106TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
106–278

CERTIFIED DEVELOPMENT COMPANY PROGRAM IMPROVEMENTS ACT OF 1999

AUGUST 2, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TALENT, from the Committee on Small Business, submitted the following

REPORT

[To accompany H.R. 2614]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 2614) to amend the Small Business Investment Act to make improvements to the certified development company program, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 2614 is to amend the Small Business Investment Act to make changes in the Certified Development Company (CDC) loan program at the Small Business Administration (SBA), commonly known as the 504 loan program. H.R. 2614 contains a variety of technical and substantive changes to improve the program and correct problems brought to the Committee's attention through the oversight process.

H.R. 2614 will increase the maximum amount of a 504 loan, and its underlying debenture, to $1 million from the current limit of $750,000 in order to keep pace with inflation. The maximum amount for loans with specific public policy purposes (low-income, rural, and minority owned businesses) is increased to $1,300,000. The loan amount was last increased in 1988. H.R. 2614 will also reauthorize the fees which support the 504 program.

H.R. 2614 will also include women-owned businesses as a specific public policy goal for the 504 program. H.R. 2614 will make permanent two pilot programs begun by SBA in 1997 in response to a Congressional mandate. The first pilot program, the Liquidation

Pilot Program, enables certain qualified Certified Development Companies to liquidate their own loans rather enduring the usual process of SBA controlled liquidation. The second, the Premier Certified Lenders Program, enables experienced CDCs to use streamlined procedures for loan making and liquidation.

NEED FOR LEGISLATION

It has been ten years since the Committee acted to increase the maximum guarantee amount in the 504 program. To keep pace with inflation, the maximum guarantee amount should be increased to approximately $1,250,000. However, the Committee believes that a simple increase to $1,000,000 is sufficient. This increase is especially needed in the 504 program because it is primarily a real estate based program, and the cost of commercial real estate has increased markedly in the last several years.

The 504 program currently operates with a zero subsidy rate. Like other credit programs, pursuant to the Budget Act of 1990, the 504 program is funded according to Office of Management and Budget calculations of the annual taxpayer subsidy cost of the program. This subsidy cost is calculated by an estimation of the net present value of one year's loans plus fees and recoveries from defaulted loans minus losses. Losses are estimated based on historical assumptions. The fees in the 504 program cover all these costs, resulting in a program that operates at no cost to the taxpayer. H.R. 2614 will reauthorize these fees.

H.R. 2614 adds women-owned businesses to the current list of businesses eligible for the larger public policy oriented loans of up to $1,300,000. This continues the Committee's efforts to increase SBA's assistance to women-owned businesses. The Committee has noted the increasingly important role women-owned businesses play in the economy and believes this change is needed to ensure the expansion of this sector of our economy.

The Committee notes the improvements in the 504 program that have occurred as a result of statutory changes implemented by the Congress in 1996. The SBA has begun to appreciate the value of the 504 program in the small business community and the Committee is pleased to note a more cooperative and constructive attitude has entered into the dealings between the SBA and the CDCs.

The Committee is particularly pleased with the results of the Premier Certified Lender Program pilot and the Liquidation Pilot Program. Both of these programs have shown the benefits of granting increased lending and liquidation authority to the CDCs. Based on preliminary reports, the Committee is pleased to note the success of the pilot programs and that, despite initial reluctance, the SBA has carried out its mandate well. The Committee fully expects that the SBA will continue to exhibit a spirit of cooperation and compromise with the CDCs in its conduct of the permanent program.

In response to SBA's plans to implement asset sales, the Committee incorporates language in H.R. 2614 requiring the SBA to notify CDCs prior to including a 504 loan in an asset sale. The committee takes this action in order to ensure there is adequate cooperation. The Committee supports the SBA's intent to move for-

ward with the asset sales program, but does not wish this action to come at the expense of the SBA's partners.

COMMITTEE ACTION

HEARING ON LEGISLATIVE PROPOSALS

On June 24, 1999, at 9:30 a.m., the Committee on Small Business convened a hearing to discuss legislative proposals for the 7(a) and 504 programs. The Committee received testimony from four witnesses: Mr. Fred Hockberg, Deputy Administrator of the Small Business Administration; Mr. Anthony Wilkinson, President of the National Association of Government Guaranteed Lenders; Ms. Donna Faulk, Vice President for Mortgage Backed Securities of Prudential Securities; and Mr. John Geigel of the Wisconsin Development Finance Corporation representing the National Association of Development Companies.

Mr. Geigel's testimony concerned the provisions affecting the 504 program. He expressed the Certified Development Company industry's strong support of the legislative language which became the body of H.R. 2614. In particular, he supported the language providing qualified development companies with the ability to liquidate defaulted loans with minimal SBA oversight. He expressed the 504 industry's belief that the lenders, who had intimate knowledge of the loans, were in a superior position to either liquidate or restructure loans. In addition, he expressed strong support of the provisions increasing the maximum loan/debenture size and the inclusion of women-owned businesses as a group of eligible under the public policy lending provisions of the 504 program.

Mr. Hochberg's testimony generally supported the provisions in the legislative proposal which later became H.R. 2614. He expressed the SBA's support for reauthorizing the fees which support the 504 program, making the Pilot Liquidation Program permanent and making the Premier Certified Lender Program permanent as well. Mr. Hochberg expressed the SBA's concerns over the language regarding the treatment of 504 loans in the SBA's planned asset sales. These concerns were later addressed by the Committee and changes were incorporated into H.R. 2614.

CONSIDERATION OF H.R. 2614

At 9:30 a.m. on July 30, 1999, the Committee on Small Business met to mark up and report H.R. 2614 and H.R. 2615. After consideration of H.R. 2615, Chairman Talent asked unanimous consent that H.R. 2614 be considered as read and open for amendment at any point. No amendments were offered to H.R. 2614. The Chairman then moved the bill be reported, and at 10:35 a.m., by voice vote, a quorum being present, the Committee passed H.R. 2614 and ordered it reported.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 2. Maximum debenture size

Maximum loan/debenture size is increased from $750,000 to $1,000,000 for regular debentures. Public policy loan/debentures are increased from $1,000,000 to $1,300,000 for public policy debentures. This increase is commensurate with inflation since the current debenture levels were established.

Section 3. Women-owned businesses

Women-owned businesses are added to the list of concerns eligible for the higher debentures available for the policy concerns. Current policy goals include lending to low-income and rural areas, and loans to businesses owned by minorities.

Section 4. Fees

Currently, the 504 program levies fees on the borrower, CDC, and the participating bank. The bank pays a one-time fee whereas the borrower and CDC pay a percentage of the outstanding balance annually in order to provide operational funding for the 504 program. Currently these fees sunset on October 1, 2000. This legislation would continue the fees through October 1, 2003.

Section 5. Premier Certified Lenders Program

The Preferred Certified Lenders Program is granted permanent status. The current demonstration program terminates at the end of FY 2000.

Section 6. Sale of certain defaulted loans

SBA is required to give any certified lender with contingent liability 90 days notice prior to including a defaulted loan in a bulk sale of loans. No loan may be sold without permitting prospective purchasers to examine SBA records on the loan.

Section 7. Loan liquidation

Section 510 is added to the Small Business Investment Act of 1958 in order to create a program permitting CDCs to handle the liquidation of defaulted loans. This program replaces the pilot program authorized by Public Law 105–135, the Small Business Reauthorization Act of 1997. A permanent program would permit OMB to score savings achieved by the program when computing the subsidy rate for the 504 program.

In order to participate in the liquidation program, a CDC must have made at least 10 loans per year for the past three years and have at least one employee with 2 years of liquidation experience or be a member of the Accredited Lenders Program with at least one employee with 2 years of liquidation experience. Both groups are required to receive training. PCLP participants and current participants in the pilot program automatically qualify.

CDCs have the authority to litigate as necessary to foreclose and liquidate, but SBA could assume control of the litigation if the out-

come might adversely affect SBA's management of the program or if SBA has additional legal remedies not available to the CDC.

All Section 510 participants are required to submit a liquidation plan to SBA for approval, and SBA has 15 days to approve, deny, or express concern with the plan. Further SBA approval of routine liquidation activities is not required.

CDCs are able to purchase indebtedness with SBA approval, and SBA is required to respond to such a request within 15 days. Likewise, CDCs are required to seek SBA approval of any workout plan, and SBA must respond to that request within 15 days. With SBA approval a CDC may compromise indebtedness. Such approval must be granted, denied, or explained within 15 days of receipt by SBA.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 2, 1999.

Hon. JAMES M. TALENT,
Chairman, Committee on Small Business,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2614, the Certified Development Company Program Improvements Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Hadley.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2614—Certified Development Company Program Improvements Act of 1999

H.R. 2614 would make numerous changes to two loan programs that the Small Business Administration (SBA) operates in cooperation with certified development companies (CDCs). Based on information from the SBA, CBO estimates that implementing H.R. 2614 would not have a significant impact on the federal budget. Because H.R. 2614 could effect direct spending, pay-as-you-go procedures would apply, but we estimate that any such effect would not be significant. H.R. 2614 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

CDC loans, also known as section 503 and 504 loans, provide small businesses with long-term, fixed-rate financing for the purchase of land, buildings, and equipment. Under current law, the Administrator of SBA must adjust an annual fee on 504 loans to produce an estimated subsidy rate of zero at the time loans are guaranteed. H.R. 2614 would extend the authority to collect such fees on new loans through fiscal year 2003. Under current law, both the program and its fee authority expire at the end of fiscal year 2000. If the program is reauthorized, the extension of the fee authority would maintain a zero subsidy rate. (H.R. 2614 would

not, by itself, extend the program beyond 2000.) The bill would allow CDCs to litigate in place of SBA and would authorize qualified companies to liquidate loans in their portfolio that the SBA has purchased. (The bill would make permanent the pilot program that allowed CDCs to liquidate such loans.) Finally, the bill would increase the maximum amount that can be guaranteed from $750,000 to $1 million in most cases, and from $1 million to $1.3 million if the loan would satisfy specific policy goals.

If H.R. 2614 is enacted, the subsidy rates for previous cohorts of CDC loans or the administrative costs of SBA could be affected. (The former would affect direct spending.) However, it is unclear whether the average subsidy costs for SBA guarantees of existing loans would increase or decrease. The pilot program has not produced enough information to date to allow CBO to make any determination about the amount the government would recover on defaulted loans if those loans are liquidated by CDCs instead of by SBA. In addition, it is not clear how expenses associated with liquidation would be paid. The Federal Credit Reform Act stipulates that administrative expenses cannot be paid out of the subsidy for loan programs, but expenses to foreclose, maintain, or liquidate an asset can. Many of the expenses CDCs would incur would be to foreclose, maintain, or liquidate assets. It is not clear whether SBA would have the authority to reimburse CDCs for administrative expenses, including litigation costs.

Liquidation activities under the bill might cost less than under current law, thus lowering the subsidy costs on existing loan guarantees. But if litigation costs became part of the subsidy costs, those costs could increase. On balance, CBO expects that enacting H.R. 2614 would probably not lead to a significant net change in the subsidy cost for CDC loans or in SBA's administrative costs.

The bill would not effect the zero subsidy rate for future CDC loans. H.R. 2614 would increase the maximum size of the guarantee, which could increase the default risk of the program. But added costs for defaults on future loans would be offset by fees paid by borrowers.

The CBO staff contact is Mark Hadley. This estimate was approved by Robert A. Sunshine, Deputy Director for Budget Analysis.

COMMITTEE ESTIMATE OF COSTS

Pursuant to the Congressional Budget Act of 1974, the Committee estimates that the amendments to the Small Business Investment Act contained in H.R. 2614 will not increase discretionary spending over the next five fiscal years. The Committee also estimates that H.R. 2614 will not affect direct spending. This estimate concurs with Congressional Budget Office (CBO) estimates.

Furthermore, pursuant to clause 3(d)(2)(A) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementation of H.R. 2614 will not significantly increase other administrative costs.

OVERSIGHT FINDINGS

In accordance with clause 4(c)(2) of rule X of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been made by the Committee on Government Reform with respect to the subject matter contained in H.R. 2614.

In accordance with clause (2)(B)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 2614 are incorporated into the descriptive portions of this report.

STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8, clause 18, of the Constitution of the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SMALL BUSINESS INVESTMENT ACT OF 1958

* * * * * * *

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

STATE DEVELOPMENT COMPANIES

SEC. 501. (a) * * *

* * * * * * *

(d) In order to qualify for assistance under this title, the development company must demonstrate that the project to be funded is directed toward at least one of the following economic development objectives—

(1) * * *

* * * * * * *

(3) the achievement of one or more of the following public policy goals:

(A) * * *

(C) expansion of minority business development *or women-owned business development*,

* * * * * * *

LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION, AND EXPANSION

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant acquisition, construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) * * *

[(2) Loans made by the Administration under this section shall be limited to $750,000 for each such identifiable small-business concern, except loans meeting the criteria specified in section 501(d)(3) shall be limited to $1,000,000 for each such identifiable small business concern.**]**

(2) Loans made by the Administration under this section shall be limited to $1,000,000 for each such identifiable small business concern, except loans meeting the criteria specified in section 501(d)(3), which shall be limited to $1,300,000 for each such identifiable small business concern.

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DEVELOPMENT COMPANY DEBENTURES

SEC. 503. (a) * * *

* * * * * * *

[(f) EFFECTIVE DATE.—The fees authorized by subsections (b) and (c) shall apply to financings approved by the Administration on or after October 1, 1996, but shall not apply to financings approved by the Administration on or after October 1, 2000.**]**

(f) EFFECTIVE DATE.—The fees authorized by subsections (b) and (d) shall apply to financings approved by the Administration on or after October 1, 1996, but shall not apply to financings approved by the Administration on or after October 1, 2003.

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SEC. 508. PREMIER CERTIFIED LENDERS PROGRAM.

(a) ESTABLISHMENT.—**[**On a pilot program basis, the**]** *The* Administration may establish a Premier Certified Lenders Program for certified development companies that meet the requirements of subsection (b).

(b) * * *

* * * * * * *

(d) SALE OF CERTAIN DEFAULTED LOANS.—

(1) NOTICE.—If, upon default in repayment, the Administration acquires a loan guaranteed under this section and identifies such loan for inclusion in a bulk asset sale of defaulted or repurchased loans or other financings, it shall give prior notice thereof to any certified development company which has a contingent liability under this section. The notice shall be given to the company as soon as possible after the financing is identified, but not less than 90 days before the date the Administra-

tion first makes any records on such financing available for examination by prospective purchasers prior to its offering in a package of loans for bulk sale.

(2) LIMITATIONS.—The Administration shall not offer any loan described in paragraph (1) as part of a bulk sale unless it—

(A) provides prospective purchasers with the opportunity to examine the Administration's records with respect to such loan; and

(B) provides the notice required by paragraph (1).

[(d)**]** *(e)* LOAN APPROVAL AUTHORITY.—

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[(e)**]** *(f)* REVIEW.—After the issuance and sale of debentures under this section, the Administration, at intervals not greater than 12 months, shall review the financings made by each premier certified lender. The review shall include the lender's credit decisions and general compliance with the eligibility requirements for each financing approved under the program authorized under this section. The Administration shall consider the findings of the review in carrying out its responsibilities under subsection **[**(f)**]** *(g)*, but such review shall not affect any outstanding debenture guarantee.

[(f)**]** *(g)* SUSPENSION OR REVOCATION.—The designation of a certified development company as a premier certified lender may be suspended or revoked if the Administration determines that the company—

* * * * * * *

[(g)**]** *(h)* EFFECT OF SUSPENSION OR REVOCATION.—A suspension or revocation under subsection **[**(f)**]** *(g)* shall not affect any outstanding debenture guarantee.

[(h)**]** *(i)* PROGRAM GOALS.—Each certified development company participating in the program under this section shall establish a goal of processing a minimum of not less than 50 percent of the loan applications for assistance under section 504 pursuant to the program authorized under this section.

[(i)**]** *(j)* REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Each report shall include—

* * * * * * *

SEC. 510. FORECLOSURE AND LIQUIDATION OF LOANS.

(a) DELEGATION OF AUTHORITY.—In accordance with this section, the Administration shall delegate to any qualified State or local development company (as defined in section 503(e)) that meets the eligibility requirements of subsection (b)(1) the authority to foreclose and liquidate, or to otherwise treat in accordance with this section, defaulted loans in its portfolio that are funded with the proceeds of debentures guaranteed by the Administration under section 503.

(b) ELIGIBILITY FOR DELEGATION.—

(1) REQUIREMENTS.—A qualified State or local development company shall be eligible for a delegation of authority under subsection (a) if—

(A) the company—

(i) has participated in the loan liquidation pilot program established by the Small Business Programs Improvement Act of 1996 (15 U.S.C. 695 note), as in effect on the day before promulgation of final regulations by the Administration implementing this section;

(ii) is participating in the Premier Certified Lenders Program under section 508; or

(iii) during the 3 fiscal years immediately prior to seeking such a delegation, has made an average of not less than 10 loans per year that are funded with the proceeds of debentures guaranteed under section 503; and

(B) the company—

(i) has 1 or more employees—

(I) with not less than 2 years of substantive, decision-making experience in administering the liquidation and workout of problem loans secured in a manner substantially similar to loans funded with the proceeds of debentures guaranteed under section 503; and

(II) who have completed a training program on loan liquidation developed by the Administration in conjunction with qualified State and local development companies that meet the requirements of this paragraph; or

(ii) submits to the Administration documentation demonstrating that the company has contracted with a qualified third-party to perform any liquidation activities and secures the approval of the contract by the Administration with respect to the qualifications of the contractor and the terms and conditions of liquidation activities.

(2) CONFIRMATION.—On request the Administration shall examine the qualifications of any company described in subsection (a) to determine if such company is eligible for the delegation of authority under this section. If the Administration determines that a company is not eligible, the Administration shall provide the company with the reasons for such ineligibility.

(c) SCOPE OF DELEGATED AUTHORITY.—

(1) IN GENERAL.—Each qualified State or local development company to which the Administration delegates authority under section (a) may with respect to any loan described in subsection (a)—

(A) perform all liquidation and foreclosure functions, including the purchase in accordance with this subsection of any other indebtedness secured by the property securing the loan, in a reasonable and sound manner according to commercially accepted practices, pursuant to a liquidation plan

approved in advance by the Administration under paragraph (2)(A);

(B) litigate any matter relating to the performance of the functions described in subparagraph (A), except that the Administration may—

(i) defend or bring any claim if—

(I) the outcome of the litigation may adversely affect the Administration's management of the loan program established under section 502; or

(II) the Administration is entitled to legal remedies not available to a qualified State or local development company and such remedies will benefit either the Administration or the qualified State or local development company; or

(ii) oversee the conduct of any such litigation; and

(C) take other appropriate actions to mitigate loan losses in lieu of total liquidation or foreclosures, including the restructuring of a loan in accordance with prudent loan servicing practices and pursuant to a workout plan approved in advance by the Administration under paragraph (2)(C).

(2) ADMINISTRATION APPROVAL.—

(A) LIQUIDATION PLAN.—

(i) IN GENERAL.—Before carrying out functions described in paragraph (1)(A), a qualified State or local development company shall submit to the Administration a proposed liquidation plan.

(ii) ADMINISTRATION ACTION ON PLAN.—

(I) TIMING.—Not later than 15 business days after a liquidation plan is received by the Administration under clause (i), the Administration shall approve or reject the plan.

(II) NOTICE OF NO DECISION.—With respect to any plan that cannot be approved or denied within the 15-day period required by subclause (I), the Administration shall within such period provide in accordance with subparagraph (E) notice to the company that submitted the plan.

(iii) ROUTINE ACTIONS.—In carrying out functions described in paragraph (1)(A), a qualified State or local development company may undertake routine actions not addressed in a liquidation plan without obtaining additional approval from the Administration.

(B) PURCHASE OF INDEBTEDNESS.—

(i) IN GENERAL.—In carrying out functions described in paragraph (1)(A), a qualified State or local development company shall submit to the Administration a request for written approval before committing the Administration to the purchase of any other indebtedness secured by the property securing a defaulted loan.

(ii) ADMINISTRATION ACTION ON REQUEST.—

(I) TIMING.—Not later than 15 business days after receiving a request under clause (i), the Administration shall approve or deny the request.

(II) NOTICE OF NO DECISION.—With respect to any request that cannot be approved or denied within the 15-day period required by subclause (I), the Administration shall within such period provide in accordance with subparagraph (E) notice to the company that submitted the request.

(C) WORKOUT PLAN.—

(i) IN GENERAL.—In carrying out functions described in paragraph (1)(C), a qualified State or local development company shall submit to the Administration a proposed workout plan.

(ii) ADMINISTRATION ACTION ON PLAN.—

(I) TIMING.—Not later than 15 business days after a workout plan is received by the Administration under clause (i), the Administration shall approve or reject the plan.

(II) NOTICE OF NO DECISION.—With respect to any workout plan that cannot be approved or denied within the 15-day period required by subclause (I), the Administration shall within such period provide in accordance with subparagraph (E) notice to the company that submitted the plan.

(D) COMPROMISE OF INDEBTEDNESS.—In carrying out functions described in paragraph (1)(A), a qualified State or local development company may—

(i) consider an offer made by an obligor to compromise the debt for less than the full amount owing; and

(ii) pursuant to such an offer, release any obligor or other party contingently liable, if the company secures the written approval of the Administration.

(E) CONTENTS OF NOTICE OF NO DECISION.—Any notice provided by the Administration under subparagraphs (A)(ii)(II), (B)(ii)(II), or (C)(ii)(II)—

(i) shall be in writing;

(ii) shall state the specific reason for the Administration's inability to act on a plan or request;

(iii) shall include an estimate of the additional time required by the Administration to act on the plan or request; and

(iv) if the Administration cannot act because insufficient information or documentation was provided by the company submitting the plan or request, shall specify the nature of such additional information or documentation.

(3) CONFLICT OF INTEREST.—In carrying out functions described in paragraph (1), a qualified State or local development company shall take no action that would result in an actual or apparent conflict of interest between the company (or any employee of the company) and any third party lender, associate of a third party lender, or any other person participating in a liquidation, foreclosure, or loss mitigation action.

(d) SUSPENSION OR REVOCATION OF AUTHORITY.—The Administration may revoke or suspend a delegation of authority under this

section to any qualified State or local development company, if the Administration determines that the company—

(1) does not meet the requirements of subsection (b)(1);

(2) has violated any applicable rule or regulation of the Administration or any other applicable law; or

(3) fails to comply with any reporting requirement that may be established by the Administration relating to carrying out of functions described in paragraph (1).

(e) REPORT.—

(1) IN GENERAL.—Based on information provided by qualified State and local development companies and the Administration, the Administration shall annually submit to the Committees on Small Business of the House of Representatives and of the Senate a report on the results of delegation of authority under this section.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include the following information:

(A) With respect to each loan foreclosed or liquidated by a qualified State or local development company under this section, or for which losses were otherwise mitigated by the company pursuant to a workout plan under this section—

(i) the total cost of the project financed with the loan;

(ii) the total original dollar amount guaranteed by the Administration;

(iii) the total dollar amount of the loan at the time of liquidation, foreclosure, or mitigation of loss;

(iv) the total dollar losses resulting from the liquidation, foreclosure, or mitigation of loss; and

(v) the total recoveries resulting from the liquidation, foreclosure, or mitigation of loss, both as a percentage of the amount guaranteed and the total cost of the project financed.

(B) With respect to each qualified State or local development company to which authority is delegated under this section, the totals of each of the amounts described in clauses (i) through (v) of subparagraph (A).

(C) With respect to all loans subject to foreclosure, liquidation, or mitigation under this section, the totals of each of the amounts described in clauses (i) through (v) of subparagraph (A).

(D) A comparison between—

(i) the information provided under subparagraph (C) with respect to the 12-month period preceding the date on which the report is submitted; and

(ii) the same information with respect to loans foreclosed and liquidated, or otherwise treated, by the Administration during the same period.

(E) The number of times that the Administration has failed to approve or reject a liquidation plan in accordance with subparagraph (A)(i), a workout plan in accordance with subparagraph (C)(i), or to approve or deny a request for purchase of indebtedness under subparagraph (B)(i), in-

cluding specific information regarding the reasons for the Administration's failure and any delays that resulted.

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SECTION 217 OF THE SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENTS ACT OF 1994

* * * * * * *

[SEC. 217. PREMIER CERTIFIED LENDERS PROGRAM.

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

["SEC. 508. PREMIER CERTIFIED LENDERS PROGRAM.

["(a) ESTABLISHMENT.—On a pilot program basis, the Administration may establish a Premier Certified Lenders Program for not more than 15 certified development companies that meet the requirements of subsection (b).

["(b) REQUIREMENTS.—

["(1) APPLICATION.—To be eligible to participate in the Premier Certified Lenders Program established under subsection (a), a certified development company shall prepare and submit to the Administration an application at such time, in such manner, and containing such information as the Administration may require.

["(2) DESIGNATION.—The Administration may designate a certified development company as a premier certified lender if such company—

["(A) has been an active participant in the accredited lenders program during the 12-month period preceding the date on which the company submits an application under paragraph (1), except that, prior to January 1, 1996, the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

["(B) has a history of submitting to the Administration adequately analyzed debenture guarantee application packages; and

["(C) agrees to assume and to reimburse the Administration for 10 percent of any loss sustained by the Administration as a result of default by the company in the payment of principal or interest on a debenture issued by such company and guaranteed by the Administration under this section.

["(c) LOSS RESERVE.—

["(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financings approved pursuant to this section.

["(2) AMOUNT.—The amount of the loss reserve shall be based upon the greater of—

["(A) the historic loss rate on debentures issued by such company; or

[“(B) 10 percent of the amount of the company's exposure as determined under subsection (b)(2)(C).

[“(3) ASSETS.—The loss reserve shall be comprised of segregated assets of the company which shall be securitized in favor of the Administration.

[“(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve in the following amounts and at the following intervals:

[“(A) 50 percent when a debenture is closed.

[“(B) 25 percent not later than 1 year after a debenture is closed.

[“(C) 25 percent not later than 2 years after a debenture is closed.

[“(d) LOAN APPROVAL AUTHORITY.—

[“(1) IN GENERAL.—Notwithstanding section 503(b)(6), and subject to such terms and conditions as the Administration may establish, the Administration may permit a company designated as a premier certified lender under this section to approve loans that are funded with the proceeds of a debenture issued by such company and may authorize the guarantee of such debenture.

[“(2) SCOPE OF REVIEW.—The approval of a loan by a premier certified lender shall be subject to final approval as to eligibility of any guarantee by the Administration pursuant to section 503(a), but such final approval shall not include review of decisions by the lender involving creditworthiness, loan closing, or compliance with legal requirements imposed by law or regulation.

[“(e) REVIEW.—After the issuance and sale of debentures under this section, the Administration, at intervals not greater than 12 months, shall review the financings made by each premier certified lender. The review shall include the lender's credit decisions and general compliance with the eligibility requirements for each financing approved under the program authorized under this section. The Administration shall consider the findings of the review in carrying out its responsibilities under subsection (f), but such review shall not affect any outstanding debenture guarantee.

[“(f) SUSPENSION OR REVOCATION.—The designation of a State or local development company as a premier certified lender may be suspended or revoked if the Administration determines that the company—

[“(1) has not continued to meet the criteria for eligibility under subsection (b);

[“(2) has not established or maintained the loss reserve required under subsection (c);

[“(3) is failing to adhere to the Administration's rules and regulations; or

[“(4) is violating any other applicable provision of law.

[“(g) EFFECT OF SUSPENSION OR DESIGNATION.—A suspension or revocation under subsection (f) shall not affect any outstanding debenture guarantee.

[“(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Administration shall promulgate regulations to carry out this section.

[“(i) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Each report shall include—

[“(1) the number of certified development companies designated as premier certified lenders;

[“(2) the debenture guarantee volume of such companies;

[“(3) a comparison of the loss rate for premier certified lenders to the loss rate for accredited and other lenders; and

[“(4) such other information as the Administration deems appropriate.”.

[(b) REPEAL.—Effective on October 1, 1997, section 508 of the Small Business Investment Act of 1958, as added by subsection (a), is repealed.]

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