection
15 that is not accepted, of the reason that such
16 offer was not acceptable.

17 “(4) OTHER DISPOSITION.—With respect to
18 any qualified HUD property, if the Secretary does
19 not receive an acceptable offer to purchase the prop-
20 erty pursuant to the procedure established under
21 paragraph (3), the Secretary shall dispose of the
22 property to the unit of general local government in
23 which property is located or to community develop-
24 ment corporations located in such unit of general
25 local government on a negotiated, competitive bid, or

1 other basis, on such terms as the Secretary deems
2 appropriate.

3 “(5) SATISFACTION OF INDEBTEDNESS.—Be-
4 fore transferring ownership of any qualified HUD
5 property pursuant to this subsection, the Secretary
6 shall satisfy any indebtedness incurred in connection
7 with the property to be transferred, by canceling the
8 indebtedness.

9 “(6) DETERMINATION OF STATUS OF PROP-
10 erties.—To ensure compliance with the require-
11 ments of this subsection, the Secretary shall take the
12 following actions:

13 “(A) UPON ENACTMENT.—Upon the enact-
14 ment of this subsection, the Secretary shall
15 promptly assess each residential property owned
16 by the Secretary to determine whether such
17 property is a qualified HUD property.

18 “(B) UPON ACQUISITION.—Upon acquiring
19 any residential property, the Secretary shall
20 promptly determine whether the property is a
21 qualified HUD property.

22 “(C) UPDATES.—The Secretary shall peri-
23 odically reassess the residential properties
24 owned by the Secretary to determine whether

1 any such properties have become qualified
2 HUD properties.

3 “(7) TENANT LEASES.—This subsection shall
4 not affect the terms or the enforceability of any con-
5 tract or lease entered into with respect to any resi-
6 dential property before the date that such property
7 becomes a qualified HUD property.

8 “(8) USE OF PROPERTY.—Property transferred
9 under this subsection shall be used only for appro-
10 priate neighborhood revitalization efforts, including
11 homeownership, rental units, commercial space, and
12 parks, consistent with local zoning regulations, local
13 building codes, and subdivision regulations and re-
14 strictions of record.

15 “(9) INAPPLICABILITY TO PROPERTIES MADE
16 AVAILABLE FOR HOMELESS.—Notwithstanding any
17 other provision of this subsection, this subsection
18 shall not apply to any properties that the Secretary
19 determines are to be made available for use by the
20 homeless pursuant to subpart E of part 291 of title
21 24, Code of Federal Regulations, during the period
22 that the properties are so available.

23 “(10) PROTECTION OF EXISTING CONTRACTS.—
24 This subsection may not be construed to alter, af-
25 fect, or annul any legally binding obligations entered

1 into with respect to a qualified HUD property before
2 the property becomes a qualified HUD property.

3 “(11) DEFINITIONS.—For purposes of this sub-
4 section, the following definitions shall apply:

5 “(A) COMMUNITY DEVELOPMENT COR-
6 PORATION.—The term ‘community development
7 corporation’ means a nonprofit organization
8 whose primary purpose is to promote commu-
9 nity development by providing housing opportu-
10 nities for low-income families.

11 “(B) COST RECOVERY BASIS.—The term
12 ‘cost recovery basis’ means, with respect to any
13 sale of a residential property by the Secretary,
14 that the purchase price paid by the purchaser
15 is equal to or greater than the sum of: (i) the
16 appraised value of the property, as determined
17 in accordance with such requirements as the
18 Secretary shall establish; and (ii) the costs in-
19 curred by the Secretary in connection with such
20 property during the period beginning on the
21 date on which the Secretary acquires title to the
22 property and ending on the date on which the
23 sale is consummated.

24 “(C) MULTIFAMILY HOUSING PROJECT.—
25 The term ‘multifamily housing project’ has the

1 meaning given the term in section 203 of the
2 Housing and Community Development Amend-
3 ments of 1978.

4 “(D) RESIDENTIAL PROPERTY.—The term
5 ‘residential property’ means a property that is
6 a multifamily housing project or a single family
7 property.

8 “(E) SECRETARY.—The term ‘Secretary’
9 means the Secretary of Housing and Urban De-
10 velopment.

11 “(F) SEVERE PHYSICAL PROBLEMS.—The
12 term ‘severe physical problems’ means, with re-
13 spect to a dwelling unit, that the unit—

14 “(i) lacks hot or cold piped water, a
15 flush toilet, or both a bathtub and a show-
16 er in the unit, for the exclusive use of that
17 unit;

18 “(ii) on not less than three separate
19 occasions during the preceding winter
20 months, was uncomfortably cold for a pe-
21 riod of more than 6 consecutive hours due
22 to a malfunction of the heating system for
23 the unit;

24 “(iii) has no functioning electrical
25 service, exposed wiring, any room in which

1 there is not a functioning electrical outlet,
2 or has experienced three or more blown
3 fuses or tripped circuit breakers during the
4 preceding 90-day period;

5 “(iv) is accessible through a public
6 hallway in which there are no working
7 light fixtures, loose or missing steps or
8 railings, and no elevator; or

9 “(v) has severe maintenance problems,
10 including water leaks involving the roof,
11 windows, doors, basement, or pipes or
12 plumbing fixtures, holes or open cracks in
13 walls or ceilings, severe paint peeling or
14 broken plaster, and signs of rodent infesta-
15 tion.

16 “(G) SINGLE FAMILY PROPERTY.—The
17 term ‘single family property’ means a 1- to 4-
18 family residence.

19 “(H) SUBSTANDARD.—The term ‘sub-
20 standard’ means, with respect to a multifamily
21 housing project, that 25 percent or more of the
22 dwelling units in the project have severe phys-
23 ical problems.

24 “(I) UNIT OF GENERAL LOCAL GOVERN-
25 MENT.—The term ‘unit of general local govern-

1 ment' has the meaning given such term in sec-
2 tion 102(a) of the Housing and Community De-
3 velopment Act of 1974.

4 “(J) UNOCCUPIED.—The term ‘unoccu-
5 pied’ means, with respect to a residential prop-
6 erty, that the unit of general local government
7 having jurisdiction over the area in which the
8 project is located has certified in writing that
9 the property is not inhabited.

10 “(12) REGULATIONS.—

11 “(A) INTERIM.—Not later than 30 days
12 after the date of the enactment of this sub-
13 section, the Secretary shall issue such interim
14 regulations as are necessary to carry out this
15 subsection.

16 “(B) FINAL.—Not later than 60 days after
17 the date of the enactment of this subsection,
18 the Secretary shall issue such final regulations
19 as are necessary to carry out this subsection.”.

20 **SEC. 702. TRANSFER OF HUD ASSETS IN REVITALIZATION**
21 **AREAS.**

22 In carrying out the program under section 204(h) of
23 the National Housing Act (12 U.S.C. 1710(h)), upon the
24 request of the chief executive officer of a county or the
25 government of appropriate jurisdiction and not later than

1 60 days after such request is made, the Secretary of Hous-
2 ing and Urban Development shall designate as a revital-
3 ization area all portions of such county that meet the cri-
4 teria for such designation under paragraph (3) of such
5 section.

6 **SEC. 703. RISK-SHARING DEMONSTRATION.**

7 Section 249 of the National Housing Act (12 U.S.C.
8 1715z-14) is amended—

9 (1) by striking the section heading and insert-
10 ing the following:

11 “RISK-SHARING DEMONSTRATION”;

12 (2) by striking “reinsurance” each place such
13 term appears and insert “risk-sharing”;

14 (3) in subsection (a)—

15 (A) in the first sentence, by inserting “and
16 insured community development financial insti-
17 tutions” after “private mortgage insurers”;

18 (B) in the second sentence—

19 (i) by striking “two” and inserting
20 “4”; and

21 (ii) by striking “March 15, 1988” and
22 inserting “the expiration of the 5-year pe-
23 riod beginning on the date of the enact-
24 ment of the Community Renewal and New
25 Market Act of 2000”; and

1 (C) in the last sentence, by striking “10
2 percent” and inserting “20 percent”;

3 (4) in subsection (b)—

4 (A) in the first sentence, by inserting “and
5 with insured community development financial
6 institutions” before the period at the end;

7 (B) in the first sentence, by striking
8 “which have been determined to be qualified in-
9 surers under section 302(b)(2)(C)”;

10 (C) in the second sentence, by inserting
11 “and insured community development financial
12 institutions” after “private mortgage insurance
13 companies”;

14 (D) by striking paragraph (1) and insert-
15 ing the following new paragraph:

16 “(1) assume the first loss on any mortgage in-
17 sured pursuant to section 203(b), 234, or 245 that
18 covers a one- to four-family dwelling and is included
19 in the program under this section, up to the percent-
20 age of loss that is set forth in the risk-sharing con-
21 tract;” and

22 (E) in paragraph (2)—

23 (i) by striking “carry out (under ap-
24 propriate delegation) such” and inserting
25 “delegate underwriting,” and

1 (ii) by striking “function” and insert-
2 ing “functions”;

3 (5) in subsection (c)—

4 (A) in the first sentence—

5 (i) by striking “of” the first place it
6 appears and insert “for”;

7 (ii) by striking “insurance reserves”
8 and inserting “loss reserves”; and

9 (iii) by striking “such insurance” and
10 inserting “such reserves”; and

11 (B) in the second sentence, by inserting
12 “or insured community development financial
13 institution” after “private mortgage insurance
14 company”;

15 (6) in subsection (d), by inserting “or insured
16 community development financial institution” after
17 “private mortgage insurance company”; and

18 (7) by adding at the end the following new sub-
19 section:

20 “(e) INSURED COMMUNITY DEVELOPMENT FINAN-
21 CIAL INSTITUTIONS.—For purposes of this section, the
22 term ‘insured community development financial institu-
23 tion’ means a community development financial institu-
24 tion, as such term is defined in section 103 of Reigle Com-
25 munity Development and Regulatory Improvement Act of

1 1994 (12 U.S.C. 4702) that is an insured depository insti-
2 tution (as such term is defined in section 3 of the Federal
3 Deposit Insurance Act (12 U.S.C. 1813)) or an insured
4 credit union (as such term is defined in section 101 of
5 the Federal Credit Union Act (12 U.S.C. 1752)).”.

6 **SEC. 704. PREVENTION AND TREATMENT OF SUBSTANCE**
7 **ABUSE; SERVICES PROVIDED THROUGH RELI-**
8 **GIOUS ORGANIZATIONS.**

9 Title V of the Public Health Service Act (42 U.S.C.
10 290aa et seq.) is amended by adding at the end the fol-
11 lowing part:

12 “PART G—SERVICES PROVIDED THROUGH RELIGIOUS
13 ORGANIZATIONS

14 **“SEC. 581. APPLICABILITY TO DESIGNATED PROGRAMS.**

15 “(a) DESIGNATED PROGRAMS.—Subject to sub-
16 section (b), this part applies to discretionary and formula
17 grant programs administered by the Substance Abuse and
18 Mental Health Services Administration that make awards
19 of financial assistance to public or private entities for the
20 purpose of carrying out activities to prevent or treat sub-
21 stance abuse (in this part referred to as a ‘designated pro-
22 gram’). Designated programs include the program under
23 subpart II of part B of title XIX (relating to formula
24 grants to the States).

1 “(b) LIMITATION.—This part does not apply to any
2 award of financial assistance under a designated program
3 for a purpose other than the purpose specified in sub-
4 section (a).

5 “(c) DEFINITIONS.—For purposes of this part (and
6 subject to subsection (b)):

7 “(1) The term ‘designated program’ has the
8 meaning given such term in subsection (a).

9 “(2) The term ‘financial assistance’ means a
10 grant, cooperative agreement, or contract.

11 “(3) The term ‘program beneficiary’ means an
12 individual who receives program services.

13 “(4) The term ‘program participant’ means a
14 public or private entity that has received financial
15 assistance under a designated program.

16 “(5) The term ‘program services’ means treat-
17 ment for substance abuse, or preventive services re-
18 garding such abuse, provided pursuant to an award
19 of financial assistance under a designated program.

20 “(6) The term ‘religious organization’ means a
21 nonprofit religious organization.

1 **“SEC. 582. RELIGIOUS ORGANIZATIONS AS PROGRAM PAR-**
2 **TICIPANTS.**

3 “(a) IN GENERAL.—Notwithstanding any other pro-
4 vision of law, a religious organization, on the same basis
5 as any other nonprofit private provider—

6 “(1) may receive financial assistance under a
7 designated program; and

8 “(2) may be a provider of services under a des-
9 ignated program.

10 “(b) RELIGIOUS ORGANIZATIONS.—The purpose of
11 this section is to allow religious organizations to be pro-
12 gram participants on the same basis as any other non-
13 profit private provider without impairing the religious
14 character of such organizations, and without diminishing
15 the religious freedom of program beneficiaries.

16 “(c) NONDISCRIMINATION AGAINST RELIGIOUS OR-
17 GANIZATIONS.—

18 “(1) ELIGIBILITY AS PROGRAM PARTICI-
19 PANTS.—Religious organizations are eligible to be
20 program participants on the same basis as any other
21 nonprofit private organization as long as the pro-
22 grams are implemented consistent with the Estab-
23 lishment Clause and Free Exercise Clause of the
24 First Amendment to the United States Constitution.
25 Nothing in this Act shall be construed to restrict the
26 ability of the Federal Government, or a State or

1 local government receiving funds under such pro-
2 grams, to apply to religious organizations the same
3 eligibility conditions in designated programs as are
4 applied to any other nonprofit private organization.

5 “(2) NONDISCRIMINATION.—Neither the Fed-
6 eral Government nor a State or local government re-
7 ceiving funds under designated programs shall dis-
8 criminate against an organization that is or applies
9 to be a program participant on the basis that the or-
10 ganization has a religious character.

11 “(d) RELIGIOUS CHARACTER AND FREEDOM.—

12 “(1) RELIGIOUS ORGANIZATIONS.—Except as
13 provided in this section, any religious organization
14 that is a program participant shall retain its inde-
15 pendence from Federal, State, and local government,
16 including such organization’s control over the defini-
17 tion, development, practice, and expression of its re-
18 ligious beliefs.

19 “(2) ADDITIONAL SAFEGUARDS.—Neither the
20 Federal Government nor a State shall require a reli-
21 gious organization to—

22 “(A) alter its form of internal governance;

23 or

24 “(B) remove religious art, icons, scripture,

25 or other symbols,

1 in order to be a program participant.

2 “(e) EMPLOYMENT PRACTICES.—Nothing in this sec-
3 tion shall be construed to modify or affect the provisions
4 of any other Federal or State law or regulation that re-
5 lates to discrimination in employment. A religious organi-
6 zation’s exemption provided under section 702 of the Civil
7 Rights Act of 1964 regarding employment practices shall
8 not be affected by its participation in, or receipt of funds
9 from, a designated program.

10 “(f) RIGHTS OF PROGRAM BENEFICIARIES.—

11 “(1) IN GENERAL.—If an individual who is a
12 program beneficiary or a prospective program bene-
13 ficiary objects to the religious character of a pro-
14 gram participant, within a reasonable period of time
15 after the date of such objection such program partic-
16 ipant shall refer such individual to, and the appro-
17 priate Federal, State, or local government that ad-
18 ministers a designated program or is a program par-
19 ticipant shall provide to such individual (if otherwise
20 eligible for such services), program services that—

21 “(A) are from an alternative provider that
22 is accessible to, and has the capacity to provide
23 such services to, such individual; and

24 “(B) have a value that is not less than the
25 value of the services that the individual would

1 have received from the program participant to
2 which the individual had such objection.

3 “(2) NOTICES.—Appropriate Federal, State, or
4 local governments that administer designated pro-
5 grams or are program participants shall ensure that
6 notice is provided to program beneficiaries or pro-
7 spective program beneficiaries of their rights under
8 this subsection.

9 “(3) ADDITIONAL REQUIREMENTS.—A program
10 participant making a referral pursuant to paragraph
11 (1) shall—

12 “(A) prior to making such referral, con-
13 sider any list that the State or local government
14 makes available of entities in the geographic
15 area that provide program services; and

16 “(B) ensure that the individual makes con-
17 tact with the alternative provider to which the
18 individual is referred.

19 “(4) NONDISCRIMINATION.—A religious organi-
20 zation that is a program participant shall not in pro-
21 viding program services or engaging in outreach ac-
22 tivities under designated programs discriminate
23 against a program beneficiary or prospective pro-
24 gram beneficiary on the basis of religion or religious
25 belief.

1 “(g) FISCAL ACCOUNTABILITY.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), any religious organization that is a pro-
4 gram participant shall be subject to the same regula-
5 tions as other recipients of awards of Federal finan-
6 cial assistance to account, in accordance with gen-
7 erally accepted auditing principles, for the use of the
8 funds provided under such awards.

9 “(2) LIMITED AUDIT.—With respect to the
10 award involved, if a religious organization that is a
11 program participant maintains the Federal funds in
12 a separate account from non-Federal funds, then
13 only the Federal funds shall be subject to audit.

14 “(h) COMPLIANCE.—With respect to compliance with
15 this section by an agency, a religious organization may
16 obtain judicial review of agency action in accordance with
17 chapter 7 of title 5, United States Code.

18 **“SEC. 583. LIMITATIONS ON USE OF FUNDS FOR CERTAIN**
19 **PURPOSES.**

20 “No funds provided under a designated program shall
21 be expended for sectarian worship, instruction, or pros-
22 elytization.

23 **“SEC. 584. EDUCATIONAL REQUIREMENTS FOR PERSONNEL**
24 **IN DRUG TREATMENT PROGRAMS.**

25 “(a) FINDINGS.—The Congress finds that—

1 “(1) establishing unduly rigid or uniform edu-
2 cational qualification for counselors and other per-
3 sonnel in drug treatment programs may undermine
4 the effectiveness of such programs; and

5 “(2) such educational requirements for coun-
6 selors and other personnel may hinder or prevent the
7 provision of needed drug treatment services.

8 “(b) NONDISCRIMINATION.—In determining whether
9 personnel of a program participant that has a record of
10 successful drug treatment for the preceding three years
11 have satisfied State or local requirements for education
12 and training, a State or local government shall not dis-
13 criminate against education and training provided to such
14 personnel by a religious organization, so long as such edu-
15 cation and training includes basic content substantially
16 equivalent to the content provided by nonreligious organi-
17 zations that the State or local government would credit
18 for purposes of determining whether the relevant require-
19 ments have been satisfied.”.

20 **SEC. 705. NEW MARKETS VENTURE CAPITAL PROGRAM.**

21 (a) SHORT TITLE.—This section may be cited as the
22 “New Markets Venture Capital Program Act of 2000”.

23 (b) NEW MARKETS VENTURE CAPITAL PROGRAM.—
24 Title III of the Small Business Investment Act of 1958
25 (15 U.S.C. 681 et seq.) is amended—

1 (1) in the heading for the title, by striking
2 “SMALL BUSINESS INVESTMENT COMPA-
3 NIES” and inserting “INVESTMENT DIVISION
4 PROGRAMS”;

5 (2) by inserting before the heading for section
6 301 the following:

7 “PART A—SMALL BUSINESS INVESTMENT COMPANIES”;

8 and

9 (3) by adding at the end the following:

10 “PART B—NEW MARKETS VENTURE CAPITAL PROGRAM

11 **“SEC. 351. DEFINITIONS.**

12 “In this part, the following definitions apply:

13 “(1) DEVELOPMENTAL VENTURE CAPITAL.—

14 The term ‘developmental venture capital’ means cap-
15 ital in the form of equity investments in businesses
16 made with a primary objective of fostering economic
17 development in low- or moderate-income geographic
18 areas.

19 “(2) LOW- OR MODERATE-INCOME GEOGRAPHIC

20 AREA.—The term ‘low- or moderate-income geo-
21 graphic area’ means—

22 “(A) a census tract, or the equivalent
23 county division as defined by the Bureau of the
24 Census for purposes of defining poverty areas,
25 in which—

1 “(i) the poverty rate is not less than
2 20 percent;

3 “(ii) in the case of a census tract or
4 division located within a metropolitan area,
5 the median family income for such tract or
6 division does not exceed the greater of 80
7 percent of the statewide median family in-
8 come or 80 percent of the metropolitan
9 area median family income; or

10 “(iii) in the case of a census tract or
11 division not located within a metropolitan
12 area, the median family income for such
13 tract or division does not exceed 80 per-
14 cent of the statewide median family in-
15 come; or

16 “(B) any area located within—

17 “(i) a historically underutilized busi-
18 ness zone (HUBZone), as defined in sec-
19 tion 3(p) of the Small Business Act (15
20 U.S.C. 632(p));

21 “(ii) an urban empowerment zone or
22 an urban enterprise community, as des-
23 ignated by the Secretary of the Depart-
24 ment of Housing and Urban Development;
25 or

1 “(iii) a rural empowerment zone or a
2 rural enterprise community, as designated
3 by the Secretary of the Department of Ag-
4 riculture.

5 “(3) NEW MARKETS VENTURE CAPITAL COM-
6 PANY.—The term ‘New Markets Venture Capital
7 company’ means a company that—

8 “(A) has been granted final approval by
9 the Administration under section 354(e); and

10 “(B) has entered into a participation
11 agreement with the Administration.

12 “(4) OPERATIONAL ASSISTANCE.—The term
13 ‘operational assistance’ means management, mar-
14 keting, and other technical assistance that assists a
15 small business concern with business development.

16 “(5) PARTICIPATION AGREEMENT.—The term
17 ‘participation agreement’ means an agreement, be-
18 tween the Administration and a company granted
19 final approval under section 354(e), that—

20 “(A) details the company’s operating plan
21 and investment criteria; and

22 “(B) requires the company to make invest-
23 ments in smaller enterprises at least 80 percent
24 of which are located in low- or moderate-income
25 geographic areas.

1 “(6) SPECIALIZED SMALL BUSINESS INVEST-
2 MENT COMPANY.—The term ‘specialized small busi-
3 ness investment company’ means any small business
4 investment company that—

5 “(A) invests solely in small business con-
6 cerns that contribute to a well-balanced na-
7 tional economy by facilitating ownership in such
8 concerns by persons whose participation in the
9 free enterprise system is hampered because of
10 social or economic disadvantages;

11 “(B) is organized or chartered under State
12 business or nonprofit corporations statutes, or
13 formed as a limited partnership; and

14 “(C) was licensed under section 301(d), as
15 in effect before September 30, 1996.

16 **“SEC. 352. PURPOSES.**

17 “The purposes of the New Markets Venture Capital
18 Program established under this part are—

19 “(1) to promote economic development and the
20 creation of wealth and job opportunities in low- or
21 moderate-income geographic areas and among indi-
22 viduals living in such areas by encouraging develop-
23 mental venture capital investments in smaller enter-
24 prises primarily located in such areas; and

1 “(2) to establish a developmental venture cap-
2 ital program, with the mission of addressing the
3 unmet equity investment needs of small enterprises
4 located in low- and moderate-income geographic
5 areas, to be administered by the Administration—

6 “(A) to enter into participation agreements
7 with New Markets Venture Capital companies;

8 “(B) to guarantee debentures of New Mar-
9 kets Venture Capital companies to enable each
10 such company to make developmental venture
11 capital investments in smaller enterprises in
12 low- or moderate-income geographic areas; and

13 “(C) to make grants to New Markets Ven-
14 ture Capital companies, and to other entities,
15 for the purpose of providing operational assist-
16 ance to smaller enterprises financed, or ex-
17 pected to be financed, by such companies.

18 **“SEC. 353. ESTABLISHMENT.**

19 “In accordance with this part, the Administration
20 shall establish a New Markets Venture Capital Program,
21 under which the Administration may—

22 “(1) enter into participation agreements with
23 companies granted final approval under section
24 354(e) for the purposes set forth in section 352;

1 “(1) a business plan describing how the com-
2 pany intends to make successful developmental ven-
3 ture capital investments in identified low- or mod-
4 erate-income geographic areas;

5 “(2) information regarding the community de-
6 velopment finance or relevant venture capital quali-
7 fications and general reputation of the company’s
8 management;

9 “(3) a description of how the company intends
10 to work with community organizations and to seek
11 to address the unmet capital needs of the commu-
12 nities served;

13 “(4) a proposal describing how the company
14 will use the grant funds provided under this part to
15 provide operational assistance to smaller enterprises
16 financed by the company, including information re-
17 garding whether the company will use licensed pro-
18 fessionals, where applicable, on the company’s staff
19 or from an outside entity;

20 “(5) with respect to binding commitments to be
21 made to the company under this part, an estimate
22 of the ratio of cash to in-kind contributions;

23 “(6) a description of the criteria to be used to
24 evaluate whether and to what extent the company

1 meets the objectives of the program established
2 under this part;

3 “(7) information regarding the management
4 and financial strength of any parent firm, affiliated
5 firm, or any other firm essential to the success of
6 the company’s business plan; and

7 “(8) such other information as the Administra-
8 tion may require.

9 “(c) CONDITIONAL APPROVAL.—

10 “(1) IN GENERAL.—From among companies
11 submitting applications under subsection (b), the
12 Administration shall, in accordance with this sub-
13 section, conditionally approve companies to partici-
14 pate in the New Markets Venture Capital Program.

15 “(2) SELECTION CRITERIA.—In selecting com-
16 panies under paragraph (1), the Administration
17 shall consider the following:

18 “(A) The likelihood that the company will
19 meet the goals of its business plan.

20 “(B) The experience and background of
21 the company’s management team.

22 “(C) The need for developmental venture
23 capital investments in the geographic areas in
24 which the company intends to invest.

1 “(D) The extent to which the company will
2 concentrate its activities on serving the geo-
3 graphic areas in which it intends to invest.

4 “(E) The likelihood that the company will
5 be able to satisfy the conditions under sub-
6 section (d).

7 “(F) The extent to which the activities
8 proposed by the company will expand economic
9 opportunities in the geographic areas in which
10 the company intends to invest.

11 “(G) The strength of the company’s pro-
12 posal to provide operational assistance under
13 this part as the proposal relates to the ability
14 of the applicant to meet applicable cash require-
15 ments and properly utilize in-kind contribu-
16 tions, including the use of resources for the
17 services of licensed professionals whether pro-
18 vided by persons on the company’s staff or by
19 persons outside of the company.

20 “(H) Any other factors deemed appro-
21 priate by the Administration.

22 “(3) NATIONWIDE DISTRIBUTION.—The Admin-
23 istration shall select companies under paragraph (1)
24 in such a way that promotes investment nationwide.

1 “(d) REQUIREMENTS TO BE MET FOR FINAL AP-
2 PROVAL.—The Administration shall grant each condi-
3 tionally approved company a period of time, not to exceed
4 2 years, to satisfy the following requirements:

5 “(1) CAPITAL REQUIREMENT.—Each condi-
6 tionally approved company must raise not less than
7 \$5,000,000 of private capital or binding capital com-
8 mitments from one or more investors (other than
9 agencies or departments of the Federal Government)
10 who meet criteria established by the Administration.

11 “(2) NONADMINISTRATION RESOURCES FOR
12 OPERATIONAL ASSISTANCE.—In order to provide
13 operational assistance to smaller enterprises ex-
14 pected to be financed by the company, each condi-
15 tionally approved company—

16 “(A) must have binding commitments (for
17 contribution in cash or in kind)—

18 “(i) from any sources other than the
19 Administration that meet criteria estab-
20 lished by the Administration;

21 “(ii) payable or available over a
22 multiyear period acceptable to the Admin-
23 istration (not to exceed 10 years); and

1 “(iii) in an amount not less than 30
2 percent of the total amount of capital and
3 commitments raised under paragraph (1);
4 “(B) must have purchased an annuity—
5 “(i) from an insurance company ac-
6 ceptable to the Administration;
7 “(ii) using funds (other than the
8 funds raised under paragraph (1)) from
9 any source other than the Administration;
10 and
11 “(iii) that yields cash payments over a
12 multiyear period acceptable to the Admin-
13 istration (not to exceed 10 years) in an
14 amount not less than 30 percent of the
15 total amount of capital and commitments
16 raised under paragraph (1); or
17 “(C) must have binding commitments (for
18 contributions in cash or in kind) of the type de-
19 scribed in subparagraph (A) and must have
20 purchased an annuity of the type described in
21 subparagraph (B), which in the aggregate make
22 available, over a multiyear period acceptable to
23 the Administration (not to exceed 10 years), an
24 amount not less than 30 percent of the total

1 amount of capital and commitments raised
2 under paragraph (1).

3 “(e) FINAL APPROVAL.—The Administration shall
4 grant to a company conditionally approved under sub-
5 section (c) final approval to participate in the program es-
6 tablished under this part after the company has met the
7 requirements set forth in subsection (d).

8 **“SEC. 355. DEBENTURES.**

9 “(a) IN GENERAL.—The Administration may guar-
10 antee the timely payment of principal and interest, as
11 scheduled, on debentures issued by any New Markets Ven-
12 ture Capital company.

13 “(b) TERMS AND CONDITIONS.—The Administration
14 may make guarantees under this section on such terms
15 and conditions as it deems appropriate, except that the
16 term of any debenture guaranteed under this section shall
17 not exceed 15 years.

18 “(c) FULL FAITH AND CREDIT OF THE UNITED
19 STATES.—The full faith and credit of the United States
20 is pledged to pay all amounts that may be required to be
21 paid under any guarantee under this part.

22 “(d) MAXIMUM GUARANTEE.—

23 “(1) IN GENERAL.—Under this section, the Ad-
24 ministration may guarantee the debentures issued by
25 a New Markets Venture Capital company only to the

1 extent that the total face amount of outstanding
2 guaranteed debentures of such company does not ex-
3 ceed 150 percent of the private capital of the com-
4 pany, as determined by the Administration.

5 “(2) TREATMENT OF CERTAIN FEDERAL
6 FUNDS.—For the purposes of paragraph (1), private
7 capital shall include capital that is considered to be
8 Federal funds, if such capital is contributed by an
9 investor other than an agency or department of the
10 Federal Government.

11 **“SEC. 356. ISSUANCE AND GUARANTEE OF TRUST CERTIFI-**
12 **CATES.**

13 “(a) ISSUANCE.—The Administration may issue trust
14 certificates representing ownership of all or a fractional
15 part of debentures issued by a New Markets Venture Cap-
16 ital company and guaranteed by the Administration under
17 this part, if such certificates are based on and backed by
18 a trust or pool approved by the Administration and com-
19 posed solely of guaranteed debentures.

20 “(b) GUARANTEE.—

21 “(1) IN GENERAL.—The Administration may,
22 under such terms and conditions as it deems appro-
23 priate, guarantee the timely payment of the principal
24 of and interest on trust certificates issued by the

1 Administration or its agents for purposes of this sec-
2 tion.

3 “(2) LIMITATION.—Each guarantee under this
4 subsection shall be limited to the extent of principal
5 and interest on the guaranteed debentures that com-
6 pose the trust or pool.

7 “(3) PREPAYMENT OR DEFAULT.—In the event
8 that a debenture in a trust or pool is prepaid, or in
9 the event of default of such a debenture, the guar-
10 antee of timely payment of principal and interest on
11 the trust certificates shall be reduced in proportion
12 to the amount of principal and interest such prepaid
13 debenture represents in the trust or pool. Interest on
14 prepaid or defaulted debentures shall accrue and be
15 guaranteed by the Administration only through the
16 date of payment of the guarantee. At any time dur-
17 ing its term, a trust certificate may be called for re-
18 demption due to prepayment or default of all deben-
19 tures.

20 “(c) FULL FAITH AND CREDIT OF THE UNITED
21 STATES.—The full faith and credit of the United States
22 is pledged to pay all amounts that may be required to be
23 paid under any guarantee of a trust certificate issued by
24 the Administration or its agents under this section.

1 “(d) FEES.—The Administration shall not collect a
2 fee for any guarantee of a trust certificate under this sec-
3 tion, but any agent of the Administration may collect a
4 fee approved by the Administration for the functions de-
5 scribed in subsection (f)(2).

6 “(e) SUBROGATION AND OWNERSHIP RIGHTS.—

7 “(1) SUBROGATION.—In the event the Adminis-
8 tration pays a claim under a guarantee issued under
9 this section, it shall be subrogated fully to the rights
10 satisfied by such payment.

11 “(2) OWNERSHIP RIGHTS.—No Federal, State,
12 or local law shall preclude or limit the exercise by
13 the Administration of its ownership rights in the de-
14 bentures residing in a trust or pool against which
15 trust certificates are issued under this section.

16 “(f) MANAGEMENT AND ADMINISTRATION.—

17 “(1) REGISTRATION.—

18 “(A) IN GENERAL.—The Administration
19 may provide for a central registration of all
20 trust certificates issued under this section.

21 “(B) FORMS OF REGISTRATION.—Nothing
22 in this subsection shall prohibit the use of a
23 book entry or other electronic form of registra-
24 tion for trust certificates.

25 “(2) CONTRACTING OF FUNCTIONS.—

1 “(A) IN GENERAL.—The Administration
2 may contract with an agent or agents to carry
3 out on behalf of the Administration the pooling
4 and the central registration functions provided
5 for in this section including, notwithstanding
6 any other provision of law—

7 “(i) maintenance, on behalf of and
8 under the direction of the Administration,
9 of such commercial bank accounts or in-
10 vestments in obligations of the United
11 States as may be necessary to facilitate the
12 creation of trusts or pools backed by de-
13 bentures guaranteed under this part; and

14 “(ii) the issuance of trust certificates
15 to facilitate the creation of such trusts or
16 pools.

17 “(B) FIDELITY BOND OR INSURANCE RE-
18 QUIREMENT.—Any agent performing functions
19 on behalf of the Administration under this
20 paragraph shall provide a fidelity bond or insur-
21 ance in such amounts as the Administration de-
22 termines to be necessary to fully protect the in-
23 terests of the United States.

24 “(3) APPLICABILITY OF THE SECURITIES EX-
25 CHANGE ACT OF 1934.—Notwithstanding section

1 3(a)(42) of the Securities Exchange Act of 1934 (15
2 U.S.C. 78c(a)(42)), trust certificates issued under
3 this section shall not be treated as government secu-
4 rities for the purposes of that Act.

5 **“SEC. 357. FEES.**

6 “Except as provided in section 356(d), the Adminis-
7 tration may charge such fees as it deems appropriate with
8 respect to any guarantee or grant issued under this part.

9 **“SEC. 358. OPERATIONAL ASSISTANCE GRANTS.**

10 “(a) IN GENERAL.—

11 “(1) AUTHORITY.—In accordance with this sec-
12 tion, the Administration may make grants to New
13 Markets Venture Capital companies and to other en-
14 tities, as authorized by this part, to provide oper-
15 ational assistance to smaller enterprises financed, or
16 expected to be financed, by such companies or other
17 entities.

18 “(2) TERMS.—Grants made under this sub-
19 section shall be made over a multiyear period not to
20 exceed 10 years, under such other terms as the Ad-
21 ministration may require.

22 “(3) GRANTS TO SPECIALIZED SMALL BUSINESS
23 INVESTMENT COMPANIES.—

24 “(A) AUTHORITY.—In accordance with
25 this section, the Administration may make

1 grants to specialized small business investment
2 companies to provide operational assistance to
3 smaller enterprises financed, or expected to be
4 financed, by such companies after the effective
5 date of the New Markets Venture Capital Pro-
6 gram Act of 2000.

7 “(B) USE OF FUNDS.—

8 “(i) IN GENERAL.—The proceeds of a
9 grant made under this paragraph may be
10 used by the company receiving such grant
11 only to provide operational assistance in
12 connection with an equity investment
13 (made with capital raised after the effec-
14 tive date of the New Markets Venture Cap-
15 ital Program Act of 2000) in a business lo-
16 cated in a low- or moderate-income geo-
17 graphic area.

18 “(ii) ADDITIONAL LIMITATION.—

19 Operational assistance referred to in clause
20 (i) may not be provided in connection with
21 more than one equity investment.

22 “(C) SUBMISSION OF PLANS.—A special-
23 ized small business investment company shall
24 be eligible for a grant under this section only if
25 the company submits to the Administrator, in

1 such form and manner as the Administrator
2 may require, a plan for use of the grant.

3 “(4) GRANT AMOUNT.—

4 “(A) NEW MARKETS VENTURE CAPITAL
5 COMPANIES.—The amount of a grant made
6 under this subsection to a New Markets Ven-
7 ture Capital company shall be equal to the re-
8 sources (in cash or in kind) raised by the com-
9 pany under with section 354(d)(2).

10 “(B) OTHER ENTITIES.—The amount of a
11 grant made under this subsection to any entity
12 other than a New Markets Venture capital com-
13 pany shall be equal to the resources (in cash or
14 in kind) raised by the entity in accordance with
15 the requirements applicable to New Markets
16 Venture Capital companies set forth in section
17 354(d)(2).

18 “(5) PRO RATA REDUCTIONS.—If the amount
19 made available to carry out this section is insuffi-
20 cient for the Administration to provide grants in the
21 amounts provided for in paragraph (4), the Adminis-
22 tration shall make pro rata reductions in the
23 amounts otherwise payable to each company and en-
24 tity under such paragraph.

25 “(b) SUPPLEMENTAL GRANTS.—

1 “(1) IN GENERAL.—The Administration may
2 make supplemental grants to New Markets Venture
3 Capital companies and to other entities, as author-
4 ized by this part, under such terms as the Adminis-
5 tration may require, to provide additional oper-
6 ational assistance to smaller enterprises financed, or
7 expected to be financed, by the companies.

8 “(2) MATCHING REQUIREMENT.—The Adminis-
9 tration may require, as a condition of any supple-
10 mental grant made under this subsection, that the
11 company or entity receiving the grant provide from
12 resources (in cash or in kind), other than those pro-
13 vided by the Administration, a matching contribu-
14 tion equal to the amount of the supplemental grant.

15 “(c) LIMITATION.—None of the assistance made
16 available under this section may be used for any operating
17 expense of a New Markets Venture Capital company or
18 a specialized small business investment company.

19 **“SEC. 359. BANK PARTICIPATION.**

20 “(a) IN GENERAL.—Except as provided in subsection
21 (b), any national bank, any member bank of the Federal
22 Reserve System, and (to the extent permitted under appli-
23 cable State law) any insured bank that is not a member
24 of such system, may invest in any New Markets Venture

1 Capital company, or in any entity established to invest
2 solely in New Markets Venture Capital companies.

3 “(b) LIMITATION.—No bank described in subsection
4 (a) may make investments described in such subsection
5 that are greater than 5 percent of the capital and surplus
6 of the bank.

7 **“SEC. 360. FEDERAL FINANCING BANK.**

8 “Section 318 shall not apply to any debenture issued
9 by a New Markets Venture Capital company under this
10 part.

11 **“SEC. 361. REPORTING REQUIREMENTS.**

12 “Each New Markets Venture Capital company that
13 participates in the program established under this part
14 shall provide to the Administration such information as
15 the Administration may require, including—

16 “(1) information related to the measurement
17 criteria that the company proposed in its program
18 application; and

19 “(2) in each case in which the company under
20 this part makes an investment in, or a loan or grant
21 to, a business that is not located in a low- or mod-
22 erate-income geographic area, a report on the num-
23 ber and percentage of employees of the business who
24 reside in such areas.

1 **“SEC. 362. EXAMINATIONS.**

2 “(a) IN GENERAL.—Each New Markets Venture
3 Capital company that participates in the program estab-
4 lished under this part shall be subject to examinations
5 made at the direction of the Investment Division of the
6 Administration in accordance with this section.

7 “(b) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—
8 Examinations under this section may be conducted with
9 the assistance of a private sector entity that has both the
10 qualifications and the expertise necessary to conduct such
11 examinations.

12 “(c) COSTS.—

13 “(1) ASSESSMENT.—

14 “(A) IN GENERAL.—The Administration
15 may assess the cost of examinations under this
16 section, including compensation of the exam-
17 iners, against the company examined.

18 “(B) PAYMENT.—Any company against
19 which the Administration assesses costs under
20 this paragraph shall pay such costs.

21 “(2) DEPOSIT OF FUNDS.—Funds collected
22 under this section shall be deposited in the account
23 for salaries and expenses of the Administration.

24 **“SEC. 363. INJUNCTIONS AND OTHER ORDERS.**

25 “(a) IN GENERAL.—Whenever, in the judgment of
26 the Administration, a New Markets Venture Capital com-

1 pany or any other person has engaged or is about to en-
2 gage in any acts or practices which constitute or will con-
3 stitute a violation of any provision of this Act, or of any
4 rule or regulation under this Act, or of any order issued
5 under this Act, the Administration may make application
6 to the proper district court of the United States or a
7 United States court of any place subject to the jurisdiction
8 of the United States for an order enjoining such acts or
9 practices, or for an order enforcing compliance with such
10 provision, rule, regulation, or order, and such courts shall
11 have jurisdiction of such actions and, upon a showing by
12 the Administration that such New Markets Venture Cap-
13 ital company or other person has engaged or is about to
14 engage in any such acts or practices, a permanent or tem-
15 porary injunction, restraining order, or other order, shall
16 be granted without bond.

17 “(b) JURISDICTION.—In any proceeding under sub-
18 section (a), the court as a court of equity may, to such
19 extent as it deems necessary, take exclusive jurisdiction
20 of the New Market Venture Capital company and the as-
21 sets thereof, wherever located, and the court shall have
22 jurisdiction in any such proceeding to appoint a trustee
23 or receiver to hold or administer under the direction of
24 the court the assets so possessed.

25 “(c) ADMINISTRATION AS TRUSTEE OR RECEIVER.—

1 “(1) AUTHORITY.—The Administration may act
2 as trustee or receiver of a New Markets Venture
3 Capital company.

4 “(2) APPOINTMENT.—Upon request of the Ad-
5 ministration, the court may appoint the Administra-
6 tion to act as a trustee or receiver of a New Markets
7 Venture Capital company unless the court deems
8 such appointment inequitable or otherwise inappro-
9 priate by reason of the special circumstances in-
10 volved.

11 **“SEC. 364. ADDITIONAL PENALTIES FOR NONCOMPLIANCE.**

12 “(a) IN GENERAL.—With respect to any New Mar-
13 kets Venture Capital company that violates or fails to
14 comply with any of the provisions of this Act, of any regu-
15 lation issued under this Act, or of any participation agree-
16 ment entered into under this Act, the Administration may
17 in accordance with this section—

18 “(1) void the participation agreement between
19 the Administration and the company; and

20 “(2) cause the company to forfeit all of the
21 rights and privileges derived by the company from
22 this Act.

23 “(b) ADJUDICATION OF NONCOMPLIANCE.—

24 “(1) IN GENERAL.—Before the Administration
25 may cause a New Markets Venture Capital company

1 to forfeit rights or privileges under subsection (a), a
2 court of the United States of competent jurisdiction
3 must find that the company committed a violation,
4 or failed to comply, in a cause of action brought for
5 that purpose in the district, territory, or other place
6 subject to the jurisdiction of the United States, in
7 which the principal office of the company is located.

8 “(2) PARTIES AUTHORIZED TO FILE CAUSES OF
9 ACTION.—Each cause of action brought by the
10 United States under this subsection shall be brought
11 by the Administration or by the Attorney General.

12 **“SEC. 365. UNLAWFUL ACTS AND OMISSIONS; BREACH OF**
13 **FIDUCIARY DUTY.**

14 “(a) PARTIES DEEMED TO COMMIT A VIOLATION.—
15 Whenever any New Markets Venture Capital company vio-
16 lates any provision of this Act, of a regulation issued
17 under this Act, or of a participation agreement entered
18 into under this Act, by reason of its failure to comply with
19 its terms or by reason of its engaging in any act or prac-
20 tice that constitutes or will constitute a violation thereof,
21 such violation shall also be deemed to be a violation and
22 an unlawful act committed by any person who, directly
23 or indirectly, authorizes, orders, participates in, causes,
24 brings about, counsels, aids, or abets in the commission

1 of any acts, practices, or transactions that constitute or
2 will constitute, in whole or in part, such violation.

3 “(b) FIDUCIARY DUTIES.—It shall be unlawful for
4 any officer, director, employee, agent, or other participant
5 in the management or conduct of the affairs of a New
6 Markets Venture Capital company to engage in any act
7 or practice, or to omit any act or practice, in breach of
8 the person’s fiduciary duty as such officer, director, em-
9 ployee, agent, or participant if, as a result thereof, the
10 company suffers or is in imminent danger of suffering fi-
11 nancial loss or other damage.

12 “(c) UNLAWFUL ACTS.—Except with the written con-
13 sent of the Administration, it shall be unlawful—

14 “(1) for any person to take office as an officer,
15 director, or employee of any New Markets Venture
16 Capital company, or to become an agent or partici-
17 pant in the conduct of the affairs or management of
18 such a company, if the person—

19 “(A) has been convicted of a felony, or any
20 other criminal offense involving dishonesty or
21 breach of trust, or

22 “(B) has been found civilly liable in dam-
23 ages, or has been permanently or temporarily
24 enjoined by an order, judgment, or decree of a
25 court of competent jurisdiction, by reason of

1 any act or practice involving fraud, or breach of
2 trust; and

3 “(2) for any person continue to serve in any of
4 the capacities described in paragraph (1), if—

5 “(A) the person is convicted of a felony, or
6 any other criminal offense involving dishonesty
7 or breach of trust, or

8 “(B) the person is found civilly liable in
9 damages, or is permanently or temporarily en-
10 joined by an order, judgment, or decree of a
11 court of competent jurisdiction, by reason of
12 any act or practice involving fraud or breach of
13 trust.

14 **“SEC. 366. REMOVAL OR SUSPENSION OF DIRECTORS OR**
15 **OFFICERS.**

16 “Using the procedures for removing or suspending a
17 director or an officer of a licensee set forth in section 313
18 (to the extent such procedures are not inconsistent with
19 the requirements of this part), the Administration may re-
20 move or suspend any director or officer of any New Mar-
21 kets Venture Capital company.

22 **“SEC. 367. REGULATIONS.**

23 “The Administration may issue such regulations as
24 it deems necessary to carry out the provisions of this part
25 in accordance with its purposes.

1 **“SEC. 368. AUTHORIZATIONS OF APPROPRIATIONS.**

2 “(a) IN GENERAL.—For fiscal years 2000 through
3 2005, the Administration is authorized to be appropriated,
4 to remain available until expended—

5 “(1) such subsidy budget authority as may be
6 necessary to guarantee \$150,000,000 of debentures
7 under this part; and

8 “(2) \$30,000,000 to make grants under this
9 part.

10 “(b) FUNDS COLLECTED FOR EXAMINATIONS.—
11 Funds deposited under section 362(c)(2) are authorized
12 to be appropriated only for the costs of examinations
13 under section 362 and for the costs of other oversight ac-
14 tivities with respect to the program established under this
15 part.”.

16 (c) CONFORMING AMENDMENT.—Section 20(e)(1)(C)
17 of the Small Business Act (15 U.S.C 631 note) is amend-
18 ed by inserting “part A of” before “title III”.

19 (d) CALCULATION OF MAXIMUM AMOUNT OF SBIC
20 LEVERAGE.—

21 (1) MAXIMUM LEVERAGE.—Section 303(b)(2)
22 of the Small Business Investment Act of 1958 (15
23 U.S.C. 683(b)(2)) is amended to read as follows:

24 “(2) MAXIMUM LEVERAGE.—

25 “(A) IN GENERAL.—After March 31,
26 1993, the maximum amount of outstanding le-

1 verage made available to a company licensed
2 under section 301(c) of this Act shall be deter-
3 mined by the amount of such company’s private
4 capital—

5 “(i) if the company has private capital
6 of not more than \$15,000,000, the total
7 amount of leverage shall not exceed 300
8 percent of private capital;

9 “(ii) if the company has private cap-
10 ital of more than \$15,000,000 but not
11 more than \$30,000,000, the total amount
12 of leverage shall not exceed \$45,000,000
13 plus 200 percent of the amount of private
14 capital over \$15,000,000; and

15 “(iii) if the company has private cap-
16 ital of more than \$30,000,000, the total
17 amount of leverage shall not exceed
18 \$75,000,000 plus 100 percent of the
19 amount of private capital over \$30,000,000
20 but not to exceed an additional
21 \$15,000,000.

22 “(B) ADJUSTMENTS.—

23 “(i) IN GENERAL.—The dollar
24 amounts in clauses (i), (ii), and (iii) of
25 subparagraph (A) shall be adjusted annu-

1 ally to reflect increases in the Consumer
2 Price Index established by the Bureau of
3 Labor Statistics of the Department of
4 Labor.

5 (ii) INITIAL ADJUSTMENTS.—The ini-
6 tial adjustments made under this subpara-
7 graph after the date of the enactment of
8 the Small Business Reauthorization Act of
9 1997 shall reflect only increases from
10 March 31, 1993.

11 “(C) INVESTMENTS IN LOW- OR MOD-
12 ERATE INCOME AREAS.—In calculating the out-
13 standing leverage of a company for the pur-
14 poses of subparagraph (A), the Administrator
15 shall not include the amount of the cost basis
16 of any equity investment made by the company
17 in a smaller enterprise located in a low- or mod-
18 erate-income geographic area (as defined in sec-
19 tion 351), to the extent that the total of such
20 amounts does not exceed 50 percent of the com-
21 pany’s private capital.”.

22 (2) MAXIMUM AGGREGATE LEVERAGE.—Section
23 303(b)(4) of the Small Business Investment Act of
24 1958 (15 U.S.C. 683(b)(4)) is amended by adding
25 at the end the following new subparagraph:

1 “(D) INVESTMENTS IN LOW- OR MOD-
2 ERATE INCOME AREAS.—In calculating the ag-
3 gregate outstanding leverage of a company for
4 the purposes of subparagraph (A), the Adminis-
5 trator shall not include the amount of the cost
6 basis of any equity investment made by the
7 company in a smaller enterprise located in a
8 low- or moderate-income geographic area (as
9 defined in section 351), to the extent that the
10 total of such amounts does not exceed 50 per-
11 cent of the company’s private capital.”.

12 (e) BANKRUPTCY EXEMPTION FOR NEW MARKETS
13 VENTURE CAPITAL COMPANIES.—Section 109(b)(2) of
14 title 11, United States Code, is amended by inserting “a
15 New Markets Venture Capital company as defined in sec-
16 tion 351 of the Small Business Investment Act of 1958,”
17 after “homestead association,”.

18 (f) FEDERAL SAVINGS ASSOCIATIONS.—Section
19 5(c)(4) of the Home Owners’ Loan Act (12 U.S.C.
20 1464(c)(4)) is amended by adding at the end the fol-
21 lowing:

22 “(F) NEW MARKETS VENTURE CAPITAL
23 COMPANIES.—A Federal savings association
24 may invest in stock, obligations, or other securi-
25 ties of any New Markets Venture Capital com-

1 protégé programs or community-based, state-
2 wide, or local business development programs.

3 “(2) MATCHING REQUIREMENT.—Subject to
4 subparagraph (B), the Administrator may make a
5 grant to a coalition under paragraph (1) only if the
6 coalition provides for activities described in para-
7 graph (1)(A) or (1)(B) an amount, either in kind or
8 in cash, equal to the grant amount.

9 “(3) AUTHORIZATION OF APPROPRIATIONS.—
10 There is authorized to be appropriated to carry out
11 this subsection \$6,600,000, to remain available until
12 expended, for each of fiscal years 2001 through
13 2003.”.

Passed the House of Representatives July 25, 2000.

Attest:

Clerk.