

111TH CONGRESS
1ST SESSION

H. R. 3854

AN ACT

To amend the Small Business Act and the Small Business Investment Act of 1958 to improve programs providing access to capital under such Acts, 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Small Business Financing and Investment Act of 2009”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS LENDING ENHANCEMENTS

- Sec. 101. Small lender outreach program.
- Sec. 102. Rural lending outreach program.
- Sec. 103. Community Express Program made permanent.
- Sec. 104. Increased veteran participation program made permanent.
- Sec. 105. Leasing policy.
- Sec. 106. National lender training program.
- Sec. 107. Applications for repurchase of loans.
- Sec. 108. Alternative size standard.
- Sec. 109. Pilot program authority.
- Sec. 110. Loans to cooperatives.
- Sec. 111. Capital backstop program.
- Sec. 112. Loans to finance goodwill.
- Sec. 113. Appellate process and ombudsman.
- Sec. 114. Extension of recovery and relief loan benefits.
- Sec. 115. Reduced documentation for business stabilization loans.
- Sec. 116. Expanded eligibility for business stabilization loans.
- Sec. 117. Increased amount of business stabilization loans.
- Sec. 118. Extension of business stabilization loans.
- Sec. 119. Study and report on business stabilization loans.
- Sec. 120. Delayed repayment for small business concerns in areas with high unemployment.
- Sec. 121. SBA secondary market lending authority made permanent.
- Sec. 122. SBA secondary market lending authority expanded.
- Sec. 123. Increased loan limits.
- Sec. 124. Real estate appraisals.
- Sec. 125. Additional support for Express Loan Program.
- Sec. 126. Loans used to purchase unoccupied manufacturing centers or equipment.
- Sec. 127. 100 percent guarantee for small business concerns owned and controlled by veterans.
- Sec. 128. Deferred repayment for certain small business concerns.
- Sec. 129. Authorization of appropriations.

TITLE II—CDC ECONOMIC DEVELOPMENT LOAN PROGRAM

Subtitle A—General Provisions

- Sec. 201. Program levels.
- Sec. 202. Definitions.

Subtitle B—Certified Development Companies

- Sec. 211. Certified development companies.
- Sec. 212. Certified development company; operational requirements.
- Sec. 213. Accredited lenders program.
- Sec. 214. Premier certified lender program.
- Sec. 215. Multi-State operations.
- Sec. 216. Guaranty of debentures.
- Sec. 217. Economic development through debentures.
- Sec. 218. Project funding requirements.
- Sec. 219. Private debenture sales and pooling of debentures.
- Sec. 220. Foreclosure and liquidation of loans.
- Sec. 221. Reports and regulations.
- Sec. 222. Program name.

Subtitle C—Miscellaneous

- Sec. 231. Report on standard operating procedures.
- Sec. 232. Alternative size standard.

TITLE III—MICROLENDING EXPANSION

- Sec. 301. Microloan credit building initiative.
- Sec. 302. Flexible credit terms.
- Sec. 303. Increased program participation.
- Sec. 304. Increased limit on intermediary borrowing.
- Sec. 305. Expanded borrower education assistance.
- Sec. 306. Young Entrepreneurs program.
- Sec. 307. Interest rates and loan size.
- Sec. 308. Reporting requirement.
- Sec. 309. Surplus interest rate subsidy for businesses.
- Sec. 310. Authorization of appropriations.

TITLE IV—SMALL BUSINESS INVESTMENT COMPANY MODERNIZATION

- Sec. 401. Increased investment from States.
- Sec. 402. Expedited licensing for experienced applicants.
- Sec. 403. Revised leverage limitations for successful SBICs.
- Sec. 404. Consistency for cost control.
- Sec. 405. Investment in veteran-owned small businesses.
- Sec. 406. Tangible net worth.
- Sec. 407. Development of agency record.
- Sec. 408. Program levels.

TITLE V—INVESTMENT IN SMALL MANUFACTURERS AND RENEWABLE ENERGY SMALL BUSINESSES

Subtitle A—Enhanced New Markets Venture Capital Program

- Sec. 501. Expansion of New Markets Venture Capital Program.
- Sec. 502. Improved nationwide distribution.
- Sec. 503. Increased investment in small business concerns engaged primarily in manufacturing.
- Sec. 504. Expanded uses for operational assistance in manufacturing.
- Sec. 505. Updating definition of low-income geographic area.
- Sec. 506. Expanding operational assistance to conditionally approved companies.
- Sec. 507. Limitation on time for final approval.

- Sec. 508. Streamlined application for New Markets Venture Capital Program.
- Sec. 509. Elimination of matching requirement.
- Sec. 510. Simplified formula for operational assistance grants.
- Sec. 511. Financing with respect to veterans.
- Sec. 512. Authorization of appropriations and enhanced allocation for small manufacturing.

Subtitle B—Expanded Investment in Small Business Renewable Energy

- Sec. 521. Expanded investment in renewable energy.
- Sec. 522. Renewable Energy Capital Investment Program made permanent.
- Sec. 523. Expanded eligibility for small businesses.
- Sec. 524. Expanded uses for operational assistance in manufacturing and small businesses.
- Sec. 525. Expansion of Renewable Energy Capital Investment Program.
- Sec. 526. Simplified fee structure to expedite implementation.
- Sec. 527. Increased operational assistance grants.
- Sec. 528. Authorizations of appropriations.

TITLE VI—SMALL BUSINESS HEALTH INFORMATION
TECHNOLOGY FINANCING PROGRAM

- Sec. 601. Small business health information technology financing program.

TITLE VII—SMALL BUSINESS EARLY-STAGE INVESTMENT
PROGRAM

- Sec. 701. Small business early-stage investment program.
- Sec. 702. Prohibitions on earmarks.

TITLE VIII—SBA DISASTER PROGRAM REFORM

- Sec. 801. Revised collateral requirements.
- Sec. 802. Increased limits.
- Sec. 803. Revised repayment terms.
- Sec. 804. Revised disbursement process.
- Sec. 805. Grant program.
- Sec. 806. Regional disaster working groups.
- Sec. 807. Outreach grants for loan applicant assistance.
- Sec. 808. Homeowners impacted by toxic drywall.
- Sec. 809. Authorization of appropriations.

TITLE IX—REGULATIONS

- Sec. 901. Regulations.

TITLE X—TEMPORARY EMPLOYEE SERVICES FRANCHISES

- Sec. 1001. Temporary employee services franchises.

TITLE XI—STUDY ON PRIVATE SECTOR LENDING

- Sec. 1101. Study on private sector lending.

TITLE XII—STUDY ON INCREASES IN CERTAIN CAPS

- Sec. 1201. Study on increases in certain caps.

TITLE XIII—RURAL OUTREACH

Sec. 1301. Rural outreach.

TITLE XIV—STUDY RELATING TO MEDICAL TECHNOLOGY

Sec. 1401. Study relating to medical technology.

TITLE XV—STUDY ON ADDITIONAL CREDIT RISK FACTORS

Sec. 1501. Study on additional credit risk factors.

1 **TITLE I—SMALL BUSINESS**
 2 **LENDING ENHANCEMENTS**

3 **SEC. 101. SMALL LENDER OUTREACH PROGRAM.**

4 Section 7(a) of the Small Business Act (15 U.S.C.
 5 636(a)) is amended by adding at the end the following:

6 “(34) SMALL LENDER OUTREACH PROGRAM.—

7 The Administrator shall establish and carry out a
 8 program to provide support to regional, district, and
 9 branch offices of the Administration to assist small
 10 lenders, who do not participate in the Preferred
 11 Lenders Program, to participate in the programs
 12 under this subsection.”.

13 **SEC. 102. RURAL LENDING OUTREACH PROGRAM.**

14 Section 7(a) of the Small Business Act (15 U.S.C.
 15 636(a)), as amended by this Act, is further amended by
 16 adding at the end the following:

17 “(35) RURAL LENDING OUTREACH PROGRAM.—

18 “(A) IN GENERAL.—The Administrator
 19 shall establish and carry out a rural lending
 20 outreach program (hereinafter referred to in
 21 this paragraph as the ‘program’) to provide

1 loans under this subsection in accordance with
2 this paragraph.

3 “(B) MAXIMUM PARTICIPATION.—A loan
4 under the program shall include the maximum
5 participation levels by the Administrator per-
6 mitted for loans made under this subsection.

7 “(C) MAXIMUM LOAN AMOUNT.—The max-
8 imum amount of a loan under the program
9 shall be \$250,000.

10 “(D) USE OF RURAL LENDERS.—The pro-
11 gram shall be carried out through lenders lo-
12 cated in a rural area (as such term is defined
13 under subsection (m)(11)(C)) or, if a small
14 business concern located in a rural area does
15 not have a lender located within 30 miles of the
16 principal place of business of such concern,
17 through any lender chosen by such concern that
18 provides loans under this subsection.

19 “(E) TIME FOR APPROVAL.—The Adminis-
20 trator shall approve or disapprove a loan under
21 the program within 36 hours.

22 “(F) DOCUMENTATION.—The program
23 shall use abbreviated application and docu-
24 mentation requirements.

1 “(G) CREDIT STANDARDS.—Minimum
2 credit standards, as the Administrator considers
3 necessary to limit the rate of default on loans
4 made under the program, shall apply.”.

5 **SEC. 103. COMMUNITY EXPRESS PROGRAM MADE PERMA-**
6 **NENT.**

7 Section 7(a) of the Small Business Act (15 U.S.C.
8 636(a)), as amended by this Act, is further amended by
9 adding at the end the following:

10 “(36) COMMUNITY EXPRESS PROGRAM.—

11 “(A) IN GENERAL.—The Administrator
12 shall carry out a Community Express Program
13 to provide loans under this subsection in ac-
14 cordance with this paragraph.

15 “(B) REQUIREMENTS.—For a loan made
16 under the Community Express Program, the
17 following shall apply:

18 “(i) The loan shall be in an amount
19 not exceeding \$250,000.

20 “(ii) The loan shall be made to a
21 small business concern the majority owner-
22 ship interest of which is directly held by in-
23 dividuals the Administrator determines
24 are, without regard to the geographic loca-
25 tion of such individuals, women, members

1 of qualified Indian tribes, socially or eco-
2 nomically disadvantaged individuals, vet-
3 erans, or members of the reserve compo-
4 nents of the Armed Forces.

5 “(iii) The loan shall comply with the
6 collateral policy of the Administration.

7 “(iv) The loan shall include terms re-
8 quiring the lender to provide, at the ex-
9 pense of the lender, technical assistance to
10 the borrower through the lender or a third-
11 party provider.

12 “(v) The Administrator shall approve
13 or disapprove the loan within 36 hours.”.

14 **SEC. 104. INCREASED VETERAN PARTICIPATION PROGRAM**
15 **MADE PERMANENT.**

16 Section 7(a) of the Small Business Act (15 U.S.C.
17 636(a)), as amended by this Act, is further amended—

18 (1) by redesignating the second paragraph (32),
19 as added by section 208 of the Military Reservist
20 and Veteran Small Business Reauthorization and
21 Opportunity Act of 2008 (Public Law 110–186; 122
22 Stat. 631), as paragraph (33); and

23 (2) in paragraph (33), as so redesignated by
24 paragraph (1) of this section—

1 (A) by striking “pilot program” each place
2 it appears and inserting “program”;

3 (B) by striking subparagraphs (C) and
4 (F); and

5 (C) by redesignating subparagraphs (D)
6 and (E) as subparagraphs (C) and (D), respec-
7 tively.

8 **SEC. 105. LEASING POLICY.**

9 Section 7(a) of the Small Business Act (15 U.S.C.
10 636(a)), as amended by this Act, is further amended by
11 striking paragraph (28) and inserting the following:

12 “(28) LEASING.—If a loan under this sub-
13 section is used to acquire or construct a facility, the
14 assisted small business concern—

15 “(A) shall permanently occupy and use not
16 less than 50 percent of the space in such facil-
17 ity; and

18 “(B) may, on a temporary or permanent
19 basis, lease to others not more than 50 percent
20 of the space in such facility.”.

21 **SEC. 106. NATIONAL LENDER TRAINING PROGRAM.**

22 (a) IN GENERAL.—Section 7(a) of the Small Busi-
23 ness Act (15 U.S.C. 636(a)), as amended by this Act, is
24 further amended by adding at the end the following:

1 “(37) NATIONAL LENDER TRAINING PRO-
2 GRAM.—

3 “(A) IN GENERAL.—The Administrator
4 shall establish and carry out, through the re-
5 gional offices of the Administration, a lender
6 training program for new and existing lenders
7 under this subsection with respect to the lend-
8 ing systems, policies, and procedures of the Ad-
9 ministration.

10 “(B) FEES.—The Administrator shall
11 charge a fee for the program established under
12 subparagraph (A) to reduce the cost of such
13 program to zero.

14 “(C) LIMITATION.—The program estab-
15 lished under subparagraph (A) may not be car-
16 ried out by contract with a nongovernmental
17 entity.”.

18 (b) PARTICIPATION.—An entity may not be permitted
19 to participate in any program under the Small Business
20 Act (15 U.S.C. 631 et seq.) or the Small Business Invest-
21 ment Act of 1958 (15 U.S.C. 661 et seq.) that is estab-
22 lished or amended under this Act, as a lending or invest-
23 ment entity or as an agent of the Small Business Adminis-
24 tration, unless such entity satisfies at least one of the fol-
25 lowing:

1 (1) The entity has as the primary mission of
2 the entity the financing or development of small
3 business concerns.

4 (2) The entity is primarily engaged in the busi-
5 ness of banking, investing, or entrepreneurial devel-
6 opment and does not engage in activities which are
7 not incidental to the business of banking, investing,
8 or entrepreneurial development.

9 **SEC. 107. APPLICATIONS FOR REPURCHASE OF LOANS.**

10 Section 7(a) of the Small Business Act (15 U.S.C.
11 636(a)), as amended by this Act, is further amended by
12 adding at the end the following:

13 “(38) APPLICATIONS FOR REPURCHASE OF
14 LOANS.—

15 “(A) IN GENERAL.—Not later than 45
16 days after the date of the receipt of a claim
17 from a lender for proper payment of the guar-
18 anteed portion of a loan under this subsection
19 due to default, the Administrator shall make a
20 final determination with respect to the approval
21 or denial of such claim.

22 “(B) LATE DETERMINATIONS.—If the Ad-
23 ministrator does not make a final determination
24 under subparagraph (A) in the time period

1 specified in such subparagraph, the claim shall
2 be approved and paid promptly.

3 “(C) If the lender demonstrates, with re-
4 spect to a claim for payment described in sub-
5 paragraph (A), that it followed the applicable
6 requirements of the National Lender Training
7 Program as established under paragraph (37)
8 of this section, the Administrator shall pay the
9 claim unless the Administrator has clear and
10 convincing evidence demonstrating that the
11 lender failed to comply with regulatory require-
12 ments established by the Administrator.”.

13 **SEC. 108. ALTERNATIVE SIZE STANDARD.**

14 (a) IN GENERAL.—Section 3(a) of the Small Busi-
15 ness Act (15 U.S.C. 632(a)) is amended by adding at the
16 end the following:

17 “(5) In addition to any other size standard
18 under this subsection, the Administrator shall estab-
19 lish and permit a lender making a loan under section
20 7(a) to use an alternative size standard. The alter-
21 native size standard shall be based on factors includ-
22 ing the maximum tangible net worth and average
23 net income of a business concern.”.

24 (b) APPLICABILITY.—Until the Administrator estab-
25 lishes under section 3(a)(5) of the Small Business Act,

1 as added by subsection (a) of this section, an alternative
2 size standard for use by a lender making a loan under
3 section 7(a) of such Act, the alternative size standard in
4 section 121.301(b) of title 13, Code of Federal Regula-
5 tions, shall apply in such a case.

6 **SEC. 109. PILOT PROGRAM AUTHORITY.**

7 Section 7(a) of the Small Business Act (15 U.S.C.
8 636(a)), as amended by this Act, is further amended by
9 striking paragraph (25) and inserting the following:

10 “(25) LIMITATION ON CONDUCTING PILOT
11 PROJECTS.—

12 “(A) LIMITATION ON NUMBER.—Not more
13 than 10 percent of the total number of loans
14 guaranteed in any fiscal year under this sub-
15 section may be awarded as part of a pilot pro-
16 gram.

17 “(B) DOLLAR LIMITATIONS.—

18 “(i) IN GENERAL.—With respect to
19 any pilot program under this subsection es-
20 tablished on or after the date of the enact-
21 ment of the Small Business Financing and
22 Investment Act of 2009, no loan shall be
23 made under such program if such loan
24 would result in the total amount of loans
25 made during a fiscal year under all such

1 programs to be in excess of 5 percent of
2 the total amount of loans guaranteed in
3 such fiscal year under this subsection.

4 “(ii) CERTAIN PRE-EXISTING PRO-
5 GRAMS.—With respect to any pilot pro-
6 gram under this subsection established be-
7 fore the date of the enactment of the Small
8 Business Financing and Investment Act of
9 2009, no loan shall be made under such
10 program if such loan would result in the
11 total amount of loans made during a fiscal
12 year under all such programs to be in ex-
13 cess of 10 percent of the total amount of
14 loans guaranteed in such fiscal year under
15 this subsection.

16 “(C) EXPIRATION.—

17 “(i) IN GENERAL.—Except as pro-
18 vided in clause (iii), the duration of any
19 pilot program under this subsection may
20 not exceed 3 years.

21 “(ii) DESIGNATION AS NEW PRO-
22 GRAM.—For purposes of this subpara-
23 graph, a pilot program shall not be treated
24 as a new pilot program solely on the basis

1 of a modification or change in the pilot
2 program, including the change of its name.

3 “(iii) EXISTING PROGRAMS.—With re-
4 spect to any pilot program in existence on
5 the date of the enactment of the Small
6 Business Financing and Investment Act of
7 2009, such program may continue in effect
8 for a period not exceeding 3 years after
9 such date without regard to the duration
10 of such program before such date.

11 “(D) REGULATIONS.—

12 “(i) IN GENERAL.—With respect to
13 each pilot program under this subsection,
14 including each pilot program in existence
15 on the date of the enactment of the Small
16 Business Financing and Investment Act of
17 2009, the Administrator shall—

18 “(I) issue regulations for such
19 program after providing notice in the
20 Federal Register and an opportunity
21 for comment; and

22 “(II) ensure that such regula-
23 tions are published in the Code of
24 Federal Regulations.

1 “(ii) PILOT PROGRAMS ESTABLISHED
2 AFTER DATE OF ENACTMENT.—With re-
3 spect to any pilot program established
4 after the date of the enactment of the
5 Small Business Financing and Investment
6 Act of 2009, such program shall not take
7 effect until the requirements under this
8 subparagraph are satisfied.

9 “(E) REPEAL OF AUTHORITY TO WAIVE
10 CERTAIN RULES.—

11 “(i) IN GENERAL.—Notwithstanding
12 section 120.3 of title 13, Code of Federal
13 Regulations, the Administrator may not
14 from time to time suspend, modify, or
15 waive rules for a limited period of time to
16 test new programs or ideas with respect to
17 this subsection, unless such suspension,
18 modification, or waiver is explicitly author-
19 ized by Act of Congress.

20 “(ii) EXISTING PILOT PROGRAMS.—
21 Nothing under clause (i) may be construed
22 to affect a pilot program in existence on
23 the date of the enactment of the Small
24 Business Financing and Investment Act of
25 2009.

1 “(F) PILOT PROGRAM.—For purposes of
2 this paragraph, the term ‘pilot program’ means
3 any lending program initiative, project, innova-
4 tion, or other activity not specifically authorized
5 by Act of Congress.”.

6 **SEC. 110. LOANS TO COOPERATIVES.**

7 Section 7(a) of the Small Business Act (15 U.S.C.
8 636(a)), as amended by this Act, is further amended by
9 adding at the end the following:

10 “(39) COOPERATIVES.—The Administration
11 may provide loans under this subsection to any coop-
12 erative that—

13 “(A) is not organized as a tax-exempt enti-
14 ty;

15 “(B) is engaged in a legal business activ-
16 ity;

17 “(C) obtains financial benefits for the co-
18 operative and for the members of such coopera-
19 tive; and

20 “(D) is eligible under applicable size stand-
21 ards of the Administration, including that any
22 business entity that is a member of such coop-
23 erative is eligible under applicable size stand-
24 ards of the Administration.”.

1 **SEC. 111. CAPITAL BACKSTOP PROGRAM.**

2 Section 7(a) of the Small Business Act (15 U.S.C.
3 636(a)), as amended by this Act, is further amended by
4 adding at the end the following:

5 “(40) CAPITAL BACKSTOP PROGRAM.—

6 “(A) IN GENERAL.—The Administrator
7 shall establish a process under which a small
8 business concern may submit an application to
9 the Administrator for the purpose of securing a
10 loan under this subsection. With respect to such
11 application, the Administrator shall collect all
12 information necessary to determine the credit-
13 worthiness and repayment ability of an appli-
14 cant and shall determine if such application
15 meets the eligibility and credit standards that a
16 lender would be required to apply to approve a
17 loan under this subsection.

18 “(B) PARTICIPATION OF LENDERS.—

19 “(i) IN GENERAL.—The Administrator
20 shall establish a process under which the
21 Administrator makes available to lenders
22 each loan application submitted and deter-
23 mined to meet basic eligibility and credit
24 standards under subparagraph (A) for the
25 purpose of such lenders originating, under-

1 writing, closing, and servicing the loan for
2 which the applicant applied.

3 “(ii) ELIGIBILITY.—Lenders are eligi-
4 ble to receive a loan application described
5 in clause (i) if they participate in the pro-
6 grams established under this subsection.

7 “(iii) LOCAL LENDERS.—The Admin-
8 istrator shall first make available a loan
9 application described in clause (i) to lend-
10 ers within 100 miles of the principal office
11 of the loan applicant.

12 “(iv) PREFERRED LENDERS.—If a
13 lender described in clause (iii) does not
14 agree to originate, underwrite, close, and
15 service the loan applied for within 5 busi-
16 ness days of receiving a loan application
17 described in clause (i), the Administrator
18 shall subsequently make available such
19 loan application to lenders in the Preferred
20 Lenders Program under paragraph
21 (2)(C)(ii) of this subsection.

22 “(v) AUTHORITY OF ADMINISTRATION
23 TO LEND.—If a lender described in clauses
24 (iii) or (iv) does not agree to originate, un-
25 derwrite, close, and service the loan applied

1 for within 10 business days of receiving a
2 loan application described in clause (i), the
3 Administrator shall originate, underwrite,
4 close, and service such loan.

5 “(C) ASSET SALES.—The Administrator
6 shall offer to sell loans made by the Adminis-
7 trator under this paragraph. Such sales shall be
8 made through the semi-annual public sollicita-
9 tion (in the Federal Register and in other
10 media) of offers to purchase. The Administrator
11 may contract with vendors for due diligence,
12 asset valuation, and other services related to
13 such sales. The Administrator may not sell any
14 loan under this subparagraph for less than 90
15 percent of the net present value of the loan, as
16 determined and certified by a qualified third
17 party.

18 “(D) LOANS NOT SOLD.—The Adminis-
19 trator shall maintain and service loans made by
20 the Administrator under this paragraph that
21 are not sold through the asset sales under this
22 paragraph.

23 “(E) EFFECTIVE DATES.—This paragraph
24 shall have effect on each date during the period
25 beginning on the date of enactment of this

1 paragraph and ending on September 30, 2011,
2 and on any other date after such period if—

3 “(i) such date occurs during a period
4 that—

5 “(I) begins on the date the Bu-
6 reau of Economic Analysis, or any
7 successor organization, makes a deter-
8 mination that the gross domestic
9 product of the United States has de-
10 creased for three consecutive quarters;
11 and

12 “(II) ends on the date the Bu-
13 reau of Economic Analysis, or any
14 successor organization, makes a deter-
15 mination that the gross domestic
16 product of the United States has in-
17 creased for two consecutive quarters;
18 and

19 “(ii) the number of loans provided
20 under this subsection prior to such date in
21 the fiscal year including such date is at
22 least 30 percent less than the number of
23 such loans provided prior to the same point
24 in the previous fiscal year.

1 “(F) IMPLEMENTATION.—The Adminis-
2 trator shall establish a group of at least 250 in-
3 dividuals available to carry out activities under
4 this paragraph on any date on which this para-
5 graph has effect under subparagraph (E). The
6 Administrator shall provide to such group the
7 training necessary to carry out activities under
8 this paragraph. The Administrator shall ensure
9 that each individual in such group with loan ap-
10 plication evaluation and underwriting respon-
11 sibilities has at least 2 years experience with re-
12 spect to such responsibilities.

13 “(G) APPLICATION OF OTHER LAW.—
14 Nothing in this paragraph shall be construed to
15 exempt any activity of the Administrator under
16 this paragraph from the Federal Credit Reform
17 Act of 1990 (2 U.S.C. 661 et seq.).

18 “(H) AUTHORIZATION OF APPROPRIA-
19 TIONS.—

20 “(i) PROGRAM LEVELS.—The Admin-
21 istrator is authorized to make loans under
22 this paragraph in an amount that is equal
23 to half the amount authorized for loans
24 under this subsection other than loans
25 under this paragraph.

1 “(ii) AUTHORIZATION OF APPROPRIA-
2 TIONS.—In addition to amounts made
3 available to carry out this subsection, there
4 are authorized to be appropriated such
5 sums as may be necessary to carry out this
6 paragraph.”.

7 **SEC. 112. LOANS TO FINANCE GOODWILL.**

8 Section 7(a) of the Small Business Act (15 U.S.C.
9 636(a)), as amended by this Act, is further amended by
10 adding at the end the following:

11 “(41) GOODWILL.—The Administrator may not
12 apply an application, processing, or approval stand-
13 ard to a loan for the purpose of financing goodwill
14 under this subsection, unless such standard applies
15 to all loans under this subsection.”.

16 **SEC. 113. APPELLATE PROCESS AND OMBUDSMAN.**

17 The Small Business Act (15 U.S.C. 631 et seq.) is
18 amended—

19 (1) by redesignating section 44 as section 45;

20 and

21 (2) by inserting after section 43 the following:

22 **“SEC. 44. APPELLATE PROCESS AND OMBUDSMAN.**

23 “(a) APPELLATE PROCESS.—

24 “(1) IN GENERAL.—Not later than 270 days
25 after the date of the enactment of the Small Busi-

1 ness Financing and Investment Act of 2009, the Ad-
2 ministrator shall establish an independent appellate
3 process within the Administration. The process shall
4 be available to review material determinations made
5 by the Administration that affect a lender or invest-
6 ment company that participates or is applying to
7 participate in a program administered by the Ad-
8 ministration.

9 “(2) REVIEW PROCESS.—In establishing the
10 independent appellate process under paragraph (1),
11 the Administrator shall ensure that—

12 “(A) any appeal of a material determina-
13 tion by the Administration is heard and result-
14 ing recommendations are provided expedi-
15 tiously; and

16 “(B) appropriate safeguards exist for pro-
17 tecting the appellant from retaliation by Admin-
18 istration employees.

19 “(3) COMMENT PERIOD.—Not later than 180
20 days after the date of the enactment of the Small
21 Business Financing and Investment Act of 2009, the
22 Administrator shall provide an opportunity for no-
23 tice and comment on proposed guidelines for the es-
24 tablishment of an independent appellate process
25 under this section.

1 “(b) AGENCY OMBUDSMAN.—

2 “(1) ESTABLISHMENT.—Not later than 180
3 days after the date of the enactment of the Small
4 Business Financing and Investment Act of 2009, the
5 Administrator shall appoint an ombudsman.

6 “(2) DUTIES.—The ombudsman appointed in
7 accordance with paragraph (1) shall—

8 “(A) act as a liaison between the Adminis-
9 tration and any lender or investment company
10 that participates or is applying to participate in
11 a program administered by the Administration
12 with respect to a problem such entity may have
13 in dealing with the Administration resulting
14 from a material determination made by the Ad-
15 ministration; and

16 “(B) ensure that safeguards exist to en-
17 courage complainants to come forward and pre-
18 serve confidentiality.

19 “(c) OTHER AUTHORITY.—An individual carrying
20 out the independent appellate process established under
21 subsection (a) or the position of ombudsman established
22 under subsection (b) is authorized to—

23 “(1) examine records and documents relating to
24 a matter under review pursuant to such subsections;
25 and

1 “(2) initiate the review of a matter under such
2 subsections if such individual believes that Adminis-
3 tration procedures have not been followed as in-
4 tended with respect to such matter, without regard
5 to whether an appeal or complaint has been made.

6 “(d) LIMITATIONS.—

7 “(1) IN GENERAL.—An individual carrying out
8 the independent appellate process established under
9 subsection (a) or the position of ombudsman estab-
10 lished under subsection (b) may not, as a result of
11 the authority provided under this section—

12 “(A) make, change, or set aside a law, pol-
13 icy, or administrative decision;

14 “(B) make binding decisions or determine
15 rights;

16 “(C) directly compel an entity to imple-
17 ment the recommendations of such individual;
18 or

19 “(D) accept jurisdiction over an issue that
20 is pending in a legal forum.

21 “(2) RULE OF CONSTRUCTION.—Activities car-
22 ried out under this section may not be construed—

23 “(A) as a formal investigation, formal
24 hearing, or binding decision;

1 “(B) as limiting any remedy or right of ap-
2 peal;

3 “(C) as affecting any procedure concerning
4 grievances, appeals, or administrative matters
5 under law; or

6 “(D) as a substitute for an administrative
7 or judicial proceeding.

8 “(e) REPORT.—Not later than one year after the date
9 of the enactment of the Small Business Financing and In-
10 vestment Act of 2009 and annually thereafter, the Admin-
11 istrator shall submit to the Committee on Small Business
12 of the House of Representatives and the Committee on
13 Small Business and Entrepreneurship of the Senate a re-
14 port describing and providing the status of appeals made
15 under subsection (a) and complaints made under sub-
16 section (b).

17 “(f) DEFINITIONS.—In this section, the following
18 apply:

19 “(1) MATERIAL DETERMINATION.—The term
20 ‘material determination’ includes determinations re-
21 lating to—

22 “(A) applications for payment relating to a
23 loan guarantee; and

24 “(B) the ability of an entity to participate
25 in an Administration loan or investing program.

1 “(2) INDEPENDENT APPELLATE PROCESS.—
2 The term ‘independent appellate process’ means a
3 review by an Administration official who does not di-
4 rectly or indirectly report to the Administration offi-
5 cial who made the material determination under re-
6 view.”.

7 **SEC. 114. EXTENSION OF RECOVERY AND RELIEF LOAN**
8 **BENEFITS.**

9 (a) **FEE REDUCTIONS.**—Section 501 of title V of di-
10 vision A of the American Recovery and Reinvestment Act
11 of 2009 (Public Law 111–5) is amended—

12 (1) in subsection (a) by striking “September
13 30, 2010” and inserting “September 30, 2011”; and

14 (2) in subsection (c) by repealing paragraph
15 (2).

16 (b) **ECONOMIC STIMULUS LENDING PROGRAM FOR**
17 **SMALL BUSINESSES.**—Section 502(f) of title V of division
18 A of the American Recovery and Reinvestment Act of
19 2009 (Public Law 111–5) is amended by striking “the
20 date 12 months after the date of enactment of this Act”
21 and inserting “September 30, 2011”.

22 **SEC. 115. REDUCED DOCUMENTATION FOR BUSINESS STA-**
23 **BILIZATION LOANS.**

24 Section 506(a) of title V of division A of the Amer-
25 ican Recovery and Reinvestment Act of 2009 (Public Law

1 111–5) is amended by adding at the end the following:
2 “The Administrator shall give priority under such pro-
3 gram to small business concerns in a city with an unem-
4 ployment rate that is at least 125 percent of the unem-
5 ployment rate of the State that includes such city. In car-
6 rying out such program, the Administrator shall establish
7 and utilize a one-page application for loans under this sec-
8 tion and shall authorize lenders to utilize the same docu-
9 mentation and procedural requirements for loans under
10 this section as such lenders utilize for other loans of a
11 similar size and type.”.

12 **SEC. 116. EXPANDED ELIGIBILITY FOR BUSINESS STA-**
13 **BILIZATION LOANS.**

14 Section 506(c) of title V of division A of the American
15 Recovery and Reinvestment Act of 2009 (Public Law 111–
16 5) is amended by striking “but shall not include” and all
17 that follows through “enactment of this Act”.

18 **SEC. 117. INCREASED AMOUNT OF BUSINESS STABILIZA-**
19 **TION LOANS.**

20 Section 506(d) of title V of division A of the Amer-
21 ican Recovery and Reinvestment Act of 2009 (Public Law
22 111–5) is amended by striking “\$35,000” and inserting
23 “\$50,000 (except as provided under subsection (l))”.

1 **SEC. 118. EXTENSION OF BUSINESS STABILIZATION LOANS.**

2 Section 506(j) of title V of division A of the American
3 Recovery and Reinvestment Act of 2009 (Public Law 111–
4 5) is amended by striking “September 30, 2010” and in-
5 serting “September 30, 2011”.

6 **SEC. 119. STUDY AND REPORT ON BUSINESS STABILIZA-**
7 **TION LOANS.**

8 (a) STUDY.—The Administrator of the Small Busi-
9 ness Administration shall conduct a study on the business
10 stabilization program established under section 506 of
11 title V of division A of the American Recovery and Rein-
12 vestment Act of 2009 (Public Law 111–5), including—

13 (1) how the program has been implemented;

14 (2) the amount of time involved in processing
15 applications;

16 (3) the volume of applications received and the
17 effect on application processing;

18 (4) impediments to participation in the program
19 by small business concerns and lenders;

20 (5) courses of action that might expedite action
21 by the Administrator on applications;

22 (6) courses of action that might expand partici-
23 pation by such concerns and lenders; and

24 (7) a cost benefit analysis with regard to
25 changes to the program, including—

26 (A) increases in loan limits;

1 (B) expanding eligibility requirements;
2 (C) changes to interest rates to lenders;
3 and
4 (D) any other change the Administrator
5 determines appropriate.

6 (b) REPORT.—Not later than 90 days after the date
7 of enactment of this Act, the Administrator of the Small
8 Business Administration shall submit to Congress a report
9 that includes—

10 (1) the results of the study under subsection

11 (a); and

12 (2) recommendations on how to change the pro-
13 gram—

14 (A) to expand participation by small busi-
15 ness concerns and lenders; and

16 (B) to decrease the amount of time in-
17 volved in processing applications.

18 (c) OUTREACH.—In conducting the study under sub-
19 section (a) and preparing the report under subsection (b),
20 the Administrator of the Small Business Administration
21 shall meet with and solicit the views of relevant stake-
22 holders, including lenders.

1 **SEC. 120. DELAYED REPAYMENT FOR SMALL BUSINESS**
2 **CONCERNS IN AREAS WITH HIGH UNEMPLOY-**
3 **MENT.**

4 Section 506 of title V of division A of the American
5 Recovery and Reinvestment Act of 2009 (Public Law 111–
6 5) is amended by adding at the end the following:

7 “(1) SMALL BUSINESS CONCERNS IN AREAS WITH
8 HIGH UNEMPLOYMENT.—

9 “(1) INCREASE LOAN LIMITS.—Notwithstanding
10 subsection (d), a loan made under this section to a
11 small business concern in what the Administrator
12 determines to be an area with high unemployment
13 may not exceed \$75,000.

14 “(2) DELAYED REPAYMENT.—Notwithstanding
15 subsection (g), repayment for a loan made under
16 this section after the date of the enactment of the
17 Small Business Financing and Investment Act of
18 2009 to a small business concern described in para-
19 graph (1) shall not begin until 18 months after the
20 final disbursement of funds is made.”.

21 **SEC. 121. SBA SECONDARY MARKET LENDING AUTHORITY**
22 **MADE PERMANENT.**

23 Section 509 of title V of division A of the American
24 Recovery and Reinvestment Act of 2009 (Public Law 111–
25 5) is amended—

26 (1) by striking subsection (e); and

1 (2) by redesignating subsections (f), (h), and (i)
2 as subsections (e), (f), and (g), respectively.

3 **SEC. 122. SBA SECONDARY MARKET LENDING AUTHORITY**

4 **EXPANDED.**

5 Section 509 of title V of division A of the American
6 Recovery and Reinvestment Act of 2009 (Public Law 111–
7 5), as amended by this Act, is further amended—

8 (1) in subsection (e)(1) by adding at the end
9 the following: “Such process shall include the des-
10 ignation of each lender participating in a program
11 under section 7(a) of the Small Business Act as a
12 Systematically Important Secondary Market Broker-
13 Dealer for purposes of this section.”; and

14 (2) in subsection (e), as so redesignated by sec-
15 tion 120 of this Act, by adding at the end the fol-
16 lowing: “To the extent that the cost of an elimi-
17 nation or reduction of fees is offset by appropria-
18 tions, the Administrator shall in lieu of the fee oth-
19 erwise applicable under this subsection collect no fee
20 or reduce fees to the maximum extent possible.”.

21 **SEC. 123. INCREASED LOAN LIMITS.**

22 Section 7(a) of the Small Business Act (15 U.S.C.
23 636(a)), as amended by this Act, is further amended—

24 (1) in paragraph (2)(A)—

25 (A) in clause (i)—

1 (i) by inserting after “\$150,000” the
2 following: “and is less than or equal to
3 \$2,000,000”; and

4 (ii) by striking “or” at the end;

5 (B) in clause (ii) by striking the period at
6 the end and inserting “; or”; and

7 (C) by adding at the end the following:

8 “(iii) 50 percent of the balance of the
9 financing outstanding at the time of dis-
10 bursement of the loan, if such balance ex-
11 ceeds \$2,000,000.”; and

12 (2) in paragraph (3)(A) by striking
13 “\$2,000,000” and inserting “\$3,000,000”.

14 **SEC. 124. REAL ESTATE APPRAISALS.**

15 Section 7(a)(29) of the Small Business Act (15
16 U.S.C. 636(a)(29)) is amended—

17 (1) in the matter preceding subparagraph (A)
18 by striking “a State licensed or certified appraiser”
19 and inserting “an appraiser licensed or certified by
20 the State in which such property is located”;

21 (2) in subparagraph (A) by striking
22 “\$250,000” and inserting “\$400,000”; and

23 (3) in subparagraph (B) by striking
24 “\$250,000” and inserting “\$400,000”.

1 **SEC. 125. ADDITIONAL SUPPORT FOR EXPRESS LOAN PRO-**
2 **GRAM.**

3 Section 7(a)(18)(B) of the Small Business Act (15
4 U.S.C. 636(a)(18)(B)) is amended by adding after “under
5 subparagraph (A)(i)” the following: “, except that a lender
6 making a loan under paragraph (31) may not retain any
7 percentage of a fee collected under such subparagraph”.

8 **SEC. 126. LOANS USED TO PURCHASE UNOCCUPIED MANU-**
9 **FACTURING CENTERS OR EQUIPMENT.**

10 Section 7(a) of the Small Business Act (15 U.S.C.
11 636(a)), as amended by this Act, is further amended by
12 adding at the end the following:

13 “(42) LOANS USED TO PURCHASE UNOCCUPIED
14 MANUFACTURING CENTERS OR EQUIPMENT.—The
15 Administration may provide loans under this sub-
16 section for the purchase of what the Administrator
17 determines to be unoccupied manufacturing centers
18 or equipment.”.

19 **SEC. 127. 100 PERCENT GUARANTEE FOR SMALL BUSINESS**
20 **CONCERNS OWNED AND CONTROLLED BY**
21 **VETERANS.**

22 Section 7(a) of the Small Business Act (15 U.S.C.
23 636(a)), as amended by this Act, is further amended—

24 (1) in paragraph (3)(A) by striking the semi-
25 colon at the end and inserting the following: “or in
26 paragraph (42);”; and

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

2 “(42) 100 PERCENT GUARANTEE FOR SMALL
3 BUSINESS CONCERNS OWNED AND CONTROLLED BY
4 VETERANS.—Notwithstanding paragraph (2), in an
5 agreement to participate in a loan on a deferred
6 basis under this subsection with respect to a small
7 business concern owned and controlled by veterans,
8 participation by the Administrator may be equal to
9 100 percent. The total amount outstanding and
10 committed (by participation or otherwise) with re-
11 spect to a loan to such a small business concern
12 from the business loan and investment fund estab-
13 lished by this Act may not exceed \$3,000,000.”.

14 **SEC. 128. DEFERRED REPAYMENT FOR CERTAIN SMALL**
15 **BUSINESS CONCERNS.**

16 Section 7(a)(7) of the Small Business Act (15 U.S.C.
17 636(a)(7)) is amended by adding at the end the following:
18 “If a small business concern classified in sector 23 of the
19 North American Industry Classification System receives a
20 loan under this subsection after the date of the enactment
21 of the Small Business Financing and Investment Act of
22 2009, such concern may defer repayment on such loan for
23 a period of not more than 12 months beginning on the
24 date that such concern receives the final disbursement of
25 such loan.”.

1 **SEC. 129. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 20 of the Small Business Act (15 U.S.C. 631
3 note) is amended by inserting after subsection (e) the fol-
4 lowing:

5 “(f) FISCAL YEARS 2010 AND 2011 WITH RESPECT
6 TO SECTION 7(a).—

7 “(1) PROGRAM LEVELS.—For the programs au-
8 thorized by this Act, in each of fiscal years 2010 and
9 2011 commitments for general business loans au-
10 thorized under section 7(a) may not exceed
11 \$20,000,000,000.

12 “(2) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated such sums
14 as may be necessary to carry out paragraph (1).”.

15 **TITLE II—CDC ECONOMIC**
16 **DEVELOPMENT LOAN PROGRAM**
17 **Subtitle A—General Provisions**

18 **SEC. 201. PROGRAM LEVELS.**

19 Section 20 of the Small Business Act (15 U.S.C. 631
20 note), as amended by this Act, is further amended by in-
21 serting after subsection (f) the following:

22 “(g) PROGRAM LEVELS WITH RESPECT TO CDC
23 ECONOMIC DEVELOPMENT LOAN PROGRAM.—

24 “(1) FISCAL YEAR 2010.—For financings au-
25 thorized by section 7(a)(13) of this Act and title V
26 of the Small Business Investment Act of 1958, the

1 Administrator is authorized to make \$9,000,000,000
2 in guarantees of debentures for fiscal year 2010.

3 “(2) FISCAL YEAR 2011.—For financings au-
4 thorized by section 7(a)(13) of this Act and title V
5 of the Small Business Investment Act of 1958, the
6 Administrator is authorized to make
7 \$10,000,000,000 in guarantees of debentures for fis-
8 cal year 2011.”.

9 **SEC. 202. DEFINITIONS.**

10 Section 103 of the Small Business Investment Act
11 of 1958 (5 U.S.C. 662) is amended as follows:

12 (1) By amending paragraph (6) to read as fol-
13 lows:

14 “(6) the term ‘development company’ means
15 any corporation organized in order to promote eco-
16 nomic development and the growth of small business
17 concerns and includes companies chartered under a
18 special State law authorizing them to operate on a
19 statewide basis;”.

20 (2) By striking “and” at the end of paragraph
21 (18), by striking the period at the end of paragraph
22 (19) and inserting a semicolon, and by adding at the
23 end the following new paragraphs:

24 “(20) the term ‘certified development company’
25 means a development company that the Adminis-

1 trator has determined meets the criteria set forth in
2 section 501;

3 “(21) the term ‘local governmental entity’
4 means—

5 “(A) a State or a political subdivision of a
6 State; or

7 “(B) a combination of political subdivisions
8 which—

9 “(i) has been formed to promote eco-
10 nomic or community development;

11 “(ii) is composed of representatives of
12 the State or a political subdivision acting
13 in their official capacity; and

14 “(iii) includes an area in an adjacent
15 State if it is part of a local economic area,
16 a rural area, or has a population deter-
17 mined by the Administrator to be insuffi-
18 cient to support the formation of a sepa-
19 rate development company;

20 such term includes entities meeting the require-
21 ments of clauses (i) through (iii), such as, but
22 not limited to, a council of governments, re-
23 gional development corporation, regional plan-
24 ning commission, or economic development dis-
25 trict;

1 “(22) the term ‘member’ means any person au-
 2 thorized to vote for a director of a corporation or the
 3 dissolution or merger of a company (for purposes of
 4 this definition, a shareholder of a for-profit corpora-
 5 tion shall be considered a member);

6 “(23) the terms ‘rural’ and ‘rural area’ shall
 7 have the same meaning as those terms are given in
 8 section 1991(a)(13)(A) of title 7, United States
 9 Code; and

10 “(24) the term ‘small manufacturer’ means a
 11 small business concern—

12 “(A) the primary business of which is clas-
 13 sified in sector 31, 32, or 33 of the North
 14 American Industrial Classification System; and

15 “(B) all of the production facilities of
 16 which are located in the United States.”.

17 **Subtitle B—Certified Development** 18 **Companies**

19 **SEC. 211. CERTIFIED DEVELOPMENT COMPANIES.**

20 Section 501 of the Small Business Investment Act
 21 of 1958 (15 U.S.C. 695) is amended to read as follows:

22 **“SEC. 501. CERTIFIED DEVELOPMENT COMPANIES.**

23 “(a) CERTIFIED DEVELOPMENT COMPANY DEBEN-
 24 TURE AUTHORITY.—Only development companies cer-

1 tified by the Administrator shall have the authority to
2 issue debentures under this Act.

3 “(b) CERTIFICATION STANDARDS.—A development
4 company shall be certified for the purposes of issuing de-
5 bentures if the Administrator determines that it meets
6 each of the following criteria:

7 “(1) SMALL CONCERN.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (C) of paragraph (2), the com-
10 pany, including its affiliates, shall have no more
11 than 200 employees.

12 “(B) CONTROL.—Except as provided in
13 paragraph (2) (B) or (C) the company shall not
14 be under the control of any other concern.

15 “(C) NOT FOR PROFIT.—The development
16 company is organized as a not-for-profit cor-
17 poration.

18 “(2) EXCEPTIONS.—

19 “(A) FOR PROFIT STATUS.—If a develop-
20 ment company was chartered as a for-profit
21 corporation and issued debentures prior to Jan-
22 uary 1, 1987, the company shall not be re-
23 quired to change its status to not-for-profit in
24 order to be certified.

1 “(B) AFFILIATION GRANDFATHER.—Any
2 company that was authorized by the Adminis-
3 trator to issue debentures before December 31,
4 2005, shall be eligible for certification without
5 regard to its status as part of, or its affiliation
6 with, any other not-for-profit corporation or
7 local governmental entity unless that not-for-
8 profit corporation or local governmental entity
9 is another entity that issues debentures under
10 this title.

11 “(C) AFFILIATION WITH LOCAL GOVERN-
12 MENTAL ENTITIES.—Any company that was or-
13 ganized after the date of enactment of the
14 Small Business Financing and Investment Act
15 of 2009 shall be eligible for certification without
16 regard to its status as part of or affiliation with
17 any local governmental entity.

18 “(3) GOOD STANDING.—A development com-
19 pany shall be in good standing and comply with all
20 laws, in every State in which it is incorporated or
21 authorized to conduct business.

22 “(4) MEMBERSHIP.—

23 “(A) IN GENERAL.—The development com-
24 pany shall have at least 25 members.

1 “(B) VOTING RIGHTS.—No member shall
2 control more than 10 percent of the total voting
3 power in the development company.

4 “(C) RESIDENCE.—Members must be resi-
5 dents of the State in which the development
6 company is chartered or authorized to do busi-
7 ness.

8 “(D) DIVERSITY.—The development com-
9 pany must have at least one member from each
10 of the following:

11 “(i) A local governmental entity.

12 “(ii) A financial institution subject to
13 regulation by a Federal organization be-
14 longing to the Federal Financial Institu-
15 tions Examination Council and that pro-
16 vides long-term fixed asset financing in the
17 commercial market.

18 “(iii) A not-for-profit organization,
19 other than a development company, that is
20 dedicated to promoting economic growth.

21 “(iv) A for-profit business, other than
22 a financial institution described in clause
23 (ii).

24 “(E) EMPLOYMENT STATUS.—Membership
25 in a development company shall not be predi-

1 cated on employment status and an individual
2 who retired from or was terminated (for rea-
3 sons other than fraud or the commission of a
4 crime) from an entity described in subpara-
5 graph (D) shall be deemed to be from the orga-
6 nization described in that subparagraph.

7 “(5) BOARD OF DIRECTORS.—

8 “(A) IN GENERAL.—The development com-
9 pany’s board consists of members and each di-
10 rector receives a majority vote of the members
11 unless the development company is a for-profit
12 corporation in which case the board need not
13 consist entirely of members.

14 “(B) BOARD REPRESENTATION.—There
15 shall be at least one director from not fewer
16 than 3 of the 4 types of organizations specified
17 in paragraph (4)(D) but no single type of orga-
18 nization shall have more than 50 percent rep-
19 resentation on the board of the development
20 company. If the development company is a for-
21 profit corporation, financial institution rep-
22 resentatives may make up more than 50 per-
23 cent of the board.

24 “(C) AFFILIATED ENTITY REPRESENTA-
25 TION RESTRICTIONS.—A development company

1 that is described in paragraph (1)(C) may have
2 any or all of its board members appointed by
3 entities affiliated with the company and may in-
4 clude common members who also serve on the
5 affiliate’s board of directors if the appointment
6 of board members was exercised by an affiliate
7 prior to December 31, 2005.

8 “(D) SPECIAL RULE FOR CERTAIN DEVEL-
9 OPMENT COMPANIES.—The board of directors
10 for any development company issuing deben-
11 tures before December 31, 2005, and incor-
12 porated under a State law requiring, or which
13 is interpreted by the State’s legal department
14 as imposing specific requirements on, the num-
15 ber and selection of members, board members,
16 or both, and the rights and privileges conferred
17 by such State law, may adhere to such provi-
18 sions.

19 “(6) PROFESSIONAL MANAGEMENT AND
20 STAFF.—

21 “(A) IN GENERAL.—The development com-
22 pany shall have full-time independent profes-
23 sional management, including a chief executive
24 officer to manage the daily operations and a

1 full-time professional staff qualified to carry out
2 the functions authorized under this title.

3 “(B) UTILIZATION OF STAFF FROM AF-
4 FILIATED ENTITIES.—A development company
5 shall not be denied certification under this sec-
6 tion if its chief executive or full-time profes-
7 sional staff is from an affiliated entity as de-
8 scribed in paragraph (1)(C).

9 “(C) STAFF UNDER CONTRACT.—The Ad-
10 ministrator shall not deny certification to a de-
11 velopment company that contracts for its full
12 time staff if one of the following conditions is
13 met:

14 “(i) The development company is lo-
15 cated in a rural area, obtains its staff
16 through contract from another develop-
17 ment company that is certified by the Ad-
18 ministrator and that development company
19 operates in the same or a contiguous
20 State.

21 “(ii) The development company had
22 issued debentures under this title prior to
23 December 31, 2005, and had contracted
24 with a for-profit business concern to pro-
25 vide staffing and management services.

1 “(c) APPLICATIONS.—

2 “(1) DEVELOPMENT COMPANIES ISSUING DE-
3 BENTURES BEFORE SEPTEMBER 30, 2009.—

4 “(A) SHORT FORM APPLICATION.—(i) For
5 any development company that issued deben-
6 tures pursuant to this title before September
7 30, 2009, the Administrator shall develop, after
8 an opportunity for notice and comment, no
9 later than 90 days after the date of enactment
10 of the Small Business Financing and Invest-
11 ment Act of 2009, a short-form application that
12 contains sufficient information for the Adminis-
13 trator to determine that the development com-
14 pany currently meets the standards set forth in
15 subsection (b). In developing such application,
16 the Administrator shall be required to limit the
17 amount of paperwork necessary to determine
18 whether the development company meets the
19 standards for certification and may limit the
20 application to the filing of reports previously
21 submitted to the Administrator.

22 “(ii) For those companies that obtain staff
23 through contracts, the application shall include
24 a copy of the contract.

1 “(B) CERTIFICATION DECISION.—(i) The
2 Administrator shall certify the development
3 company if the application demonstrates that
4 the applicant meets the standards in subsection
5 (b). The decision to certify or not approve the
6 request for certification shall be made within 7
7 business days from the date the initial submis-
8 sion of the application is received by the Ad-
9 ministrator. If the Administrator takes no ac-
10 tion to approve or disapprove within 7 business
11 days, the application for certification is deemed
12 approved and no further action is required by
13 the Administrator or the development company
14 to obtain certification. If the Administrator dis-
15 approves the application, the Administrator
16 shall provide in writing within 3 business days
17 the reasons for the disapproval. If such docu-
18 ment is not provided within the time specified,
19 the application is deemed approved and no fur-
20 ther action is required by the Administrator or
21 the development company to obtain certifi-
22 cation.

23 “(ii) For those development companies
24 that submit contracts under subparagraph
25 (A)(ii), the Administrator is limited in rejecting

1 the application only if the Administrator finds
2 that the entity servicing the applicant is no
3 longer able to provide the employees or services
4 needed by the applicant to perform the func-
5 tions that would be authorized under this title.

6 “(C) APPLICATION RESUBMITTAL.—If the
7 Administrator disapproves the application for
8 certification and provides a written statement
9 as set forth in subparagraph (B), the develop-
10 ment company may file a new application lim-
11 ited solely to addressing the concerns of the Ad-
12 ministrator and the certification procedures set
13 forth in subparagraph (B) shall recommence.

14 “(D) APPEALS.—If the Administrator dis-
15 approves an application in accordance with the
16 procedures of subparagraphs (B) or (C), the
17 applicant may, within 10 calendar days after
18 receipt of the disapproval, appeal such dis-
19 approval. The Administrator shall conduct a
20 hearing to determine such appeal pursuant to
21 sections 554, 556, and 557 of title 5, United
22 States Code, and shall issue a decision not later
23 than 45 days after the appeal is filed. The deci-
24 sion on appeal shall constitute final agency ac-

1 tion for purposes of chapter 7 of title 5, United
2 States Code.

3 “(E) GRANDFATHERING.—

4 “(i) IN GENERAL.—For the period 2
5 years after date of enactment of the Small
6 Business Financing and Investment Act of
7 2009, any development company that was
8 issuing debentures on or before the date
9 set forth in this clause (i) shall be deemed
10 to be a certified development company.

11 “(ii) COMPLETION OF APPLICATION
12 PROCESS.—The procedures set forth in
13 this paragraph for determining certifi-
14 cation shall apply to any development com-
15 pany meeting the qualifications of clause
16 (i).

17 “(iii) EFFECT OF DENIAL.—The de-
18 nial or rejection of an application for cer-
19 tification as set forth in this subsection
20 shall have no effect on the ability of a de-
21 velopment company meeting the qualifica-
22 tions in clause (i) from continuing to issue
23 debentures during the entire two-year pe-
24 riod established in that clause.

1 “(iv) FAILURE TO OBTAIN CERTIFI-
2 CATION.—Any development company that
3 fails to obtain certification in accordance
4 with the procedures set forth in this para-
5 graph during the period set forth in clause
6 (i) shall be considered to be a new develop-
7 ment company and the procedures of para-
8 graph (2) shall apply. The authority to
9 issue debentures shall cease for any devel-
10 opment company covered by this subpara-
11 graph that has failed to obtain certification
12 from the Administrator during the time
13 period set forth in clause (i).

14 “(F) AUTOMATIC QUALIFICATION PROVI-
15 SION.—If the Administrator fails to implement
16 the certification process set forth in this para-
17 graph, any development company that was
18 issuing debentures before September 30, 2009,
19 pursuant to this title shall be considered cer-
20 tified until such time as the Administrator de-
21 velops the certification procedures set forth in
22 this paragraph.

23 “(G) SAVINGS CLAUSE.—Any action taken
24 by a development company or the Administrator
25 pursuant to this paragraph shall have no im-

1 pact on any guarantee of a debenture issued
2 prior to the date of enactment of the Small
3 Business Financing and Investment Act of
4 2009.

5 “(2) APPLICATION PROCESS FOR NEW DEVELOPMENT COMPANIES.—

6
7 “(A) IN GENERAL.—For any development
8 company that has not issued debentures prior
9 to September 30, 2009, the Administrator shall
10 develop no later than 180 days after the date
11 of enactment of the Small Business Financing
12 and Investment Act of 2009, after an oppor-
13 tunity for notice and comment, an application
14 form for certification that provides the Admin-
15 istrator with sufficient information to insure
16 that the applicant meets the standards set forth
17 in subsection (b). The Administrator shall cer-
18 tify such development company or reject the ap-
19 plication within 60 calendar days from the date
20 the initial submission was received by the Ad-
21 ministrator. If the Administrator rejects the ap-
22 plication, the Administrator shall provide in
23 writing within 7 business days after the deci-
24 sion, the reason for rejecting the application.

1 “(B) APPEALS.—A development company
2 shall be able to appeal the disapproval of an ap-
3 plication under the procedures set forth in
4 paragraph (1)(D).”.

5 **SEC. 212. CERTIFIED DEVELOPMENT COMPANY; OPER-**
6 **ATIONAL REQUIREMENTS.**

7 Section 502 of the Small Business Investment Act
8 of 1958 (15 U.S.C. 696) is amended to read as follows:

9 **“SEC. 502. OPERATIONAL REQUIREMENTS FOR CERTIFIED**
10 **DEVELOPMENT COMPANIES.**

11 “(a) MAINTENANCE OF STANDARDS FOR CERTIFI-
12 CATION.—Any company certified pursuant to section 501
13 shall continue to comply with the requirements of that sec-
14 tion to remain certified. The Administrator shall develop
15 a reporting form, which to the extent possible, incor-
16 porates other documents and reports already kept by cer-
17 tified development companies, demonstrating their contin-
18 ued compliance. The form shall be developed in a manner
19 that the estimated time for completion shall take no more
20 than 2 hours.

21 “(b) ETHICS AND CONFLICT OF INTERESTS.—

22 “(1) IN GENERAL.—A certified development
23 company, its officers, employees, and contractors
24 shall act ethically and avoid activities which con-
25 stitute a conflict of interest or appear to constitute

1 a conflict of interest. For purposes of this sub-
2 section, conduct that is unethical includes, but is not
3 limited to, the actions specified in section 120.140 of
4 title 13, Code of Federal Regulations, as in effect on
5 January 1, 2009.

6 “(2) BY ASSOCIATES.—An associate may not be
7 an officer, director, or manager of more than 1 cer-
8 tified development company. The term ‘associate’
9 shall have the same meaning given the term ‘Asso-
10 ciate of a CDC’ in section 120.10 of title 13, Code
11 of Federal Regulations, as in effect on January 1,
12 2009. For the purposes of this subsection, 10 per-
13 cent shall be substituted wherever section 120.10 of
14 title 13, Code of Federal Regulation uses 20 per-
15 cent.

16 “(3) BY ENTITIES.—Except as provided in sec-
17 tions 501(b)(5) and 501(b)(6), no person, sole pro-
18 prietorship, partnership, or corporation shall control
19 or have managerial control of more than one cer-
20 tified development company. Control means any of
21 the following:

22 “(A) The ability to appoint or remove a
23 member of the company or member of its board
24 of directors.

1 “(B) The ability to modify or approve rate
2 or fee changes affecting revenues of the cer-
3 tified development company.

4 “(C) The ability to veto, overrule, or mod-
5 ify decisions of the certified development com-
6 pany’s body.

7 “(D) The ability, either directly or contrac-
8 tually, to appoint, hire, reassign, or dismiss
9 those managers and employees responsible for
10 the daily operations of the certified development
11 company.

12 “(E) The ability to access the certified de-
13 velopment company’s resources or amend its
14 budget.

15 “(F) The ability to control another cer-
16 tified development company pursuant to provi-
17 sions in a contract.

18 “(c) MEETINGS.—The board of directors of the cer-
19 tified development company shall meet on a regular basis
20 to make policy decisions for the company.

21 “(d) LOAN COMMITTEES.—The board of directors of
22 a certified development company may use a loan com-
23 mittee to process loans in the State in which it operates
24 as well as adjacent local economic areas. Members of the
25 loan committee shall be residents of the certified develop-

1 ment company's State of operation or the adjacent local
2 economic area. Such loan committees shall meet on a peri-
3 odic basis as set forth by the board of directors.

4 “(e) PROHIBITED CONFLICT IN PROJECT LOANS.—

5 “(1) IN GENERAL.—Certified development com-
6 panies shall not recommend or approve a guarantee
7 of a debenture that will be collateralized by property
8 being constructed or acquired on which an institu-
9 tion, as provided in section 508(c)(1)(A), will have
10 a first lien position.

11 “(2) EXCEPTION.—The prohibition in para-
12 graph (1) shall not apply to any certified develop-
13 ment company that was affiliated with or part of
14 any entity that took a first lien position between Oc-
15 tober 1, 2003, and September 30, 2005.

16 “(f) AFFILIATION WITH LENDERS OPERATING
17 UNDER SECTION 7 OF THE SMALL BUSINESS ACT.—

18 “(1) PROHIBITION.—No certified development
19 company may invest in, or be an affiliate of, a lender
20 who participates in the loan programs authorized in
21 sections 7(a) and 7(c) of the Small Business Act (15
22 U.S.C. 636(a) and (c)).

23 “(2) EXCEPTION.—The prohibition in para-
24 graph (1) shall not apply to any certified develop-
25 ment company that is affiliated with an entity au-

1 thorized by the Administrator to operate under sec-
2 tion 7(a) of the Small Business Act if such affili-
3 ation occurred on or before November 6, 2003.

4 “(3) CREDIT UNION AFFILIATION.—A certified
5 development company shall not lose its status due to
6 an affiliation with an institution regulated by the
7 National Credit Union Administration if the develop-
8 ment company was affiliated with such an institu-
9 tion prior to January 1, 2007.

10 “(g) SERVICING AND PACKAGING GUARANTEED
11 LOANS.—A certified development company is authorized
12 to prepare applications for loans under sections 7(a) or
13 7(c) of the Small Business Act (15 U.S.C. 636(a) or (c)),
14 to service such loans, and to charge a reasonable fee for
15 servicing such loans.

16 “(h) USE OF EXCESS FUNDS.—Any funds generated
17 by a certified development company from the issuance of
18 debentures under this title, the sale of debentures in the
19 private secondary market, or fees described in subsection
20 (g) that remain unexpended after payment of staff, oper-
21 ating, and overhead expenses shall be used by the certified
22 development company for—

23 “(1) operating reserves;

24 “(2) expanding the area in which the certified
25 development company operates through the methods

1 authorized in section 505 (relating to multi-State
2 operation);

3 “(3) investment in other community and local
4 economic development activity or community devel-
5 opment primarily in the State from which such
6 funds were generated; or

7 “(4) investment in small business investment
8 companies subject to the limitations in subsection
9 (i).

10 “(i) LIMITATIONS WITH RESPECT TO SMALL BUSI-
11 NESS INVESTMENT COMPANIES.—A certified development
12 company shall not—

13 “(1) invest excess funds in a small business in-
14 vestment company that the Administrator deter-
15 mines to be capitally impaired as set forth in section
16 107.1830 of title 13, Code of Federal Regulations,
17 as in effect on January 1, 2009, or any successor
18 regulation to that regulation, but may maintain its
19 investment in such company if such investment was
20 made prior to the determination of capital impair-
21 ment; and

22 “(2) provide a debenture under this title to a
23 small business concern that has financing with a
24 small business investment company in which the cer-

1 tified development company has invested excess
2 funds.

3 “(j) ECONOMIC DEVELOPMENT ACTIVITIES.—A com-
4 pany certified pursuant to this section shall carry out each
5 of the following economic development activities that cre-
6 ate or preserve jobs in urban and rural areas:

7 “(1) The company shall provide long-term fi-
8 nancing to small business concerns through deben-
9 tures described in section 506.

10 “(2) The company shall operate any other pro-
11 gram to assist small business concerns or commu-
12 nities that promote local economic development and
13 job creation or preservation.

14 “(k) RESTRICTIONS ON ASSISTANCE.—

15 “(1) IN GENERAL.—After the date of enact-
16 ment of the Small Business Financing and Invest-
17 ment Act of 2009, no certified development company
18 may accept funding from any source, including any
19 Federal agency (as that term is defined in section
20 551 of title 5, United States Code) if the source im-
21 poses—

22 “(A) conditions on the types of small busi-
23 ness concerns that a certified development com-
24 pany may provide assistance to under this title;
25 or

1 “(B) conditions or requirements, directly
2 or indirectly, upon any small business concern
3 receiving assistance under this title.

4 “(2) EXCEPTION.—The conditions of subpara-
5 graphs (A) and (B) of paragraph (1) shall not apply
6 if the source provides all of the financing that will
7 be provided by the certified development company to
8 the small business concern, provided further that
9 any conditions or restrictions are limited solely to
10 the financing provided by the source of funding.

11 “(1) REVOCATION AND SUSPENSION.—The Adminis-
12 trator may suspend or revoke a certified develop-
13 ment company’s status if the Administrator determines, after a
14 hearing on the record as set forth in sections 554, 556,
15 and 557 of title 5, United States Code, that the certified
16 development company no longer—

17 “(1) meets the eligibility criteria established
18 under section 501 of this title;

19 “(2) satisfies the operational standards in this
20 section; or

21 “(3) complies with the Administrator’s rules,
22 regulations, or provisions of law.

23 “(m) EFFECT OF SUSPENSION OR REVOCATION.—A
24 suspension or revocation under subsection (l) shall not af-
25 fect any outstanding debenture guarantee.”.

1 **SEC. 213. ACCREDITED LENDERS PROGRAM.**

2 Section 503 of the Small Business Investment of
3 1958 (15 U.S.C. 697) is amended to read as follows:

4 **“SEC. 503. ACCREDITED LENDERS PROGRAM.**

5 “(a) ESTABLISHMENT.—

6 “(1) IN GENERAL.—A certified development
7 company may apply for status to become an accred-
8 ited certified development company if it meets the
9 operational standards of section 502 and the criteria
10 in subsection (b).

11 “(2) APPLICATION.—The Administrator shall,
12 after opportunity for notice and comment, develop
13 an application for certified development companies
14 seeking to become accredited certified development
15 companies.

16 “(3) PROCESSING OF APPLICATION.—The Ad-
17 ministrator shall make a determination within 30
18 days after a complete application has been filed by
19 the certified development company.

20 “(4) REAPPLICATION.—If the Administrator re-
21 jects the application, the Administrator shall provide
22 in writing the reasons for the rejection. Any certified
23 development company may reapply which will recom-
24 mence the processing time limits set forth in para-
25 graph (3), and such reapplication shall be limited to
26 addressing the reasons for rejection. If the Adminis-

1 trator rejects a second application, that shall be con-
2 sidered final agency action for purposes of chapter
3 7 of title 5, United States Code.

4 “(b) STANDARDS FOR ACCREDITED CERTIFIED DE-
5 VELOPMENT COMPANY PROGRAM.—The Administrator
6 shall designate a certified development company as accred-
7 ited if it meets the following standards:

8 “(1) Has been a certified development company
9 for not less than the preceding 12 months and has
10 issued debentures as authorized under this title dur-
11 ing that time period.

12 “(2) Has well-trained, qualified personnel who
13 are knowledgeable in the lending policies and proce-
14 dures for certified development companies.

15 “(3) Has the ability to process, close, and serv-
16 ice the loan issued under this title.

17 “(4) Has a loss rate on the company’s deben-
18 tures that is reasonable and acceptable to the Ad-
19 ministrator.

20 “(5) Has a history of submitting to the Admin-
21 istrator complete and accurate debenture guaranty
22 application packages.

23 “(6) Has the ability to serve small business
24 credit needs for financing plant and equipment as a
25 certified development company.

1 “(c) EXPEDITED PROCESSING OF GUARANTEE AP-
2 PPLICATIONS.—The Administrator shall develop an expe-
3 dited procedure for processing a guarantee application or
4 servicing action submitted by an accredited certified devel-
5 opment company. For purposes of this subsection, an ex-
6 pedited procedure is one that takes at least two business
7 days less than the processing performed for certified devel-
8 opment companies that have not been accredited.

9 “(d) SUSPENSION OR REVOCATION OF ACCREDITED
10 STATUS.—The Administrator may suspend or revoke a
11 certified development company’s accredited status if the
12 Administrator determines, after a hearing on the record
13 as set forth in sections 554, 556, and 557 of title 5,
14 United States Code, that the certified development com-
15 pany no longer meets the eligibility criteria established
16 under this section (which shall not include a time limit
17 on the term of the certified development company’s ac-
18 credited status) or failed to adhere to the Administrator’s
19 rules, regulations, or is violating some other provision of
20 law. Such suspension or revocation shall have no effect
21 on the development company’s status as certified.

22 “(e) EFFECT OF SUSPENSION OR REVOCATION ON
23 EXISTING GUARANTEES.—A suspension or revocation of
24 accredited status shall not affect any outstanding debent-
25 ure guarantee.

1 “(f) GRANDFATHER PROVISION.—Any certified de-
2 velopment company that was accredited by the date of en-
3 actment of the Small Business Financing and Investment
4 Act of 2009 shall remain accredited for 24 months after
5 that date. If the certified development company does not
6 have an application for accreditation approved by the Ad-
7 ministrator within the 24 months, its accreditation stand-
8 ard shall lapse.

9 “(g) AUTOMATIC QUALIFICATION.—

10 “(1) IN GENERAL.—Until the Administrator de-
11 velops procedures for granting accredited status, any
12 certified development company that was accredited
13 as of the date of enactment of the Small Business
14 Financing and Investment Act of 2009 shall be
15 deemed to be accredited.

16 “(2) APPLICATIONS.—Any certified develop-
17 ment company that satisfies the provision of para-
18 graph (1) shall have 24 months in which to submit
19 the application established by this section for accred-
20 ited status.

21 “(3) EFFECT WHILE APPLICATION PENDING.—
22 The denial or rejection of an application for accred-
23 ited status as set forth in this section shall have no
24 effect on the ability of a development company that
25 meets the standard set forth in paragraph (1) from

1 maintaining its status during the 24 months speci-
2 fied in this subsection.

3 “(h) PROMULGATION OF ACCREDITING STAND-
4 ARDS.—The Administrator shall develop standards for ac-
5 crediting, suspension, and revocation under the program
6 established by this section only after notice and an oppor-
7 tunity for comment as set forth in section 553(b) of title
8 5, United States Code. After the development of such
9 standards, the Administrator shall publish such standards
10 in the Code of Federal Regulations.

11 “(i) RULE OF CONSTRUCTION.—Any reference to the
12 term ‘accredited lender’ in any provision of law enacted,
13 or any regulation adopted, prior to the enactment of the
14 Small Business Financing and Investment Act of 2009
15 shall be deemed to be a reference to the term ‘accredited
16 certified development company’.”.

17 **SEC. 214. PREMIER CERTIFIED LENDER PROGRAM.**

18 Section 504 of the Small Business Investment Act
19 of 1958 (15 U.S.C. 697a) is amended to read as follows:

20 **“SEC. 504. PREMIER CERTIFIED LENDER PROGRAM.**

21 “(a) ESTABLISHMENT.—

22 “(1) IN GENERAL.—A certified development
23 company accredited under section 503 may apply for
24 status to become a premier certified development
25 company.

1 “(2) APPLICATION.—The Administrator shall,
2 after opportunity for notice and comment, develop
3 an application for accredited certified development
4 companies seeking to become premier certified devel-
5 opment companies.

6 “(3) PROCESSING OF APPLICATION.—The Ad-
7 ministrator shall make a determination within 60
8 days after a complete application has been filed by
9 an accredited certified development company.

10 “(4) REAPPLICATION.—If the Administrator re-
11 jects the application, the Administrator shall provide
12 in writing the reasons for the rejection. Any accred-
13 ited certified development company may reapply
14 which will recommence the processing time limits set
15 forth in paragraph (3), and such reapplication shall
16 be limited to addressing the reasons for rejection. If
17 the Administrator rejects a second application, that
18 shall be considered final agency action for purposes
19 of chapter 7 of title 5, United States Code.

20 “(b) STANDARDS FOR OBTAINING PREMIER CER-
21 TIFIED DEVELOPMENT COMPANY STATUS.—The Admin-
22 istrator shall designate an accredited certified develop-
23 ment company as a premier certified development com-
24 pany if the application submitted pursuant to subsection

1 (a) demonstrates that the accredited certified development
2 company meets the following standards:

3 “(1) Has been an accredited certified develop-
4 ment company for at least 12 months.

5 “(2) Has submitted to the Administrator ade-
6 quately analyzed debenture guarantee applications.

7 “(3) Has closed, in a proper manner following
8 the Administrator regulations, loans under this title.

9 “(4) Has serviced its loan portfolio in accord-
10 ance with the standards set by the Administrator.

11 “(5) Has established a loan loss reserve estab-
12 lished in accordance with this section that the Ad-
13 ministrator determines is sufficient to meet its obli-
14 gations to protect the Federal Government from the
15 risk of loss on each debenture guaranteed under this
16 section.

17 “(6) Has agreed, as part of the application and
18 in order to protect the Federal Government against
19 the risk of loss, to the following—

20 “(A) on account of a debenture, the pro-
21 ceeds of which were used to fund a loan ap-
22 proved prior to the date of enactment of the
23 Small Business Financing and Investment Act
24 of 2009, agrees to reimburse the Administrator
25 for 10 percent of any loss sustained by the Ad-

1 administrator as a result of a default by the com-
2 pany in the payment of principal or interest on
3 a debenture issued by such company and guar-
4 anteed by the Administrator;

5 “(B) on account of a debenture, the pro-
6 ceeds of which were used to fund a loan ap-
7 proved prior to the date of enactment of the
8 Small Business Financing and Investment Act
9 of 2009 and which were issued during the pe-
10 riod in which the company had made a selection
11 pursuant to section 508(c)(7) of the Small
12 Business Investment Act of 1958, as in effect
13 on the day before such date of enactment,
14 agrees to reimburse the Administrator for 15
15 percent of any loss sustained by the Adminis-
16 trator as a result of a default by the company
17 in the payment of principal or interest on a de-
18 benture issued by such company and guaran-
19 teed by the Administrator; or

20 “(C) on account of a debenture, the pro-
21 ceeds of which are used to fund a loan approved
22 on or after the date of enactment of the Small
23 Business Financing and Investment Act of
24 2009, upon closing, pay to the Administrator a

1 one-time participation fee in the amount equal
2 to the higher of the following:

3 “(i) 0.25 percent of the amount of the
4 debenture.

5 “(ii) A percent of the amount of the
6 debenture equal to 10 percent of the
7 amount of the company’s historic loss rate
8 on debentures guaranteed under this sec-
9 tion as determined by the Administrator.

10 The rate specified by this clause shall be
11 determined annually based upon the com-
12 pany’s loan losses as of close of business
13 on June 30 and notice of the determina-
14 tion shall be provided to each company not
15 later than August 31. Such rate shall be
16 applicable to loans approved during the fis-
17 cal year commencing after the determina-
18 tion is made and shall expire and have no
19 further application after the end of such
20 fiscal year. If no timely determination has
21 been made prior to the commencement of
22 a fiscal year, including the year of enact-
23 ment of the Small Business Financing and
24 Investment Act of 2009, one may be made
25 after the commencement and it shall be

1 applicable to loans approved during the
2 balance of such fiscal year commencing 30
3 days after notification to the development
4 company involved.

5 “(c) SUSPENSION OR REVOCATION OF PREMIER STA-
6 TUS.—The Administrator may suspend or revoke an ac-
7 credited certified development company’s premier status
8 if the Administrator determines, after a hearing on the
9 record as set forth in sections 554, 556, and 557 of title
10 5, United States Code, that the accredited certified devel-
11 opment company no longer meets the eligibility criteria for
12 premier status as established under this section or failed
13 to adhere to the Administrator’s rules, regulations, or is
14 violating some other provision of law. Such revocation or
15 suspension shall have no effect on its status as an accred-
16 ited certified development company.

17 “(d) LOAN LOSS RESERVE.—

18 “(1) ASSETS.—Each loan loss reserve main-
19 tained by the premier certified development company
20 for loans made pursuant to the authority in sub-
21 section (g)(1) shall be comprised of—

22 “(A) segregated funds on deposit in an ac-
23 count or accounts with a federally insured de-
24 pository institution or institutions selected by
25 the company, subject to a collateral assignment

1 in favor of, and in a format acceptable to, the
2 Administrator that shall amount to 10 percent
3 of the company's exposure as determined pursu-
4 ant to subsection (b)(6);

5 “(B) irrevocable letter or letters of credit,
6 with a collateral assignment in favor of, and a
7 commercially reasonable format acceptable to,
8 the Administrator; or

9 “(C) any combination of the assets de-
10 scribed in subparagraphs (A) and (B).

11 “(2) CONTRIBUTIONS.—The company shall
12 make contributions to the loss reserve, either cash or
13 letters of credit as provided above, in the following
14 amounts and at the following intervals:

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

17 “(B) 25 percent additional not later than
18 1 year after a debenture is closed.

19 “(C) 25 percent additional not later than
20 2 years after a debenture is closed.

21 “(3) REPLENISHMENT.—If a loss has been sus-
22 tained by the Administrator, any portion of the loss
23 reserve, and other funds provided by the premier
24 certified development company as necessary, may be
25 used to reimburse the Administrator for the premier

1 certified development company's share of the loss as
2 provided for in subsection (b)(6). If the premier cer-
3 tified development company utilizes the reserve, it
4 shall, within 30 calendar days, replace an equivalent
5 amount of funds.

6 “(4) DISBURSEMENTS.—

7 “(A) IN GENERAL.—The Administrator
8 shall allow the premier certified development
9 company to withdraw from the loss reserve
10 amounts attributable to any debenture that has
11 been repaid.

12 “(B) REDUCTION.—The Administrator
13 shall allow the premier certified development
14 company to withdraw from the loss reserve such
15 amounts as are in excess of 1 percent of the ag-
16 gregate outstanding balances of debentures to
17 which such loss reserve relates. The reduction
18 authorized by this subparagraph shall not apply
19 with respect to any debenture before 100 per-
20 cent of the contribution described in paragraph
21 (2) with respect to such debenture has been
22 made.

23 “(5) APPLICABILITY.—This subsection shall
24 apply only to a premier certified development com-
25 pany designated as a premier certified development

1 company by the Administrator under this section on
2 or after the date of the enactment of the Small
3 Business Financing and Investment Act of 2009.
4 The loan loss reserve requirements relating to any
5 premier certified development company certified
6 prior to the date of the enactment of such Act shall
7 continue to be governed by regulations in effect on
8 the date of the enactment of such Act.

9 “(e) BUREAU OF PREMIER CERTIFIED DEVELOP-
10 MENT COMPANY LENDER OVERSIGHT.—

11 “(1) IN GENERAL.—There is hereby established
12 a Bureau of Premier Certified Development Com-
13 pany Lender Oversight in the Office of Lender Over-
14 sight at the Administration which shall have respon-
15 sibility and capability for carrying out oversight of
16 premier certified development companies and such
17 other responsibilities as the Administrator des-
18 ignates.

19 “(2) ANNUAL REVIEW.—The Bureau estab-
20 lished in paragraph (1) annually shall review the fi-
21 nancing made by each premier certified development
22 company. Such review shall include the premier cer-
23 tified development company’s credit decisions and
24 general compliance with the eligibility requirements

1 for each financing approved as a result of its status
2 as a premier certified development company.

3 “(3) RANDOM AUDITS.—The Bureau shall de-
4 velop and implement a method for sampling the de-
5 bentures issued by premier certified development
6 companies. Such sampling shall be similar to the
7 random file audits of development companies that
8 utilize the Abridged Submission Method described in
9 chapter 4 of subpart C of Standard Operating Pro-
10 cedure 50 10 (5)(A) as was in effect on March 2,
11 2009.

12 “(4) REVIEW OF LENDERS PROVIDING SENIOR
13 FINANCING.—

14 “(A) CALCULATION OF LOAN LOSS
15 RATE.—The Bureau shall periodically calculate
16 the loss rate of all debentures approved under
17 this section and shall calculate a loss rate on
18 the basis of the total debentures attributable to
19 projects approved by premier certified develop-
20 ment companies in which each lender is a par-
21 ticipating lender.

22 “(B) NOTIFICATION.—If the Bureau deter-
23 mines that the loss rate on debentures involving
24 an individual lender exceeds the average for all

1 debentures approved under this section, it shall
2 advise the Administrator.

3 “(5) USE OF REVIEWS AND AUDITS.—The Ad-
4 ministrator shall consider the findings under para-
5 graphs (2), (3), and (4) in carrying out the respon-
6 sibilities under subsection (h).

7 “(f) SALE OF CERTAIN DEFAULTED LOANS.—

8 “(1) NOTICE.—If, upon default in repayment,
9 the Administrator acquires a debenture issued by a
10 premier certified development company and identi-
11 fies such loan for inclusion in a bulk asset sale of
12 defaulted or repurchased loans or other financing,
13 the Administrator shall give prior notice thereof to
14 any premier certified development company which
15 has a contingent liability under this section. The no-
16 tice shall be given to the premier certified develop-
17 ment company as soon as possible after the financ-
18 ing is identified, but not less than 90 days before
19 the date the Administrator first makes any records
20 on such financing available for examination by pro-
21 spective purchasers prior to its offering in a package
22 of loans for bulk sale.

23 “(2) LIMITATIONS.—The Administrator shall
24 not offer any loan described in paragraph (1) as
25 part of a bulk sale unless the Administrator—

1 “(A) provides prospective purchasers with
2 the opportunity to examine the Administration’s
3 records with respect to such loan; and

4 “(B) provides the notice required by para-
5 graph (1).

6 “(g) LOAN APPROVAL AUTHORITY.—

7 “(1) IN GENERAL.—A premier certified develop-
8 ment company may, under conditions determined by
9 the Administrator in regulations published in the
10 Code of Federal Regulations, issue guarantees on
11 debentures, approve, authorize, close, service, fore-
12 close, litigate (except that the Administrator may
13 monitor conduct of any such litigation), and liq-
14 uidate loans that are funded with proceeds of a de-
15 benture issued by a premier certified development
16 company unless the Administrator advises the com-
17 pany that loans involving a specific institutional
18 lender are to be submitted to the Administrator for
19 further consideration, and approval by the Adminis-
20 trator.

21 “(2) PROGRAM GOALS.—Each premier certified
22 development company shall establish a goal of proc-
23 essing no less than 50 percent of the applications for
24 assistance under this title that the premier certified
25 development company receives. Failure to meet this

1 goal shall have no affect on the company’s status as
2 a premier certified development company under this
3 section.

4 “(3) SCOPE OF REVIEW.—The approval of a
5 loan and guarantee of a debenture by a premier cer-
6 tified development company shall be subject to final
7 approval as to the eligibility of any guarantee by the
8 Administrator as set forth in section 506, but such
9 final approval shall not include review of decisions
10 by the premier certified development company in-
11 volving creditworthiness, loan closing, or compliance
12 with legal requirements imposed by law or regula-
13 tion.

14 “(h) SUSPENSION OR REVOCATION.—The Adminis-
15 trator may suspend or revoke an accredited certified devel-
16 opment company’s premier status if the Administrator de-
17 termines, after a hearing on the record as set forth in sec-
18 tions 554, 556, and 557 of title 5, United States Code,
19 that the accredited certified development company no
20 longer meets the eligibility criteria established under this
21 section, fails to maintain adequate loan loss reserves man-
22 dated in this section even if it meets the other eligibility
23 requirements for premier status, or violates the Adminis-
24 trator’s rules, regulations, or some other provision of law.
25 The Administrator shall consider the review of the premier

1 certified development company conducted pursuant to sub-
2 section (e) in determining whether to suspend or revoke
3 an accredited development company's premier status.
4 Such suspension or revocation shall have no effect on the
5 development company's status as an accredited certified
6 development company.

7 “(i) EFFECT OF SUSPENSION OR REVOCATION.—A
8 suspension or revocation of premier status shall not affect
9 any outstanding debenture guarantee.

10 “(j) RULE OF CONSTRUCTION.—Any reference to the
11 term ‘premier certified lender’ or ‘PCL’ in legislation en-
12 acted, or regulations adopted, prior to the enactment of
13 the Small Business Financing and Investment Act of 2009
14 shall be deemed to be a reference to the term ‘premier
15 certified development company’.”

16 **SEC. 215. MULTI-STATE OPERATIONS.**

17 Section 505 of the Small Business Investment Act
18 of 1958 (15 U.S.C. 697b) is amended to read as follows:

19 **“SEC. 505. MULTI-STATE OPERATIONS.**

20 “(a) AUTHORIZATION.—The Administrator shall per-
21 mit an accredited or premier certified development com-
22 pany to make loans or issue debentures in any State that
23 is contiguous to the State of incorporation of that com-
24 pany only if the company—

1 “(1) has members, from each of the States in
2 which it operates with not fewer than 25 members
3 who reside in such States;

4 “(2) has a board of directors that contains not
5 fewer than 2 members from each State in which the
6 company makes loans and issues debentures and are
7 residents of that State;

8 “(3) maintains a separate loan committee to
9 process loans in each expansion State and the mem-
10 bers of the loan committee are solely residents of the
11 expansion State; and

12 “(4) files an application developed by the Ad-
13 ministrator which provides—

14 “(A) notice of the intention to make loans
15 in multiple States;

16 “(B) a specification of the States in which
17 the company intends to make loans;

18 “(C) a list of members in each expansion
19 State; and

20 “(D) a detailed statement on how the com-
21 pany will comply with the requirements of this
22 subsection.

23 “(b) LOAN COMMITTEES.—The requirements of
24 paragraph (3) of subsection (a) shall not require a devel-
25 opment company to establish a loan committee in its State

1 of incorporation or in a local economic area outside the
2 State of incorporation unless such area is part of an ex-
3 pansion State.

4 “(c) REVIEW.—

5 “(1) IN GENERAL.—The Administrator shall re-
6 view each application for expansion under subsection
7 (a), but such review shall be limited to that informa-
8 tion needed to determine whether the company will
9 comply with the requirements of subsection (a).

10 “(2) DEADLINE FOR DECISION.—The Adminis-
11 trator shall make a decision on each application
12 under subsection (a) within 15 calendar days after
13 the receipt of the application. If no such decision is
14 granted, the application is deemed to be approved
15 and no further action is required by the applicant or
16 the Administrator for the company to expand into
17 the States specified in the application.

18 “(3) APPLICATION RESUBMITTAL.—If the Ad-
19 ministrator rejects the application for expansion, the
20 Administrator shall provide in writing the reasons
21 for denial within 10 calendar days of the decision.
22 The applicant then may resubmit the application but
23 the review of such resubmitted applications will be
24 limited only to the areas in which the Administrator
25 found the original application deficient. The dead-

1 lines in paragraph (2) shall apply to resubmitted ap-
2 plications.

3 “(4) APPEAL.—If a resubmitted application is
4 denied, the applicant may, within 10 calendar days
5 after receipt of the disapproval, appeal such dis-
6 approval. The Administrator shall conduct a hearing
7 to determine such appeal pursuant to sections 554,
8 556, and 557 of title 5, United States Code, and
9 shall issue a decision not later than 45 days after
10 the appeal is filed. The decision on appeal shall con-
11 stitute final agency action for purposes of chapter 7
12 of title 5, United States Code.

13 “(d) FAILURE TO DEVELOP APPLICATION.—If the
14 Administrator fails to develop an application as required
15 in subsection (a)(4) within 60 days of the enactment of
16 the Small Business Financing and Investment Act of
17 2009, an accredited or premier certified development com-
18 pany only need submit the information required in sub-
19 section (a) to the Administrator to be deemed eligible to
20 commence operations authorized by this section. Such eli-
21 gibility shall not be terminated if the Administrator devel-
22 ops an application after the 60-day period set forth in this
23 subsection.

24 “(e) AGGREGATE ACCOUNTING.—An accredited or
25 premier certified development company authorized to op-

1 erate in multiple States pursuant to this section may
2 maintain an aggregate accounting of all revenue and ex-
3 penses of the company for purposes of this title.

4 “(f) LOCAL JOB CREATION REQUIREMENTS.—

5 “(1) IN GENERAL.—Any company making loans
6 in multiple States as authorized in this section shall
7 not count jobs created or retained in one State to-
8 wards any applicable job creation or retention re-
9 quirements mandated by this title in another State.

10 “(2) APPLICABILITY.—Any company operating
11 under the authority of this section shall be required
12 to meet any job creation or retention requirement of
13 this title on the date that is 2 years after the cer-
14 tified development company closed its first loan in
15 its new State of operation.

16 “(g) CONTIGUOUS STATES.—For the purposes of this
17 section, the States of Alaska and Hawaii shall be deemed
18 to be contiguous to any State abutting the Pacific Ocean.
19 Territories of the United States located in the Pacific
20 Ocean shall be deemed to be contiguous to any State abut-
21 ting the Pacific Ocean, including Alaska and Hawaii, and
22 territories of the United States located in the Caribbean
23 Sea shall be deemed contiguous to any State abutting the
24 Gulf of Mexico.

1 “(h) EXEMPTION FOR LOCAL ECONOMIC AREAS.—
2 Except as provided in subsection (a)(3) with respect to
3 loan committees, any certified, accredited, or premier de-
4 velopment company or applicant operating in a local eco-
5 nomic development area that crosses the border of another
6 State shall not be considered to be operating under the
7 provisions of this section and shall not be required to com-
8 ply with the requirements of this section for multi-State
9 operation.”.

10 **SEC. 216. GUARANTY OF DEBENTURES.**

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. GUARANTY OF DEBENTURES.**

14 “(a) AUTHORITY TO GUARANTEE.—Except as pro-
15 vided in subsection (c), the Administrator may guarantee
16 the timely payment of all principal and interest as sched-
17 uled on any debenture issued by a certified development
18 company.

19 “(b) TERMS AND CONDITIONS OF THE GUAR-
20 ANTEE.—Such guarantees may be made on such terms
21 and conditions as the Administrator may by regulation,
22 published in the Code of Federal Regulations, determine
23 to be appropriate, except that the Administrator shall not
24 decline to issue such guarantee when the ownership inter-
25 ests of the small business concern and the ownership inter-

1 ests of the property to be financed with the proceeds of
2 the loan made pursuant to subsection (e)(1) are not iden-
3 tical because one or more of the following classes of rel-
4 atives have an ownership interest in either the small busi-
5 ness concern or the property: father, mother, son, daugh-
6 ter, wife, husband, brother, or sister, if the Administrator
7 or his designee has determined on a case-by-case basis
8 that such ownership interest, such guarantee, and the pro-
9 ceeds of such loan, will substantially benefit the small
10 business concern.

11 “(c) FULL FAITH AND CREDIT.—The full faith and
12 credit of the United States is pledged to the payment of
13 all amounts guaranteed under this section.

14 “(d) SUBORDINATION.—Any debenture issued by a
15 certified development company with respect to which a
16 guarantee is made under this section may be subordinated
17 by the Administrator to any other debenture, promissory
18 note, or other debt or obligation of such company.

19 “(e) STANDARDS FOR ADMINISTRATOR GUARAN-
20 TEES.—No guarantee may be made with respect to any
21 debenture under this section unless—

22 “(1) the debenture is issued for the purpose of
23 making one or more loans to small business concerns
24 the proceeds of which shall be used for the purposes
25 set forth in section 507;

1 “(2) the interest rate on such debentures is not
2 less than the rate of interest determined by the Sec-
3 retary of the Treasury for purposes of section
4 303(b);

5 “(3) the aggregate amount of such debenture
6 does not exceed the amount of the loans to be made
7 from the proceeds of such debenture plus, at the
8 election of the borrower, other amounts attributable
9 to the administrative and closing costs of such loans,
10 except for the attorney fees of the borrower;

11 “(4) the amount of any loan to be made from
12 such proceeds does not exceed an amount equal to
13 50 percent of the cost of the project with respect to
14 which such loan is made;

15 “(5) the Administrator, except to the extent
16 provided in section 504 with respect to premier cer-
17 tified development companies, approves each loan to
18 be made from such proceeds; and

19 “(6) with respect to each loan made from the
20 proceeds of such debenture, the Administrator—

21 “(A) assesses and collects a fee, which
22 shall be payable by the borrower, in an amount
23 established annually by the Administration,
24 which amount shall not exceed—

25 “(i) the lesser of—

1 “(I) 0.9375 percent per year of
2 the outstanding balance of the loan;
3 or

4 “(II) the minimum amount nec-
5 essary to reduce the cost (as defined
6 in section 502 of the Federal Credit
7 Reform Act of 1990) to the Adminis-
8 trator of purchasing and guaranteeing
9 debentures under this title to zero;
10 and

11 “(ii) 50 percent of the amount estab-
12 lished under clause (i) in the case of a loan
13 made during the 2-year period beginning
14 on October 1, 2002, for the life of the
15 loan; and

16 “(B) uses the proceeds of such fee to offset
17 the cost (as such term is defined in section 502
18 of the Federal Credit Reform Act of 1990) to
19 the Administrator of making guarantees under
20 this section.

21 “(f) INTEREST RATES ON COMMERCIAL LOANS.—
22 Notwithstanding the provisions of the constitution or laws
23 of any State limiting the rate or amount of interest which
24 may be charged, taken, received, or reserved, the max-
25 imum legal rate of interest on any commercial loan which

1 funds any portion of the cost of the project financed pur-
2 suant to this title which is not funded by a debenture
3 guaranteed under this section shall be a rate which is es-
4 tablished by the Administrator who shall publish such rate
5 quarterly in, at a minimum, the Federal Register and on
6 the Administration's website.

7 “(g) DEBENTURE REPAYMENT.—Any debenture that
8 is issued under this section shall provide for the payment
9 of principal and interest on a semiannual basis.

10 “(h) CHARGES FOR ADMINISTRATOR'S EXPENSES.—
11 The Administrator may impose an additional charge for
12 administrative expenses with respect to each debenture for
13 which payment of principal and interest is guaranteed
14 under this section. Such administrative expenses may in-
15 clude—

16 “(1) development company fees for processing,
17 closing, servicing, late payment, or loan assumption;

18 “(2) agent or trustee fees for central servicing,
19 underwriters, or debenture funding; and

20 “(3) fees charged by the Administrator for the
21 debenture guaranty and from the certified develop-
22 ment company to reduce the subsidy cost.

23 “(i) PARTICIPATION FEE.—The Administrator shall
24 collect a one-time fee in an amount equal to 50 basis
25 points on the total participation in any project of any

1 State or local government, bank, other financial institu-
2 tion, or foundation or not-for-profit institution. Such fee
3 shall be imposed only when the participation of the entity
4 described in the previous sentence will occupy a senior
5 credit position to that of the development company. All
6 proceeds of the fee shall be used to offset the cost (as
7 that term is defined in section 502 of the Credit Reform
8 Act of 1990) to the Administrator of making guarantees
9 under this section.

10 “(j) CERTIFIED DEVELOPMENT COMPANY FEE.—

11 The Administrator shall collect annually from each devel-
12 opment company a fee of 0.125 percent of the outstanding
13 principal balance of any guaranteed debenture authorized
14 by the Administrator after September 30, 1996. Such fee
15 shall be derived from the servicing fees collected by the
16 certified development company pursuant to regulation,
17 and shall not be derived from any additional fees imposed
18 on small business concerns. All proceeds of the fee shall
19 be used to offset the cost (as that term is defined in sec-
20 tion 502 of the Credit Reform Act of 1990) to the Admin-
21 istrator of making guarantees under this section.

22 “(k) EFFECTIVE DATE.—The fees authorized by this
23 section shall apply to any financing approved under this
24 title on or after October 1, 1996.

1 “(l) CALCULATION OF SUBSIDY RATE.—All fees, in-
2 terest, and profits received and retained by the Adminis-
3 trator under this section shall be included in the calcula-
4 tions made by the Director of the Office of Management
5 and Budget to offset the cost (as that term is defined in
6 section 502 of the Federal Credit Reform Act of 1990)
7 to the Administrator of purchasing and guaranteeing de-
8 bentures under this title.

9 “(m) ACTIONS UPON DEFAULT.—

10 “(1) INITIAL ACTIONS.—Not later than the
11 45th day after the date on which a payment on a
12 loan funded through a debenture guaranteed under
13 this section is due and not received, the Adminis-
14 trator shall—

15 “(A) take all necessary steps to bring such
16 loan current; or

17 “(B) implement a formal written deferral
18 agreement.

19 “(2) PURCHASE OR ACCELERATION OF DEBEN-
20 TURE.—Not later than the 65th day after the date
21 on which a payment on a loan described in para-
22 graph (1) is due and not received, and absent a for-
23 mal written deferral agreement, the Administrator
24 shall take all necessary steps to purchase or accel-
25 erate the debenture.

1 “(3) PREPAYMENT PENALTIES.—With respect
2 to the portion of any project derived from funds not
3 provided by a debenture issued by a certified devel-
4 opment company or borrower, the Administrator—

5 “(A) shall negotiate the elimination of any
6 prepayment penalties or late fees on defaulted
7 loans made prior to September 30, 1996;

8 “(B) shall not pay any prepayment penalty
9 or late fee on the default based purchase of
10 loans issued after September 30, 1996; and

11 “(C) shall not pay a default interest rate
12 higher than the interest rate on the note prior
13 to the date of default for any project financed
14 after September 30, 1996.

15 “(4) COLLECTION AND SERVICING.—

16 “(A) IN GENERAL.—In the event of the de-
17 fault of any loan and the repurchase of a de-
18 benture guaranteed by the Administrator under
19 this title, the Administrator shall continue to
20 delegate to the central servicing agent that was
21 contracted for that service as of January 1,
22 2009, or successor contractor the authority to
23 collect and disburse all funds or payments re-
24 ceived on such defaulted loans, including pay-
25 ments from guarantors or on notes in com-

1 promise of the original note. The central serv-
2 icing agent shall continue to provide an ac-
3 counting of income and expenses for any such
4 loan on the same basis it does for any other
5 loan issued under this title. The central serv-
6 icing agent shall make the accounting of income
7 and expenses and reports thereon available as
8 requested by the certified development company
9 that issued the debenture or the Administrator.

10 “(B) EFFECTIVE DATE.—The require-
11 ments of subparagraph (A) shall become effec-
12 tive 180 days after the date of enactment of the
13 Small Business Financing and Investment Act
14 of 2009.”.

15 **SEC. 217. ECONOMIC DEVELOPMENT THROUGH DEBEN-**
16 **TURES.**

17 Section 507 of the Small Business Investment Act
18 of 1958 (15 U.S.C. 697d) is amended to read as follows:

19 **“SEC. 507 ECONOMIC DEVELOPMENT AND DEBENTURES.**

20 “(a) IN GENERAL.—A certified development company
21 shall be prohibited from issuing a debenture under this
22 title unless the project funded with the debenture meets
23 one of the following economic development objectives:

24 “(1) The creation of job opportunities within
25 two years of the completion of the project or the

1 preservation or retention of jobs attributable to the
2 project.

3 “(2) Improving the economy of the locality,
4 such as stimulating other business development in
5 the community, bringing new income into the area,
6 or assisting the community in diversifying and stabi-
7 lizing its economy.

8 “(3) The achievement of one or more of the fol-
9 lowing public policy goals:

10 “(A) Business district revitalization or ex-
11 pansion of businesses in low-income commu-
12 nities which would be eligible for a new markets
13 tax credit under section 45D(a) of the Internal
14 Revenue Code of 1986, or implementing regula-
15 tions issued under that section.

16 “(B) Expansion of exports.

17 “(C) Expansion of minority business devel-
18 opment or women-owned business development.

19 “(D) Rural development.

20 “(E) Expansion of small business concerns
21 owned and controlled by veterans, as defined in
22 section 3(q) of the Small Business Act (15
23 U.S.C. 632(q)), especially service-disabled vet-
24 erans, as defined in such section.

1 “(F) Enhanced economic competition, in-
2 cluding the advancement of technology, plan re-
3 tooling, conversion to robotics, or competition
4 with imports.

5 “(G) Changes necessitated by Federal
6 budget cutbacks, including defense related in-
7 dustries.

8 “(H) Business restructuring arising from
9 federally mandated standards or policies affect-
10 ing the environment or the safety and health of
11 employees.

12 “(I) Reduction of energy consumption by
13 at least 10 percent.

14 “(J) Increased use of sustainable design,
15 including designs that reduce the use of green-
16 house gas emitting fossil fuels, or low-impact
17 design to produce buildings that reduce the use
18 of nonrenewable resources and minimize envi-
19 ronmental impact.

20 “(K) Plant, equipment, and process up-
21 grades of renewable energy sources such as the
22 small-scale production of energy for individual
23 buildings or communities consumption, com-
24 monly known as micropower, or renewable fuels

1 producers including biodiesel and ethanol pro-
2 ducers.

3 “(4) Debt refinancing to the extent permitted
4 by subsection (d).

5 “(b) JOB CREATION AND RETENTION REQUIRE-
6 MENTS.—

7 “(1) IN GENERAL.—A project meets the job
8 creation or retention objective set forth in subsection
9 (a)(1) if the project creates or retains one job for
10 every \$65,000 guaranteed by the Administrator, ex-
11 cept that the amount shall be \$100,000 in the case
12 of a project of a small manufacturer.

13 “(2) EXCEPTIONS.—

14 “(A) Paragraph (1) shall not apply to a
15 project for which eligibility is based on the ob-
16 jectives set forth in subsection (a)(2) or (a)(3)
17 if the certified development company’s portfolio
18 of outstanding debentures creates or retains one
19 job for every \$65,000 guaranteed by the Ad-
20 ministrator.

21 “(B) For projects in Alaska, Hawaii,
22 State-designated enterprise zones, empower-
23 ment zones, enterprise communities, or labor
24 surplus areas designated by the Administrator,
25 the certified development company’s portfolio

1 may average not more than \$75,000 per job
2 created or retained.

3 “(C) Loans for projects of small manufac-
4 turers shall be excluded from the calculations in
5 subparagraphs (A) and (B).

6 “(e) COMBINATION OF CERTAIN GOALS.—A small
7 business concern that is unconditionally owned by more
8 than 1 individual, or a corporation, the stock of which is
9 owned by more than 1 individual, shall be deemed to have
10 achieved a goal under subsection (a)(3) if a combined own-
11 ership share of not less than 51 percent is held by individ-
12 uals who are in 1 of, or a combination of, the groups de-
13 scribed in subparagraphs (C) or (E) of subsection (a)(1).

14 “(d) COMPOSITION OF THE PROJECT.—

15 “(1) IN GENERAL.—The projects described in
16 this section shall include, but not be limited to, plant
17 acquisition, construction, conversion, expansion (in-
18 cluding the acquisition of land), equipment and re-
19 lated project costs, or to acquire the stock of a cor-
20 poration (as long as the value of the loan for the ac-
21 quisition of the stock does not exceed the fixed asset
22 value attributable to such assets as would be eligible
23 for financing under subsection (a)).

24 “(2) DEBT REFINANCING.—Any financing ap-
25 proved under this title may include a limited amount

1 of debt refinancing if the project involves the expansion
2 of a small business concern.

3 “(3) LIMITATION.—The amount of the existing
4 indebtedness may be refinanced and added to the expansion
5 cost if—

6 “(A) the existing indebtedness does not exceed
7 50 percent of the project cost of the expansion;
8

9 “(B) the proceeds of the indebtedness were
10 used to acquire land, including a building situated
11 thereon, to construct a building thereon, or
12 to purchase equipment;

13 “(C) the existing indebtedness is
14 collateralized by fixed assets;

15 “(D) the existing indebtedness was incurred
16 for the benefit of the small business concern;
17

18 “(E) the financing under this title will be
19 used only for refinancing existing indebtedness
20 or costs relating to the project financed under
21 this title;

22 “(F) the financing under this title will provide
23 a substantial benefit to the borrower when
24 prepayment penalties, financing fees, and other
25 financing costs are accounted for;

1 “(G) the borrower has been current on all
2 payments due on the existing debt for not less
3 than 1 year preceding the date of refinancing;
4 and

5 “(H) the financing under this title will
6 provide better terms or rate of interest than the
7 existing indebtedness at the time of refinancing.

8 “(e) DEFINITION.—For purposes of subparagraphs
9 (J) and (K) of subsection (a)(3), the terms included have
10 the meanings given those terms under the Leadership in
11 Energy and Environmental Design (more generally re-
12 ferred to as LEED) standard for green building certifi-
13 cation, as determined by the Administrator through regu-
14 lation to be published in the Code of Federal Regula-
15 tions.”.

16 **SEC. 218. PROJECT FUNDING REQUIREMENTS.**

17 Section 508 of the Small Business Investment Act
18 of 1958 (15 U.S.C. 697e) is amended to read as follows:

19 **“SEC. 508. PROJECT FUNDING REQUIREMENTS.**

20 “(a) IN GENERAL.—Any project described in section
21 507 must meet the funding standards set forth in this sec-
22 tion.

23 “(b) SIZE OF DEBENTURE.—The Administrator shall
24 only be permitted to guarantee debenture issued by a cer-
25 tified development company up to the following amounts:

1 “(1) \$3,000,000 for any project of a small busi-
2 ness concern.

3 “(2) \$4,000,000 for any project that meets the
4 public policy goals set forth in section 507(a)(3).

5 “(3) \$4,000,000 for any project to be located in
6 a low-income community as that term is described in
7 section 507(a)(3)(A).

8 “(4) \$8,000,000 for each project of a small
9 manufacturer.

10 “(5) \$8,000,000 for each project that reduces
11 the borrower’s energy consumption by at least 10
12 percent.

13 “(6) \$8,000,000 for each project that generates
14 renewable energy or renewable fuels, such as, but
15 not limited to, biodiesel or ethanol production.

16 “(7) \$10,000,000 for each project for a small
17 business concern that constitutes a major source of
18 employment as that term is used in section
19 7(b)(3)(E) of the Small Business Act (15 U.S.C.
20 636(b)(3)(E)).

21 “(c) FUNDING FROM SOURCES OTHER THAN DE-
22 BENTURES ISSUED BY CERTIFIED DEVELOPMENT COM-
23 PANIES.—

24 “(1) IN GENERAL.—Any project financed pur-
25 suant to this title must have the following contribu-

1 tions from parties other than the debenture issued
2 by the certified development company:

3 “(A) FUNDING FROM INSTITUTIONS.—If a
4 small business concern provides—

5 “(i) the minimum contribution re-
6 quired by subparagraph (B), not less than
7 50 percent of the total cost of any project
8 financed shall come from State or local
9 governments, banks or other financial in-
10 stitutions, or foundations or other not-for-
11 profit institutions; and

12 “(ii) more than the minimum con-
13 tribution required under subparagraph
14 (B), any excess contribution may be used
15 to reduce the amount required from insti-
16 tutions described in clause (i), except that
17 the amount provided by such institution
18 may not be reduced to an amount that is
19 less than the amount of the loan made by
20 the Administrator.

21 “(B) FUNDING FROM SMALL BUSINESS
22 CONCERNS.—The small business concern (or its
23 owners, stockholders, or affiliates) that will
24 have a project financed pursuant to this title
25 shall provide—

1 “(i) at least 15 percent of the total
2 cost of the project financed if the small
3 business concern has been in operation for
4 a period of 2 years or less;

5 “(ii) at least 15 percent of the total
6 cost of the project financed if the project
7 involves construction of a limited or single
8 purposed building or structure;

9 “(iii) at least 20 percent of the total
10 cost of the project financed if the project
11 involves both of the conditions in clauses
12 (i) and (ii); or

13 “(iv) at least 10 percent of the total
14 cost of the project financed and not cov-
15 ered by clauses (i), (ii), or (iii), at the dis-
16 cretion of the certified development com-
17 pany.

18 “(2) SELLER FINANCING.—Seller-provided fi-
19 nancing may be used to meet the requirements of
20 paragraph (1)(B), if the seller subordinates the in-
21 terest of the seller in the property to the debenture
22 guaranteed by the Administrator.

23 “(3) COLLATERALIZATION.—

24 “(A) IN GENERAL.—The collateral pro-
25 vided by the small business concern shall gen-

1 erally include a subordinate lien position on the
2 property being financed under this title, and is
3 only one of the factors to be evaluated in the
4 credit determination. Additional collateral shall
5 be required only if the Administrator deter-
6 mines, on a case-by-case basis, that additional
7 security is necessary to protect the interest of
8 the Government.

9 “(B) APPRAISALS.—With respect to com-
10 mercial real property provided by the small
11 business concern as collateral, an appraisal of
12 the property by a State licensed or certified ap-
13 praiser—

14 “(i) shall be required by the Adminis-
15 trator before disbursement of the loan if
16 the estimated value of that property is
17 more than \$400,000; or

18 “(ii) may be required by the Adminis-
19 trator or the lender before disbursement of
20 the loan if the estimated value of that
21 property is \$400,000 or less, and such ap-
22 praisal is necessary for appropriate evalua-
23 tion of creditworthiness.

24 “(C) ADJUSTMENT.—The Administrator
25 shall periodically adjust the amount under sub-

1 paragraph (B) to account for the effects of in-
2 flation, provided that no such adjustment shall
3 be less than \$50,000.

4 “(4) LIMITATION ON LEASING.—

5 “(A) If the project funded under this sec-
6 tion includes the acquisition of a facility or the
7 construction of a new facility, the small busi-
8 ness concern—

9 “(i) shall permanently occupy and use
10 not less than 50 percent of the project
11 property; and

12 “(ii) may, on a temporary or perma-
13 nent basis, lease to others not more than
14 50 percent of the project property.

15 “(B) For purposes of this paragraph, the
16 term ‘project property’ means—

17 “(i) the building and any exterior
18 areas used in connection with the building
19 or a part thereof and includes all of the
20 parcels of real property included in the
21 project in the aggregate; and

22 “(ii) occupancy and use of the project
23 property by the operating company shall be
24 deemed to be occupancy and use by the

1 small business concern that received fund-
2 ing under this section.

3 “(d) REGULATIONS.—(1) The Administrator shall
4 promulgate regulations, after notice and comment, to im-
5 plement the provisions of this section within 60 days after
6 enactment of the Small Business Financing and Invest-
7 ment Act of 2009. The Administrator may limit the com-
8 ment period to 15 days to meet this deadline.

9 “(2) If the Administrator fails to promulgate the reg-
10 ulations as provided in paragraph (1), all leases entered
11 into, absent clear and convincing evidence of fraud, shall
12 be deemed to be in compliance with the limitations on leas-
13 ing in this subparagraph for purposes of honoring the
14 guarantee on the debenture issued by the certified develop-
15 ment company.

16 “(3) Any regulation of the Administrator or interpre-
17 tation of any regulation by the Administrator or the Office
18 of Hearings and Appeals that restricts the use of proceeds
19 for leased projects that was in effect on the date of enact-
20 ment of the Small Business Financing and Investment Act
21 of 2009 shall hereby cease to apply.

22 “(4) Any interpretation of the leasing provisions
23 issued by the Administrator prior to the issuance of regu-
24 lations required by paragraph (1) shall be considered null
25 and void and may be not be used in any court of com-

1 petent jurisdiction, be it Federal or State court, to dis-
2 honor any guarantee of a debenture issued by a certified
3 development company for a project funded pursuant to
4 this section.

5 “(e) OWNERSHIP CALCULATION.—Ownership re-
6 quirements to determine the eligibility of a small business
7 concern that applies for funding under this title shall be
8 determined without regard to any ownership interest of
9 a spouse arising solely from the application of the commu-
10 nity property laws of a State for purposes of determining
11 marital interests.

12 “(f) COMBINATION FINANCING.—Financing under
13 this title may be provided to a borrower in the maximum
14 amount provided in this section, and a loan guarantee
15 under section 7(a) of the Small Business Act (15 U.S.C.
16 636(a)) may be provided to the same borrower in the max-
17 imum amount provided in section 7(a)(3)(A) of such Act,
18 to the extent that the borrower otherwise qualifies for such
19 assistance.

20 “(g) RULES FOR DEBENTURES FUNDING PROJECTS
21 IN LOW-INCOME AREAS.—

22 “(1) SIZE STANDARDS.—For purposes of deter-
23 mining the size of a small business concern seeking
24 funds for a project described in subsection (b)(3),
25 the size standard promulgated by the Administrator

1 in section 121.201 of title 13, Code of Federal Reg-
2 ulations, as in effect on January, 1, 2009, or any
3 successor regulation, shall be increased by 25 per-
4 cent.

5 “(2) PERSONAL LIQUIDITY.—

6 “(A) IN GENERAL.—The amount of per-
7 sonal resources of an owner for a project de-
8 scribed in subsection (b)(3) that are excluded
9 from the amount required to reduce the portion
10 of the project funded by the Administrator shall
11 be not less than 25 percent more than that re-
12 quired for funding of any other project de-
13 scribed in subsection (b).

14 “(B) DEFINITION.—For purposes of sub-
15 paragraph (A), the term ‘owner’ means any
16 person that owns not less than 20 percent of
17 the equity or has not less than 20 percent of
18 the voting rights (in the case of a small busi-
19 ness organized as a partnership) of a small
20 business concern seeking funds under this sec-
21 tion.

22 “(h) APPLICABILITY OF CREDIT ELSEWHERE AND
23 PERSONAL RESOURCES REGULATIONS.—Except as pro-
24 vided in subsection (c)(1)(B) with respect to project fund-
25 ing, the Administrator shall be prohibited from applying

1 the regulations set forth in sections 120.101 and 120.102
2 of title 13, Code of Federal Regulations, as in effect on
3 January 1, 2009, or any successor regulation that applies
4 a credit elsewhere or personal resources test to any appli-
5 cation for a loan under this title pending or filed after
6 the date of enactment of the Small Business Financing
7 and Investment Act of 2009.”.

8 **SEC. 219. PRIVATE DEBENTURE SALES AND POOLING OF**
9 **DEBENTURES.**

10 Section 509 of the Small Business Investment Act
11 of 1958 (15 U.S.C. 697f) is amended to read as follows:

12 **“SEC. 509. PRIVATE DEBENTURE SALES AND POOLING OF**
13 **DEBENTURES.**

14 “(a) PRIVATE DEBENTURE SALES.—Notwith-
15 standing any other law, rule, or regulation, the Adminis-
16 trator shall sell to investors, either publicly or by private
17 placement, debentures issued by certified development
18 companies pursuant to this title for the full amount of the
19 program levels authorized in each fiscal year and if there
20 is not authorization of a level, the amount of debentures
21 actually issued.

22 “(b) FEDERAL FINANCING BANK.—Nothing in any
23 provision of law shall be construed to authorize the Fed-
24 eral Financing Bank to acquire—

1 “(1) any obligation the payment of principal or
2 interest on which at any time has been guaranteed
3 in whole or in part under this title and which is
4 being sold pursuant to the provisions of this section;

5 “(2) any obligation which is an interest in any
6 obligation which is an interest in any obligation de-
7 scribed in paragraph (1); or

8 “(3) any obligation which is secured by, or sub-
9 stantially all of the value of which is attributable to,
10 any obligation described in paragraph (1) or (2).

11 “(c) POOLING OF DEBENTURES.—

12 “(1) IN GENERAL.—The Administrator is au-
13 thorized to issue trust certificates representing own-
14 ership of all or a fractional part of debentures issued
15 by certified development companies and guaranteed
16 under this title if such trust certificates are based on
17 and backed by a trust or pool approved by the Ad-
18 ministrator and composed solely of guaranteed de-
19 bentures.

20 “(2) GUARANTEE OF TRUST CERTIFICATES.—

21 The Administrator is authorized, upon such terms
22 and conditions as are deemed appropriate, to guar-
23 antee the timely payment of the principal of and in-
24 terest on trust certificates issued by the Adminis-
25 trator or its agent for purposes of this section. Such

1 guarantee shall be limited to the extent of principal
2 and interest on the guaranteed debentures which
3 compose the trust or pool. In the event that a debenture
4 in such trust or pool is prepaid, either voluntarily
5 or in the event of default, the guarantee of
6 timely payment of principal and interest on the trust
7 certificates shall be reduced in proportion to the
8 amount of principal and interest such prepaid debenture
9 represents in the trust or pool. Interest on prepaid
10 or defaulted debentures shall accrue and be
11 guaranteed by the Administrator only through the
12 date of payment on the guarantee. During the term
13 of the trust certificate, it may be called for redemption
14 due to prepayment or default of all debentures
15 constituting the pool.

16 “(3) FULL FAITH AND CREDIT.—The full faith
17 and credit of the United States is pledged to the
18 payment of all amounts which may be required to be
19 paid under any guarantee of such trust certificates
20 issued by the Administrator or its agent pursuant to
21 this section.

22 “(4) PROHIBITION ON GUARANTEE FEE FOR
23 POOLS.—The Administrator shall not collect any fee
24 for any guarantee under this section, provided that
25 nothing herein shall preclude any agent of the Ad-

1 administrator from collecting a fee approved by the
2 Administrator for the functions performed in para-
3 graph (6)(F).

4 “(5) SUBROGATION.—

5 “(A) IN GENERAL.—In the event the Ad-
6 ministrator pays a claim under a guarantee
7 issued under this section, it shall be subrogated
8 fully to the rights satisfied by such payment.

9 “(B) ADMINISTRATOR EXERCISE OF
10 RIGHTS.—No Federal, State, or local law shall
11 preclude or limit the exercise by the Adminis-
12 trator of its ownership rights in the debentures
13 constituting the trust or pool against which the
14 trust certificates are issued.

15 “(6) CENTRAL REGISTRATION.—

16 “(A) IN GENERAL.—The Administrator
17 shall provide for a central registration of all
18 trust certificates sold pursuant to this section.

19 “(B) CONTRACT.—The Administrator shall
20 contract with an agent to carry out on behalf
21 of the Administrator the central registration
22 functions of this section and the issuance of
23 trust certificates to facilitate pooling.

24 “(C) BOND.—The Administrator shall re-
25 quire the contractor to provide a fidelity bond

1 or insurance in such amounts as is deemed nec-
2 essary to fully protect the interests of the Gov-
3 ernment.

4 “(D) DISCLOSURE REQUIREMENTS.—The
5 Administrator shall, prior to any sale, require
6 the seller to disclose to a purchaser of a trust
7 certificate issued pursuant to this section, infor-
8 mation on terms, conditions, and yield of such
9 instruments.

10 “(E) AUTHORITY TO REGULATE.—The Ad-
11 ministrator shall have the authority to regulate
12 brokers and dealers in trust certificates sold
13 pursuant to this section.

14 “(F) BOOK ENTRY PERMITTED.—Nothing
15 in this paragraph shall prohibit the utilization
16 of a book-entry or other electronic form of reg-
17 istration for trust certificates.”.

18 **SEC. 220. FORECLOSURE AND LIQUIDATION OF LOANS.**

19 Section 510 of the Small Business Investment Act
20 of 1958 (15 U.S.C. 697g) is amended to read as follows:

21 **“SEC. 510. FORECLOSURE AND LIQUIDATION OF LOANS.**

22 “(a) DELEGATION OF AUTHORITY.—In accordance
23 with this section, the Administrator shall delegate to any
24 certified development company that meets the eligibility
25 requirements of subsection (b)(1), the authority to fore-

1 close and liquidate, or to otherwise treat in accordance
2 with this section, defaulted loans in its portfolio that are
3 funded with the proceeds of debentures guaranteed by the
4 Administrator pursuant to this title.

5 “(b) ELIGIBILITY FOR DELEGATION.—

6 “(1) REQUIREMENTS.—A certified development
7 company shall be eligible for a delegation of author-
8 ity under subsection (a) if—

9 “(A) the certified development company—

10 “(i) has participated in the loan liq-
11 uidation pilot program established by the
12 Small Business Programs Improvement
13 Act of 1996 (15 U.S.C. 695 note), before
14 the enactment of the Small Business Fi-
15 nancing and Investment Act of 2009;

16 “(ii) is an accredited or premier cer-
17 tified development company; or

18 “(iii) during the 3 fiscal years imme-
19 diately prior to seeking such a delegation,
20 has made an average of not less than 10
21 loans per year that are funded with the
22 proceeds of debentures guaranteed under
23 this title; and

24 “(B) the certified development company—

25 “(i) has one or more employees—

1 “(I) with not less than 2 years of
2 substantive, decisionmaking experi-
3 ence in administering the liquidation
4 and workout of problem loans secured
5 in a manner substantially similar to
6 loans funded with the proceeds of de-
7 bentures guaranteed under this title;
8 and

9 “(II) who have completed a train-
10 ing program on loan liquidation devel-
11 oped by the Administrator in conjunc-
12 tion with a certified development com-
13 pany that meet the requirements of
14 this paragraph; or

15 “(ii) submits to the Administrator
16 documentation demonstrating that the
17 company has contracted with a qualified
18 third party to perform any liquidation ac-
19 tivities and secures the approval of the
20 contract by the Administrator with respect
21 to the qualifications of the contractor and
22 the terms and conditions of liquidation ac-
23 tivities.

24 “(2) CONFIRMATION.—On the request, the Ad-
25 ministrator shall examine the qualifications of any

1 certified development company described in sub-
2 section (a) to determine if such company is eligible
3 for the delegation of authority under this section. If
4 the Administrator determines that a company is not
5 eligible, the Administrator shall provide the com-
6 pany, in writing, with the reasons for such ineligi-
7 bility. The certified development company shall be
8 entitled to request delegated authority and the Ad-
9 ministrator shall review the request only to address
10 whether the certified development company has rec-
11 tified the reasons for the Administrator’s original
12 determination of ineligibility.

13 “(c) SCOPE OF DELEGATED AUTHORITY.—

14 “(1) IN GENERAL.—Each certified development
15 company to which the Administrator delegates au-
16 thority under subsection (a) may with respect to any
17 loan described in subsection (a)—

18 “(A) perform all liquidation and fore-
19 closure functions, including the purchase in ac-
20 cordance with this subsection of any other in-
21 debtedness secured by the property securing the
22 loan, in a reasonable and sound manner accord-
23 ing to commercially accepted practices, pursu-
24 ant to a liquidation plan approved in advance
25 by the Administrator under paragraph (2)(A);

1 “(B) litigate any matter relating to the
2 performance of the functions described in sub-
3 paragraph (A), except that the Administrator
4 may—

5 “(i) defend or bring any claim if—

6 “(I) the outcome of the litigation
7 may adversely affect the Administra-
8 tor’s management of the program es-
9 tablished under this title; or

10 “(II) the Administrator is enti-
11 tled to legal remedies not available to
12 a certified development company and
13 such remedies will benefit either the
14 Administrator or the certified develop-
15 ment company; and

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

18 “(C) take other appropriate actions to
19 mitigate loan losses in lieu of total liquidation
20 or foreclosures, including the restructuring of a
21 loan in accordance with prudent loan servicing
22 practices and pursuant to a workout plan ap-
23 proved in advance by the Administrator under
24 paragraph (2).

25 “(2) ADMINISTRATOR APPROVAL OF PLANS.—

1 “(A) CERTIFIED DEVELOPMENT COMPANY
2 SUBMISSION OF PLANS.—Before carrying out
3 functions described in paragraph (1)(A) or
4 (1)(C), the certified development company shall
5 submit to the Administrator a proposed liquida-
6 tion plan, any proposal for the Administrator to
7 the purchase of any other indebtedness secured
8 by the property securing a defaulted loan, or a
9 workout plan or any combination thereof.

10 “(B) ADMINISTRATOR APPROVAL PROCE-
11 DURES.—

12 “(i) TIMING.—Not later than 15 busi-
13 ness days after the plans described in sub-
14 paragraph (A) are received by the Admin-
15 istrator, the Administrator shall approve or
16 reject the plan.

17 “(ii) NOTICE OF NO DECISION.—With
18 respect to any plan that cannot be ap-
19 proved or denied within the 15-day period
20 required by clause (i), the Administrator
21 shall within such period provide in accord-
22 ance with subparagraph (E) notice to the
23 company that submitted the plan.

24 “(C) ROUTINE ACTIONS.—In carrying out
25 the functions described in paragraph (1)(A), a

1 certified development company may undertake
2 routine actions not addressed in a liquidation or
3 workout plan without obtaining additional ap-
4 proval from the Administrator.

5 “(D) COMPROMISE OF INDEBTEDNESS.—

6 In carrying out functions described in para-
7 graph (1)(A), a certified development company
8 may—

9 “(i) consider an offer made by an obli-
10 gor to compromise the debt for less than
11 the full amount owing; and

12 “(ii) pursuant to such offer, release
13 any obligor or other party contingently lia-
14 ble, if the company secures the written ap-
15 proval of the Administrator.

16 “(E) CONTENTS OF NOTICE OF NO DECI-
17 SION.—Any notice provided by the Adminis-
18 trator pursuant to subparagraph (B)(ii) shall—

19 “(i) be in writing stating the specific
20 reasons for which the Administrator was
21 unable to act on the request submitted
22 pursuant to subparagraph (A);

23 “(ii) provide an estimate of the addi-
24 tional time needed for the Administrator to
25 reach a decision on the request; and

1 “(iii) specify any additional informa-
2 tion or documentation that the Adminis-
3 trator needs to make a decision but was
4 not provided in the plan submitted by the
5 certified development company.

6 “(3) CONFLICT OF INTEREST.—In carrying out
7 functions described in paragraph (1), a certified de-
8 velopment company shall take no action that would
9 result in an actual or apparent conflict of interest
10 between the company (or any employee of the com-
11 pany) and any third-party lender, associate of a
12 third-party lender, or any other person participating
13 in a liquidation, foreclosure, or loss mitigation ac-
14 tion.

15 “(d) SUSPENSION OR REVOCATION OF AUTHOR-
16 ITY.—

17 “(1) IN GENERAL.—The Administrator may re-
18 voke or suspend a delegation of authority under this
19 section to a certified development company if the
20 Administrator determines that the company—

21 “(A) does not meet the requirements of
22 subsection (b)(1);

23 “(B) violated any applicable law or rule or
24 regulation of the Administrator that in the esti-

1 mation of the Administrator requires revoca-
2 tion; or

3 “(C) fails to comply with any reporting
4 that may be established by the Administrator
5 relating to the establishment of eligibility in
6 subsection (b)(1) or carrying out the functions
7 described in subsection (c)(1).

8 “(2) WRITTEN NOTICE.—The Administrator
9 shall provide in writing detailed reason why the dele-
10 gation of authority was suspended or revoked.

11 “(e) PARTICIPATION IN LIQUIDATION.—

12 “(1) IN GENERAL.—

13 “(A) CONTRACT WITH QUALIFIED THIRD
14 PARTY.—A certified development company
15 which elects not to apply for authority to fore-
16 close and liquidate defaulted loans under this
17 section, or which the Administrator determines
18 to be ineligible for such authority, shall contract
19 with a qualified third party to perform fore-
20 closure and liquidation of defaulted loans in its
21 portfolio.

22 “(B) CONTRACT APPROVAL.—The contract
23 entered into by the certified development com-
24 pany specified in subparagraph (A) shall be
25 contingent upon approval by the Administrator

1 with respect to the qualifications of the con-
2 tractor and the terms and conditions of liquida-
3 tion activities. The Administrator shall not un-
4 reasonably withhold such approval.

5 “(C) NOTIFICATION OF REJECTION.—If
6 the Administrator rejects the contract, the Ad-
7 ministrator shall provide a notice to the cer-
8 tified development company, in writing, explain-
9 ing the reasons for such rejection within ten
10 business days after submission of the contract.

11 “(D) RESUBMITTAL.—The certified devel-
12 opment company shall be permitted to resubmit
13 the contract and the Administrator’s review of
14 any such resubmittal shall be limited to
15 insufficiencies described in the notification of
16 rejection.

17 “(E) REGULATIONS.—The Administrator
18 shall promulgate regulations, after notice and
19 opportunity for comment, adopting standards
20 for the approval of qualified third-party con-
21 tractors within 90 days after the date of enact-
22 ment of the Small Business Financing and In-
23 vestment Act of 2009.

24 “(F) FAILURE TO PROMULGATE REGULA-
25 TIONS.—If the Administrator fails to promul-

1 gate such regulations, any contract for liquida-
2 tion entered into by a certified development
3 company under this subsection shall be consid-
4 ered valid for the purposes of this subsection
5 and subsection (f).

6 “(G) EFFECT OF ADMINISTRATOR’S PRO-
7 MULGATION OF REGULATIONS.—If the Adminis-
8 trator promulgates regulations after the dead-
9 line specified in subparagraph (E), those regu-
10 lations shall not have any retroactive applica-
11 tion with respect to contracts that are described
12 in subparagraph (F).

13 “(2) COMMENCEMENT.—This subsection shall
14 not require any certified development company to
15 liquidate defaulted loans until the Administrator im-
16 plements a system to compensate and reimburse cer-
17 tified development companies for liquidation of any
18 defaulted loans.

19 “(f) COMPENSATION AND REIMBURSEMENT.—

20 “(1) REIMBURSEMENT OF EXPENSES.—The
21 Administrator shall reimburse each certified develop-
22 ment company for all expenses paid by such com-
23 pany as part of the foreclosure and liquidation ac-
24 tivities taken to carry out this section, if the ex-
25 penses—

1 “(A) were—

2 “(i) approved in advance by the Ad-
3 ministrator, either specifically in a plan
4 submitted pursuant to subsection (c) or
5 generally, such as, but not limited to, ac-
6 tions approved by the Administrator in
7 regulations or other interpretative
8 issuances; or

9 “(ii) incurred by the development
10 company on an emergency basis without
11 prior approval from the Administrator, if
12 the Administrator determines that the ex-
13 penses were reasonable and appropriate;
14 and

15 “(B) are submitted by the certified devel-
16 opment company to the Administrator not later
17 than 3 years after the date the expense was in-
18 curred or the bill therefore is submitted to the
19 certified development company, whichever is
20 later.

21 “(2) ALTERNATIVE REIMBURSEMENT.—As an
22 alternative to the procedure in paragraph (1), a cer-
23 tified development company may elect to obtain re-
24 imbursement for all such expenses from the proceeds
25 of any collateral provided by the borrower that was

1 liquidated by the certified development company if
2 the expenses comply with the requirements of para-
3 graph (1). Within 6 months of the reimbursement,
4 the certified development company shall provide the
5 Administrator with the same information and docu-
6 mentation it would be required to submit to obtain
7 payment from the Administrator.

8 “(3) REGULATIONS.—The Administrator shall
9 promulgate regulations, after notice and comment to
10 carry out the provisions of paragraphs (1) and (2).
11 If the Administrator does not promulgate such regu-
12 lations within one year, certified development compa-
13 nies shall be authorized, notwithstanding the re-
14 quirements of subsection (e)(2), to liquidate de-
15 faulted loans and such costs and expenses incurred,
16 absent clear and convincing evidence of fraud, shall
17 be deemed to be approved.

18 “(4) COMPENSATION FOR RESULTS.—

19 “(A) DEVELOPMENT.—In regulations pro-
20 mulgated pursuant to paragraph (3), the Ad-
21 ministrator also shall develop a schedule of
22 compensation that provides monetary incentives
23 for certified development companies in order to
24 increase recoveries on defaulted loans.

25 “(B) CRITERIA.—The schedule shall—

1 “(i) be based on a percentage of the
2 net amount recovered, but shall not exceed
3 a maximum amount; and

4 “(ii) not apply to any foreclosure
5 which is conducted under a contract be-
6 tween a certified development company and
7 a qualified third party to perform the fore-
8 closure and liquidation.

9 “(C) PAYMENT.—The Administrator shall
10 transmit the compensation provided herein to
11 the development company from the proceeds of
12 liquidated collateral, unless the Administrator
13 utilizes another source for funds, within 30
14 days from the date when the liquidation case
15 has been closed and documentation received.”.

16 **SEC. 221. REPORTS AND REGULATIONS.**

17 Title V of the Small Business Investment Act of 1958
18 (15 U.S.C. 695 et seq.) is amended by adding at the end
19 the following:

20 **“SEC. 511. REPORTS.**

21 “(a) PREMIER CERTIFIED DEVELOPMENT COMPA-
22 NIES.—The Administrator shall report annually to the
23 Committee on Small Business of the House of Representa-
24 tives and the Committee on Small Business and Entrepre-

1 neurship of the Senate on the implementation of section
2 504. Each report shall include—

3 “(1) the number of premier certified develop-
4 ment companies;

5 “(2) the debenture volume of each premier cer-
6 tified development company;

7 “(3) a comparison of the loss rate for premier
8 certified development companies to the loss rate for
9 accredited or certified development companies; and

10 “(4) such other information as the Adminis-
11 trator deems appropriate.

12 “(b) REPORTS ON LIQUIDATION AND FORE-
13 CLOSURES.—

14 “(1) IN GENERAL.—Based on information pro-
15 vided by certified development companies and the
16 Administrator, the Administrator shall submit annu-
17 ally to the Committee on Small Business and Entre-
18 preneurship of the Senate and the Committee on
19 Small Business of the House of Representatives a
20 report on the results of delegation of authority under
21 section 510.

22 “(2) CONTENTS.—Each report submitted under
23 paragraph (1) shall include the following informa-
24 tion:

1 “(A) With respect to each loan foreclosed
2 or liquidated by a certified development com-
3 pany, or for which losses were otherwise miti-
4 gated by pursuant to a workout plan—

5 “(i) the total cost of the project fi-
6 nanced with the loan;

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

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

12 “(iv) the total dollar losses resulting
13 from the liquidation, foreclosure, or mitiga-
14 tion of loss; and

15 “(v) the total recoveries resulting
16 from the liquidation, foreclosure, or mitiga-
17 tion of loss, both as a percentage of the
18 amount guaranteed and the total cost of
19 the project financed.

20 “(B) With respect to each certified devel-
21 opment company to which authority is dele-
22 gated under section 510, the totals of each of
23 the amounts described in clauses (i) through (v)
24 of subparagraph (A).

1 “(C) With respect to each certified devel-
2 opment company that contracts with a qualified
3 third-party contractor pursuant to section
4 510(e), the total of each of the amounts de-
5 scribed in clauses (i) through (v) of subpara-
6 graph (A).

7 “(D) With respect to all loans subject to
8 foreclosure, liquidation, or mitigation under sec-
9 tion 510, the totals of each of the amounts de-
10 scribed in clauses (i) through (v) of subpara-
11 graph (A).

12 “(E) A comparison between—

13 “(i) the information provided under
14 subparagraph (D) with respect to the 12-
15 month period preceding the date on which
16 the report is submitted; and

17 “(ii) the same information with re-
18 spect to loans foreclosed and liquidated, or
19 otherwise treated, by the Administrator
20 during the same period.

21 “(F) The number of times that the Admin-
22 istrator has failed to approve or reject a liq-
23 uidation plan, workout plan, request to pur-
24 chase indebtedness, or failed to approve a third-
25 party contractor under section 510, including

1 specific information regarding the reasons for
2 the Administrator’s failure and any delays that
3 resulted.

4 “(c) REPORTS ON COMBINATION FINANCING.—Not
5 later than 90 days after the date of enactment of the
6 Small Business Financing and Investment Act of 2009,
7 and annually thereafter, the Administrator shall submit
8 a report to the Committee on Small Business and Entre-
9 preneurship of the Senate and the Committee on Small
10 Business of the House of Representatives that—

11 “(1) includes the number of small business con-
12 cerns that have financing under both section 7(a) of
13 the Small Business Act (15 U.S.C. 636(a)) and title
14 V of the Small Business Investment Act of 1958 (15
15 U.S.C. 695 et seq.) during the year before the year
16 of that report; and

17 “(2) describes the total amount and general
18 performance of the financing described in paragraph
19 (1).

20 “(d) REPORT ON OTHER ECONOMIC DEVELOPMENT
21 ACTIVITY.—The Administrator shall compile and submit
22 to the Committee on Small Business of the House of Rep-
23 resentatives and the Committee on Small Business and
24 Entrepreneurship of the Senate on an annual basis, com-
25 mencing in the year that the Small Business Financing

1 and Investment Act of 2009 is enacted, a report that de-
2 scribes the economic and community development activi-
3 ties, other than loan making under this title, of each cer-
4 tified development company during the prior fiscal year.
5 The Administrator may contract with another party, in-
6 cluding non-governmental entities, to collect information
7 or otherwise assist in the preparation of the report re-
8 quired by this subsection.

9 **“SEC. 512. PROMULGATION OF REGULATIONS UNDER THIS**
10 **TITLE.**

11 “(a) DEADLINES FOR IMPLEMENTING REGULA-
12 TIONS.—Except as expressly provided elsewhere in the
13 Small Business Financing and Investment Act of 2009,
14 the Administrator shall promulgate regulations under this
15 title, after providing notice and the opportunity for com-
16 ment, within 180 days after the date of enactment of that
17 Act.

18 “(b) NOTICE AND COMMENT REQUIREMENTS IN
19 GENERAL.—Except as otherwise provided elsewhere in
20 this title, the Administrator shall provide, after the date
21 of enactment of the Small Business Financing and Invest-
22 ment Act of 2009, notice of any proposed change to a reg-
23 ulation implementing this title (whether in existence on
24 the date of enactment of the Small Business Financing
25 and Investment Act of 2009 or subsequently adopted),

1 publish such notification in the Federal Register, and pro-
2 vide a comment period of not less than 60 days.”.

3 **SEC. 222. PROGRAM NAME.**

4 Title V of the Small Business Investment Act of 1958
5 (15 U.S.C. 695 et seq.), as amended by this Act, is further
6 amended by adding at the end the following:

7 **“SEC. 513 PROGRAM NAME.**

8 “(a) IN GENERAL.—The program created by this
9 title shall be referred to as the CDC Economic Develop-
10 ment Loan Program.

11 “(b) MODIFICATION OF MATERIALS USED.—Not
12 later than 60 days after the date of enactment of the
13 Small Business Financing and Investment Act of 2009,
14 the Administrator shall modify all documents and websites
15 to conform to the name change made by this section.”.

16 **Subtitle C—Miscellaneous**

17 **SEC. 231. REPORT ON STANDARD OPERATING PROCE-**
18 **DURES.**

19 (a) REPORT.—The Administrator of the Small Busi-
20 ness Administration shall submit to the Committee on
21 Small Business of the House of Representatives and the
22 Committee on Small Business and Entrepreneurship of
23 the Senate a report within 180 days after enactment of
24 this Act identifying each Standard Operating Procedure
25 issued after January 1, 1996, that relates to the operation

1 of a development company (in any manner) under title V
2 of the Small Business Investment Act of 1958, that is still
3 in effect on the date of enactment of this Act, and the
4 regulation codified in title 13 of the Code of Federal Regu-
5 lations that authorizes the issuance of the Standard Oper-
6 ating Procedure and separately identifies the regulation
7 that the Standard Operating Procedure purports to inter-
8 pret.

9 (b) INAPPLICABILITY.—If the Administrator fails to
10 complete the report by the time specified in subsection (a),
11 the Administrator shall, unless there is clear and con-
12 vincing evidence of fraud, honor the terms and conditions
13 of any debenture to the entity that issued the debenture
14 pursuant to title V of the Small Business Investment Act
15 of 1958 without regard to whether the entity complied
16 with any of the Standard Operating Procedures described
17 in subsection (a) until such time as the Administrator sub-
18 mits the report required under subsection (a).

19 (c) DEFINITION.—For purposes of this section, the
20 term “Standard Operating Procedure” has the meaning
21 given that term in section 120.10 of title 13, Code of Fed-
22 eral Regulations, as in effect on January 1, 2009, and
23 includes any reference to the acronym “SOP”.

24 **SEC. 232. ALTERNATIVE SIZE STANDARD.**

25 (a) REVIEW AND STUDY.—

1 (1) IN GENERAL.—The Administrator of the
2 Small Business Administration shall study and re-
3 view the optional size standard set forth in section
4 121.301(b) of title 13, Code of Federal Regulations,
5 as in effect on January 1, 2009, for eligibility of a
6 small business concern for financing under title V of
7 the Small Business Investment Act of 1958.

8 (2) CONTENTS.—The review shall analyze
9 whether the alternative size standard includes the
10 business concerns defined in section 3(a)(1) of the
11 Small Business Act and what, if any, regulatory
12 changes are needed in the alternative size standard.

13 (3) SUBMISSION TO CONGRESS.—The Adminis-
14 trator shall submit its study and conclusions within
15 180 days after the date of enactment of the Small
16 Business Financing and Investment Act of 2009 to
17 the Committee on Small Business and Entrepre-
18 neurship of the Senate and the Committee on Small
19 Business of the House of Representatives.

20 (b) ISSUANCE OF REGULATIONS.—Any changes in
21 the optional size standard described in subsection (a)(1)
22 shall be promulgated within 180 days of the submission
23 of the report to committees referred to in paragraph (3)
24 of subsection (a).

1 (c) INTERIM ALTERNATIVE SIZE STANDARD.—Until
2 the Administrator promulgates regulations either re-
3 adopting the size standard referred to in subsection (a)(1)
4 or adopts a new alternative size standard, the alternative
5 size standard shall be a maximum tangible net worth of
6 not more than \$15,000,000 and an average net income
7 after the payment of Federal taxes (but excluding any car-
8 ryover losses) for the preceding two fiscal years not more
9 than \$5,000,000.

10 **TITLE III—MICROLENDING**
11 **EXPANSION**

12 **SEC. 301. MICROLOAN CREDIT BUILDING INITIATIVE.**

13 Section 7(m) of the Small Business Act (15 U.S.C.
14 636(m)) is amended by adding at the end the following:

15 “(14) CREDIT REPORTING INFORMATION.—The
16 Administrator shall establish a process, for use by
17 an intermediary making a loan to a borrower under
18 this subsection, under which the intermediary shall
19 provide to the major credit reporting agencies the in-
20 formation about the borrower, both positive and neg-
21 ative, that is relevant to credit reporting, such as the
22 payment activity of the borrower on the loan. Such
23 process shall allow an intermediary the option of
24 providing information to the major credit reporting

1 agencies through the Administration or independ-
2 ently.”.

3 **SEC. 302. FLEXIBLE CREDIT TERMS.**

4 Section 7(m) of the Small Business Act (15 U.S.C.
5 636(m)), as amended by this Act, is further amended—

6 (1) in paragraph (1)(B)(i) by striking “short-
7 term,”;

8 (2) in paragraph (6)(A) by striking “short-
9 term,”; and

10 (3) in paragraph (11)(B) by striking “short-
11 term,”.

12 **SEC. 303. INCREASED PROGRAM PARTICIPATION.**

13 Section 7(m)(2) of the Small Business Act (15
14 U.S.C. 636(m)(2)) is amended—

15 (1) in subparagraph (A) by striking “paragraph
16 (10)” and inserting “paragraph (11)”; and

17 (2) by amending subparagraph (B) to read as
18 follows:

19 “(B) has—

20 “(i) at least—

21 “(I) 1 year of experience making
22 microloans to startup, newly estab-
23 lished, or growing small business con-
24 cerns; or

1 “(II) 1 full-time employee who
2 has not less than 3 years of experi-
3 ence making microloans to startup,
4 newly established, or growing small
5 business concerns; and

6 “(ii) at least—

7 “(I) 1 year of experience pro-
8 viding, as an integral part of its
9 microloan program, intensive mar-
10 keting, management, and technical as-
11 sistance to its borrowers; or

12 “(II) 1 full-time employee who
13 has not less than 1 year of experience
14 providing intensive marketing, man-
15 agement, and technical assistance to
16 borrowers.”.

17 **SEC. 304. INCREASED LIMIT ON INTERMEDIARY BOR-**
18 **ROWING.**

19 Section 7(m)(3)(C) of the Small Business Act (15
20 U.S.C. 636(m)(3)(C)) is amended—

21 (1) by striking “\$750,000” and inserting
22 “\$1,000,000”;

23 (2) by striking “\$3,500,000” and inserting
24 “\$7,000,000”; and

1 (3) by adding at the end the following: “The
2 Administrator may treat the amount of \$7,000,000
3 in this subparagraph as if such amount is
4 \$10,000,000 if the Administrator determines, with
5 respect to an intermediary, that such treatment is
6 appropriate.”.

7 **SEC. 305. EXPANDED BORROWER EDUCATION ASSISTANCE.**

8 Section 7(m)(4)(E) of the Small Business Act (15
9 U.S.C. 636(m)(4)(E)) is amended—

10 (1) in clause (i) by striking “25 percent” and
11 inserting “35 percent”; and

12 (2) in clause (ii) by striking “25 percent” and
13 inserting “35 percent”.

14 **SEC. 306. YOUNG ENTREPRENEURS PROGRAM.**

15 Section 7(m)(4) of the Small Business Act (15
16 U.S.C. 636(m)(4)) is amended by adding at the end the
17 following:

18 “(G) YOUNG ENTREPRENEURS PRO-
19 GRAM.—

20 “(i) IN GENERAL.—An intermediary
21 that receives a grant under paragraph
22 (1)(B)(ii) may establish a program for the
23 geographic area served by such inter-
24 mediary that provides to young entre-

preneurs technical assistance regarding the following:

“(I) Establishing or operating a small business concern in the geographic area served by the intermediary.

“(II) Acquiring or securing financing to carry out the activities described in subclause (I).

“(ii) YOUNG ENTREPRENEUR DEFINED.—For purposes of this subparagraph, a young entrepreneur is an individual who—

“(I) is 25 years of age or younger; and

“(II) has resided in the geographic area served by the intermediary for not less than 2 years.

“(iii) GOOD FAITH EFFORT REQUIREMENT.—If a young entrepreneur who receives technical assistance under this subparagraph from an intermediary establishes or operates a small business concern, the young entrepreneur shall make a good faith effort to establish or operate such

1 concern in the geographic area served by
2 the intermediary.

3 “(iv) DEFERRED REPAYMENT.—If a
4 small business concern established or oper-
5 ated by a young entrepreneur receives a
6 loan under this subsection, such concern
7 may defer repayment on such loan for a
8 period of not more than 6 months begin-
9 ning on the date that such concern receives
10 the final disbursement of such loan.”.

11 **SEC. 307. INTEREST RATES AND LOAN SIZE.**

12 Section 7(m) of the Small Business Act (15 U.S.C.
13 636(m)), as amended by this Act, is further amended—

14 (1) in paragraph (3)(F)(iii) by striking
15 “\$7,500” and inserting “\$10,000”;

16 (2) in paragraph (6)(C)(i) by striking “\$7,500”
17 and inserting “\$10,000”; and

18 (3) in paragraph (6)(C)(ii) by striking
19 “\$7,500” and inserting “\$10,000”.

20 **SEC. 308. REPORTING REQUIREMENT.**

21 Section 7(m) of the Small Business Act (15 U.S.C.
22 636(m)), as amended by this Act, is further amended by
23 adding at the end the following:

24 “(15) REPORTING REQUIREMENT.—Not later
25 than 90 days after the end of each fiscal year, the

1 Administrator shall submit to the Committee on
2 Small Business of the House of Representatives and
3 the Committee on Small Business and Entrepre-
4 neurship of the Senate a report that includes, with
5 respect to such fiscal year of the microloan program,
6 the following:

7 “(A) The names and locations of each
8 intermediary that received funds to make
9 microloans or provide marketing, management,
10 and technical assistance.

11 “(B) The amounts of each loan and each
12 grant provided to each such intermediary in
13 such fiscal year and in prior fiscal years.

14 “(C) A description of the contributions
15 from non-Federal sources of each such inter-
16 mediary.

17 “(D) The number and amounts of
18 microloans made by each such intermediary to
19 all borrowers and to each of the following:

20 “(i) Women entrepreneurs and busi-
21 ness owners.

22 “(ii) Low-income entrepreneurs and
23 business owners.

24 “(iii) Veteran entrepreneurs and busi-
25 ness owners.

1 “(iv) Disabled entrepreneurs and busi-
2 ness owners.

3 “(v) Minority entrepreneurs and busi-
4 ness owners.

5 “(E) A description of the marketing, man-
6 agement, and technical assistance provided by
7 each such intermediary to all borrowers and to
8 each of the following:

9 “(i) Women entrepreneurs and busi-
10 ness owners.

11 “(ii) Low-income entrepreneurs and
12 business owners.

13 “(iii) Veteran entrepreneurs and busi-
14 ness owners.

15 “(iv) Disabled entrepreneurs and busi-
16 ness owners.

17 “(v) Minority entrepreneurs and busi-
18 ness owners.

19 “(F) The number of jobs created and re-
20 tained as a result of microloans and marketing,
21 management, and technical assistance provided
22 by each such intermediary.

23 “(G) The repayment history of each such
24 intermediary.

1 “(H) The number of businesses that
2 achieved success after receipt of a microloan.”.

3 **SEC. 309. SURPLUS INTEREST RATE SUBSIDY FOR BUSI-**
4 **NESSES.**

5 Section 7(m) of the Small Business Act (15 U.S.C.
6 636(m)), as amended by this Act, is further amended by
7 adding at the end the following:

8 “(16) INTEREST ASSISTANCE.—The Adminis-
9 trator is authorized to make grants to intermediaries
10 for the purposes of reducing interest rates charged
11 to borrowers that receive financing under this sub-
12 section.”.

13 **SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

14 Section 20 of the Small Business Act (15 U.S.C. 631
15 note), as amended by this Act, is further amended by in-
16 serting after subsection (g) the following:

17 “(h) FISCAL YEARS 2010 AND 2011 WITH RESPECT
18 TO SECTION 7(m).—

19 “(1) PROGRAM LEVELS.—For the programs au-
20 thorized by this Act, the Administration is author-
21 ized to make during each of fiscal years 2010 and
22 2011—

23 “(A) \$80,000,000 in technical assistance
24 grants, as provided in section 7(m); and

1 “(B) \$110,000,000 in direct loans, as pro-
2 vided in section 7(m).

3 “(C) \$10,000,000 in interest assistance
4 grants, as provided in section 7(m)(16).

5 “(2) AUTHORIZATION OF APPROPRIATIONS.—

6 There is authorized to be appropriated such sums as
7 may be necessary to carry out paragraph (1).”.

8 **TITLE IV—SMALL BUSINESS IN-**
9 **VESTMENT COMPANY MOD-**
10 **ERNIZATION**

11 **SEC. 401. INCREASED INVESTMENT FROM STATES.**

12 Section 103(13)(C) of the Small Business Investment
13 Act of 1958 (15 U.S.C. 662(13)(C)) is amended by strik-
14 ing “33 percent” and inserting “45 percent”.

15 **SEC. 402. EXPEDITED LICENSING FOR EXPERIENCED AP-**
16 **PLICANTS.**

17 Section 301 of the Small Business Investment Act
18 of 1958 (15 U.S.C. 681) is amended by inserting after
19 subsection (e) the following:

20 “(d) LICENSES FOR EXPERIENCED APPLICANTS.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of this section, not later than 60 days after
23 the initial receipt by the Administrator of any re-
24 quest (which shall be deemed to be the application)
25 for a license to operate as a small business invest-

1 ment company under this Act, the Administrator
2 shall approve the request and issue such license if
3 each of the following requirements is satisfied:

4 “(A) At least 50 percent of the principal
5 managers of the applicant consist of at least
6 two-thirds of the principal managers of a small
7 business investment company that has been li-
8 censed under this Act.

9 “(B) The licensed small business invest-
10 ment company specified under subparagraph
11 (A) has operated under such license for at least
12 3 years prior to the receipt of the request speci-
13 fied in this paragraph.

14 “(C) The licensed small business invest-
15 ment company specified under subparagraph
16 (A)—

17 “(i) either has invested at least 70
18 percent of its private capital and drawn at
19 least 50 percent of its projected leverage at
20 the time of the receipt of the request speci-
21 fied in this paragraph or reserved for in-
22 vestment and expenses or some combina-
23 tion of both at least 70 percent of its pri-
24 vate capital in the one-year period prior to
25 the date on which the application referred

1 to in this paragraph was received by the
2 Administrator;

3 “(ii) has maintained 6 consecutive
4 quarters of profitable net investment in-
5 come; and

6 “(iii) has made at least 3 exits from
7 investments in small businesses that have
8 realized profits from those respective in-
9 vestments.

10 “(D) The applicant submits to the Admin-
11 istrator, in writing, an application consisting of
12 all of the following:

13 “(i) A certification, in the form pre-
14 scribed by the Administrator, that such ap-
15 plicant satisfies the requirements of this
16 subsection and that all information con-
17 tained in the application is true and com-
18 plete.

19 “(ii) A copy of the organizational doc-
20 uments of the applicant.

21 “(iii) A copy of the operating plan of
22 the applicant demonstrating that at least
23 50 percent of the amount of the planned
24 investments of the applicant will be in the
25 same or substantially similar investment

1 stage and use the same or substantially
2 similar type of investment instruments as
3 the investments of the licensed small busi-
4 ness investment company specified under
5 subparagraph (A).

6 “(iv) A certification, in a form pre-
7 scribed by the Administrator, that the ap-
8 plicant satisfies the requirements of sub-
9 sections (a) and (c) of section 302 of this
10 Act.

11 “(E) The applicant is in good standing as
12 set forth in paragraph (2).

13 “(F) The applicant pays all fees prescribed
14 by the Administrator under subsection (e).

15 “(2) GOOD STANDING.—For purposes of this
16 subsection, an applicant is in good standing if—

17 “(A) a licensed leveraged or non-leveraged
18 small business investment company specified
19 under paragraph (1)(A) is actively operating
20 under this Act on the date of the initial receipt
21 of the application by the Administrator to
22 which this subsection applies;

23 “(B) no principal manager of the applicant
24 has been found liable in a civil action for fraud
25 if the Administrator makes a reasonable deter-

1 mination based on evidence in the agency
2 record that such liability has a material adverse
3 effect on the ability of the applicant to perform
4 obligations required by a license issued pursu-
5 ant to this Act; and

6 “(C) no principal manager is under inves-
7 tigation by a governmental agency or authority
8 for, is under indictment for, or has been con-
9 victed of a felony for a violation of Federal or
10 State securities laws, fraud, or another criminal
11 violation if such investigation, indictment, or
12 conviction has a material adverse effect on the
13 ability of the applicant to perform obligations
14 under a license issued under this Act.

15 “(3) LIMITATION.—

16 “(A) IN GENERAL.—The Administrator
17 may remove an application from the approval
18 process under this subsection if the Adminis-
19 trator determines based on evidence in the
20 agency record that the approval of the license
21 would present an unacceptable risk to the Fed-
22 eral Government.

23 “(B) IN WRITING.—Such determination
24 shall be made in writing and provided to the
25 applicant no later than 10 calendar days after

1 such determination is made. Failure to provide
2 this determination to the applicant shall be
3 deemed to be a permanent waiver of the Admin-
4 istrator’s authority to remove an application
5 pursuant to this subsection.

6 “(C) NON-DELEGABILITY.—The Adminis-
7 trator may rely on agency personnel to collect
8 data or other material relevant to establishing
9 a record, but the decision to remove the appli-
10 cation may not be delegated by the Adminis-
11 trator to any subordinate personnel in the agen-
12 cy.

13 “(4) NOTICE AND OPPORTUNITY TO CURE NON-
14 CONFORMANCE.—

15 “(A) NOTICE OF NON-CONFORMANCE.—
16 Except for a determination made pursuant to
17 paragraph (3), the Administrator shall provide
18 an applicant described in paragraph (1) within
19 60 days after receipt of the application a writ-
20 ten notice and description of any nonconform-
21 ance with any requirement of this subsection
22 based on evidence in the agency record.

23 “(B) OPPORTUNITY TO CURE.—The appli-
24 cant shall have 30 days following the receipt of
25 notice of nonconformance or the receipt of re-

1 moval as set forth in paragraph (3) to cure
2 such nonconformance.

3 “(C) FAILURE TO PROVIDE NOTICE.—Fail-
4 ure to provide the notice within the time limit
5 set forth in subparagraph (A) shall be deemed
6 to be acceptance by the Administrator of the
7 applicant’s conformance with the requirements
8 of this subsection.

9 “(5) BACKGROUND REVIEWS.—The Adminis-
10 trator shall ensure that a timely background check
11 of the principal managers of each applicant is com-
12 pleted with respect to paragraphs (2)(B) and (2)(C).

13 “(6) FEES.—The Administrator may charge an
14 applicant additional fees for carrying out the back-
15 ground reviews mandated by paragraph (5). Such
16 fees shall not exceed \$10,000.

17 “(7) EFFECT OF NON-QUALIFICATION.—The
18 failure of an applicant to qualify for expedited licen-
19 sure under this subsection shall have no effect on an
20 existing license or the ability for the applicant or
21 any of its individual managers to apply for or receive
22 a license to operate a small business investment
23 company under the procedures established elsewhere
24 in this Act or its implementing regulations.

1 “(8) REGULATIONS.—The Administrator shall
2 develop forms and promulgate regulations to imple-
3 ment this subsection after providing an opportunity
4 for notice and comment. Regulations promulgated
5 pursuant to this paragraph shall be published in the
6 Code of Federal Regulations.”.

7 **SEC. 403. REVISED LEVERAGE LIMITATIONS FOR SUCCESS-**
8 **FUL SBICS.**

9 (a) MAXIMUM LEVERAGE.—Section 303(b)(2) of the
10 Small Business Investment Act of 1958 (15 U.S.C.
11 683(b)(2)) is amended by striking so much of paragraph
12 (2) as precedes subparagraph (C) and inserting the fol-
13 lowing:

14 “(2) MAXIMUM LEVERAGE.—

15 “(A) IN GENERAL.—(i) The maximum
16 amount of outstanding leverage made available
17 to any one company licensed under section
18 301(c) of this Act may not exceed the lesser
19 of—

20 “(I) 300 percent of such com-
21 pany’s private capital; or

22 “(II) \$150,000,000.

23 “(ii) In applying clause (i)(I) in the case of
24 a debenture licensee which is in good standing
25 without the imposition of additional regulatory

1 standards and whose financings at cost are
2 comprised of at least 50 percent of loans and
3 debt securities, such licensee may be leveraged
4 as follows:

5 “(I) The first one-third of private cap-
6 ital to 300 percent.

7 “(II) The second one-third of private
8 capital to 200 percent.

9 “(III) The last third of private capital
10 to 100 percent.

11 “(iii) Notwithstanding clause (i), in the
12 case of any company operating as a business
13 development company (as such term is defined
14 under section 2(a)(48) of the Investment Com-
15 pany Act of 1940) or a majority-owned sub-
16 sidiary of such a company that is in good
17 standing without the imposition of additional
18 regulatory requirements, the maximum amount
19 of outstanding leverage made available to such
20 company shall be \$250,000,000.

21 “(B) MULTIPLE LICENSEES UNDER COM-
22 MON CONTROL.—The maximum amount of out-
23 standing leverage made available to two or more
24 debenture companies licensed under section
25 301(c) of this Act that are commonly controlled

1 (as determined by the Administrator) and not
2 under capital impairment may not exceed
3 \$350,000,000.”.

4 (b) REGULATIONS.—Section 303(b)(2) of the Small
5 Business Investment Act of 1958 (15 U.S.C. 683(b)(2)),
6 as amended by this Act, is further amended by adding
7 at the end the following:

8 “(E) REGULATIONS.—The Administrator
9 shall promulgate regulations, after notice and
10 opportunity for comment, establishing quantifi-
11 able objective criteria under which a licensee’s
12 private capital in its entirety may be leveraged
13 up to 300 percent. Such regulations shall be
14 published in the Code of Federal Regulations.”.

15 (c) INVESTMENTS IN LOW-INCOME GEOGRAPHIC
16 AREAS.—Section 303(b)(2)(C)(ii) of the Small Business
17 Investment Act of 1958 (15 U.S.C. 683(b)(2)(C)(ii)) is
18 amended by striking “\$250,000,000” in subclause (II)
19 and inserting “\$400,000,000”.

20 **SEC. 404. CONSISTENCY FOR COST CONTROL.**

21 Section 305(c) of the Small Business Investment Act
22 of 1958 (15 U.S.C. 685(c)) is amended by adding at the
23 end the following:

24 “In addition to the foregoing, with respect to a loan
25 made, or debt with equity features acquired, under this

1 section, the minimum coupon rate of interest (cost of
2 money ceiling) imposed by the Administrator shall not be
3 less than 19 percent per annum for a loan or a debt secu-
4 rity, except that nothing herein shall alter or affect provi-
5 sions permitting higher coupon rates of interest (cost of
6 money ceilings) and a company may charge up to an addi-
7 tional 7 percent more than the interest rate set forth in
8 the loan or debt security in the event of a default. For
9 purposes of this subsection a default means the occurrence
10 of any of the following:

11 “(1) Failure to pay an amount when due.

12 “(2) Failure to provide in a timely manner ma-
13 terial information required under the applicable fi-
14 nancing documents.

15 “(3) Failure to observe any material term, cov-
16 enant, or other agreement contained in the applica-
17 ble financing documents.

18 “(4) A representation, warranty, certification,
19 or statement of fact made by or on behalf of a bor-
20 rower in any applicable financing document or in
21 any document delivered in connection therewith, that
22 was materially incorrect or misleading when made.

23 “(5) Any material event of default specified in
24 the applicable financing documents.”.

1 **SEC. 405. INVESTMENT IN VETERAN-OWNED SMALL BUSI-**
2 **NESSES.**

3 Section 303(b)(2)(C) of the Small Business Invest-
4 ment Act of 1958 (15 U.S.C. 683(b)(2)(C)) is amended
5 as follows:

6 (1) In the heading, by inserting after “AREAS”
7 the following: “AND VETERANS”.

8 (2) In clause (i), by inserting after “351)” the
9 following: “or in a small business concern owned and
10 controlled by veterans (as such term is defined in
11 section 3(q)(3) of the Small Business Act)”.

12 (3) In clause (iii), by inserting after “351)” the
13 following: “or in small business concerns owned and
14 controlled by veterans (as such term is defined in
15 section 3(q)(3) of the Small Business Act)”.

16 **SEC. 406. TANGIBLE NET WORTH.**

17 Section 103 of the Small Business Investment Act
18 of 1958 (15 U.S.C. 662), as amended by this Act, is fur-
19 ther amended by striking “and” at the end of paragraph
20 (23), by striking the period at the end of paragraph (24)
21 and inserting “; and”, and by adding at the end the fol-
22 lowing:

23 “(25) for purposes of the terms ‘small-business
24 concern’ in paragraph (5) and ‘smaller enterprise’ in
25 paragraph (12), tangible net worth shall, to the ex-
26 tent used, mean the total net worth of the small

1 business, in accordance with General Accepted Ac-
2 counting Principles, minus all intangibles in accord-
3 ance with General Accepted Accounting Principles.”.

4 **SEC. 407. DEVELOPMENT OF AGENCY RECORD.**

5 Part A of title III of the Small Business Investment
6 Act of 1958 (15 U.S.C. 681 et seq.), as amended by this
7 Act, is further amended by adding at the end the fol-
8 lowing:

9 **“SEC. 321. AGENCY RECORD FOR LICENSING OF SMALL**
10 **BUSINESS INVESTMENT COMPANIES.**

11 “(a) RECORD.—The Associate Administrator for In-
12 vestment shall establish an agency record of evidence re-
13 ferring or relating to each application for a license to be-
14 come a small business investment company.

15 “(b) WRITTEN NOTIFICATION.—The Administrator
16 shall provide a written explanation of any denial of a li-
17 cense application based upon evidence in the agency
18 record. Absent an order by a Federal or State court of
19 general jurisdiction, access to applications and the agency
20 record shall be limited to the applicant and to the Admin-
21 istrator and subordinate personnel of the Administrator.”.

22 **SEC. 408. PROGRAM LEVELS.**

23 Section 20 of the Small Business Act (15 U.S.C. 631
24 note), as amended by this Act, is further amended by in-
25 serting after subsection (h) the following:

1 “(i) PART A OF TITLE III OF THE SMALL BUSINESS
2 INVESTMENT ACT OF 1958.—

3 “(1) PROGRAM LEVELS 2010.—For fiscal year
4 2010, in carrying out the program authorized by
5 part A of title III of the Small Business Investment
6 Act of 1958, the Administrator is authorized to
7 make \$5,000,000,000 in guarantees of debentures.

8 “(2) PROGRAM LEVELS 2011.—For fiscal year
9 2011, in carrying out the program authorized by
10 part A of title III of the Small Business Investment
11 Act of 1958, the Administrator is authorized to
12 make \$5,500,000,000 in guarantees of debentures.”.

14 **TITLE V—INVESTMENT IN**
15 **SMALL MANUFACTURERS**
16 **AND RENEWABLE ENERGY**
17 **SMALL BUSINESSES**

18 **Subtitle A—Enhanced New**
19 **Markets Venture Capital Program**

20 **SEC. 501. EXPANSION OF NEW MARKETS VENTURE CAPITAL**
21 **PROGRAM.**

22 (a) ADMINISTRATION PARTICIPATION REQUIRED.—
23 Section 353 of the Small Business Investment Act of 1958
24 (15 U.S.C. 689b) is amended by striking “under which

1 the Administrator may” and inserting “under which the
2 Administrator shall”.

3 (b) REPORT TO CONGRESS.—Not later than 1 year
4 after the date of the enactment of this Act, the Adminis-
5 trator of the Small Business Administration shall submit
6 to Congress a report describing any expansion of the New
7 Markets Venture Capital Program as a result of this sec-
8 tion.

9 **SEC. 502. IMPROVED NATIONWIDE DISTRIBUTION.**

10 Section 354 of the Small Business Investment Act
11 of 1958 (15 U.S.C. 689c) is amended by adding at the
12 end the following:

13 “(f) GEOGRAPHIC EXPANSION.—From among com-
14 panies submitting applications under subsection (b), the
15 Administrator shall consider the selection criteria and pro-
16 motion of nationwide distribution under subsection (c) and
17 shall, to the extent practicable, approve at least one com-
18 pany from each geographic region of the Small Business
19 Administration.”.

20 **SEC. 503. INCREASED INVESTMENT IN SMALL BUSINESS**

21 **CONCERNS ENGAGED PRIMARILY IN MANU-**
22 **FACTURING.**

23 (a) DEVELOPMENTAL VENTURE CAPITAL AND PAR-
24 TICIPATION AGREEMENTS.—Section 351 of the Small

1 Business Investment Act of 1958 (15 U.S.C. 689) is
2 amended—

3 (1) in paragraph (1) by inserting after “geo-
4 graphic areas” the following: “or encouraging the
5 growth or continuation of small business concerns
6 located in low-income geographic areas and engaged
7 primarily in manufacturing”; and

8 (2) in paragraph (6)(B) by inserting after “geo-
9 graphic areas” the following: “or in small business
10 concerns located in low-income geographic areas at
11 least 80 percent of which are engaged primarily in
12 manufacturing”.

13 (b) PURPOSES.—Section 352(2) of the Small Busi-
14 ness Investment Act of 1958 (15 U.S.C. 689a(2)) is
15 amended—

16 (1) in the matter preceding subparagraph (A)
17 by inserting after “geographic areas” the following:
18 “and small business concerns located in low-income
19 geographic areas and engaged primarily in manufac-
20 turing”;

21 (2) in subparagraph (B) by inserting after “ge-
22 ographic areas” the following: “or in small business
23 concerns located in low-income geographic areas and
24 engaged primarily in manufacturing”; and

1 (3) in subparagraph (C) by inserting after
2 “smaller enterprises” the following: “and small busi-
3 ness concerns”.

4 (c) ELIGIBILITY, APPLICATIONS, AND REQUIRE-
5 MENTS FOR FINAL APPROVAL.—Section 354 of the Small
6 Business Investment Act of 1958 (15 U.S.C. 689e), as
7 amended by this Act, is further amended—

8 (1) in subsection (a)(3) by inserting after “geo-
9 graphic areas” the following: “or investing in small
10 business concerns located in low-income geographic
11 areas and engaged primarily in manufacturing”;

12 (2) in subsection (b)—

13 (A) in paragraph (1) by inserting after
14 “geographic areas” the following: “or in small
15 business concerns located in low-income geo-
16 graphic areas and engaged primarily in manu-
17 facturing”; and

18 (B) in paragraph (4) by inserting after
19 “smaller enterprises” the following: “or small
20 business concerns”; and

21 (3) in subsection (d)—

22 (A) in paragraph (1)—

23 (i) by striking “Each” and inserting
24 the following:

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), each”;

3 (ii) by adding at the end the fol-
4 lowing:

5 “(B) SMALL BUSINESS CONCERNS EN-
6 GAGED PRIMARILY IN MANUFACTURING.—Each
7 conditionally approved company engaged pri-
8 marily in development of and investment in
9 small business concerns located in low-income
10 geographic areas and engaged primarily in
11 manufacturing shall raise not less than
12 \$3,000,000 of private capital or binding capital
13 commitments from one or more investors (other
14 than agencies or departments of the Federal
15 Government) who met criteria established by
16 the Administrator.”; and

17 (B) in paragraph (2)(A) by inserting after
18 “smaller enterprises” the following: “or small
19 business concerns”.

20 (d) OPERATIONAL ASSISTANCE GRANTS.—Section
21 358 of the Small Business Investment Act of 1958 (15
22 U.S.C. 689g) is amended—

23 (1) in subsection (a)(1) by inserting after
24 “smaller enterprises” the following: “and small busi-
25 ness concerns”; and

1 (2) in subsection (b)(1) by inserting after
2 “smaller enterprises” the following: “and small busi-
3 ness concerns”.

4 **SEC. 504. EXPANDED USES FOR OPERATIONAL ASSISTANCE**
5 **IN MANUFACTURING.**

6 Section 351 of the Small Business Investment Act
7 of 1958 (15 U.S.C. 689), as amended by this Act, is fur-
8 ther amended in paragraph (5) by inserting after “busi-
9 ness development” the following: “or assistance that as-
10 sists a small business concern located in a low-income geo-
11 graphic area and engaged primarily in manufacturing with
12 retooling, updating, or replacing machinery or equip-
13 ment”.

14 **SEC. 505. UPDATING DEFINITION OF LOW-INCOME GEO-**
15 **GRAPHIC AREA.**

16 Section 351 of the Small Business Investment Act
17 of 1958 (15 U.S.C. 689), as amended by this Act, is fur-
18 ther amended—

19 (1) by striking paragraphs (2) and (3);

20 (2) by inserting after paragraph (1) the fol-
21 lowing:

22 “(2) **LOW-INCOME GEOGRAPHIC AREA.**—The
23 term ‘low-income geographic area’ has the meaning
24 given the term ‘low-income community’ in section
25 45D(e) of the Internal Revenue Code of 1986, ex-

1 cept that, without regard to such meaning, such
2 term includes an area that the Administrator deter-
3 mines to be an area with high unemployment.”; and

4 (3) by redesignating paragraphs (4) through
5 (8) as paragraphs (3) through (7), respectively.

6 **SEC. 506. EXPANDING OPERATIONAL ASSISTANCE TO CON-**
7 **DITIONALLY APPROVED COMPANIES.**

8 Section 358(a) of the Small Business Investment Act
9 of 1958 (15 U.S.C. 689g(a)) is amended by adding at the
10 end the following:

11 “(6) GRANTS TO CONDITIONALLY APPROVED
12 COMPANIES.—

13 “(A) IN GENERAL.—Subject to the provi-
14 sions of this paragraph, upon the request of a
15 company conditionally approved under section
16 354(c), the Administrator shall make a grant to
17 the company under this subsection.

18 “(B) REPAYMENT BY COMPANIES NOT AP-
19 PROVED.—If a company receives a grant under
20 this paragraph and does not receive final ap-
21 proval under section 354(e), the company shall
22 repay the amount of the grant to the Adminis-
23 trator.

24 “(C) DEDUCTION FROM GRANT TO AP-
25 PROVED COMPANY.—If a company receives a

1 grant under this paragraph and receives final
2 approval under section 354(e), the Adminis-
3 trator shall deduct the amount of such grant
4 from the amount of any immediately succeeding
5 grant the company receives for operational as-
6 sistance.

7 “(D) AMOUNT OF GRANT.—No company
8 may receive a grant of more than \$50,000
9 under this paragraph.”.

10 **SEC. 507. LIMITATION ON TIME FOR FINAL APPROVAL.**

11 Section 354(d) of the Small Business Investment Act
12 of 1958 (15 U.S.C. 689c(d)) is amended in the matter
13 preceding paragraph (1) by striking “a period of time, not
14 to exceed 2 years,” and inserting “2 years”.

15 **SEC. 508. STREAMLINED APPLICATION FOR NEW MARKETS**
16 **VENTURE CAPITAL PROGRAM.**

17 Not later than 60 days after the date of the enact-
18 ment of this Act, the Administrator of the Small Business
19 Administration shall prescribe standard documents for a
20 New Markets Venture Capital company final approval ap-
21 plication under section 354(e) of the Small Business In-
22 vestment Act of 1958 (15 U.S.C. 689c(e)). The Adminis-
23 trator shall ensure that the standard documents are de-
24 signed to substantially reduce the cost burden of the appli-
25 cation process for companies.

1 **SEC. 509. ELIMINATION OF MATCHING REQUIREMENT.**

2 Section 354(d)(2)(A)(i) of the Small Business Invest-
3 ment Act of 1958 (15 U.S.C. 689c(d)(2)(A)(i)) is amend-
4 ed—

5 (1) in subclause (I) by adding “and” at the
6 end;

7 (2) in subclause (II) by striking “and” at the
8 end; and

9 (3) by striking subclause (III).

10 **SEC. 510. SIMPLIFIED FORMULA FOR OPERATIONAL AS-**
11 **SISTANCE GRANTS.**

12 Section 358(a)(4)(A) of the Small Business Invest-
13 ment Act of 1958 (15 U.S.C. 689g(a)(4)(A)) is amend-
14 ed—

15 (1) by striking “shall be equal to” and all that
16 follows through the period at the end and inserting
17 “shall be equal to the lesser of—”; and

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

19 “(i) 10 percent of the resources (in
20 cash or in-kind) raised by the company
21 under section 354(d)(2); or

22 “(ii) \$1,000,000.”.

23 **SEC. 511. FINANCING WITH RESPECT TO VETERANS.**

24 Section 354 of the Small Business Investment Act
25 of 1958 (15 U.S.C. 689c), as amended by this Act, is fur-
26 ther amended by adding at the end the following:

1 “(g) FINANCING WITH RESPECT TO VETERANS.—A
2 New Markets Venture Capital company shall, to the extent
3 practicable, provide financing to small business concerns
4 owned and controlled by veterans, as defined in section
5 3(q) of the Small Business Act (15 U.S.C. 632(q)), lo-
6 cated in low-income geographic areas.”.

7 **SEC. 512. AUTHORIZATION OF APPROPRIATIONS AND EN-**
8 **HANCED ALLOCATION FOR SMALL MANUFAC-**
9 **TURING.**

10 Section 368(a) of the Small Business Investment Act
11 of 1958 (15 U.S.C. 689q(a)) is amended—

12 (1) in the matter preceding paragraph (1) by
13 striking “fiscal years 2001 through 2006” and in-
14 sserting “fiscal years 2010 and 2011”;

15 (2) in paragraph (1)—

16 (A) by striking “\$150,000,000” and in-
17 sserting “\$100,000,000”; and

18 (B) by inserting before the period at the
19 end the following: “, of which not less than 50
20 percent shall be used to guarantee debentures
21 of companies engaged primarily in development
22 of and investment in small business concerns lo-
23 cated in low-income geographic areas and en-
24 gaged primarily in manufacturing”; and

25 (3) in paragraph (2)—

1 (A) by striking “\$30,000,000” and insert-
2 ing “\$20,000,000”; and

3 (B) by inserting before the period at the
4 end the following: “, of which not less than 50
5 percent shall be used to make grants to compa-
6 nies engaged primarily in development of and
7 investment in small business concerns located in
8 low-income geographic areas and engaged pri-
9 marily in manufacturing”.

10 **Subtitle B—Expanded Investment**
11 **in Small Business Renewable**
12 **Energy**

13 **SEC. 521. EXPANDED INVESTMENT IN RENEWABLE EN-**
14 **ERGY.**

15 Part C of title III of the Small Business Investment
16 Act of 1958 (15 U.S.C. 690 et seq.) is amended—

17 (1) in the heading by striking “**RENEWABLE**
18 **FUEL CAPITAL INVESTMENT**” and inserting “**RE-**
19 **NEWABLE ENERGY CAPITAL INVESTMENT**”;

20 (2) in the heading of paragraph (4) of section
21 381 by striking “**RENEWABLE FUEL CAPITAL IN-**
22 **VESTMENT**” and inserting “**RENEWABLE ENERGY**
23 **CAPITAL INVESTMENT**”;

24 (3) in the heading of section 384 by striking
25 “**RENEWABLE FUEL CAPITAL INVESTMENT**” and

1 inserting “**RENEWABLE ENERGY CAPITAL IN-**
2 **VESTMENT**”; and

3 (4) by striking “Renewable Fuel Capital Invest-
4 ment” each place it appears and inserting “Renew-
5 able Energy Capital Investment”.

6 **SEC. 522. RENEWABLE ENERGY CAPITAL INVESTMENT PRO-**
7 **GRAM MADE PERMANENT.**

8 Part C of title III of the Small Business Investment
9 Act of 1958 (15 U.S.C. 690 et seq.), as amended by this
10 Act, is further amended—

11 (1) in the heading by striking “**PILOT**”; and

12 (2) by striking section 398.

13 **SEC. 523. EXPANDED ELIGIBILITY FOR SMALL BUSINESSES.**

14 Part C of title III of the Small Business Investment
15 Act of 1958 (15 U.S.C. 690 et seq.), as amended by this
16 Act, is further amended by striking “smaller enterprises”
17 each place it appears and inserting “small business con-
18 cerns”.

19 **SEC. 524. EXPANDED USES FOR OPERATIONAL ASSISTANCE**
20 **IN MANUFACTURING AND SMALL BUSI-**
21 **NESSES.**

22 Section 381(1) of the Small Business Investment Act
23 of 1958 (15 U.S.C. 690(1)) is amended by inserting after
24 “business development” the following: “, assistance that
25 assists a small business concern to reduce energy con-

1 sumption, or assistance that assists a small business con-
2 cern engaged primarily in manufacturing with retooling,
3 updating, or replacing machinery or equipment”.

4 **SEC. 525. EXPANSION OF RENEWABLE ENERGY CAPITAL IN-**
5 **VESTMENT PROGRAM.**

6 (a) ADMINISTRATION PARTICIPATION REQUIRED.—
7 Section 383 of the Small Business Investment Act of 1958
8 (15 U.S.C. 690b) is amended by striking “under which
9 the Administrator may” and inserting “under which the
10 Administrator shall”.

11 (b) REPORTS TO CONGRESS.—At quarterly intervals
12 after the date of the enactment of this Act, the Adminis-
13 trator of the Small Business Administration shall submit
14 to Congress a report describing the Administrator’s
15 progress towards the expansion of the Renewable Energy
16 Capital Investment Program as a result of amendments
17 made by this title.

18 (c) REGULATIONS.—The Administrator of the Small
19 Business Administration shall promulgate such regula-
20 tions as are necessary to carry out the Renewable Energy
21 Capital Investment Program established pursuant to this
22 title within 180 days after the enactment of this Act.

1 **SEC. 526. SIMPLIFIED FEE STRUCTURE TO EXPEDITE IM-**
2 **PLEMENTATION.**

3 Section 387(a) of the Small Business Investment Act
4 of 1958 (15 U.S.C. 690f(a)) is amended by striking “or
5 grant”.

6 **SEC. 527. INCREASED OPERATIONAL ASSISTANCE GRANTS.**

7 Section 397(a) of the Small Business Investment Act
8 of 1958 (15 U.S.C. 690p(a)) is amended by inserting after
9 “and 2009” the following: “and \$30,000,000 in such
10 grants for each of fiscal years 2010 and 2011”.

11 **SEC. 528. AUTHORIZATIONS OF APPROPRIATIONS.**

12 Section 397 of the Small Business Investment Act
13 of 1958 (15 U.S.C. 690p) is amended—

14 (1) in the heading by inserting after “**APPRO-**
15 **PRIATIONS**” the following: “**AND PROGRAM LEV-**
16 **ELS**”; and

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

18 “(c) **PROGRAM LEVELS.**—For the programs author-
19 ized by this part, the Administration is authorized to make
20 \$1,000,000,000 in guarantees of debentures for each of
21 fiscal years 2010 and 2011.”.

1 **TITLE VI—SMALL BUSINESS**
2 **HEALTH INFORMATION TECH-**
3 **NOLOGY FINANCING PRO-**
4 **GRAM**

5 **SEC. 601. SMALL BUSINESS HEALTH INFORMATION TECH-**
6 **NOLOGY FINANCING PROGRAM.**

7 The Small Business Act (15 U.S.C. 631 et seq.), as
8 amended by this Act, is further amended by redesignating
9 section 45 as section 46 and by inserting the following
10 new section after section 44:

11 **“SEC. 45. LOAN GUARANTEES FOR HEALTH INFORMATION**
12 **TECHNOLOGY.**

13 “(a) DEFINITIONS.—As used in this section:

14 “(1) The term ‘health information technology’
15 means computer hardware, software, and related
16 technology that supports the meaningful EHR use
17 requirements set forth in section 1848(o)(2)(A) of
18 the Social Security Act (42 U.S.C. 1395w–
19 4(o)(2)(A)) and is purchased by an eligible profes-
20 sional to aid in the provision of health care in a
21 health care setting, including, but not limited to,
22 electronic medical records, and that provides for—

23 “(A) enhancement of continuity of care for
24 patients through electronic storage, trans-
25 mission, and exchange of relevant personal

1 health data and information, such that this in-
2 formation is accessible at the times and places
3 where clinical decisions will be or are likely to
4 be made;

5 “(B) enhancement of communication be-
6 tween patients and health care providers;

7 “(C) improvement of quality measurement
8 by eligible professionals enabling them to col-
9 lect, store, measure, and report on the proc-
10 esses and outcomes of individual and population
11 performance and quality of care;

12 “(D) improvement of evidence-based deci-
13 sion support; or

14 “(E) enhancement of consumer and pa-
15 tient empowerment.

16 Such term shall not include information technology
17 whose sole use is financial management, mainte-
18 nance of inventory of basic supplies, or appointment
19 scheduling.

20 “(2) The term ‘eligible professional’ means any
21 of the following:

22 “(A) A physician (as defined in section
23 1861(r) of the Social Security Act (42 U.S.C.
24 1395x(r))).

1 “(B) A practitioner described in section
2 1842(b)(18)(C) of that Act.

3 “(C) A physical or occupational therapist
4 or a qualified speech-language pathologist.

5 “(D) A qualified audiologist (as defined in
6 section 1861(l)(3)(B)) of that Act.

7 “(E) A qualified medical transcriptionist
8 who is either certified by or registered with the
9 Association for Healthcare Documentation In-
10 tegrity, or a successor association thereto.

11 “(F) A State-licensed pharmacist.

12 “(G) A State-licensed supplier of durable
13 medical equipment, prosthetics, orthotics, or
14 supplies.

15 “(H) A State-licensed, a State-certified, or
16 a nationally accredited home health care pro-
17 vider.

18 “(3) The term ‘qualified eligible professional’
19 means an eligible professional whose office can be
20 classified as a small business concern by the Admin-
21 istrator for purposes of this Act under size stand-
22 ards established under section 3 of this Act.

23 “(4) The term ‘qualified medical
24 transcriptionist’ means a specialist in medical lan-
25 guage and the healthcare documentation process

1 who interprets and transcribes dictation by physi-
2 cians and other healthcare professionals to ensure
3 accurate, complete, and consistent documentation of
4 healthcare encounters.

5 “(b) LOAN GUARANTEES FOR QUALIFIED ELIGIBLE
6 PROFESSIONALS.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 the Administrator may guarantee up to 90 percent
9 of the amount of a loan made to a qualified eligible
10 professional to be used for the acquisition of health
11 information technology for use in such eligible pro-
12 fessional’s medical practice and for the costs associ-
13 ated with the installation of such technology. Except
14 as otherwise provided in this section, the terms and
15 conditions that apply to loans made under section
16 7(a) of this Act shall apply to loan guarantees made
17 under this section.

18 “(2) LIMITATIONS ON GUARANTEE AMOUNTS.—
19 The maximum amount of loan principal guaranteed
20 under this subsection may not exceed—

21 “(A) \$350,000 with respect to any single
22 qualified eligible professional; and

23 “(B) \$2,000,000 with respect to a single
24 group of affiliated qualified eligible profes-
25 sionals.

1 “(c) FEES.—(1) The Administrator may impose a
2 guarantee fee on the borrower for the purpose of reducing
3 the cost (as defined in section 502(5) of the Federal Credit
4 Reform Act of 1990) of the guarantee to zero in an
5 amount not to exceed 2 percent of the total guaranteed
6 portion of any loan guaranteed under this section. The Ad-
7 ministrator may also impose annual servicing fees on lend-
8 ers not to exceed 0.5 percent of the outstanding balance
9 of the guarantees on lenders’ books.

10 “(2) No service fees, processing fees, origination fees,
11 application fees, points, brokerage fees, bonus points, or
12 other fees may be charged to a loan applicant or recipient
13 by a lender in the case of a loan guaranteed under this
14 section.

15 “(d) DEFERRAL PERIOD.—Loans guaranteed under
16 this section shall carry a deferral period of not less than
17 1 year and not more than 3 years. The Administrator shall
18 have the authority to subsidize interest during the deferral
19 period.

20 “(e) EFFECTIVE DATE.—No loan may be guaranteed
21 under this section until the meaningful EHR use require-
22 ments have been determined by the Secretary of Health
23 and Human Services.

24 “(f) SUNSET.—No loan may be guaranteed under
25 this section after the date that is 7 years after meaningful

1 EHR use requirements have been determined by the Sec-
2 retary of Health and Human Services.

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as are nec-
5 essary for the cost (as defined in section 502(5) of the
6 Federal Credit Reform Act of 1990) of guaranteeing
7 \$10,000,000,000 in loans under this section. The Admin-
8 istrator shall determine such program cost separately and
9 distinctly from other programs operated by the Adminis-
10 trator.”.

11 **TITLE VII—SMALL BUSINESS**
12 **EARLY-STAGE INVESTMENT**
13 **PROGRAM**

14 **SEC. 701. SMALL BUSINESS EARLY-STAGE INVESTMENT**
15 **PROGRAM.**

16 Title III of the Small Business Investment Act of
17 1958 (15 U.S.C. 681 et seq.) is amended by adding at
18 the end the following:

19 **“PART D—SMALL BUSINESS EARLY-STAGE**
20 **INVESTMENT PROGRAM**

21 **“SEC. 399A. ESTABLISHMENT OF PROGRAM.**

22 “The Administrator shall establish and carry out an
23 early-stage investment program (hereinafter referred to in
24 this part as the ‘program’) to provide equity investment

1 financing to support early-stage small businesses in tar-
2 geted industries in accordance with this part.

3 **“SEC. 399B. ADMINISTRATION OF PROGRAM.**

4 “The program shall be administered by the Adminis-
5 trator acting through the Associate Administrator de-
6 scribed under section 201.

7 **“SEC. 399C. APPLICATIONS.**

8 “(a) IN GENERAL.—Any incorporated body, limited
9 liability company, or limited partnership organized and
10 chartered or otherwise existing under Federal or State law
11 for the purpose of performing the functions and con-
12 ducting the activities contemplated under the program and
13 any small business investment company may submit to the
14 Administrator an application to participate in the pro-
15 gram.

16 “(b) REQUIREMENTS FOR APPLICATION.—An appli-
17 cation to participate in the program shall include the fol-
18 lowing:

19 “(1) A business plan describing how the appli-
20 cant intends to make successful venture capital in-
21 vestments in early-stage small businesses in targeted
22 industries.

23 “(2) Information regarding the relevant venture
24 capital investment qualifications and backgrounds of

1 the individuals responsible for the management of
2 the applicant.

3 “(3) A description of the extent to which the
4 applicant meets the selection criteria under section
5 399D.

6 “(c) APPLICATIONS FROM SMALL BUSINESS INVEST-
7 MENT COMPANIES.—The Administrator shall establish an
8 abbreviated application process for small business invest-
9 ment companies that have received a license under section
10 301 and that are applying to participate in the program.
11 Such abbreviated process shall incorporate a presumption
12 that such small business investment companies satisfac-
13 torily meet the selection criteria under paragraphs (3) and
14 (5) of section 399D(b).

15 **“SEC. 399D. SELECTION OF PARTICIPATING INVESTMENT**
16 **COMPANIES.**

17 “(a) IN GENERAL.—Not later than 90 days after the
18 date on which the Administrator receives an application
19 from an applicant under section 399C, the Administrator
20 shall make a final determination to approve or disapprove
21 such applicant to participate in the program and shall
22 transmit such determination to the applicant in writing.

23 “(b) SELECTION CRITERIA.—In making a determina-
24 tion under subsection (a), the Administrator shall consider
25 each of the following:

1 “(1) The likelihood that the applicant will meet
2 the goals specified in the business plan of the appli-
3 cant.

4 “(2) The likelihood that the investments of the
5 applicant will create or preserve jobs, both directly
6 and indirectly.

7 “(3) The character and fitness of the manage-
8 ment of the applicant.

9 “(4) The experience and background of the
10 management of the applicant.

11 “(5) The extent to which the applicant will con-
12 centrate investment activities on early-stage small
13 businesses in targeted industries.

14 “(6) The likelihood that the applicant will
15 achieve profitability.

16 “(7) The experience of the management of the
17 applicant with respect to establishing a profitable in-
18 vestment track record.

19 **“SEC. 399E. GRANTS.**

20 “(a) IN GENERAL.—The Administrator may make
21 one or more grants to a participating investment company.

22 “(b) GRANT AMOUNTS.—

23 “(1) NON-FEDERAL CAPITAL.—A grant made
24 to a participating investment company under the
25 program may not be in an amount that exceeds the

1 amount of the capital of such company that is not
2 from a Federal source and that is available for in-
3 vestment on or before the date on which a grant is
4 drawn upon. Such capital may include legally bind-
5 ing commitments with respect to capital for invest-
6 ment.

7 “(2) LIMITATION ON AGGREGATE AMOUNT.—
8 The aggregate amount of all grants made to a par-
9 ticipating investment company under the program
10 may not exceed \$100,000,000.

11 “(c) GRANT PROCESS.—In making a grant under the
12 program, the Administrator shall commit a grant amount
13 to a participating investment company and the amount of
14 each such commitment shall remain available to be drawn
15 upon by such company—

16 “(1) for new-named investments during the 5-
17 year period beginning on the date on which each
18 such commitment is first drawn upon; and

19 “(2) for follow-on investments and management
20 fees during the 10-year period beginning on the date
21 on which each such commitment is first drawn upon,
22 with not more than 2 additional 1-year periods avail-
23 able at the discretion of the Administrator.

1 **“SEC. 399F. INVESTMENTS IN EARLY-STAGE SMALL BUSI-**
2 **NESSES IN TARGETED INDUSTRIES.**

3 “(a) IN GENERAL.—As a condition of receiving a
4 grant under the program, a participating investment com-
5 pany shall make all of the investments of such company
6 in small business concerns, of which at least 50 percent
7 shall be early-stage small businesses in targeted indus-
8 tries.

9 “(b) EVALUATION OF COMPLIANCE.—With respect to
10 a grant amount committed to a participating investment
11 company under section 399E, the Administrator shall
12 evaluate the compliance of such company with the require-
13 ments under this section if such company has drawn upon
14 50 percent of such commitment.

15 **“SEC. 399G. PRO RATA INVESTMENT SHARES.**

16 “Each investment made by a participating invest-
17 ment company under the program shall be treated as com-
18 prised of capital from grants under the program according
19 to the ratio that capital from grants under the program
20 bears to all capital available to such company for invest-
21 ment.

22 **“SEC. 399H. GRANT INTEREST.**

23 “(a) GRANT INTEREST.—

24 “(1) IN GENERAL.—As a condition of receiving
25 a grant under the program, a participating invest-

1 ment company shall convey a grant interest to the
2 Administrator in accordance with paragraph (2).

3 “(2) EFFECT OF CONVEYANCE.—The grant in-
4 terest conveyed under paragraph (1) shall have all
5 the rights and attributes of other investors attrib-
6 utable to their interests in the participating invest-
7 ment company, but shall not denote control or vot-
8 ing rights to the Administrator. The grant interest
9 shall entitle the Administrator to a pro rata portion
10 of any distributions made by the participating in-
11 vestment company equal to the percentage of capital
12 in the participating investment company that the
13 grant comprises. The Administrator shall receive dis-
14 tributions from the participating investment com-
15 pany at the same times and in the same amounts as
16 any other investor in the company with a similar in-
17 terest. The investment company shall make alloca-
18 tions of income, gain, loss, deduction, and credit to
19 the Administrator with respect to the grant interest
20 as if the Administrator were an investor.

21 “(b) MANAGER PROFITS.—As a condition of receiv-
22 ing a grant under the program, the manager profits inter-
23 est payable to the managers of a participating investment
24 company under the program shall not exceed 20 percent
25 of profits, exclusive of any profits that may accrue as a

1 result of the capital contributions of any such managers
2 with respect to such company. Any excess of this amount,
3 less taxes payable thereon, shall be returned by the man-
4 agers and paid to the investors and the Administrator in
5 proportion to the capital contributions and grants paid in.
6 No manager profits interest (other than a tax distribution)
7 shall be paid prior to the repayment to the investors and
8 the Administrator of all contributed capital and grants
9 made.

10 “(c) DISTRIBUTION REQUIREMENTS.—As a condition
11 of receiving a grant under the program, a participating
12 investment company shall make all distributions to all in-
13 vestors in cash and shall make distributions within a rea-
14 sonable time after exiting investments, including following
15 a public offering or market sale of underlying investments.

16 **“SEC. 399I. FUND.**

17 “There is hereby created within the Treasury a sepa-
18 rate fund for grants which shall be available to the Admin-
19 istrator subject to annual appropriations as a revolving
20 fund to be used for the purposes of the program. All
21 amounts received by the Administrator, including any
22 moneys, property, or assets derived by the Administrator
23 from operations in connection with the program, shall be
24 deposited in the fund. All expenses and payments, exclud-
25 ing administrative expenses, pursuant to the operations of

1 the Administrator under the program shall be paid from
2 the fund.

3 **“SEC. 399J. APPLICATION OF OTHER SECTIONS.**

4 “To the extent not inconsistent with requirements
5 under this part, the Administrator may apply sections
6 309, 311, 312, 313, and 314 to activities under this part
7 and an officer, director, employee, agent, or other partici-
8 pant in a participating investment company shall be sub-
9 ject to the requirements under such sections.

10 **“SEC. 399K. DEFINITIONS.**

11 “In this part, the following definitions apply:

12 “(1) EARLY-STAGE SMALL BUSINESS IN A TAR-
13 GETED INDUSTRY.—The term ‘early-stage small
14 business in a targeted industry’ means a small busi-
15 ness concern that—

16 “(A) is domiciled in a State;

17 “(B) has not generated gross annual sales
18 revenues exceeding \$15,000,000 in any of the
19 previous 3 years; and

20 “(C) is engaged primarily in researching,
21 developing, manufacturing, producing, or bring-
22 ing to market goods, products, or services with
23 respect to any of the following business sectors:

24 “(i) Agricultural technology.

25 “(ii) Energy technology.

1 “(iii) Environmental technology.

2 “(iv) Life science.

3 “(v) Information technology.

4 “(vi) Digital media.

5 “(vii) Clean technology.

6 “(viii) Defense technology.

7 “(ix) Photonics technology.

8 “(2) PARTICIPATING INVESTMENT COMPANY.—

9 The term ‘participating investment company’ means
10 an applicant approved under section 399D to par-
11 ticipate in the program.

12 “(3) SMALL BUSINESS CONCERN.—The term
13 ‘small business concern’ has the same meaning given
14 such term under section 3(a) of the Small Business
15 Act (15 U.S.C. 632(a)).

16 **“SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.**

17 “There is authorized to be appropriated to carry out
18 the program \$200,000,000 for the first full fiscal year be-
19 ginning after the date of the enactment of this part.”.

20 **SEC. 702. PROHIBITIONS ON EARMARKS.**

21 None of the funds appropriated for the program es-
22 tablished under part D of title III of the Small Business
23 Investment Act of 1958, as added by this title, may be
24 used for a Congressional earmark as defined in clause 9(d)
25 of rule XXI of the Rules of the House of Representatives.

1 **TITLE VIII—SBA DISASTER**
2 **PROGRAM REFORM**

3 **SEC. 801. REVISED COLLATERAL REQUIREMENTS.**

4 Section 7 of the Small Business Act (15 U.S.C. 636)
5 is amended—

6 (1) by striking “(e) [RESERVED].” and “(f)
7 [RESERVED].”; and

8 (2) in subsection (f), as added by section
9 12068(a)(2) of the Small Business Disaster Re-
10 sponse and Loan Improvements Act of 2008 (sub-
11 title B of title XII of the Food, Conservation, and
12 Energy Act of 2008; Public Law 110–246), by add-
13 ing at the end the following:

14 “(2) REVISED COLLATERAL REQUIREMENTS.—
15 In making a loan with respect to a business under
16 subsection (b), if the total approved amount of such
17 loan is less than or equal to \$250,000, the Adminis-
18 trator may not require the borrower to use the bor-
19 rower’s home as collateral.”.

20 **SEC. 802. INCREASED LIMITS.**

21 Section 7(b) of the Small Business Act (15 U.S.C.
22 636(b)) is amended—

23 (1) in paragraph (3)(E) by striking
24 “\$1,500,000” each place it appears and inserting
25 “\$3,000,000”; and

1 (2) in paragraph (8)(A) by striking
2 “\$2,000,000” and inserting “\$3,000,000”.

3 **SEC. 803. REVISED REPAYMENT TERMS.**

4 Section 7(f) of the Small Business Act (15 U.S.C.
5 636(f)) is amended by adding at the end the following:

6 “(3) REVISED REPAYMENT TERMS.—In making
7 loans under subsection (b), the Administrator—

8 “(A) may not require repayment to begin
9 until the date that is 12 months after the date
10 on which the final disbursement of approved
11 amounts is made; and

12 “(B) shall calculate the amount of repay-
13 ment based solely on the amounts disbursed.”.

14 **SEC. 804. REVISED DISBURSEMENT PROCESS.**

15 Section 7(f) of the Small Business Act (15 U.S.C.
16 636(f)), as amended by this Act, is further amended by
17 adding at the end the following:

18 “(4) REVISED DISBURSEMENT PROCESS.—In
19 making a loan under subsection (b), the Adminis-
20 trator shall disburse loan amounts in accordance
21 with the following:

22 “(A) If the total amount approved with re-
23 spect to such loan is less than or equal to
24 \$150,000—

1 “(i) the first disbursement with re-
2 spect to such loan shall consist of 40 per-
3 cent of the total loan amount, or a lesser
4 percentage of the total loan amount if the
5 Administrator and the borrower agree on
6 such a lesser percentage;

7 “(ii) the second disbursement shall
8 consist of 50 percent of the loan amounts
9 that remain after the first disbursement,
10 and shall be made when the borrower has
11 produced satisfactory receipts to dem-
12 onstrate the proper use of 50 percent of
13 the first disbursement; and

14 “(iii) the third disbursement shall
15 consist of the loan amounts that remain
16 after the preceding disbursements, and
17 shall be made when the borrower has pro-
18 duced satisfactory receipts to demonstrate
19 the proper use of the first disbursement
20 and 50 percent of the second disburse-
21 ment.

22 “(B) If the total amount approved with re-
23 spect to such loan is more than \$150,000 but
24 less than or equal to \$500,000—

1 “(i) the first disbursement with re-
2 spect to such loan shall consist of 20 per-
3 cent of the total loan amount, or a lesser
4 percentage of the total loan amount if the
5 Administrator and the borrower agree on
6 such a lesser percentage;

7 “(ii) the second disbursement shall
8 consist of 30 percent of the loan amounts
9 that remain after the first disbursement,
10 and shall be made when the borrower has
11 produced satisfactory receipts to dem-
12 onstrate the proper use of 50 percent of
13 the first disbursement;

14 “(iii) the third disbursement shall
15 consist of 25 percent of the loan amounts
16 that remain after the first and second dis-
17 bursements, and shall be made when the
18 borrower has produced satisfactory receipts
19 to demonstrate the proper use of the first
20 disbursement and 50 percent of the second
21 disbursement; and

22 “(iv) the fourth disbursement shall
23 consist of the loan amounts that remain
24 after the preceding disbursements, and
25 shall be made when the borrower has pro-

1 duced satisfactory receipts to demonstrate
2 the proper use of the first and second dis-
3 bursements and 50 percent of the third
4 disbursement.

5 “(C) If the total amount approved with re-
6 spect to such loan is more than \$500,000—

7 “(i) the first disbursement with re-
8 spect to such loan shall consist of at least
9 \$100,000, or a lesser amount if the Ad-
10 ministrator and the borrower agree on
11 such a lesser amount; and

12 “(ii) the number of disbursements
13 after the first, and the amount of each
14 such disbursement, shall be in the discre-
15 tion of the Administrator, but the amount
16 of each such disbursement shall be at least
17 \$100,000.”.

18 **SEC. 805. GRANT PROGRAM.**

19 Section 7(b) of the Small Business Act (15 U.S.C.
20 636(b)), as amended by this Act, is further amended by
21 inserting after paragraph (9) the following:

22 “(10) GRANTS TO DISASTER-AFFECTED SMALL
23 BUSINESSES.—

24 “(A) IN GENERAL.—If the Administrator
25 declares eligibility for additional disaster assist-

1 ance under paragraph (9), the Administrator
2 may make a grant, in an amount not exceeding
3 \$100,000, to a small business concern that—

4 “(i) is located in an area affected by
5 the applicable major disaster;

6 “(ii) submits to the Administrator a
7 certification by the owner of the concern
8 that such owner intends to reestablish the
9 concern in the same county in which the
10 concern was originally located;

11 “(iii) has applied for, and was rejected
12 for, a conventional disaster assistance loan
13 under this subsection; and

14 “(iv) was in existence for at least 2
15 years before the date on which the applica-
16 ble disaster declaration was made.

17 “(B) PRIORITY.—In making grants under
18 this paragraph, the Administrator shall give
19 priority to a small business concern that the
20 Administrator determines is economically viable
21 but unable to meet short-term financial obliga-
22 tions.

23 “(C) PROGRAM LEVEL AND AUTHORIZA-
24 TION OF APPROPRIATIONS.—

1 “(i) PROGRAM LEVEL.—The Adminis-
2 trator is authorized to make \$100,000,000
3 in grants under this paragraph for each of
4 fiscal years 2010 and 2011.

5 “(ii) AUTHORIZATION OF APPROPRIA-
6 TIONS.—There are authorized to be appro-
7 priated to the Administrator such sums as
8 may be necessary to carry out this para-
9 graph.”.

10 **SEC. 806. REGIONAL DISASTER WORKING GROUPS.**

11 Section 40 of the Small Business Act (15 U.S.C.
12 657l) is amended—

13 (1) in subsection (a), in the matter preceding
14 paragraph (1), by striking “or” and inserting “and”;

15 (2) by redesignating subsection (d) as sub-
16 section (e); and

17 (3) by inserting after subsection (c) the fol-
18 lowing:

19 “(d) REGIONAL DISASTER WORKING GROUPS.—In
20 carrying out the responsibilities pertaining to loan making
21 activities under subsection (a), the Administrator, acting
22 through the regional administrators of the regional offices
23 of the Administration, shall develop a disaster prepared-
24 ness and response plan for each region of the Administra-
25 tion. Each such plan shall be developed in cooperation

1 with Federal, State, and local emergency response authori-
2 ties and representatives of businesses located in the region
3 to which such plan applies. Each such plan shall identify
4 and include a plan relating to the 3 disasters, natural or
5 manmade, most likely to occur in the region to which such
6 plan applies.”.

7 **SEC. 807. OUTREACH GRANTS FOR LOAN APPLICANT AS-**
8 **SISTANCE.**

9 Section 7(b) of the Small Business Act (15 U.S.C.
10 636(b)), as amended by this Act, is further amended by
11 inserting after paragraph (10) the following:

12 “(11) OUTREACH GRANTS FOR LOAN APPLI-
13 CANT ASSISTANCE.—

14 “(A) IN GENERAL.—From amounts made
15 available for administrative expenses relating to
16 activities under this subsection, the Adminis-
17 trator is authorized to make grants to the fol-
18 lowing:

19 “(i) A women’s business center in an
20 area affected by a disaster.

21 “(ii) A small business development
22 center in an area affected by a disaster.

23 “(iii) A Veteran Business Outreach
24 Center in an area affected by a disaster.

1 “(iv) A chamber of commerce in an
2 area affected by a disaster.

3 “(B) USE OF GRANT.—An entity specified
4 under subparagraph (A) shall use a grant re-
5 ceived under this paragraph to provide applica-
6 tion preparation assistance to applicants for a
7 loan under this subsection.

8 “(C) PROGRAM LEVEL.—The Adminis-
9 trator is authorized to make \$50,000,000 in
10 grants under this paragraph for each of fiscal
11 years 2010 and 2011.”.

12 **SEC. 808. HOMEOWNERS IMPACTED BY TOXIC DRYWALL.**

13 Section 7(b) of the Small Business Act (15 U.S.C.
14 636(b)), as amended by this Act, is further amended by
15 inserting after paragraph (11) the following:

16 “(12) HOMEOWNERS IMPACTED BY TOXIC
17 DRYWALL.—The Administrator may make a loan
18 under this subsection to any homeowner if the pri-
19 mary residence of such homeowner has been ad-
20 versely impacted by the installation of toxic drywall
21 manufactured in China. A loan under this paragraph
22 may be used only for the repair or replacement of
23 such toxic drywall.”.

1 **SEC. 809. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 20 of the Small Business Act (15 U.S.C. 631
3 note), as amended by this Act, is further amended—

4 (1) by redesignating subsection (j) as sub-
5 section (k); and

6 (2) by inserting after subsection (i) the fol-
7 lowing:

8 “(j) FISCAL YEARS 2010 AND 2011 WITH RESPECT
9 TO SECTION 7(b).—There is authorized to be appropriated
10 such sums as may be necessary for administrative ex-
11 penses and loans under section 7(b).”.

12 **TITLE IX—REGULATIONS**

13 **SEC. 901. REGULATIONS.**

14 Except as otherwise provided in this Act or in amend-
15 ments made by this Act, after an opportunity for notice
16 and comment, but not later than 180 days after the date
17 of the enactment of this Act, the Administrator shall issue
18 regulations to carry out this Act and the amendments
19 made by this Act.

20 **TITLE X—TEMPORARY EM-**
21 **PLOYEE SERVICES FRAN-**
22 **CHISES**

23 **SEC. 1001. TEMPORARY EMPLOYEE SERVICES FRANCHISES.**

24 In determining whether a franchisee is affiliated with
25 a franchiser in the temporary employee services industry
26 for the purposes of Small Business Administration lending

1 programs, the Administrator of the Small Business Ad-
2 ministration shall—

3 (1) continue to apply its historically-considered
4 affiliation factors in determining whether a business
5 is affiliated with another business or the franchiser
6 in the temporary staffing industry;

7 (2) promulgate such other rules and regulations
8 as necessary to determine affiliation within the tem-
9 porary employee services industry as the Adminis-
10 trator determines consistent with the Small Business
11 Act; and

12 (3) consider the processing of payroll and bill-
13 ing by a franchiser as customary and common prac-
14 tice in the temporary employee services industry that
15 does not provide probative weight on affiliation, to
16 the extent that the temporary staffing personnel are
17 interviewed, hired, trained, assigned, and subject to
18 discharge by the franchisee.

19 **TITLE XI—STUDY ON PRIVATE** 20 **SECTOR LENDING**

21 **SEC. 1101. STUDY ON PRIVATE SECTOR LENDING.**

22 (a) IN GENERAL.—Not later than 90 days after the
23 date of the enactment of this Act, the Administrator of
24 the Small Business Administration shall submit to the
25 Committee on Small Business of the House of Representa-

1 tives and the Committee on Small Business and Entrepre-
2 neurship of the Senate a report that describes lending to
3 small business concerns by the private sector, including
4 the following:

5 (1) The total amount of lending to small busi-
6 ness concerns by private sector financial institutions
7 during each of fiscal years 2006 through 2009.

8 (2) The total amount of lending to small busi-
9 ness concerns by the 10 largest private sector finan-
10 cial institutions (as determined by the Administrator
11 in terms of amounts lent during fiscal year 2006)
12 during each of fiscal years 2006 through 2009.

13 (b) COORDINATION.—The Administrator of the Small
14 Business Administration shall, if necessary, coordinate
15 with the heads of other Federal departments and agencies
16 to complete the report under subsection (a).

17 (c) SMALL BUSINESS CONCERNS DEFINED.—In this
18 section, the term “small business concern” has the mean-
19 ing given such term under section 3(a) of the Small Busi-
20 ness Act (15 U.S.C. 632(a)).

21 **TITLE XII—STUDY ON**
22 **INCREASES IN CERTAIN CAPS**

23 **SEC. 1201. STUDY ON INCREASES IN CERTAIN CAPS.**

24 Not later than 90 days after the date of enactment
25 of this Act, the Administrator of the Small Business Ad-

1 ministration shall submit to Congress a report that de-
2 scribes the anticipated effects of the following potential
3 changes to programs, including whether such changes ade-
4 quately meet the financing needs of small businesses:

5 (1) Increasing—

6 (A) the maximum amount of a loan that
7 may be guaranteed under section 7(a) of the
8 Small Business Act (15 U.S.C. 636(a)) to
9 \$3,000,000; and

10 (B) participation by the Administrator
11 with regard to such a loan.

12 (2) Increasing—

13 (A) the maximum amount of a debenture
14 that may be guaranteed under title V of the
15 Small Business Investment Act of 1958 (15
16 U.S.C. 695 et seq.); and

17 (B) the maximum amount of a loan that
18 may be made with the proceeds of such debenture.
19

20 (3) Increasing the maximum amount of a
21 microloan that may be made under section 7(m) of
22 the Small Business Act (15 U.S.C. 636(m)).

1 **TITLE XIII—RURAL OUTREACH**

2 **SEC. 1301. RURAL OUTREACH.**

3 The Small Business Act (15 U.S.C. 631 et seq.), as
4 amended by this Act, is further amended—

5 (1) by redesignating section 46 as section 47;

6 and

7 (2) by inserting after section 45 the following:

8 **“SEC. 46. RURAL OUTREACH.**

9 “The Administrator shall ensure that each district of-
10 fice of the Administration that includes a rural area—

11 “(1) establishes a plan to provide small busi-
12 ness concerns in rural areas with information on the
13 financing and investment programs of the Adminis-
14 tration of use to such concerns;

15 “(2) designates an employee of the office as a
16 rural business financing outreach specialist, who is
17 responsible for providing advice concerning the lend-
18 ing and investment programs of the Administration
19 to small business concerns; and

20 “(3) hosts at least one outreach seminar in a
21 rural area each year to provide information de-
22 scribed under paragraph (1) to small business con-
23 cerns in rural areas.”.

1 **TITLE XIV—STUDY RELATING TO**
2 **MEDICAL TECHNOLOGY**

3 **SEC. 1401. STUDY RELATING TO MEDICAL TECHNOLOGY.**

4 Not later than one year after the date of the enact-
5 ment of this Act, the Administrator of the Small Business
6 Administration shall submit to Congress a report describ-
7 ing recommendations for and the feasibility of a pro-
8 gram—

9 (1) to increase investment in the research, de-
10 velopment, and commercialization of medical tech-
11 nology by small business concerns; and

12 (2) that is administered in a manner similar to
13 the program under part C of title III of the Small
14 Business Investment Act of 1958 (15 U.S.C. 690 et
15 seq.).

16 **TITLE XV—STUDY ON ADDI-**
17 **TIONAL CREDIT RISK FAC-**
18 **TORS**

19 **SEC. 1501. STUDY ON ADDITIONAL CREDIT RISK FACTORS.**

20 (a) IN GENERAL.—With respect to loans made under
21 programs established or amended under this Act, the Ad-
22 ministrator of the Small Business Administration shall
23 conduct a study on whether the failure of such loans to
24 achieve one or more of the public policy goals specified
25 in subsection (b) negatively impacts the ability of busi-

1 nesses receiving such loans to make timely repayment of
2 such loans.

3 (b) PUBLIC POLICY GOALS.—The public policy goals
4 referred to in subsection (a) are the provision of adequate
5 access to capital to assist small business concerns with one
6 or more of the following:

7 (1) Offsetting the costs to such concerns result-
8 ing from the imposition of a surtax on the income
9 of small business owners.

10 (2) Offsetting the costs to such concerns result-
11 ing from the enactment of a requirement that such
12 concerns offer health care of a minimum acceptable
13 coverage level.

14 (3) Offsetting the costs to such concerns result-
15 ing from an increase in the marginal tax rates of
16 small business owners.

17 (4) Offsetting the reduction in capital available
18 for such concerns resulting from an increase in the
19 tax on capital gains.

20 (5) Offsetting the reduction in capital available
21 for such concerns resulting from an increase in the
22 taxes on carried interest.

23 (6) Offsetting the increased energy costs for
24 such concerns resulting from the enactment of a cap
25 on carbon dioxide emissions.

1 (7) Offsetting the increased costs to such con-
2 cerns resulting from a change in Federal law that
3 allows unions to be organized through a card check
4 process.

5 (8) Offsetting the reduction in capital available
6 for such concerns resulting from new regulations on
7 financial products.

8 (9) Offsetting the increased costs to such con-
9 cerns resulting from the imposition of net neutrality
10 rules on the Internet.

11 (c) USE OF STUDY.—Not later than 180 days after
12 the date of the enactment of this Act, the Administrator
13 of the Small Business Administration shall submit to Con-
14 gress a report on the results of the study conducted under
15 subsection (a) and shall use such results to evaluate and
16 adjust, as appropriate, the potential credit risk to the Gov-
17 ernment through the provision of loans under programs
18 established or amended under this Act.

 Passed the House of Representatives October 29,
2009.

Attest:

Clerk.

111TH CONGRESS
1ST SESSION

H. R. 3854

AN ACT

To amend the Small Business Act and the Small Business Investment Act of 1958 to improve programs providing access to capital under such Acts, and for other purposes.