1988, 102 Stat. 2993; renumbered § 320 and amended Pub. L. 104–208, div. D, title II, § 208(h)(1)(E), (G), Sept. 30, 1996, 110 Stat. 3009–747; Pub. L. 105–135, title II, § 215(e), Dec. 2, 1997, 111 Stat. 2603; Pub. L. 106–9, § 2(d)(2), Apr. 5, 1999, 113 Stat. 18.)

PRIOR PROVISIONS

A prior section 320 of Pub. L. 85–699 was renumbered section 318 and is classified to section 687k of this title.

AMENDMENTS

1999—Pub. L. 106–9 substituted ''12 months'' for ''6 months''.

1997—Pub. L. 105–135 substituted ''6 months'' for ''three months''.

1996—Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 687*l* of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of this title.

§ 688. Repealed. Pub. L. 87–341, § 11(e), Oct. 3, 1961, 75 Stat. 756

Section, Pub. L. 85–699, title III, § 309, Aug. 21, 1958, 72 Stat. 696, related to approval of State chartered investment companies. See subsec. (a) of section 681 of this title.

PART B—NEW MARKETS VENTURE CAPITAL PROGRAM

§ 689. Definitions

In this part, the following definitions apply:

(1) Developmental venture capital

The term ''developmental venture capital'' means capital in the form of equity capital investments in businesses made with a primary objective of fostering economic development in low-income geographic areas. For the purposes of this paragraph, the term ''equity capital'' has the same meaning given such term in section 683(g)(4) of this title.

(2) Low-income individual

The term ''low-income individual'' means an individual whose income (adjusted for family size) does not exceed—

(A) for metropolitan areas, 80 percent of the area median income; and

(B) for nonmetropolitan areas, the greater of—

(i) 80 percent of the area median income; or

(ii) 80 percent of the statewide nonmetropolitan area median income.

(3) Low-income geographic area

the[1] term ''low-income geographic area'' means—

(A) any population census tract (or in the case of an area that is not tracted for population census tracts, the equivalent county division, as defined by the Bureau of the Census of the Department of Commerce for purposes of defining poverty areas), if—

(i) the poverty rate for that census tract is not less than 20 percent;

(ii) in the case of a tract—

(I) that is located within a metropolitan area, 50 percent or more of the households in that census tract have an income equal to less than 60 percent of the area median gross income; or

(II) that is not located within a metropolitan area, the median household income for such tract does not exceed 80 percent of the statewide median household income; or

(iii) as determined by the Administrator based on objective criteria, a substantial population of low-income individuals reside, an inadequate access to investment capital exists, or other indications of economic distress exist in that census tract; or

(B) any area located within—

(i) a HUBZone (as defined in section 632(p) of this title and the implementing regulations issued under that section);

(ii) an urban empowerment zone or urban enterprise community (as designated by the Secretary of Housing and Urban Development); or

(iii) a rural empowerment zone or rural enterprise community (as designated by the Secretary of Agriculture).

(4) New Markets Venture Capital company

The term ''New Markets Venture Capital company'' means a company that—

(A) has been granted final approval by the Administrator under section 689c(e) of this title; and

(B) has entered into a participation agreement with the Administrator.

(5) Operational assistance

The term ''operational assistance'' means management, marketing, and other technical assistance that assists a small business concern with business development.

(6) Participation agreement

The term ''participation agreement'' means an agreement, between the Administrator and a company granted final approval under section 689c(e) of this title, that—

(A) details the company's operating plan and investment criteria; and

(B) requires the company to make investments in smaller enterprises at least 80 percent of which are located in low-income geographic areas.

(7) Specialized small business investment company

The term ''specialized small business investment company'' means any small business investment company that—

(A) invests solely in small business concerns that contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages;

(B) is organized or chartered under State business or nonprofit corporations statutes, or formed as a limited partnership; and

[1] So in original. Probably should be capitalized.

(C) was licensed under section 681(d) of this title, as in effect before September 30, 1996.

(8) State

The term ''State'' means such[2] of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(Pub. L. 85–699, title III, § 351, as added Pub. L. 106–554, § 1(a)(8) [§ 1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–653.)

§ 689a. Purposes

The purposes of the New Markets Venture Capital Program established under this part are—

(1) to promote economic development and the creation of wealth and job opportunities in low-income geographic areas and among individuals living in such areas by encouraging developmental venture capital investments in smaller enterprises primarily located in such areas; and

(2) to establish a developmental venture capital program, with the mission of addressing the unmet equity investment needs of small enterprises located in low-income geographic areas, to be administered by the Administrator—

(A) to enter into participation agreements with New Markets Venture Capital companies;

(B) to guarantee debentures of New Markets Venture Capital companies to enable each such company to make developmental venture capital investments in smaller enterprises in low-income geographic areas; and

(C) to make grants to New Markets Venture Capital companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by such companies.

(Pub. L. 85–699, title III, § 352, as added Pub. L. 106–554, § 1(a)(8) [§ 1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–655.)

§ 689b. Establishment

In accordance with this part, the Administrator shall establish a New Markets Venture Capital Program, under which the Administrator may—

(1) enter into participation agreements with companies granted final approval under section 689c(e) of this title for the purposes set forth in section 689a of this title;

(2) guarantee the debentures issued by New Markets Venture Capital companies as provided in section 689d of this title; and

(3) make grants to New Markets Venture Capital companies, and to other entities, under section 689g of this title.

(Pub. L. 85–699, title III, § 353, as added Pub. L. 106–554, § 1(a)(8) [§ 1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–655.)

§ 689c. Selection of New Markets Venture Capital companies

(a) Eligibility

A company shall be eligible to apply to participate, as a New Markets Venture Capital company, in the program established under this part if—

(1) the company is a newly formed for-profit entity or a newly formed for-profit subsidiary of an existing entity;

(2) the company has a management team with experience in community development financing or relevant venture capital financing; and

(3) the company has a primary objective of economic development of low-income geographic areas.

(b) Application

To participate, as a New Markets Venture Capital company, in the program established under this part a company meeting the eligibility requirements set forth in subsection (a) of this section shall submit an application to the Administrator that includes—

(1) a business plan describing how the company intends to make successful developmental venture capital investments in identified low-income geographic areas;

(2) information regarding the community development finance or relevant venture capital qualifications and general reputation of the company's management;

(3) a description of how the company intends to work with community organizations and to seek to address the unmet capital needs of the communities served;

(4) a proposal describing how the company intends to use the grant funds provided under this part to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company intends to use licensed professionals, when necessary, on the company's staff or from an outside entity;

(5) with respect to binding commitments to be made to the company under this part, an estimate of the ratio of cash to in-kind contributions;

(6) a description of the criteria to be used to evaluate whether and to what extent the company meets the objectives of the program established under this part;

(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the company's business plan; and

(8) such other information as the Administrator may require.

(c) Conditional approval

(1) In general

From among companies submitting applications under subsection (b) of this section, the Administrator shall, in accordance with this subsection, conditionally approval[1] companies

[2] So in original. Probably should be ''each''.

[1] So in original. Probably should be ''approve''.