

vestment company) employee welfare benefit plan or pension plan, or trust, foundation, or endowment that is exempt from Federal income taxation—

“(A) shall not cause a business concern to be deemed not independently owned and operated;

“(B) shall be disregarded in determining whether a business concern satisfies size standards established pursuant to section 3(a)(2) of the Small Business Act; and

“(C) shall be disregarded in determining whether a small business concern is a smaller enterprise”.

Par. (9). Pub. L. 104-208, §208(a)(2), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “notwithstanding any other provision of law, the term ‘private capital’ means the private paid-in capital and paid-in surplus of a corporate licensee, or the private partnership capital of an unincorporate licensee, inclusive of (A) any funds invested in the licensee by a public or private pension fund, (B) any funds invested in the licensee by State or local government entities, to the extent that such investment does not exceed 33 percent of a licensee’s total private capital and otherwise meets criteria established by the Administration, and (C) unfunded commitments from institutional investors that meet criteria established by the Administration, but it excludes any funds which are borrowed by the licensee from any source or which are obtained or derived, directly or indirectly, from any Federal source, including the Administration: *Provided*, That no unfunded commitment from an institutional investor may be used for the purpose of meeting the minimum amount of private capital required by this chapter or as the basis for the Administration to issue obligations to provide financing; and”.

Pars. (10) to (16). Pub. L. 104-208, §208(a)(3), added pars. (10) to (16) and struck out former par. (10) which read as follows: “the term ‘leverage’ includes debentures purchased or guaranteed by the Administration, participating securities purchased or guaranteed by the Administration, or preferred securities issued by companies licensed under section 681(d) of this title and which have been purchased by the Administration.”

1992—Pars. (9), (10). Pub. L. 102-366 added pars. (9) and (10).

1976—Par. (8). Pub. L. 94-305 added par. (8).

1972—Par. (3). Pub. L. 92-595 substituted “section 681” for “section 681(c)”.

Par. (7). Pub. L. 92-595 substituted “section 681” for “section 681(c)”.

1961—Par. (3). Pub. L. 87-341, §2(1), inserted “licensee” and substituted “company approved by the Administration to operate under the provisions of this chapter and issued a license as provided in section 681(c) of this title” for “small business investment company organized as provided in subchapter III of this chapter, including (except for purposes of sections 681 and 687(f) of this title) a State-chartered investment company which has obtained the approval of the Administrator to operate under the provisions of this chapter as provided in section 688 of this title and a company converted into a small business investment company under section 691 of this title”.

Par. (7). Pub. L. 87-341, §2(2), added par. (7).

1960—Par. (4). Pub. L. 86-502 substituted definition of “State” for definition of “United States”.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### 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.

#### EFFECT OF SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992 ON SECURITIES LAWS

Nothing in amendment by Pub. L. 102-366 to be construed to affect applicability of securities laws or to

otherwise supersede or limit jurisdiction of Securities and Exchange Commission, see section 418 of Pub. L. 102-366, set out as a note under section 661 of this title.

## SUBCHAPTER II—SMALL BUSINESS INVESTMENT DIVISION OF SMALL BUSINESS ADMINISTRATION

### § 671. Establishment; Associate Administrator; appointment and compensation

There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The Division shall be headed by an Associate Administrator who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other Associate Administrators of the Small Business Administration.

(Pub. L. 85-699, title II, §201, Aug. 21, 1958, 72 Stat. 690; Pub. L. 89-117, title III, §316(b), Aug. 10, 1965, 79 Stat. 484; Pub. L. 89-779, §2, Nov. 6, 1966, 80 Stat. 1359.)

#### AMENDMENTS

1966—Pub. L. 89-779 substituted “Associated Administrator” for “Deputy Administrator” as the head of the Small Business Investment Division of the Small Business Administration, substituted the rate provided by law for other Associate Administrators of the Small Business Administration for the rate provided by law for the other Deputy Administrators of the Small Business Administration as the standard of compensation for the head of the Small Business Investment Division, and struck out provisions spelling out the proper exercise of the powers conferred on the Administration and on the Administrator through the Small Business Investment Division and the Division head. See section 687(f) of this title.

1965—Pub. L. 89-117 provided that the powers conferred by subchapters IV-A and V of this chapter shall be exercised through such divisions, sections, or other personnel as the Administrator in his discretion determines.

### § 672. Repealed. Pub. L. 87-341, § 11(h)(1), Oct. 3, 1961, 75 Stat. 757

Section, Pub. L. 85-699, title II, §202(b), Aug. 21, 1958, 72 Stat. 691, authorized appropriations for business expenses.

## SUBCHAPTER III—INVESTMENT DIVISION PROGRAMS

### PART A—SMALL BUSINESS INVESTMENT COMPANIES

#### § 681. Organization

##### (a) Incorporation and charter under State law, period of succession; area of operations

A small business investment company shall be an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities contemplated under this subchapter, which, if incorporated, has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than ten years, and possesses the powers reasonably necessary to perform such functions and conduct such activities. The area in which the company