

104TH CONGRESS
2D SESSION

H. R. 3719

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6, 1996

Received

AN ACT

To amend the Small Business Act and Small Business
Investment Act of 1958.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Small Business Programs Improvement Act of 1996”.

1 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Administrator defined.
- Sec. 3. Effective date.

TITLE I—AMENDMENTS TO SMALL BUSINESS ACT

- Sec. 101. References.
- Sec. 102. Risk management database.
- Sec. 103. Section 7(a) loan program.
- Sec. 104. Disaster loan program.
- Sec. 105. Microloan demonstration program.
- Sec. 106. Small business development center program.
- Sec. 107. Miscellaneous authorities to provide loans and other financial assistance.
- Sec. 108. Small business competitiveness demonstration program.
- Sec. 109. Amendment to Small Business Guaranteed Credit Enhancement Act of 1993.
- Sec. 110. 1998 authorizations.
- Sec. 111. Level of participation for export working capital loans.

TITLE II—AMENDMENTS TO SMALL BUSINESS INVESTMENT ACT

- Sec. 201. References.
- Sec. 202. Modifications to development company debenture program.
- Sec. 203. Required actions upon default.
- Sec. 204. Loan liquidation pilot program.
- Sec. 205. Registration of certificates.
- Sec. 206. Preferred surety bond guarantee program.
- Sec. 207. Sense of the Congress.

2 **SEC. 2. ADMINISTRATOR DEFINED.**

3 In this Act, the term “Administrator” means the Ad-
4 ministrator of the Small Business Administration.

5 **SEC. 3. EFFECTIVE DATE.**

6 Except as otherwise expressly provided, this Act and
7 the amendments made by this Act shall take effect on Oc-
8 tober 1, 1996.

1 **TITLE I—AMENDMENTS TO**
2 **SMALL BUSINESS ACT**

3 **SEC. 101. REFERENCES.**

4 Except as otherwise expressly provided, whenever in
5 this title an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the Small Business Act (15
9 U.S.C. 631 et seq.).

10 **SEC. 102. RISK MANAGEMENT DATABASE.**

11 Section 4(b) (15 U.S.C. 633) is amended by inserting
12 after paragraph (2) the following:

13 “(3) RISK MANAGEMENT DATABASE.—

14 “(A) ESTABLISHMENT.—The Administra-
15 tion shall establish, within the management sys-
16 tem for the loan programs authorized by sub-
17 sections (a) and (b) of section 7 of this Act and
18 title V of the Small Business Investment Act of
19 1958, a management information system that
20 will generate a database capable of providing
21 timely and accurate information in order to
22 identify loan underwriting, collections, recovery,
23 and liquidation problems.

24 “(B) INFORMATION TO BE MAINTAINED.—

25 In addition to such other information as the

1 Administration considers appropriate, the
2 database established under subparagraph (A)
3 shall, with respect to each loan program de-
4 scribed in subparagraph (A), include informa-
5 tion relating to—

6 “(i) the identity of the institution
7 making the guaranteed loan or issuing the
8 debenture;

9 “(ii) the identity of the borrower;

10 “(iii) the total dollar amount of the
11 loan or debenture;

12 “(iv) the total dollar amount of gov-
13 ernment exposure in each loan;

14 “(v) the district of the Administration
15 in which the borrower has its principal of-
16 fice;

17 “(vi) the borrower’s principal line of
18 business, as identified by Standard Indus-
19 trial Classification Code (or any successor
20 to that system);

21 “(vii) the delinquency rate for each
22 program (including number of instances
23 and days overdue);

24 “(viii) the number of defaults in each
25 program (including losses and recoveries);

1 “(ix) the number of deferrals or
2 forbearances in each program (including
3 days and number of instances); and

4 “(x) comparisons on the basis of loan
5 program, lender, Administration district
6 and region, for all the data elements main-
7 tained.

8 “(C) DEADLINE FOR OPERATIONAL CAPA-
9 BILITY.—The database established under sub-
10 paragraph (A) shall be operational not later
11 than March 31, 1997, and shall capture data
12 beginning on the first day of the first quarter
13 of fiscal year 1997 beginning after such date
14 and thereafter.”.

15 **SEC. 103. SECTION 7(a) LOAN PROGRAM.**

16 (a) SERVICING AND LIQUIDATION OF LOANS BY PRE-
17 FERRED LENDERS.—Section 7(a)(2)(C)(ii)(II) (15 U.S.C.
18 636(a)(2)(C)(ii)(II)) is amended to read as follows:

19 “(II) complete authority to serv-
20 ice and liquidate such loans without
21 obtaining the prior specific approval
22 of the Administration for routine serv-
23 icing and liquidation activities, but
24 shall not take any actions creating an

1 actual or apparent conflict of inter-
2 est.”.

3 (b) CERTIFIED LENDERS PROGRAM.—Section
4 7(a)(19) (15 U.S.C. 636(a)(19)) is amended to read as
5 follows:

6 “(19)(A) CERTIFIED LENDERS PROGRAM.—

7 “(i) ESTABLISHMENT.—In addition to the
8 Preferred Lenders Program authorized by the
9 proviso in section 5(b)(7), the Administration is
10 authorized to establish a Certified Lenders Pro-
11 gram for lenders who establish their knowledge
12 of Administration laws and regulations concern-
13 ing the guaranteed loan program and their pro-
14 ficiency in program requirements.

15 “(ii) SUSPENSION AND REVOCATION.—The
16 designation of a lender as a certified lender
17 shall be suspended or revoked at any time that
18 the Administration determines that the lender
19 is not adhering to its rules and regulations or
20 that the loss experience of the lender is exces-
21 sive as compared to other lenders, but such sus-
22 pension or revocation shall not affect any out-
23 standing guarantee.

24 “(B) UNIFORM AND SIMPLIFIED LOAN
25 FORMS.—In order to encourage all lending institu-

1 tions and other entities making loans authorized
2 under this subsection to provide loans of \$50,000 or
3 less in guarantees to eligible small business loan ap-
4 plicants, the Administration shall develop and allow
5 participating lenders to solely utilize a uniform and
6 simplified loan form for such loans.

7 “(C) LOW DOCUMENTATION LOAN PROGRAM.—

8 The Administrator may carry out the low docu-
9 mentation loan program for loans of \$100,000 or
10 less only through Preferred Lenders and Certified
11 Lenders, or lenders with significant experience mak-
12 ing small business loans. The Administration shall
13 give special consideration to lenders who have made
14 loans under the authority of this section. The Ad-
15 ministrator shall promulgate regulations defining the
16 experience necessary for lenders other than Pre-
17 ferred or Certified Lenders for participation as a
18 lender in the low documentation loan program no
19 later than 90 days after the date of enactment of
20 this subsection.

21 “(D) AUTHORITY LIQUIDATE LOANS.—

22 “(i) IN GENERAL.—Lenders participating
23 in the Certified Lenders Program shall have au-
24 thority to liquidate loans made with a guaran-
25 tee from the Administration.

1 “(ii) APPROVAL.—The Administrator has
2 the authority to require a certified lender to re-
3 quest approval of a routine liquidation activity,
4 and if the Administrator does not approve or
5 deny a request made by a certified lender with-
6 in a period of 5 business days, such request
7 shall be deemed to be approved.

8 “(E) LOW DOCUMENTATION LOAN PROGRAM
9 SUBSIDY RATE.—The Administrator shall with the
10 assistance of the Director of the Office of Manage-
11 ment and Budget establish and monitor, on an an-
12 nual basis, the subsidy rate for the low documenta-
13 tion loan program, independently of other loans au-
14 thorized by this section.”.

15 (c) LIMITATION ON CONDUCTING PILOT
16 PROJECTS.—Section 7(a) (15 U.S.C. 636(a)) is amended
17 by adding at the end the following new paragraph:

18 “(25) LIMITATION ON CONDUCTING PILOT
19 PROJECTS.—

20 “(A) IN GENERAL.—Not more than 10
21 percent of the total number of loans guaranteed
22 in any fiscal year under this subsection may be
23 awarded as part of a pilot program which is
24 commenced by the Administrator on or after
25 October 1, 1996.

1 “(B) PILOT PROGRAM DEFINED.—In this
2 paragraph, the term ‘pilot program’ means any
3 lending program initiative, project, innovation,
4 or other activity not specifically authorized by
5 law.”.

6 (d) SECURITIZATION OF UNGUARANTEED PORTIONS
7 OF SBA LOANS.—Section 5(f)(3) (15 U.S.C. 634(f)(3))
8 is amended by adding at the end the following: “The Ad-
9 ministration may not prohibit a lender from securitizing
10 the nonguaranteed portion of any loan made under section
11 7(a). In order to reduce the risk of loss to the government
12 in the event of default, the Administration may require
13 all lenders securitizing, or requesting Administration ap-
14 proval for the securitization of the nonguaranteed portion
15 of any loan, to retain exposure of up to 10 percent of the
16 amount of the loan, which percentage shall be applicable
17 uniformly to both depository institutions and other lenders
18 unless the Administrator determines that the lender, on
19 a case by case basis, has undertaken other agreements
20 which retain an acceptable exposure to loss by the lender
21 in the event of default of a loan being securitized.”.

22 (e) CONDITIONS ON PURCHASE OF LOANS.—

23 (1) SERVICING FEE.—Section 5(g)(5) (15
24 U.S.C. 634(g)(5)) is amended by adding at the end
25 the following:

1 “(C) In the event the Administration pays a claim
2 under a guarantee issued under this Act, the servicing fees
3 paid to the lender from the earliest date of default to the
4 date of payment of the claim shall be no more than the
5 agreed upon rate, minus one percent.”.

6 (2) PAYMENT OF ACCRUED INTEREST.—Section
7 7(a)(17) is amended—

8 (A) by striking “(17) The Administration”
9 and inserting “(17)(A) The Administration”;
10 and

11 (B) by adding at the end the following:

12 “(B) Any bank or other lending institution
13 making a claim for payment on the guaranteed por-
14 tion of a loan made under this subsection shall be
15 paid the accrued interest due on the loan from the
16 earliest date of default to the date of payment of the
17 claim at a rate not to exceed the rate of interest on
18 the loan on the date of default, minus one percent.”.

19 (f) PLAN FOR TRANSFER OF LOAN SERVICING FUNC-
20 TIONS TO CENTRALIZED CENTERS.—

21 (1) IMPLEMENTATION PLAN REQUIRED.—The
22 Administrator of the Small Business Administration
23 shall submit a detailed plan for consolidating, in one
24 or more centralized centers, the performance of the
25 various functions relating to the servicing of loans

1 directly made or guaranteed by the Administration
2 pursuant to the Small Business Act, addressing the
3 matters described in paragraph (2) by the deadline
4 specified in paragraph (3).

5 (2) CONTENTS OF PLAN.—In addition to such
6 other matters as the Administrator may deem ap-
7 propriate, the plan required by paragraph (1) shall
8 include—

9 (A) the proposed number and location of
10 such centralized loan processing centers;

11 (B) the proposed workload (identified by
12 type and numbers of loans and their geographic
13 origin by the Small Business Administration
14 district office) and staffing of each such center;

15 (C) a detailed, time-phased plan for the
16 transfer of the identified loan servicing func-
17 tions to each proposed center; and

18 (D) any identified impediments to the
19 timely execution of the proposed plan (including
20 adequacy of available financial resources, avail-
21 ability of needed personnel, facilities, and relat-
22 ed equipment) and the Administrator's rec-
23 ommendations for addressing such impedi-
24 ments.

1 (3) DEADLINE FOR SUBMISSION.—The plan re-
2 quired by paragraph (1) shall be submitted to the
3 Committees on the Small Business of the House of
4 Representatives and Senate not later than February
5 28, 1997.

6 (g) PREFERRED LENDER STANDARD REVIEW PRO-
7 GRAM.—Not later than 60 days after the date of enact-
8 ment of this Act, the Administrator shall issue a request
9 for proposals regarding the standard review program for
10 the Preferred Lender Program established by section
11 5(b)(7) of the Small Business Act (15 U.S.C. 634(b)(7)).
12 The Administrator shall require such standard review for
13 each new entrant to the Preferred Lender Program.

14 (h) INDEPENDENT STUDY OF LOAN PROGRAMS.—

15 (1) STUDY REQUIRED.—The Administrator
16 shall conduct a comprehensive assessment of the
17 performance of the loan programs authorized by sec-
18 tion 7(a) of the Small Business Act (15 U.S.C.
19 636(a)) and title V of the Small Business Invest-
20 ment Act of 1958 (15 U.S.C. 661) addressing the
21 matters described in paragraph (2) and resulting in
22 a report to Congress pursuant to paragraph (5).

23 (2) MATTERS TO BE ASSESSED.—In addition to
24 such other matters as the Administrator considers
25 appropriate, the assessment required by paragraph

1 (1) shall address, with respect to each loan program
2 described in paragraph (1) for each of the fiscal
3 years described in paragraph (3)—

4 (A) the number and frequency of deferrals
5 and defaults;

6 (B) default rates;

7 (C) comparative loss rates, by—

8 (i) type of lender (separately address-
9 ing preferred lenders, certified lenders, and
10 general participation lenders);

11 (ii) term of the loan; and

12 (iii) dollar value of the loan at dis-
13 bursement; and

14 (D) the economic models used by the Of-
15 fice of Management and Budget to calculate the
16 credit subsidy rate applicable to the loan pro-
17 grams.

18 (3) PERIOD OF ASSESSMENT.—The assessments
19 undertaken pursuant to paragraph (2) shall address
20 data for the period beginning with the first full fiscal
21 year of the implementation of each loan program de-
22 scribed in paragraph (1) through fiscal year 1995.

23 (4) PERFORMANCE BY THE PRIVATE SECTOR.—

24 (A) CONTRACTOR PERFORMANCE.—A pri-
25 vate sector contractor shall be used by the Ad-

1 administrator to conduct the assessment required
2 by paragraph (1) and to prepare the report to
3 Congress required by paragraph (3).

4 (B) SOLICITATION AND AWARD.—The con-
5 tract shall be awarded pursuant to a solicitation
6 issued not later than 60 days after the date of
7 the enactment of this Act, which shall provide
8 for full and open competition. The Adminis-
9 trator shall make every reasonable effort to
10 award the contract not later that 60 days after
11 the date specified in the solicitation for receipt
12 of proposals.

13 (C) ACCESS TO INFORMATION.—The Ad-
14 ministrator shall provide to the contractor ac-
15 cess to any information collected by or available
16 to the Administration with regard to the loan
17 programs being assessed. The contractor shall
18 preserve the confidentiality of any information
19 for which confidentiality is protected by law or
20 properly asserted by the person submitting such
21 information.

22 (D) CONTRACT FUNDING.—The Adminis-
23 trator shall fund the cost of the contract from
24 the amounts appropriated for the salaries and

1 expenses of the Administration for fiscal year
2 1997.

3 (5) REPORT TO CONGRESS.—

4 (A) CONTENTS.—The contractor shall sub-
5 mit a report of—

6 (i) its analyses of the matters to be
7 assessed pursuant to paragraph (2); and

8 (ii) its independent recommendations,
9 with respect to each loan program, regard-
10 ing—

11 (I) improving the Administra-
12 tion's timely collection and subsequent
13 management of data to measure the
14 performance of each loan program de-
15 scribed in paragraph (1); and

16 (II) reducing loss rates for each
17 such loan program.

18 (B) SUBMISSION BY CONTRACTOR.—The
19 contractor shall submit the report required by
20 subparagraph (A) not later than 6 months after
21 the date of the contract award.

22 (C) SUBMISSION TO CONGRESS.—The Ad-
23 ministrator shall submit the report received
24 from the contractor pursuant to subparagraph
25 (B) to the Committees on Small Business of the

1 House of Representatives and the Senate within
2 30 days of receipt of the report. The Adminis-
3 trator shall append his comments, and those of
4 the Office of Management and Budget, if any,
5 to the report.

6 (i) GENERAL ACCOUNTING OFFICE STUDY.—

7 (1) IN GENERAL.—The General Accounting Of-
8 fice shall conduct a comparison of the cost of liq-
9 uidation for—

10 (A) loans guaranteed under the Preferred
11 Lenders Program that are authorized by section
12 7(a) of the Small Business Act (15 U.S.C.
13 636(a)) and liquidated by the Preferred Lend-
14 ers;

15 (B) loans made and liquidated by, Pre-
16 ferred Lenders, but not guaranteed under the
17 authority in section 7(a); and

18 (C) loans guaranteed by the Small Busi-
19 ness Administration under the authority in sec-
20 tion 7(a) and liquidated by the Administration,
21 taking into account all of the related costs in-
22 curred by the Federal Government.

23 (2) REPORT.—Not later than 9 months after
24 the date of enactment of this Act the General Ac-
25 counting Office shall deliver the results of the study

1 to the Committees on Small Business of the House
2 and Senate.

3 **SEC. 104. DISASTER LOAN PROGRAM.**

4 (a) INTEREST RATE.—Section 7(c) (15 U.S.C.
5 636(c)) is amended by redesignating paragraphs (6) and
6 (7) as paragraphs (8) and (9), respectively, and by insert-
7 ing after paragraph (5) the following:

8 “(6) DISASTERS COMMENCING AFTER OCTOBER
9 1, 1996.—Notwithstanding any other provision of
10 law, the interest rate on the Federal share of any
11 loan made under subsection (b)(1) and (b)(2) on ac-
12 count of a disaster commencing on or after October
13 1, 1996, shall be in the case of a homeowner, or
14 business, or other concern, including agricultural co-
15 operatives, unable to obtain credit elsewhere, at the
16 rate prescribed by the Administration but not more
17 than $\frac{3}{4}$ of the rate determined by the Secretary of
18 the Treasury, taking into consideration the current
19 average market yield on outstanding marketable ob-
20 ligations of the United States with remaining peri-
21 ods to maturity comparable to the average matu-
22 rities of such loans plus an additional charge of not
23 to exceed 1 percent per annum as determined by the
24 Administrator, and adjusted to the nearest $\frac{1}{8}$ of 1
25 percent but not to exceed 7 per centum per annum.

1 “(7) LIABILITY.—Whoever wrongfully
2 misapplies the proceeds of a loan under subsection
3 (b) shall be liable to the Administrator in an amount
4 equal to 1½ times the original principal amount of
5 the loan.”.

6 (b) PRIVATE SECTOR LOAN SERVICING DEMONSTRATION
7 PROGRAM.—

8 (1)(A) DEMONSTRATION PROGRAM RE-
9 REQUIRED.—The Administration shall conduct a dem-
10 onstration program, within the parameters described
11 in paragraph (2), to evaluate the comparative costs
12 and benefits of having the Administration’s portfolio
13 of disaster loans serviced under contract rather than
14 directly by employees of the Administration.

15 (B) INITIATION DATE.—Not later than 90 days
16 after the date of enactment of this Act, the Adminis-
17 tration shall issue a request for proposals for the
18 program parameters described in paragraph (2).

19 (2) DEMONSTRATION PROGRAM PARAM-
20 ETERS.—

21 (A) LOAN SAMPLE.—The sample of loans
22 for the demonstration program shall be ran-
23 domly drawn from the Administration’s port-
24 folio of loans made pursuant to section 7(b) of
25 the Small Business Act and include 20,000

1 loans for residential properties and 5,000 loans
2 for commercial properties.

3 (B) CONTRACT AND OPTIONS.—The Ad-
4 ministration shall solicit and competitively
5 award one or more contracts to service the
6 loans included in the sample of loans described
7 in subparagraph (A) for a term of 2 years with
8 5 2-year options, each to be awarded subject to
9 subparagraph (C).

10 (C) ASSESSMENTS OF PERFORMANCE.—
11 Prior to award of any contract option, the Ad-
12 ministration shall assess the costs and perform-
13 ance of each contractor and compare such costs
14 and such performance to the costs and perform-
15 ance of servicing disaster loans by employees of
16 the Administration. The Administrator shall not
17 exercise a contract option if the cost of per-
18 formance of the loan servicing by the contractor
19 exceeds the cost of performance of the loan
20 servicing by employees of the Administration.
21 The Administrator may terminate the contract
22 during its initial term (or any subsequent op-
23 tion period), based upon performance and cost
24 criteria specified in the solicitation and included
25 in the contract.

1 (D) DISPOSITION OF GOVERNMENT FUR-
2 NISHED PROPERTY.—The contract shall require
3 the contractor to—

4 (i) maintain the confidentiality of the
5 loan files furnished by the Administration;
6 and

7 (ii) return such loan files and other
8 Government-furnished property within a
9 specified period after expiration (or termi-
10 nation) of the contract.

11 (3) TERM OF DEMONSTRATION PROGRAM.—

12 (A) IN GENERAL.—The demonstration pro-
13 gram required by paragraph (1) shall com-
14 mence on the first day of the first fiscal year
15 quarter after the award of the contract and
16 continue through the last day of the fiscal year
17 quarter at the expiration of the 2-year contract
18 period or any subsequent contract option.

19 (B) EARLY TERMINATION.—If the Admin-
20 istrator terminates each contract pursuant to
21 paragraph (2)(C), the demonstration program
22 shall end on the effective date of such termi-
23 nation.

24 (4) REPORTS.—

1 (A) INTERIM REPORTS.—The Adminis-
2 trator shall submit to the Committees on Small
3 Business of the House of Representatives and
4 Senate interim reports on the conduct of the
5 demonstration program not later than 60 days
6 prior to the expiration of the initial 2-year con-
7 tract performance period, each subsequent op-
8 tion period, or termination of a contract. The
9 contractor shall be afforded a reasonable oppor-
10 tunity to attach comments to each such report.

11 (B) FINAL REPORT.—The Administrator
12 shall submit to the Committees on Small Busi-
13 ness of the House of Representatives and Sen-
14 ate a final report within 120 days of the termi-
15 nation of the demonstration program.

16 (c) DEFINITION OF DISASTER.—(1) Section 3(k) (15
17 U.S.C. 632(k)) is amended by striking “ocean conditions”
18 and inserting “ocean conditions, or government action
19 (regulatory or otherwise)”.

20 (2) For the purposes of this Act this amendment shall
21 be considered effective with respect to any disaster occur-
22 ring on or after March 1, 1994.

1 **SEC. 105. MICROLOAN DEMONSTRATION PROGRAM.**

2 (a) TECHNICAL ASSISTANCE GRANT REQUIRE-
3 MENTS.—Section 7(m)(4) (15 U.S.C. 636(m)(4)) is
4 amended—

5 (1) in subparagraph (A) by striking “25 per-
6 cent” and inserting “20 percent”; and

7 (2) in subparagraph (B) by striking “25 per-
8 cent” and inserting “35 percent”.

9 (b) IMPLEMENTATION OF GUARANTEED MICROLOAN
10 PILOT PROGRAM.—

11 (1) ACTION REQUIRED.—The Administrator
12 shall implement or submit a detailed report explain-
13 ing the impediments to the implementation of a
14 Guaranteed Microloan Pilot Program pursuant to
15 section 7(m)(12) (15 U.S.C. 636(m)(12)) addressing
16 the matters described in paragraph (2) by the dead-
17 line specified in paragraph (3).

18 (2) CONTENTS OF IMPLEMENTATION RE-
19 PORT.—In addition to such other matters as the Ad-
20 ministrator may deem appropriate, the plan required
21 by paragraph (1) shall include any identified impedi-
22 ments to implementation of a Guaranteed Microloan
23 Pilot Program that, in the opinion of the Adminis-
24 trator, require amendments to the program’s author-
25 izing legislation, and if such impediments are identi-

1 fied, includes recommendations for such statutory
2 changes.

3 (3) DEADLINE FOR SUBMISSION.—The plan re-
4 quired by paragraph (2) shall be submitted to the
5 Committees on Small Business of the House of Rep-
6 resentatives and Senate not later than December 1,
7 1996.

8 (c) LIMITATION ON FUNDING.—In the event that the
9 Administrator shall fail to submit the report required by
10 subsection (b)(1) by the deadline specified in subsection
11 (b)(3), none of the amounts appropriated to carry out the
12 Microloan Program authorized by section 7(m)(12) of the
13 Small Business Act (15 U.S.C. 636(m)(12)) during fiscal
14 year 1997 may be expended until such time as the pilot
15 program is implemented or the report is submitted.

16 **SEC. 106. SMALL BUSINESS DEVELOPMENT CENTER PRO-**
17 **GRAM.**

18 (a) ASSOCIATE ADMINISTRATOR FOR SMALL BUSI-
19 NESS DEVELOPMENT CENTERS.—

20 (1) DUTIES.—Section 21(h) (15 U.S.C. 648(h))
21 is amended to read as follows:

22 “(h) ASSOCIATE ADMINISTRATOR FOR SMALL BUSI-
23 NESS DEVELOPMENT CENTERS.—

24 “(1) APPOINTMENT AND COMPENSATION.—The
25 Administrator shall appoint an Associate Adminis-

1 trator for Small Business Development Centers who
2 shall report to an official who is not more than one
3 level below the Office of the Administrator and who
4 shall serve without regard to the provisions of title
5 5 governing appointments in the competitive service,
6 and without regard to chapter 51, and subchapter
7 III of chapter 53 of such title relating to classifica-
8 tion and General Schedule pay rates, but at a rate
9 not less than the rate of GS-17 of the General
10 Schedule.

11 “(2) DUTIES.—

12 “(A) IN GENERAL.—The sole responsibility
13 of the Associate Administrator for Small Busi-
14 ness Development Centers shall be to admin-
15 ister the small business development center pro-
16 gram. Duties of the position shall include, but
17 are not limited to, recommending the annual
18 program budget, reviewing the annual budgets
19 submitted by each applicant, establishing appro-
20 priate funding levels therefore, selecting appli-
21 cants to participate in this program, implement-
22 ing the provisions of this section, maintaining a
23 clearinghouse to provide for the dissemination
24 and exchange of information between small

1 business development centers and conducting
2 audits of recipients of grants under this section.

3 “(B) CONSULTATION REQUIREMENTS.—In
4 carrying out the duties described in this sub-
5 section, the Associate Administrator shall con-
6 fer with and seek the advice of the Board estab-
7 lished by subsection (i) and Administration offi-
8 cials in areas served by the small business de-
9 velopment centers; however, the Associate Ad-
10 ministrator shall be responsible for the manage-
11 ment and administration of the program and
12 shall not be subject to the approval or concur-
13 rence of such Administration officials.”.

14 (2) REFERENCES TO ASSOCIATE ADMINIS-
15 TRATOR.—Section 21 (15 U.S.C. 648) is amended—

16 (A) in subsection (c)(7) by striking “Dep-
17 uty Associate Administrator of the Small Busi-
18 ness Development Center program” and insert-
19 ing “Associate Administrator for Small Busi-
20 ness Development Centers”; and

21 (B) in subsection (i)(2) by striking “Dep-
22 uty Associate Administrator for Management
23 Assistance” and inserting “Associate Adminis-
24 trator for Small Business Development Cen-
25 ters”.

1 (b) EXTENSION OR RENEWAL OF COOPERATIVE
2 AGREEMENTS.—Section 21(k)(3) (15 U.S.C. 648(k)(3)) is
3 amended to read as follows:

4 “(3) EXTENSION OR RENEWAL OF COOPERA-
5 TIVE AGREEMENTS.—

6 “(A) IN GENERAL.—In extending or re-
7 newing a cooperative agreement of a small busi-
8 ness development center, the Administration
9 shall consider the results of the examination
10 and certification program conducted pursuant
11 to paragraphs (1) and (2).

12 “(B) CERTIFICATION REQUIREMENT.—
13 After September 30, 2000, the Administration
14 may not renew or extend any cooperative agree-
15 ment with a small business development center
16 unless the center has been approved under the
17 certification program conducted pursuant to
18 this subsection; except that the Associate Ad-
19 ministrator for Small Business Development
20 Centers may waive such certification require-
21 ment, in the discretion of the Associate Admin-
22 istrator, upon a showing that the center is mak-
23 ing a good faith effort to obtain certification.”.

24 (c) TECHNICAL CORRECTION.—Section 21(l) (15
25 U.S.C. 648(l)) is amended to read as follows:

1 (c) WAIVER OF CREDIT ELSEWHERE TEST FOR COL-
2 LEGES AND UNIVERSITIES.—Section 7(f) (15 U.S.C.
3 636(f)) is amended to read as follows:

4 “(f) **[RESERVED]**.”

5 (d) LOANS TO SMALL BUSINESS CONCERNS FOR
6 SOLAR ENERGY AND ENERGY CONSERVATION MEAS-
7 URES.—Section 7(l) (15 U.S.C. 636(l)) is amended to
8 read as follows:

9 “(l) **[RESERVED]**.”

10 **SEC. 108. SMALL BUSINESS COMPETITIVENESS DEM-**
11 **ONSTRATION PROGRAM.**

12 (a) EXTENSION OF DEMONSTRATION PROGRAM.—
13 Section 711(c) of the Small Business Competitiveness
14 Demonstration Program Act of 1988 (15 U.S.C. 644 note;
15 102 Stat. 3890) is amended by striking “September 30,
16 1996” and inserting “September 30, 2000”.

17 (b) REPORTING OF SUBCONTRACT PARTICIPATION IN
18 CONTRACTS FOR ARCHITECTURAL AND ENGINEERING
19 SERVICES.—Section 714(b)(5) of the Small Business
20 Competitiveness Demonstration Program Act of 1988 (15
21 U.S.C. 644 note; 102 Stat. 3892) is amended to read as
22 follows:

23 “(5) DURATION.—The system described in sub-
24 section (a) shall be established not later than Octo-
25 ber 1, 1996 (or as soon as practicable thereafter on

1 the first day of a subsequent quarter of fiscal year
2 1997), and shall terminate on September 30,
3 2000.”.

4 (c) REFERENCES TO ARCHITECTURAL AND ENGI-
5 NEERING SERVICES.—

6 (1) IN GENERAL.—The Small Business Com-
7 petitiveness Demonstration Program Act of 1988
8 (15 U.S.C. 644 note; 102 Stat. 3889 et seq.) is
9 amended in subsections (a)(3) and (d) by striking
10 “surveying and mapping” and inserting “surveying,
11 mapping, and landscape architecture”.

12 (2) DESIGNATED INDUSTRY GROUPS.—Section
13 717(d) of the Small Business Competitiveness Dem-
14 onstration Program Act of 1988 (15 U.S.C. 644
15 note; 102 Stat. 3894) is amended by inserting
16 “standard industrial classification codes 0781 (if
17 identified as pertaining to architecture services),”
18 after “(if identified as pertaining to mapping serv-
19 ices),”.

20 (d) REPORTS TO CONGRESS.—

21 (1) IN GENERAL.—Section 716 of the Small
22 Business Competitiveness Demonstration Program
23 Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3893)
24 is amended—

1 (A) in subsection (a), by striking “fiscal
2 year 1991 and 1995” and inserting “each of
3 fiscal years 1991 through 1999”;

4 (B) in subsection (a), by striking “results”
5 and inserting “cumulative results”; and

6 (C) in subsection (c), by striking “1996”
7 and inserting “1999”.

8 (2) CUMULATIVE REPORT THROUGH FISCAL
9 YEAR 1995.—A cumulative report of the results of
10 the Small Business Competitiveness Demonstration
11 Program for fiscal years 1991 through 1995 shall be
12 submitted not later than 60 days after the date of
13 the enactment of this Act pursuant to section 716(a)
14 of the Small Business Competitiveness Demonstra-
15 tion Program Act of 1988 (15 U.S.C. 644 note; 102
16 Stat. 3893), as amended by paragraph (1) of this
17 subsection.

18 **SEC. 109. AMENDMENT TO SMALL BUSINESS GUARANTEED**

19 **CREDIT ENHANCEMENT ACT OF 1993.**

20 (a) Section 7 of the Small Business Guaranteed Cred-
21 it Enhancement Act of 1993 (Public Law 103–81; 15
22 U.S.C. 634 note) is repealed effective September 29, 1996.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 for the Small Business Guaranteed Credit Enhancement

1 Act of 1993 (Public Law 103–81; 15 U.S.C. 631 note)
2 is amended by striking the item relating to section 7.

3 **SEC. 110. 1998 AUTHORIZATIONS.**

4 Section 20 (15 U.S.C. 631 note) is amended—

5 (1) in subsection (p), by striking “authorized
6 for fiscal year 1997” and inserting “authorized for
7 each of fiscal years 1997 and 1998”;

8 (2) by striking subsection (p)(3)(B) and by in-
9 serting the following:

10 “(B) \$268,000,000 in guarantees of de-
11 bentures; and”;

12 (3) in subsection (q)(1) by striking “fiscal year
13 1997” and inserting “each of fiscal years 1997 and
14 1998”; and

15 (4) in subsection (q)(2) by striking “year 1997”
16 and inserting “years 1997 and 1998”.

17 **SEC. 111. LEVEL OF PARTICIPATION FOR EXPORT WORK-**
18 **ING CAPITAL LOANS.**

19 Section 7(a)(2) (15 U.S.C. 636(a)(2)) is amended by
20 adding at the end the following:

21 “(D) PARTICIPATION UNDER EXPORT
22 WORKING CAPITAL PROGRAM.—Notwithstanding
23 subparagraph (A), in an agreement to partici-
24 pate in a loan on a deferred basis under the
25 Export Working Capital Program established

1 pursuant to paragraph (14)(A), such participa-
2 tion by the Administration shall be equal to the
3 rate specified under this paragraph as in effect
4 on the day before the date of the enactment of
5 the Small Business Lending Enhancement Act
6 of 1995.”.

7 **TITLE II—AMENDMENTS TO**
8 **SMALL BUSINESS INVEST-**
9 **MENT ACT**

10 **SEC. 201. REFERENCES.**

11 Except as otherwise expressly provided, whenever in
12 this title an amendment or repeal is expressed in terms
13 of an amendment to, or repeal of, a section or other provi-
14 sion, the reference shall be considered to be made to a
15 section or other provision of the Small Business Invest-
16 ment Act of 1958 (15 U.S.C. 661 et seq.).

17 **SEC. 202. MODIFICATIONS TO DEVELOPMENT COMPANY**
18 **DEBENTURE PROGRAM.**

19 (a) DECREASED LOAN TO VALUE RATIOS.—Section
20 502(3) (15 U.S.C. 696(3)) is amended to read as follows:

21 “(3) CRITERIA FOR ASSISTANCE.—

22 “(A) IN GENERAL.—Any development com-
23 pany assisted under this section or section 503
24 of this title must meet the criteria established
25 by the Administration, including the extent of

1 participation to be required or amount of paid-
2 in capital to be used in each instance as is de-
3 termined to be reasonable by the Administra-
4 tion.

5 “(B) COMMUNITY INJECTION FUNDS.—

6 “(i) SOURCES OF FUNDS.—Communi-
7 ty injection funds may be derived, in
8 whole or in part, from—

9 “(I) State or local governments;

10 “(II) banks or other financial in-
11 stitutions;

12 “(III) foundations or other not-
13 for-profit institutions; or

14 “(IV) the small business concern
15 (or its owners, stockholders, or affili-
16 ates) receiving assistance through a
17 body authorized by this title.

18 “(ii) FUNDING FROM INSTITU-
19 TIONS.—Not less than 50 percent of the
20 total cost of any project financed pursuant
21 to clauses (i), (ii), or (iii) of subparagraph
22 (C) shall come from the institutions de-
23 scribed in subclauses (I), (II), and (III) of
24 clause (i).

1 “(C) FUNDING FROM A SMALL BUSINESS
2 CONCERN.—The small business concern (or its
3 owners, stockholders, or affiliates) receiving as-
4 sistance through a body authorized by this title
5 shall provide—

6 “(i) at least 15 percent of the total
7 cost of the project financed, if the small
8 business concern has been in operation for
9 a period of 2 years or less;

10 “(ii) at least 15 percent of the total
11 cost of the project financed if the project
12 involves the construction of a limited or
13 single purpose building or structure;

14 “(iii) at least 20 percent of the total
15 cost of the project financed if the project
16 involves both of the conditions set forth in
17 clauses (i) and (ii); or

18 “(iv) at least 10 percent of the total
19 cost of the project financed, in all other
20 circumstances, at the discretion of the de-
21 velopment company.”.

22 (b) GUARANTEE FEE FOR DEVELOPMENT COMPANY
23 DEBENTURES.—Section 503(b)(7)(A) (15 U.S.C.
24 697(b)(7)(A)) is amended by striking “0.125 percent” and
25 inserting “0.9375 percent”.

1 (c) FEES TO OFFSET SUBSIDY COST.—Section
2 503(d) (15 U.S.C. 697(d)) is amended to read as follows:

3 “(d) CHARGES FOR ADMINISTRATION EXPENSES.—

4 “(1) LEVEL OF CHARGES.—The Administration
5 may impose an additional charge for administrative
6 expenses with respect to each debenture for which
7 payment of principal and interest is guaranteed
8 under subsection (a).

9 “(2) PARTICIPATION FEE.—The Administration
10 shall also impose a one-time fee of 50 basis points
11 on the total participation in any project of any insti-
12 tution described in subclause (I), (II), or (III) of
13 section 502(3)(B)(i). Such fee shall be imposed only
14 when the participation of the institution will occupy
15 a senior credit position to that of the development
16 company. Such fee shall be collected by the develop-
17 ment company, forwarded to the Administration,
18 and used to offset the cost (as such term is defined
19 in section 502 of the Credit Reform Act of 1990) to
20 the Administration of making guarantees under sub-
21 section (a).

22 “(3) DEVELOPMENT COMPANY FEE.—The Ad-
23 ministration shall collect annually from each devel-
24 opment company a fee of 0.125 percent of the out-
25 standing principal balance of any guaranteed debenture.

1 ture authorized by the Administration after Septem-
2 ber 30, 1996. Such fee shall be derived from the
3 servicing fees collected by the development company
4 pursuant to regulation, and shall not be derived
5 from any additional fees imposed on small business
6 concerns. All proceeds of the fee shall be used to off-
7 set the cost (as such term is defined in section 502
8 of the Credit Reform Act of 1990) to the Adminis-
9 tration of making guarantees under subsection (a).”.

10 (d) EFFECTIVE DATE.—Section 503 (15 U.S.C. 697)
11 is amended by adding at the end the following:

12 “(f) EFFECTIVE DATE.—The fees authorized by sub-
13 sections (b) and (c) shall apply to financings approved by
14 the Administration on or after October 1, 1996, but shall
15 not apply to financings approved by the Administration
16 on or after October 1, 1997.”.

17 **SEC. 203. REQUIRED ACTIONS UPON DEFAULT.**

18 Section 503 (15 U.S.C. 697) is amended by adding
19 at the end the following:

20 “(g) REQUIRED ACTIONS UPON DEFAULT.—

21 “(1) DEADLINES.—

22 “(A) INITIAL ACTIONS.—Not later than
23 the 45th day after the date on which a payment
24 on a loan funded through a debenture guaran-

1 teed under this section is due and not received,
2 the Administration shall—

3 “(i) take all necessary steps to bring
4 such a loan current; or

5 “(ii) implement a formal written de-
6 ferral agreement.

7 “(B) PURCHASE OR ACCELERATION OF DE-
8 BENTURE.—Not later than the 65th day after
9 the date on which a payment on a loan de-
10 scribed in subparagraph (A) is due and not re-
11 ceived, and absent a formal written deferral
12 agreement, the Administration shall take all
13 necessary steps to purchase or accelerate the
14 debenture.

15 “(2) PREPAYMENT PENALTIES.—The Adminis-
16 tration shall, with respect to the portion of any
17 project derived from funds set forth in section
18 502(3)—

19 “(A) negotiate the elimination of any pre-
20 payment penalties or late fees on defaulted
21 loans made prior to September 30, 1996;

22 “(B) decline to pay any prepayment pen-
23 alty or late fee on the default based purchase
24 of loans issued after September 30, 1996; and

1 “(C) for any project financed after Sep-
2 tember 30, 1996, decline to pay any default in-
3 terest rate higher than the interest rate on the
4 note prior to the date of default.”.

5 **SEC. 204. LOAN LIQUIDATION PILOT PROGRAM.**

6 (a) IN GENERAL.—The Administrator shall carry out
7 a loan liquidation pilot program (in this section referred
8 to as the “pilot program”) in accordance with the require-
9 ments of this section.

10 (b) SELECTION OF DEVELOPMENT COMPANIES.—
11 Not later than 90 days after the date of the enactment
12 of this Act, the Administrator shall allow not less than
13 15 development companies authorized to make loans and
14 issue debentures under title V of the Small Business In-
15 vestment Act of 1958 to participate in the pilot program.
16 The development companies admitted shall agree not to
17 take any action that would create a potential conflict of
18 interest involving the development company, the third
19 party lender, or an associate of the third party lender. In
20 order to qualify to participate in the pilot, each develop-
21 ment company shall—

22 (1) have a minimum of 6 years experience in
23 the program established by such title V;

1 (2) have made, during the last 6 fiscal years, an
2 average of 10 loans per year through the program
3 established by such title V; and

4 (3) have a minimum of 2 years experience, ei-
5 ther independently or through an agent, in liquidat-
6 ing loans under the authority of a Federal, State, or
7 other lending program.

8 (c) AUTHORITY OF DEVELOPMENT COMPANIES.—

9 The development companies selected under subsection (b)
10 shall, for all loans in their portfolio of loans made through
11 debentures guaranteed under title V of the Small Business
12 Investment Act of 1958 that are in default after the date
13 of enactment of this Act, be authorized to—

14 (1) perform all liquidation and foreclosure func-
15 tions, including the acceleration or purchase of com-
16 munity injection funds, subject to such company ob-
17 taining prior written approval from the Adminis-
18 trator before committing the agency to purchase any
19 other indebtedness secured by the property: *Pro-*
20 *vided*, That the Administrator shall approve or deny
21 a request for such purchase within a period of 5
22 business days; and

23 (2) liquidate such loans in a reasonable and
24 sound manner and according to commercially accept-
25 ed practices pursuant to a liquidation plan approved

1 by the administrator in advance of its implementa-
2 tion. If the Administrator does not approve or deny
3 a request made by a certified development company
4 within a period of 5 business days, such request
5 shall be deemed to be approved.

6 (d) AUTHORITY OF THE ADMINISTRATOR.—In carry-
7 ing out the pilot program, the Administrator shall—

8 (1) have full authority to deny participation in
9 the pilot program or rescind the authority granted
10 any development company under this section upon a
11 10-day written notice stating the reasons for the de-
12 nial or rescission; and

13 (2) implement the pilot program no later than
14 90 days after the admission of the development com-
15 panies specified in subsection (b).

16 (e) REPORT.—

17 (1) IN GENERAL.—The Administrator shall
18 issue a report on the results of the pilot program to
19 the Committees on Small Business of the House of
20 Representatives and the Senate. The report shall in-
21 clude information relating to—

22 (A) the total dollar amount of each loan
23 and project liquidated;

24 (B) the total dollar amount guaranteed by
25 the Administration;

1 (C) total dollar losses;

2 (D) total recoveries both as percentage of
3 the amount guaranteed and the total cost of the
4 project; and

5 (E) a comparison of the pilot program in-
6 formation with the same information for liq-
7 uidation conducted outside the pilot program
8 over the period of time.

9 (2) REPORTING PERIOD.—The report shall be
10 based on data from, and issued not later than 90
11 days after the close of, the first eight 8 fiscal quar-
12 ters of the pilot program’s operation after the date
13 of implementation.

14 **SEC. 205. REGISTRATION OF CERTIFICATES.**

15 (a) CERTIFICATES SOLD PURSUANT TO SMALL BUSI-
16 NESS ACT.—Section 5(h) of the Small Business Act (15
17 U.S.C. 634(h)) is amended—

18 (1) by redesignating paragraphs (1) through
19 (4) as subparagraphs (A) through (D);

20 (2) by striking “(h)” and inserting “(h)(1)”;

21 (3) by striking subparagraph (A), as redesign-
22 nated by paragraph (1) of this subsection, and in-
23 serting the following:

1 “(A) provide for a central registration of all
2 loans and trust certificates sold pursuant to sub-
3 sections (f) and (g) of this section;” and

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

5 “(2) Nothing in this subsection shall prohibit the uti-
6 lization of a book-entry or other electronic form of reg-
7 istration for trust certificates. The Administration may,
8 with the consent of the Secretary of the Treasury, use the
9 book-entry system of the Federal Reserve System.”.

10 (b) CERTIFICATES SOLD PURSUANT TO SMALL BUSI-
11 NESS INVESTMENT COMPANY PROGRAM.—Section 321(f)
12 (15 U.S.C. 6871(f)) is amended—

13 (1) in paragraph (1) by striking “Such central
14 registration shall include” and all that follows
15 through the period at the end of the paragraph; and

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

17 “(5) Nothing in this subsection shall prohibit the use
18 of a book-entry or other electronic form of registration for
19 trust certificates.”.

20 (c) CERTIFICATES SOLD PURSUANT TO DEVELOP-
21 MENT COMPANY PROGRAM.—Section 505(f) (15 U.S.C.
22 697b(f)) is amended—

23 (1) by redesignating paragraphs (1) through
24 (4) as subparagraphs (A) through (D);

25 (2) by striking “(f)” and inserting “(f)(1)”;

1 (3) by striking subparagraph (A), as redesignig-
2 nated by paragraph (1) of this subsection, and in-
3 serting the following:

4 “(A) provide for a central registration of all
5 trust certificates sold pursuant to this section;” and

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

7 “(2) Nothing in this subsection shall prohibit the uti-
8 lization of a book-entry or other electronic form of reg-
9 istration for trust certificates.”.

10 **SEC. 206. PREFERRED SURETY BOND GUARANTEE PRO-**
11 **GRAM.**

12 (a) ADMISSIONS OF ADDITIONAL PROGRAM PARTICI-
13 PANTS.—Section 411(a) (15 U.S.C. 694(a)) is amended
14 by adding a new paragraph (5), as follows:

15 “(5)(A) The Administration shall promptly act upon
16 an application from a surety to participate in the Pre-
17 ferred Surety Bond Guarantee Program, authorized by
18 paragraph (3), in accordance with criteria and procedures
19 established in regulations pursuant to subsection (d).

20 “(B) The Administration is authorized to reduce the
21 allotment of bond guarantee authority or terminate the
22 participation of a surety in the Preferred Surety Bond
23 Guarantee Program based on the rate of participation of
24 such surety during the 4 most recent fiscal year quarters

1 compared to the median rate of participation by the other
2 sureties in the program.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall apply with respect to applications re-
5 ceived (or pending substantive evaluation) on or after Oc-
6 tober 1, 1995.

7 **SEC. 207. SENSE OF THE CONGRESS.**

8 It is the sense of the Congress that the subsidy mod-
9 els prepared by the Office of Management and Budget rel-
10 ative to loan programs sponsored by the United States
11 Small Business Administration have a tendency to:

- 12 (1) overestimate potential risks of loss; and
13 (2) overemphasize historical losses that may be
14 anomolous and do not truly reflect the success of the
15 programs as a whole.

16 Consequently, Congress mandates the independent
17 study in section 103(h) with hopes of improving the ability
18 of the Office of Management and Budget to more accu-
19 rately reflect the budgetary implications of such programs.

Passed the House of Representatives September 5,
1996.

Attest:

ROBIN H. CARLE,
Clerk.