

109TH CONGRESS  
2D SESSION

# S. 2595

To amend the Small Business Investment Act of 1958 to modernize the treatment of development companies.

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IN THE SENATE OF THE UNITED STATES

APRIL 6, 2006

Mr. KERRY (for himself and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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## A BILL

To amend the Small Business Investment Act of 1958 to modernize the treatment of development companies.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINI-**  
4 **TIONS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the  
6 “504 Loan Program Modernization Act of 2006”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for  
8 this Act is as follows:

- Sec. 1. Short title; table of contents; definitions.
- Sec. 2. Findings and purposes.
- Sec. 3. Authorizations for 504 Loan Program.
- Sec. 4. Certified development company economic development.

- Sec. 5. Definitions.
- Sec. 6. Eligibility of development companies to be designated as certified development companies; authority to issue debentures; providing an area of operational authority, funding restrictions, and ethical requirements.
- Sec. 7. Conforming amendments.
- Sec. 8. Definition of rural areas.
- Sec. 9. Businesses in low-income areas.
- Sec. 10. Combinations of certain goals.
- Sec. 11. Repeal of sunset on reserve requirements for premier certified lenders.
- Sec. 12. Refinancing.
- Sec. 13. Fees.
- Sec. 14. Additional equity injections.
- Sec. 15. Loan liquidations.
- Sec. 16. Closing costs.
- Sec. 17. Maximum 504 and 7(a) loan eligibility.
- Sec. 18. Technical correction.
- Sec. 19. Premier Certified Lenders Program report.
- Sec. 20. Regulations.

1 (c) DEFINITIONS.—In this Act—

2 (1) the terms “Administration” and “Adminis-  
3 trator” means the Small Business Administration  
4 and the Administrator thereof, respectively;

5 (2) the term “Premier Certified Lenders Pro-  
6 gram” means the program established under section  
7 508(a) of the Small Business Investment Act of  
8 1958 (15 U.S.C. 697e(a)); and

9 (3) the term “504 Loan Program” means the  
10 program to provide financing to small business con-  
11 cerns by guarantees of loans under title V of the  
12 Small Business Investment Act of 1958 (15 U.S.C.  
13 695 et seq.), which are funded by debentures guar-  
14 anteed by the Administrator.

15 **SEC. 2. FINDINGS AND PURPOSES.**

16 (a) FINDINGS.—Congress finds that—

1           (1) in pursuing its mission of aiding small busi-  
2           nesses, the Administration provides small businesses  
3           with access to credit, primarily by guaranteeing  
4           loans through its 7(a) and 504 Loan Programs;

5           (2) the 504 Loan Program provides long-term,  
6           fixed-rate financing to growing small businesses for  
7           expansion or modernization, primarily of real estate  
8           and large equipment;

9           (3) the 504 financing is delivered through cer-  
10          tified development companies (in this section re-  
11          ferred to as “CDCs”), about 270 typically pre-  
12          existing nonprofit corporations, established to con-  
13          tribute to the economic development of their commu-  
14          nities;

15          (4) during the 5 years preceding the date of en-  
16          actment of this Act, 504 loans have slightly in-  
17          creased to Hispanics and Asians, but have been flat-  
18          level funded to African Americans, with 2 percent of  
19          the loans, and have decreased in loans to women,  
20          from 19 percent to 15 percent;

21          (5) the CDC industry and the 504 Loan Pro-  
22          gram have experienced unprecedented structural  
23          changes, such as the shift of all 504 loan processing,  
24          loan servicing and liquidation from 70 Administra-  
25          tion district offices to 1 or 2 centers in the country;

1           (6) in 2004, the Administration adopted regula-  
2           tions that allowed for Statewide and multistate CDC  
3           operations, resulting in increased competition and  
4           program growth in many areas of the country, with  
5           limited accountability measures to ensure that CDCs  
6           are investing in local economic development activities  
7           in each State as they expand; and

8           (7) such changes require Congress to examine  
9           the 504 Loan Program and the industry and set a  
10          statutory course that ensures that the intent and the  
11          mission of CDCs and the 504 Loan Program for the  
12          future are clearly established as local economic de-  
13          velopment.

14          (b) PURPOSES.—The purpose and intent of this Act  
15          are—

16               (1) to make a clear distinction between non-  
17               profit and for-profit lending practices through the  
18               preservation of the CDCs as non-profit economic de-  
19               velopment intermediaries that are an essential ele-  
20               ment in Congress’ and the Administration’s mission  
21               to assist small businesses to foster local economic  
22               development through job creation and investment in  
23               all our communities;

24               (2) to reconfirm the statutory intent of CDCs  
25               as originally established in 1958 to provide small

1 business programs, services, and assistance that for-  
2 profit lenders do not provide;

3 (3) to direct the Administration within 90 days  
4 of the date of enactment of this Act to report to the  
5 Committee on Small Business and Entrepreneurship  
6 of the Senate and the Committee on Small Business  
7 of the House of Representatives on how the Admin-  
8 istration could implement 1 closing, rather than 2 in  
9 the 504 Loan Program, and potentially save the bor-  
10 rower thousands in funds and retain outstanding  
11 participation of private lenders;

12 (4) to direct the Administration to report on  
13 the utilization of the Premier Certified Lender Pro-  
14 gram over the past 3 years, specifically outlining  
15 how many 504 loans have been processed through  
16 the program, what difficulties have been encountered  
17 in making these loans, and how the number of loans  
18 in the program could be increased or streamlined;

19 (5) to establish the expansion of business in  
20 low-income communities as a separate public policy  
21 goal to highlight the need for CDCs to include such  
22 goal as a primary objective in future projects and  
23 outreach to underserved populations;

24 (6) to ensure accountability as CDC operations  
25 expand into contiguous States through timely au-

1       thorizations by the Administrator to operate in  
2       multistates and require that CDCs use excess funds  
3       for local economic development projects in the area  
4       of operations where such funds were generated and  
5       submit an annual report to the Administrator of  
6       such projects in each State of operation;

7               (7) to provide small businesses which need both  
8       long-term fixed asset financing through the 504  
9       Loan Program and shorter term working capital and  
10      equipment financing through the 7(a) loan program  
11      the option of utilizing both Administration loan  
12      guaranty programs to their maximum amount;

13              (8) to direct the Administration to require that  
14      504 defaulted loan liquidations and recoveries be  
15      processed by CDCs or their designated third-party  
16      contractors, and that CDCs be compensated for the  
17      cost of such liquidation activities; and

18              (9) to direct the Administration to establish an  
19      incentive program directed to CDCs that foreclose  
20      and liquidate defaulted loans.

21 **SEC. 3. AUTHORIZATIONS FOR 504 LOAN PROGRAM.**

22       Section 20 of the Small Business Act (20 U.S.C. 631  
23 note) is amended by adding at the end the following:

24       “(f) FISCAL YEAR 2007.—For the program author-  
25 ized under section 7(a)(13) and the 504 Loan Program,

1 the Administrator is authorized to make \$8,500,000,000  
2 in financings, and there are authorized to be appropriated  
3 to the Administrator such sums as are necessary to carry  
4 out such programs.

5 “(g) FISCAL YEAR 2008.—For the program author-  
6 ized under section 7(a)(13) and the 504 Loan Program,  
7 the Administrator is authorized to make \$9,500,000,000  
8 in financings, and there are authorized to be appropriated  
9 to the Administrator such sums as are necessary to carry  
10 out such programs.

11 “(h) FISCAL YEAR 2009.—For the program author-  
12 ized under section 7(a)(13) and the 504 Loan Program,  
13 the Administrator is authorized to make \$10,500,000,000  
14 in financings, and there are authorized to be appropriated  
15 to the Administrator such sums as are necessary to carry  
16 out such programs.”.

17 **SEC. 4. CERTIFIED DEVELOPMENT COMPANY ECONOMIC**  
18 **DEVELOPMENT.**

19 Section 504 of the Small Business Investment Act  
20 of 1958 (15 U.S.C. 697a) is amended—

21 (1) by striking the section heading and insert-  
22 ing the following: “**PRIVATE DEBENTURE SALES**  
23 **AND PROGRAM NAME**”;

24 (2) by redesignating subsections (a) and (b) as  
25 subsections (b) and (c), respectively; and

1           (3) by inserting before subsection (b) the fol-  
2           lowing:

3           “(a) PROGRAM NAME.—The program to provide fi-  
4           nancing to small business concerns by guarantees of loans  
5           under this title, which are funded by debentures guaran-  
6           teed by the Administrator shall be known as the ‘Certified  
7           Development Company Economic Development Loan Pro-  
8           gram’ or the ‘504 Loan Program’.”.

9           **SEC. 5. DEFINITIONS.**

10          Section 103 of the Small Business Investment Act  
11          of 1958 (15 U.S.C. 662) is amended—

12           (1) by striking paragraph (6) and inserting the  
13           following:

14           “(6) the term ‘development company’ means an  
15           entity incorporated under State law with the author-  
16           ity to promote and assist the growth and develop-  
17           ment of small business concerns in the areas in  
18           which it is authorized to operate by the Adminis-  
19           trator;”;

20           (2) in paragraph (16), by striking “and” at the  
21           end;

22           (3) in paragraph (17), by striking the period at  
23           the end and inserting “; and”; and

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

1           “(18) the term ‘certified development company’  
 2           means a development company which the Adminis-  
 3           trator has determined meets the criteria of section  
 4           506.”.

5 **SEC. 6. ELIGIBILITY OF DEVELOPMENT COMPANIES TO BE**  
 6                   **DESIGNATED AS CERTIFIED DEVELOPMENT**  
 7                   **COMPANIES; AUTHORITY TO ISSUE DEBEN-**  
 8                   **TURES; PROVIDING AN AREA OF OPER-**  
 9                   **ATIONAL AUTHORITY, FUNDING RESTRIC-**  
 10                   **TIONS, AND ETHICAL REQUIREMENTS.**

11           Section 506 of the Small Business Investment Act  
 12 of 1958 (15 U.S.C. 697e) is amended to read as follows:

13 **“SEC. 506. CERTIFIED DEVELOPMENT COMPANIES.**

14           “(a) **AUTHORITY TO ISSUE DEBENTURES.**—A devel-  
 15 opment company may issue debentures under this title if  
 16 the Administrator certifies that the company meets the  
 17 following criteria:

18           “(1) **SIZE.**—

19                   “(A) **IN GENERAL.**—Except as provided in  
 20 subparagraph (B), the development company  
 21 shall be a small business concern with fewer  
 22 than 500 employees, and shall not be under the  
 23 control of any entity that does not meet the size  
 24 standards established by the Administrator for  
 25 a small business concern.

1           “(B) EXCEPTION.—Any development com-  
2           pany that was certified by the Administrator  
3           prior to December 31, 2005, may continue to  
4           issue debentures under this title.

5           “(2) PURPOSE.—A primary purpose of the de-  
6           velopment company shall be to benefit the commu-  
7           nity by fostering economic development to create and  
8           preserve jobs and stimulate private investment.

9           “(3) PRIMARY FUNCTION.—A primary function  
10          of the development company shall be to accomplish  
11          its purpose by providing long term financing to  
12          small business concerns under the 504 Loan Pro-  
13          gram. The development company may also provide  
14          or support other local economic development activi-  
15          ties to assist the community.

16          “(4) NONPROFIT STATUS.—

17                 “(A) IN GENERAL.—Except as provided in  
18                 subparagraph (B), the development company  
19                 shall be a nonprofit corporation.

20                 “(B) EXCEPTION.—A development com-  
21                 pany certified by the Administrator prior to  
22                 January 1, 1987, may continue to issue deben-  
23                 tures under this title and retain its status as a  
24                 for-profit enterprise.

1           “(5) GOOD STANDING.—The development com-  
2           pany shall be in compliance with all laws, including  
3           taxation requirements, in the State in which such  
4           company is incorporated and in any other State in  
5           which it conducts business.

6           “(6) MEMBERSHIP OF DEVELOPMENT COM-  
7           PANY.—There shall—

8                   “(A) be not fewer than 25 members of the  
9                   development company (or owners or stock-  
10                  holders, if the corporation is a for-profit enti-  
11                  ty)—

12                           “(i) none of whom may own or control  
13                           more than 10 percent of the voting mem-  
14                           bership of the company; and

15                           “(ii) all of whom shall be residents of  
16                           the area of operations of the development  
17                           company, as specified by the Administrator  
18                           under subsection (b); and

19                   “(B) be at least 1 member of the develop-  
20                  ment company from each of—

21                           “(i) government organizations that  
22                           are responsible for economic development;

23                           “(ii) financial institutions that provide  
24                           commercial long term fixed asset financing;

1                   “(iii) community organizations that  
2                   are dedicated to economic development;  
3                   and

4                   “(iv) businesses.

5                   “(7) BOARD OF DIRECTORS.—

6                   “(A) IN GENERAL.—The development com-  
7                   pany shall have a board of directors.

8                   “(B) MEMBERS OF BOARD.—Each member  
9                   of the board of directors of the development  
10                  company shall be—

11                  “(i) a member of the development  
12                  company;

13                  “(ii) elected by the members of the  
14                  development company; and

15                  “(iii) a resident of the area of oper-  
16                  ations of the development company, as  
17                  specified by the Administrator under sub-  
18                  section (b).

19                  “(C) REPRESENTATION OF ORGANIZA-  
20                  TIONS AND INSTITUTIONS.—There shall be at  
21                  least 1 member of the board of directors from  
22                  not fewer than 3 of the 4 organizations and in-  
23                  stitutions described in paragraph (6)(B), none  
24                  of whom is in a position to control the develop-  
25                  ment company.

1           “(D) MEETINGS.—The board of directors  
2 of the development company shall meet on a  
3 regular basis to make policy decisions for such  
4 company.

5           “(8) PROFESSIONAL MANAGEMENT AND  
6 STAFF.—

7           “(A) IN GENERAL.—The development com-  
8 pany shall have full-time professional manage-  
9 ment, including a chief executive officer to man-  
10 age daily operations, and a full-time profes-  
11 sional staff qualified to market the 504 Loan  
12 Program and handle all aspects of loan ap-  
13 proval and servicing, including liquidation, if  
14 appropriate.

15           “(B) INDEPENDENCE.—Except as pro-  
16 vided in subparagraph (C), the development  
17 company shall be independently managed and  
18 operated to pursue the economic development  
19 mission of the company and shall employ its  
20 chief executive officer directly.

21           “(C) EXCEPTIONS.—

22           “(i) AFFILIATION.—A development  
23 company may be an affiliate of another  
24 local nonprofit service corporation (other  
25 than a development company) whose mis-

1 sion is to support economic development in  
2 the area in which the development com-  
3 pany operates.

4 “(ii) MEMBERS OF BOARD.—A devel-  
5 opment company and a local nonprofit  
6 service corporation with which it is affili-  
7 ated may have in common some, but not  
8 all, members of their respective boards of  
9 directors.

10 “(iii) STAFFING.—Except as provided  
11 in clause (iv), a development company may  
12 satisfy the requirement for full-time pro-  
13 fessional staff under subparagraph (A) by  
14 contracting for the required staffing with  
15 an entity with which the development com-  
16 pany is affiliated, including—

17 “(I) a local nonprofit service cor-  
18 poration;

19 “(II) a nonprofit affiliate of a  
20 local nonprofit service corporation;

21 “(III) an entity wholly or par-  
22 tially operated by a governmental  
23 agency; or

24 “(IV) another entity approved by  
25 the Administrator.

1           “(iv) RURAL AREAS.—A development  
2           company located in a rural area, as defined  
3           in section 501(f), may satisfy the require-  
4           ments of a full-time professional staff and  
5           professional management ability under  
6           subparagraph (A) by contracting with an-  
7           other certified development company that  
8           has such staff and management ability and  
9           is located in the same general area in  
10          which the development company is located.

11          “(v) FOR-PROFIT COMPANIES.—A de-  
12          velopment company that was certified by  
13          the Administrator prior to January 1,  
14          2006, and that has contracted with a for-  
15          profit company to provide professional  
16          staff as of such date may continue to con-  
17          tract for staffing with a for-profit com-  
18          pany.

19          “(b) AREA OF OPERATIONS.—

20                 “(1) IN GENERAL.—The Administrator shall  
21                 specify the area in which an applicant is certified to  
22                 provide assistance to small business concerns under  
23                 this title.

24                 “(2) INITIAL AREA.—The Administrator shall  
25                 not authorize an applicant to provide assistance

1 under paragraph (1) outside of the State of incorpo-  
2 ration of the development company when first au-  
3 thorizing an applicant to provide assistance under  
4 this title, unless it proposes to operate in a local eco-  
5 nomic area under subsection (c).

6 “(c) LOCAL ECONOMIC AREA REQUIREMENT AND  
7 EXEMPTION.—

8 “(1) DEFINITION.—In this subsection, the term  
9 ‘local economic area’ means an area, as determined  
10 by the Administrator, that—

11 “(A) is in a State other than the State in  
12 which a development company is incorporated;

13 “(B) shares a border with the area of oper-  
14 ations of the development company; and

15 “(C) is a part of a local trade area (includ-  
16 ing a city that is bisected by a State line and  
17 a metropolitan statistical area that is bisected  
18 by a State line) that is contiguous to the area  
19 of operations of the development company.

20 “(2) EXEMPTION.—An applicant operating in a  
21 local economic area shall not be deemed to be oper-  
22 ating in a multistate area, and shall not be required  
23 to comply with the requirements of multistate oper-  
24 ation.

1       “(d) MULTISTATE OPERATION.—After a development  
2 company has demonstrated its ability to provide financial  
3 assistance in its area of operations, it may request the Ad-  
4 ministrator to authorize the development company to oper-  
5 ate as a multistate certified development company and to  
6 finance small business concerns under this title in a State  
7 other than the State in which the development company  
8 is incorporated, if —

9           “(1) such State is contiguous to the State in  
10 which the development company is incorporated, ex-  
11 cept that the States of Alaska and Hawaii shall be  
12 deemed to be contiguous to any State abutting the  
13 Pacific ocean;

14           “(2) the development company demonstrates its  
15 proficiency in making and servicing loans under the  
16 504 Loan Program by—

17           “(A) requesting and receiving designation  
18 as an accredited lender under section 507 or a  
19 premier certified lender under section 508; and

20           “(B) meeting or exceeding performance  
21 standards established by the Administrator;

22           “(3) the development company adds additional  
23 members of the development company from such  
24 State that—

1           “(A) meet the requirements of subsection  
2           (a)(6); and

3           “(B) are residents of such State;

4           “(4) the development company adds at least 1  
5           member to its board of directors from such State;  
6           and

7           “(5) the development company meets such  
8           other criteria or comply with such conditions as the  
9           Administrator may require.

10          “(e) PROCESSING OF EXPANSION APPLICATIONS.—

11         Not later than 30 days after the date of receipt of an ap-  
12         plication under subsection (d), the Administrator shall de-  
13         termine whether the development company meets the re-  
14         quirements of subsection (d) and accept or reject the re-  
15         quest of a development company for approval as a  
16         multistate company in writing.

17          “(f) USE OF EXCESS FUNDS.—Any funds generated  
18         by a development company from making 504 loans which  
19         remain after payment of staff, operating and overhead ex-  
20         penses shall be retained by the development company as  
21         a reserve for—

22                 “(1) future operations;

23                 “(2) expanding the area in which the certified  
24         development company operates or proposes to oper-

1       ate as a multistate development company under sub-  
2       section (d); or

3               “(3) investment in other local community or  
4       economic development activity in the State from  
5       which such funds were generated or in a local eco-  
6       nomic area which includes part of the State of incor-  
7       poration.

8       “(g) ETHICAL REQUIREMENTS.—

9               “(1) DEFINITIONS.—In this subsection—

10               “(A) the term ‘close relative’ means a  
11       spouse, parent, child, sibling, or the spouse of  
12       a parent, child, or sibling; and

13               “(B) the term ‘position of control’ means  
14       an officer, member of the board of directors,  
15       manager, chief executive officer, agent involved  
16       in the loan process, key employee or similar  
17       management position of a certified development  
18       company and, if the development company is a  
19       for-profit entity, a holder of 20 percent or more  
20       of the value of the stock of the certified devel-  
21       opment.

22               “(2) CONFLICT OF INTEREST.—A certified de-  
23       velopment company, and the officers, employees, and  
24       other staff of a certified development company, shall  
25       at all times act ethically and avoid activities which

1 constitute a conflict of interest or appear to con-  
2 stitute a conflict of interest.

3 “(3) CONTROL OF MULTIPLE COMPANIES.—

4 “(A) IN GENERAL.—No person, either di-  
5 rectly or indirectly, may hold a position of con-  
6 trol on more than 1 certified development com-  
7 pany.

8 “(B) RELATIVES.—No close relative of an  
9 individual who holds a position of control in a  
10 certified development company may hold a posi-  
11 tion of control in a certified development com-  
12 pany, except for the certified development com-  
13 pany in which the individual serves.

14 “(4) PROHIBITED CONFLICT IN PROJECT  
15 LOANS.—

16 “(A) IN GENERAL.—Except as provided in  
17 subparagraph (B), no certified development  
18 company may—

19 “(i) recommend or approve a guar-  
20 antee of a debenture by the Administrator  
21 as part of a project under the 504 Loan  
22 Program that is collateralized by a second  
23 lien position on the property being con-  
24 structed or acquired; and

1           “(ii) provide, or be affiliated with a  
2           corporation or other entity which directly  
3           or indirectly provides financing  
4           collateralized by a first lien on the same  
5           property.

6           “(B) EXCEPTION.—A business develop-  
7           ment company that was participating as a first  
8           mortgage lender under the 504 Loan Program  
9           in fiscal year 2004 or 2005, either directly or  
10          through an affiliate, may continue to do so.

11          “(5) OTHER ECONOMIC DEVELOPMENT ACTIVI-  
12          TIES.—

13               “(A) MULTIPLE PROGRAMS.—Operation of  
14               multiple programs to assist small business con-  
15               cerns in order for a certified development com-  
16               pany to carry out its economic development  
17               mission shall not be deemed a conflict of inter-  
18               est for purposes of this section.

19               “(B) OTHER SOURCES OF FUNDING.—

20                   “(i) IN GENERAL.—Except as pro-  
21                   vided in clause (ii), and notwithstanding  
22                   any other provision of law, no certified de-  
23                   velopment company may accept funding  
24                   from any source, including any department  
25                   or agency of the Federal Government—

1                   “(I) if such funding includes any  
2                   conditions, priorities or restrictions  
3                   upon the types of small business con-  
4                   cerns to which the certified develop-  
5                   ment company may provide financial  
6                   assistance under this title; or

7                   “(II) if such funding includes  
8                   any conditions or imposes any require-  
9                   ments, directly or indirectly, upon any  
10                  recipient of assistance under this title.

11                  “(ii) EXCEPTION.—Clause (i) shall  
12                  not apply if the source of funding de-  
13                  scribed in clause (i) provides all of the fi-  
14                  nancial assistance to be delivered by the  
15                  certified development company to the small  
16                  business concern and such conditions, pri-  
17                  orities, or restrictions are limited solely to  
18                  the financial assistance so provided.

19                  “(h) REPORTING.—A certified development company  
20 shall submit an annual report to the Administration re-  
21 garding—

22                  “(1) the use of excess funds by the company  
23                  under subsection (f); and

1           “(2) the involvement of the company with local  
2           economic development activities in every State in  
3           which the certified development company operates.”.

4 **SEC. 7. CONFORMING AMENDMENTS.**

5           Section 503 of the Small Business Investment Act  
6 of 1958 (15 U.S.C. 697) is amended—

7           (1) in subsection (a)(1), by striking “qualified  
8           State or local development company” and inserting  
9           “certified development company”; and

10           (2) by striking subsection (e) and inserting the  
11           following:

12           “(e) Notwithstanding any other provision of law, a  
13 certified development company is authorized to prepare  
14 applications for deferred participation loans under section  
15 7(a) of the Small Business Act, to service such loans, and  
16 to charge a reasonable fee for servicing such loans.”.

17 **SEC. 8. DEFINITION OF RURAL AREAS.**

18           Section 501 of the Small Business Investment Act  
19 of 1958 (15 U.S.C. 695) is amended by adding at the end  
20 the following:

21           “(f) As used in this section, the terms ‘rural’ and  
22 ‘rural area’ include any area other than—

23           “(1) a city or town that has a population great-  
24           er than 50,000 inhabitants; and

1           “(2) the urbanized area contiguous and adja-  
2           cent to such a city or town.”.

3 **SEC. 9. BUSINESSES IN LOW-INCOME AREAS.**

4           Section 501(d)(3) of the Small Business Investment  
5 Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

6           (1) in subparagraph (G), by striking “or” at  
7           the end;

8           (2) in subparagraph (H), by striking the period  
9           at the end and inserting “, or”; and

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

11                   “(I) expansion of businesses in low-income  
12                   communities (defined as any area which would  
13                   be eligible for new markets tax credits under  
14                   section 45D(a) of the Internal Revenue Code of  
15                   1986, or regulations issued thereunder).”.

16 **SEC. 10. COMBINATIONS OF CERTAIN GOALS.**

17          Section 501(d) of the Small Business Investment Act  
18 of 1958 (15 U.S.C. 695(d)) is amended by inserting before  
19 the undesignated matter at the end the following:

20                   “(4) A small business concern which is owned  
21                   by more than 1 individual, or a corporation whose  
22                   stock is owned by more than 1 individual, shall be  
23                   deemed to have achieved a public policy goal under  
24                   paragraph (3) if not less than 51 percent of the  
25                   small business concern is owned by individuals who

1 are in 1 or a combination of the groups described as  
2 public policy goals in subparagraph (C) and (E) of  
3 paragraph (3).”.

4 **SEC. 11. REPEAL OF SUNSET ON RESERVE REQUIREMENTS**  
5 **FOR PREMIER CERTIFIED LENDERS.**

6 Section 508(c)(6)(B) of the Small Business Invest-  
7 ment Act of 1958 (15 U.S.C. 697e(c)(6)(B)) is amend-  
8 ed—

9 (1) in the subparagraph heading, by striking  
10 “TEMPORARY REDUCTION” and inserting “REDUC-  
11 TION”; and

12 (2) by striking “Notwithstanding subparagraph  
13 (A), during the 2-year period beginning on the date  
14 that is 90 days after the date of the enactment of  
15 this subparagraph, the” and inserting “The”.

16 **SEC. 12. REFINANCING.**

17 Section 502 of the Small Business Investment Act  
18 of 1958 (15 U.S.C. 696) is amended by adding at the end  
19 the following:

20 “(7) PERMISSIBLE DEBT REFINANCING.—

21 “(A) IN GENERAL.—Any financing ap-  
22 proved under this title may also include a lim-  
23 ited amount of debt refinancing, as described in  
24 subparagraph (B).

1           “(B) EXPANSIONS.—If the project for  
2           which a financing under this title is sought in-  
3           volves the expansion of a small business concern  
4           which has existing indebtedness collateralized  
5           by fixed assets, any amount of existing indebt-  
6           edness that does not exceed  $\frac{1}{2}$  of the project  
7           cost of the expansion may be refinanced and  
8           added to the expansion cost, if—

9                   “(i) the existing indebtedness was not  
10                  financed under the 504 Loan Program or  
11                  under section 7(a) of the Small Business  
12                  Act;

13                   “(ii) the proceeds of the indebtedness  
14                  were used to acquire land, including a  
15                  building situated thereon, to construct a  
16                  building thereon or to purchase equipment;

17                   “(iii) the borrower has been current  
18                  on all payments due on the existing debt  
19                  for the 1-year period prior to the date on  
20                  which the application is submitted; and

21                   “(iv) the financing under the 504  
22                  Loan Program will provide better terms or  
23                  rate of interest than exists on the existing  
24                  debt.”.

1 **SEC. 13. FEES.**

2 (a) IN GENERAL.—Section 503(d) of the Small Busi-  
3 ness Investment Act of 1958 (15 U.S.C. 697(d)) is amend-  
4 ed—

5 (1) by striking paragraph (2);

6 (2) by redesignating paragraph (3) as para-  
7 graph (2); and

8 (3) in paragraph (2), as so redesignated, by  
9 striking “0.125 percent” and inserting “0.155 per-  
10 cent”.

11 (b) REPORTING.—Not later than 2 years after the ef-  
12 fective date under subsection (c), the Administrator shall  
13 submit to the Committee on Small Business and Entrepre-  
14 neurship of the Senate and the Committee on Small Busi-  
15 ness of the House of Representatives a report assessing  
16 the impact of the change in fees under subsection (a)(3)  
17 in fostering economic development.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 subsection (a) shall take effect and apply to loans ap-  
20 proved under the 504 Loan Program, on or after the date  
21 that is 30 days after the date of enactment of this Act.

22 (d) RECOMPUTATION.—Notwithstanding any other  
23 provision of law, the Administrator shall recalculate the  
24 amount of the fee to be paid by a borrower under section  
25 503(b)(7) of the Small Business Investment Act of 1958  
26 (15 U.S.C. 697(b)(7)) such that the cost of making guar-

1 antees under the 504 Loan Program is zero after the ef-  
2 fective date under subsection (c).

3 **SEC. 14. ADDITIONAL EQUITY INJECTIONS.**

4 Section 502(3)(B)(ii) of the Small Business Invest-  
5 ment Act of 1958 (15 U.S.C. 696(3)(B)(ii)) is amended  
6 to read as follows:

7 “(ii) FUNDING FROM INSTITU-  
8 TIONS.—If a small business concern that is  
9 required to provide a contribution under  
10 clause (i), (ii) or (iii) of subparagraph  
11 (C)—

12 “(I) provides the minimum  
13 amount required under such subpara-  
14 graph, not less than 50 percent of the  
15 total cost of the project shall come  
16 from financing provided by an institu-  
17 tion described in subclause (I), (II),  
18 or (III) of clause (i) of this subpara-  
19 graph; or

20 “(II) provides more than the  
21 minimum amount required under such  
22 subparagraph, any contribution in ex-  
23 cess of such minimum amount may be  
24 used to reduce the amount required  
25 from an institution described in sub-

1 clause (I), (II), or (III) of clause (i)  
 2 of this subparagraph, except that the  
 3 amount from such institution may not  
 4 be reduced to an amount equal to or  
 5 less than the amount of the loan made  
 6 by the Administrator.”.

7 **SEC. 15. LOAN LIQUIDATIONS.**

8 Section 510 of the Small Business Investment Act  
 9 of 1958 (15 U.S.C. 697g) is amended—

10 (1) by redesignating subsection (e) as sub-  
 11 section (g); and

12 (2) by inserting after subsection (d) the fol-  
 13 lowing::

14 “(e) PARTICIPATION.—

15 “(1) MANDATORY.—

16 “(A) IN GENERAL.—Any certified develop-  
 17 ment company that elects not to apply for au-  
 18 thority to foreclose and liquidate defaulted  
 19 loans under this section, or that the Adminis-  
 20 trator determines to be ineligible for such au-  
 21 thority, shall contract with a third-party to per-  
 22 form foreclosure and liquidation of defaulted  
 23 loans in its portfolio.

24 “(B) APPROVAL OF QUALIFICATIONS AND  
 25 TERMS.—A contract under subparagraph (A)

1 shall be contingent upon approval by the Ad-  
2 ministrator of the qualifications of the con-  
3 tractor and the terms and conditions of liquida-  
4 tion activities.

5 “(2) COMMENCEMENT.—This subsection shall  
6 not require any certified development company to  
7 liquidate defaulted loans until after the date on  
8 which the Administrator implements a program to  
9 compensate and reimburse certified development  
10 companies under subsection (f).

11 “(f) COMPENSATION AND REIMBURSEMENT.—

12 “(1) REIMBURSEMENT OF EXPENSES.—The  
13 Administrator shall reimburse each certified develop-  
14 ment company for all expenses paid by such com-  
15 pany as part of foreclosure and liquidation activities  
16 if the expenses—

17 “(A) were approved in advance by the Ad-  
18 ministrator, either specifically or generally; or

19 “(B) were incurred by the certified devel-  
20 opment company on an emergency basis with-  
21 out prior approval from the Administrator, if  
22 the Administrator determines that the expenses  
23 were reasonable and appropriate.

24 “(2) COMPENSATION FOR RESULTS.—The Ad-  
25 ministrator shall develop a schedule to compensate

1 and provide an incentive to certified development  
2 companies that foreclose and liquidate defaulted  
3 loans, which schedule shall—

4 “(A) be based on a percentage of the net  
5 amount recovered;

6 “(B) not exceed a maximum amount; and

7 “(C) not apply to any foreclosure which is  
8 conducted under a contract between a develop-  
9 ment company and a qualified third-party to  
10 perform the foreclosure and liquidation.”.

11 **SEC. 16. CLOSING COSTS.**

12 Section 503(b)(4) of the Small Business Investment  
13 Act of 1958 (15 U.S.C. 697(b)(4)) is amended to read  
14 as follows:

15 “(4) the aggregate amount of such debenture  
16 does not exceed the amount of the loans to be made  
17 from the proceeds of such debenture plus, at the  
18 election of the borrower, other amounts attributable  
19 to the administrative and closing costs of such loans,  
20 except for the attorney fees of the borrower;”.

21 **SEC. 17. MAXIMUM 504 AND 7(A) LOAN ELIGIBILITY.**

22 Section 502(2) of the Small Business Investment Act  
23 of 1958 (15 U.S.C. 696(2)) is amended by adding at the  
24 end the following:

1           “(C) COMBINATION FINANCING.—Financ-  
2           ing under the 504 Loan Program may be pro-  
3           vided to a borrower in the maximum amount  
4           provided in this subsection, and a loan guar-  
5           antee under section 7(a) of the Small Business  
6           Act may be provided to the same borrower, up  
7           to the maximum amount provided in section  
8           7(a)(3)(A) of such Act.”.

9 **SEC. 18. TECHNICAL CORRECTION.**

10           Section 501(e)(2) of the Small Business Investment  
11 Act of 1958 (15 U.S.C. 695(e)(2)) is amended by striking  
12 “outstanding”.

13 **SEC. 19. PREMIER CERTIFIED LENDERS PROGRAM RE-**  
14 **PORT.**

15           (a) IN GENERAL.—Not later than 90 days after the  
16 date of enactment of this Act, the Administrator shall sub-  
17 mit to the Committee on Small Business and Entrepre-  
18 neurship of the Senate and the Committee on Small Busi-  
19 ness of the House of Representatives a report regarding  
20 the operation of the Premier Certified Lenders Program,  
21 during the 3-year period ending on the date of enactment  
22 of this Act.

23           (b) CONTENTS.—The report submitted under sub-  
24 section (a) shall—

1           (1) include the number of loans made under the  
2 Premier Certified Lenders Program;

3           (2) describe any difficulties encountered in  
4 making such loans; and

5           (3) make recommendations, if any, regarding  
6 how to increase the number of loans made under the  
7 Premier Certified Lenders Program or streamline  
8 such program.

9 **SEC. 20. REGULATIONS.**

10 The Administrator shall—

11           (1) publish proposed regulations to implement  
12 this Act and the amendments made by this Act not  
13 later than 120 days after the date of enactment of  
14 this Act; and

15           (2) publish such regulations in final form not  
16 later than 120 days after the date on which pro-  
17 posed regulations are published under paragraph  
18 (1).

○