

**Calendar No. 759**106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1594****[Report No. 106-383]**

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2000

Mr. KERRY (for himself, Mr. WELLSTONE, Mr. BINGAMAN, Mr. SARBANES, Mr. LEVIN, Mr. CLELAND, Mr. LIEBERMAN, Mr. ROBB, Mr. AKAKA, Ms. LANDRIEU, Mr. EDWARDS, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Small Business

AUGUST 25, 2000

Reported under authority of the order of the Senate of July 26, 2000, by Mr. BOND, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

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,*

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Community Development and Venture Capital Act of  
 4 1999”.

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

Sec. 1. Short title; table of contents.

**TITLE I—NEW MARKETS VENTURE CAPITAL PROGRAM**

Sec. 101. New Markets Venture Capital Program.

Sec. 102. Bankruptcy exemption for NMVC companies.

Sec. 103. Federal savings associations.

**TITLE II—COMMUNITY DEVELOPMENT VENTURE CAPITAL  
 ASSISTANCE**

Sec. 201. Short title.

Sec. 202. Findings and purposes.

Sec. 203. Community development venture capital activities.

**TITLE III—BUSINESS LINC**

Sec. 301. Grants authorized.

Sec. 302. Regulations.

7 **TITLE I—NEW MARKETS**  
 8 **VENTURE CAPITAL PROGRAM**

9 **SEC. 101. NEW MARKETS VENTURE CAPITAL PROGRAM.**

10 (a) **IN GENERAL.**—Title III of the Small Business  
 11 Investment Act of 1958 (15 U.S.C. 661 et seq.) is  
 12 amended—

13 (1) by striking the title designation and heading  
 14 and inserting the following:

1           **~~“TITLE III—INVESTMENT~~**  
 2                           **~~DIVISION PROGRAMS~~**

3           **~~“PART A—SMALL BUSINESS INVESTMENT~~**  
 4                           **~~COMPANIES”;~~**

5           and

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

7           **~~“PART B—NEW MARKETS VENTURE CAPITAL~~**  
 8                           **~~PROGRAM~~**

9           **~~“SEC. 351. DEFINITIONS.~~**

10           ~~“In this part—~~

11                   ~~“(1) the term ‘eligible company’ means a com-~~  
 12                   ~~pany that—~~

13                           ~~“(A) is a newly formed for-profit entity,~~  
 14                           ~~which may be a newly formed for-profit sub-~~  
 15                           ~~subsidiary of an existing entity; and~~

16                           ~~“(B) has a management team with experi-~~  
 17                           ~~ence in community development financing or~~  
 18                           ~~relevant venture capital financing;~~

19                   ~~“(2) the term ‘low-income individual’ means an~~  
 20                   ~~individual whose income (adjusted for family size)~~  
 21                   ~~does not exceed—~~

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

24                           ~~“(B) for nonmetropolitan areas, the great-~~  
 25                           ~~er of—~~

1                   “(i) 80 percent of the area median in-  
2                   come; or

3                   “(ii) 80 percent of the statewide non-  
4                   metropolitan area median income;

5                   “(3) the term ‘low- or moderate-income geog-  
6                   raphy’ means—

7                   “(A) any population census tract (or in the  
8                   ease of an area that is not tracted for popu-  
9                   lation census tracts, the equivalent county divi-  
10                  sion, as defined by the Bureau of the Census of  
11                  the Department of Commerce for purposes of  
12                  defining poverty areas) if—

13                  “(i) the poverty rate for such census  
14                  tract is not less than 20 percent; or

15                  “(ii)(I) in the ease of a tract located  
16                  within a metropolitan area, the median  
17                  family income for such tract does not ex-  
18                  ceed the greater of 80 percent of the state-  
19                  wide median family income or 80 percent  
20                  of the metropolitan area median family in-  
21                  come; or

22                  “(II) in the ease of a tract not located  
23                  within a metropolitan area, the median  
24                  family income for such tract does not ex-

1           ceed 80 percent of the statewide median  
2           family income; or

3           “(B) any area located within—

4                 “(i) a HUBZone (as defined in sec-  
5                 tion 3(p) of the Small Business Act and  
6                 the implementing regulations issued under  
7                 that section);

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

12                “(iii) a rural empowerment zone or  
13                rural enterprise community (as designated  
14                by the Secretary of Agriculture);

15           “(4) the terms ‘new markets venture capital  
16           company’ and ‘NMVC company’ mean a company  
17           that has been designated as a new markets venture  
18           capital company by the Administrator under section  
19           354(d);

20           “(5) the term ‘participation agreement’ means  
21           an agreement between the Administrator and an  
22           NMVC company that furthers the purposes set forth  
23           in section 352, detailing the operating plan and in-  
24           vestment criteria of the company and requiring that

1 not less than 80 percent of the investments of the  
2 company be made in smaller enterprises—

3 “(A) that are located in 1 or more low- or  
4 moderate-income geographies or 1 or more tar-  
5 geted population areas; or

6 “(B) not less than 35 percent of the em-  
7 ployees of which—

8 “(i) reside or will reside in a low- or  
9 moderate-income geography or a targeted  
10 population area; or

11 “(ii) are or will be low-income individ-  
12 uals;

13 “(6) the term ‘targeted population’ means an  
14 identifiable group of individuals, including an Indian  
15 tribe, as determined by the Administrator, who are  
16 low-income individuals; and

17 “(7) the term ‘targeted population area’ means  
18 an identifiable geographic area, as determined by the  
19 Administrator, containing a concentration of 1 or  
20 more targeted populations.

21 **“SEC. 352. PURPOSES.**

22 “The purposes of this part are—

23 “(1) to encourage venture capital investment in  
24 smaller enterprises located within urban and rural  
25 areas;

1           “(2) to promote the creation of wealth, eco-  
2           nomic development, and job opportunities in low-  
3           and moderate-income geographies and for targeted  
4           populations; and

5           “(3) to establish a venture capital program,  
6           which shall be administered by the Administrator—

7                   “(A) to make grants to NMVC companies  
8                   for the purpose of providing marketing, man-  
9                   agement, and technical assistance to smaller en-  
10                  terprises financed, or expected to be financed,  
11                  by such companies; and

12                  “(B) to guarantee debentures issued by  
13                  NMVC companies to enable such companies to  
14                  make venture capital investments in smaller en-  
15                  terprises within urban and rural areas.

16 **“SEC. 353. PROGRAM ESTABLISHMENT.**

17           “‘There is established a New Markets Venture Capital  
18           Program, under which the Administrator is authorized  
19           to—

20                   “(1) make grants to NMVC companies, as pro-  
21                   vided in section 355; and

22                   “(2) guarantee debentures issued by NMVC  
23                   companies, as provided in section 356.

1 **“SEC. 354. APPROVAL OF NMVC COMPANIES.**

2       “(a) APPLICATIONS.—In order to be eligible to par-  
3 ticipate in the program under this part as an NMVC com-  
4 pany, an eligible company shall submit to the Adminis-  
5 trator an application, within such period of time as the  
6 Administrator shall establish, which shall include—

7               “(1) a business plan that describes the manner  
8 and geographic areas in which the applicant will  
9 make successful venture capital investments in  
10 smaller enterprises described in subparagraphs (A)  
11 and (B) of section 351(5) and provide marketing,  
12 management, and technical assistance to those en-  
13 terprises;

14               “(2) the qualifications and general business  
15 reputation of the management of the applicant, spe-  
16 cifically addressing—

17                       “(A) the experience of the management in  
18 making venture capital investments in smaller  
19 enterprises described in subparagraphs (A) and  
20 (B) of section 351(5); and

21                       “(B) the success of those investments in  
22 terms of business growth, jobs created, and  
23 such other factors as the Administrator may re-  
24 quire; and

1           ~~“(3)~~ a description of the manner in which the  
2           applicant will interface with community organiza-  
3           tions;

4           ~~“(4)~~ a proposal describing the manner in which  
5           grant amounts made available under this part would  
6           provide marketing, management, and technical as-  
7           sistance to smaller enterprises expected to be fi-  
8           nanced by the applicant;

9           ~~“(5)~~ proposed criteria by which to evaluate the  
10          performance of the applicant in meeting program ob-  
11          jectives;

12          ~~“(6)~~ the management and financial strength of  
13          any parent or affiliated firm; or any firm essential  
14          to the success of the business plan of the applicant;  
15          and

16          ~~“(7)~~ such other information as the Adminis-  
17          trator may require.

18          ~~“(b) CRITERIA FOR CONDITIONAL APPROVAL.—~~

19          Upon receipt of an application submitted under subsection  
20          (a), the Administrator shall review the application and  
21          make a determination regarding whether to grant condi-  
22          tional approval to the applicant to operate as an NMVC  
23          company during the time period described in subsection  
24          (c), based on—

1           “(1) the geographic area and employment char-  
2           acteristics of the smaller enterprises in which the  
3           proposed investments of the NMVC company will be  
4           made (in order to promote investment nationwide);

5           “(2) the likelihood that the applicant will meet  
6           the goals of the business plan of the applicant;

7           “(3) the experience and background of the com-  
8           pany’s management team;

9           “(4) the need for equity investments within the  
10          proposed investment areas;

11          “(5) the extent to which the applicant will con-  
12          centrate its activities on serving its investment  
13          areas;

14          “(6) the likelihood that the applicant will be  
15          able to satisfy the requirements of subsection (c);

16          “(7) the extent to which the proposed activities  
17          will expand economic opportunities within the invest-  
18          ment areas; and

19          “(8) such other factors as the Administrator  
20          determines to be appropriate.

21          “(c) REQUIREMENTS FOR FINAL APPROVAL.—

22                 “(1) IN GENERAL.—Subject to paragraph (2),  
23                 each applicant that is granted conditional approval  
24                 by the Administrator to operate as an NMVC com-  
25                 pany under subsection (b), shall, before the expira-

1 tion of a time period established by the Adminis-  
2 trator not to exceed 24 months, beginning on the  
3 date on which such conditional approval is  
4 granted—

5 “(A) raise not less than \$5,000,000 of con-  
6 tributed capital or binding capital commitments  
7 from 1 or more investors (other than an agency  
8 of the Federal Government) that meet criteria  
9 established by the Administrator; and

10 “(B) in order to provide marketing, man-  
11 agement, and technical assistance, have—

12 “(i) cash or binding commitments for  
13 contributions (in cash or in-kind) from 1  
14 or more sources other than the Adminis-  
15 tration that meet criteria established by  
16 the Administrator, payable or available  
17 over a multiyear period acceptable to the  
18 Administrator (not to exceed 10 years); in  
19 an amount equal to 30 percent of the cap-  
20 ital and commitments raised under sub-  
21 paragraph (A);

22 “(ii) purchased an annuity from an  
23 insurance company acceptable to the Ad-  
24 ministrator, using amounts (other than the  
25 amounts raised to satisfy the requirements

1 of subparagraph (A)) from any source  
2 other than the Administration, that would  
3 yield cash payments over a multiyear pe-  
4 riod acceptable to the Administrator (not  
5 to exceed 10 years), in an amount equal to  
6 30 percent of the capital and commitments  
7 raised under subparagraph (A); or

8 “(iii) cash or binding commitments  
9 for contributions (in cash or in-kind) of the  
10 type described in clause (i) and have pur-  
11 chased an annuity of the type described in  
12 clause (ii); that in the aggregate make  
13 available, over a multiyear period accept-  
14 able to the Administrator (not to exceed 10  
15 years); an amount equal to 30 percent of  
16 the capital and commitments raised under  
17 subparagraph (A).

18 “(2) EXCEPTION.—The Administrator may, in  
19 the discretion of the Administrator and based upon  
20 a showing of special circumstances and good cause,  
21 consider an applicant to have satisfied the require-  
22 ments of paragraph (1)(B) if the applicant has a  
23 viable plan that reasonably projects the capacity of  
24 the applicant to raise the amount (in cash or in-  
25 kind) required under paragraph (1)(B).

1       “(d) GRANT OF FINAL APPROVAL; DESIGNATION.—

2 The Administrator shall, with respect to each applicant  
3 conditionally approved to operate as an NMVC company  
4 under subsection (b), either—

5           “(1) grant final approval to the applicant to op-  
6 erate as an NMVC company under this part and  
7 designate the applicant as an NMVC company, if  
8 the applicant—

9           “(A) satisfies the requirements of sub-  
10 section (c) on or before the expiration of the  
11 time period described in that subsection; and

12           “(B) enters into a participation agreement  
13 with the Administrator; or

14           “(2) if the applicant fails to satisfy the require-  
15 ments of subsection (c) on or before the expiration  
16 of the time period described in that subsection, re-  
17 voke the conditional approval granted under that  
18 subsection.

19 **“SEC. 355. TECHNICAL ASSISTANCE GRANTS.**

20       “(a) GRANTS.—

21           “(1) IN GENERAL.—The Administrator, in ac-  
22 cordance with such terms and conditions as the Ad-  
23 ministrator may require, is authorized to award 1 or  
24 more grants to each NMVC company in accordance  
25 with this subsection, which shall be used to provide

1 marketing, management, and technical assistance for  
2 the benefit of smaller enterprises financed, or ex-  
3 pected to be financed, by the NMVC company.

4 “(2) MULTIYEAR GRANTS.—Amounts from a  
5 grant awarded under this section shall be paid upon  
6 the direction of the Administrator over a multiyear  
7 period of not to exceed 10 years.

8 “(3) GRANT AMOUNT.—

9 “(A) IN GENERAL.—Subject to subpara-  
10 graph (B), the amount of a grant awarded to  
11 an NMVC company under this subsection shall  
12 be equal to 30 percent of the amount of capital  
13 and commitments raised under section  
14 354(e)(1)(A).

15 “(B) MATCHING REQUIREMENT.—

16 “(i) IN GENERAL.—Except as pro-  
17 vided in clause (ii), in order to receive  
18 funds under a grant awarded under this  
19 subsection, an NMVC company shall pro-  
20 vide a matching contribution (in cash or  
21 in-kind) from sources other than the Ad-  
22 ministration, in an amount equal to the  
23 funds to received.

24 “(ii) EXCEPTION.—The Administrator  
25 may waive in whole or in part the match-

1           ing requirement of clause (i), if the Admin-  
2           istrator determines that such action is con-  
3           sistent with the purposes set forth in sec-  
4           tion 352 and with protecting the creditor  
5           status of the Federal Government as a  
6           guarantor of debentures issued by an  
7           NMVC company.

8           “(4) PRO RATA REDUCTIONS.—If the amount  
9           made available to carry out this section for a fiscal  
10          year is insufficient for the Administrator to award  
11          grants in the amounts required under paragraph  
12          (3), the Administrator shall make pro rata reduc-  
13          tions in the amounts otherwise payable to each  
14          NMVC company under that paragraph.

15          “(b) SUPPLEMENTAL GRANTS.—

16          “(1) IN GENERAL.—In addition to any grant  
17          under subsection (a), the Administrator, in accord-  
18          ance with such terms and conditions as the Adminis-  
19          trator may require, may make 1 or more supple-  
20          mental grants to an NMVC company, which shall be  
21          used to provide additional marketing, management,  
22          and technical assistance for the benefit of smaller  
23          enterprises financed, or expected to be financed, by  
24          the NMVC company.

1           “(2) MATCHING REQUIREMENT.—The Adminis-  
2           trator may require, as a condition of any supple-  
3           mental grant made under this subsection, that the  
4           NMVC company provide a matching contribution (in  
5           cash or in-kind) from 1 or more sources other than  
6           the Administrator in an amount equal to the amount  
7           of the supplemental grant.

8   **“SEC. 356. DEBENTURES.**

9           “(a) IN GENERAL.—The Administrator is authorized  
10          to guarantee the timely payment of principal and interest  
11          as scheduled on debentures issued by NMVC companies,  
12          in accordance with such terms and conditions the Admin-  
13          istrator determines to be appropriate.

14          “(b) FULL FAITH AND CREDIT.—The full faith and  
15          credit of the United States is pledged to the payment of  
16          all amounts that may be required to be paid under any  
17          guarantee under this section.

18          “(c) DEBENTURE REQUIREMENTS.—A debenture  
19          guaranteed under this section—

20                  “(1) may be issued for a term of not to exceed  
21                  15 years;

22                  “(2) shall bear interest at a rate approved by  
23                  the Administrator; and

24                  “(3) shall contain such other terms and condi-  
25                  tions as the Administrator may require.

1       “(d) **TOTAL FACE VALUE.**—The total face amount  
 2 of debentures issued by an NMVC company and guaran-  
 3 teed under this section that may be outstanding at any  
 4 1 time shall not exceed 150 percent of the contributed cap-  
 5 ital of the NMVC company, as determined by the Adminis-  
 6 trator. For purposes of this subsection, the contributed  
 7 capital of an NMVC company includes capital that is  
 8 deemed to be Federal funds contributed by an investor  
 9 other than an agency of the Federal Government.

10 **“SEC. 357. ISSUANCE AND GUARANTEE OF TRUST CERTIFI-**  
 11 **CATES.**

12       “(a) **IN GENERAL.**—The Administrator (or an agent  
 13 of the Administrator) is authorized to issue trust certifi-  
 14 cates representing ownership of all or a fractional part of  
 15 debentures guaranteed by the Administrator under section  
 16 356, if such trust certificates are based on and backed  
 17 by a trust or pool approved by the Administrator and com-  
 18 posed solely of debentures guaranteed under section 356.

19       “(b) **GUARANTEE AUTHORITY.**—

20               “(1) **IN GENERAL.**—The Administrator is au-  
 21 thorized to, upon such terms and conditions as the  
 22 Administrator determines to be appropriate, guar-  
 23 antee the timely payment of the principal of and in-  
 24 terest on any trust certificate issued under this sec-  
 25 tion.

1           “(2) LIMITATION.—A guarantee under this sub-  
2           section shall be limited to the extent of the principal  
3           of and interest on the guaranteed debentures that  
4           compose the trust or pool described in subsection  
5           (a).

6           “(3) REDUCTION.—If a debenture in a trust or  
7           pool described in subsection (a) is prepaid, or in the  
8           event of default of a debenture, the guarantee of  
9           timely payment of principal and interest on the re-  
10          lated trust certificate issued under this section shall  
11          be reduced in proportion to the amount of principal  
12          and interest that such prepaid debenture represents  
13          in that trust or pool.

14          “(4) ACCRUAL OF INTEREST.—Interest on pre-  
15          paid or defaulted debentures shall accrue and be  
16          guaranteed by the Administrator only through the  
17          date of payment of the guarantee.

18          “(5) REDEMPTION OF TRUST CERTIFICATES.—  
19          During the term of any trust certificate issued under  
20          this subsection, the trust certificate may be called  
21          for redemption due to prepayment or default of all  
22          debentures in the trust or pool.

23          “(e) FULL FAITH AND CREDIT.—The full faith and  
24          credit of the United States is pledged to the payment of

1 all amounts that may be required to be paid under any  
2 guarantee of a trust certificate issued under this section.

3 “(d) FEES.—The Administrator shall not collect a fee  
4 for any guarantee of a trust certificate issued under this  
5 section, except that nothing in this subsection may be con-  
6 strued to preclude an agent of the Administrator from col-  
7 lecting a fee approved by the Administrator for the func-  
8 tions described in subsection (f)(2).

9 “(e) SUBROGATION.—

10 “(1) IN GENERAL.—If the Administrator pays a  
11 claim under a guarantee issued under this section,  
12 the Administration shall be subrogated fully to the  
13 rights satisfied by such payment.

14 “(2) OWNERSHIP RIGHTS.—No Federal, State,  
15 or local law shall preclude or limit the exercise by  
16 the Administrator of the ownership rights of the Ad-  
17 ministrator in the debentures residing in a trust or  
18 pool against which trust certificates are issued under  
19 this section.

20 “(f) CENTRAL REGISTRATION.—

21 “(1) IN GENERAL.—The Administrator may  
22 provide for a central registration of all trust certifi-  
23 cates issued under this section.

24 “(2) CONTRACTING OUT.—

1           “(A) IN GENERAL.—The Administrator  
2           may contract with an agent or agents to carry  
3           out on behalf of the Administrator the pooling  
4           and the central registration functions of this  
5           section including, notwithstanding any other  
6           provision of law—

7                   “(i) maintenance on behalf of and  
8                   under the direction of the Administrator of  
9                   such commercial bank accounts or invest-  
10                  ments in obligations of the United States  
11                  as may be necessary to facilitate trusts or  
12                  pools backed by debentures guaranteed  
13                  under this part; and

14                   “(ii) the issuance of trust certificates  
15                  to facilitate such poolings.

16           “(B) FIDELITY BOND OR INSURANCE RE-  
17           QUIRED.—An agent contracting with the Ad-  
18           ministrator under this paragraph shall be re-  
19           quired to provide a fidelity bond or insurance in  
20           such amounts as the Administrator determines  
21           to be necessary to fully protect the interests of  
22           the Government.

23           “(3) REGULATION OF BROKERS AND DEAL-  
24           ERS.—The Administrator may regulate brokers and  
25           dealers in trust certificates issued under this section.

1           “(4) **ELECTRONIC REGISTRATION.**—Nothing in  
2           this subsection may be construed to prohibit the use  
3           of a book-entry or other electronic form of registra-  
4           tion for trust certificates issued under this section.

5 **“SEC. 358. FEES.**

6           “Except as provided under section 357(d), the Ad-  
7           ministrators may charge such fees as the Administrator de-  
8           termines to be appropriate with respect to any guarantee  
9           issued or grant awarded under this part.

10 **“SEC. 359. BANK PARTICIPATION.**

11           “Any national bank, or any member bank of the Fed-  
12           eral Reserve System or nonmember insured bank to the  
13           extent permitted under applicable State law, may invest  
14           in any 1 or more NMVC companies, or in any entity estab-  
15           lished to invest solely in NMVC companies, except that  
16           in no event shall the total amount of such investments of  
17           any such bank exceed 5 percent of the total capital and  
18           surplus of the bank.

19 **“SEC. 360. REPORTING REQUIREMENTS.**

20           “Each NMVC company shall provide to the Adminis-  
21           trator such information as the Administrator may request,  
22           including reporting on the measurement criteria that the  
23           NMVC company proposed in the application submitted  
24           under section 354(a).

1 **“SEC. 361. EXAMINATIONS.**

2 “(a) **IN GENERAL.**—Each NMVC company shall be  
3 subject to examinations made at the direction of the In-  
4 vestment Division of the Administration, which may be  
5 conducted with the assistance of a private sector entity  
6 that has both the qualifications to conduct and the exper-  
7 tise in conducting such examinations.

8 “(b) **ASSESSMENT OF COSTS.**—The cost of such ex-  
9 aminations, including the compensation of the examiners,  
10 may in the discretion of the Administrator be assessed  
11 against the company examined and when so assessed shall  
12 be paid by such company.

13 “(c) **USE OF FEES.**—Fees collected under this sec-  
14 tion shall be deposited in the account for salaries and ex-  
15 penses of the Administration and may be used solely to  
16 cover the costs of examinations and other program over-  
17 sight activities.

18 **“SEC. 362. INJUNCTIONS AND OTHER ORDERS.**

19 “(a) **IN GENERAL.**—If, in the judgment of the Ad-  
20 ministrator, an NMVC company or any other person has  
21 engaged or is about to engage in any act or practice that  
22 constitutes or will constitute a violation of any provision  
23 of this Act (or any rule, regulation, or order issued under  
24 this Act) or of a participation agreement entered into  
25 under this part—

1           “(1) the Administrator may make application to  
2           the proper district court of the United States or a  
3           United States court of any place subject to the juris-  
4           diction of the United States for an order enjoining  
5           such act or practice, or for an order enforcing com-  
6           pliance with such provision; and

7           “(2) such court shall—

8           “(A) have jurisdiction over such applica-  
9           tion and any ensuing proceedings; and

10           “(B) upon a showing by the Administrator  
11           that such NMVC company or other person has  
12           engaged or is about to engage in any such act  
13           or practice, grant without bond a permanent or  
14           temporary injunction, restraining order, or  
15           other appropriate order.

16           “(b) POWERS OF COURT.—In any proceeding under  
17           subsection (a)—

18           “(1) the court as a court of equity may, to such  
19           extent as the court determines to be necessary, take  
20           exclusive jurisdiction of the NMVC company and the  
21           assets thereof, wherever located; and

22           “(2) the court shall have jurisdiction in any  
23           such proceeding to appoint a trustee or receiver to  
24           hold or administer under the direction of the court  
25           the assets so possessed.

1       “(c) TRUSTEE OR RECEIVER.—The Administrator is  
 2 authorized to act as trustee or receiver of the NMVC com-  
 3 pany. Upon request by the Administrator, the court may  
 4 appoint the Administrator to act in such capacity unless  
 5 the court determines such appointment to be inequitable  
 6 or otherwise inappropriate based on the special cir-  
 7 cumstances at issue.

8       **“SEC. 363. UNLAWFUL ACTS AND OMISSIONS BY OFFICERS,  
 9                               DIRECTORS, EMPLOYEES, OR AGENTS;  
 10                              BREACH OF FIDUCIARY DUTY.**

11       “(a) IN GENERAL.—If an NMVC company violates  
 12 any provision of this Act (or any rule or regulation issued  
 13 under this Act), or of a participation agreement entered  
 14 into under this part, by failing to comply with the terms  
 15 thereof or by engaging in any act or practice that con-  
 16 stitutes or will constitute a violation thereof, such violation  
 17 shall be deemed to be also a violation and an unlawful  
 18 act on the part of any person who, directly or indirectly,  
 19 authorizes, orders, participates in, or causes, brings about,  
 20 counsels, aids, or abets in the commission of any act, prac-  
 21 tice, or transaction that constitutes or will constitute, in  
 22 whole or in part, such violation.

23       “(b) BREACH OF FIDUCIARY DUTY.—It shall be un-  
 24 lawful for any officer, director, employee, agent, or other  
 25 participant in the management or conduct of the affairs

1 of an NMVC company to engage in any act or practice,  
2 or to omit any act, in breach of the fiduciary duty of such  
3 officer, director, employee, agent, or participant, if, as a  
4 result thereof, the NMVC company has suffered or is in  
5 imminent danger of suffering financial loss or other dam-  
6 age.

7 “(c) OTHER PROHIBITIONS.—Except with the writ-  
8 ten consent of the Administrator, it shall be unlawful—

9 “(1) for any person to take office as an officer,  
10 director, or employee of an NMVC company, or to  
11 become an agent or participant in the conduct of the  
12 affairs or management of an NMVC company, if  
13 that person—

14 “(A) has been convicted of a felony, or any  
15 other criminal offense involving dishonesty or  
16 breach of trust; or

17 “(B) has been found civilly liable in dam-  
18 ages, or has been permanently or temporarily  
19 enjoined by order, judgment, or decree of a  
20 court of competent jurisdiction, by reason of  
21 any act or practice involving fraud or breach of  
22 trust; or

23 “(2) for any person to continue to serve in any  
24 of the above-described capacities, if that person is  
25 subsequently—

1           “(A) convicted of a felony, or any other  
2           criminal offense involving dishonesty or breach  
3           of trust; or

4           “(B) found civilly liable in damages, or is  
5           permanently or temporarily enjoined by an  
6           order, judgment, or decree of a court of com-  
7           petent jurisdiction, by reason of any act or  
8           practice involving fraud or breach of trust.

9           “(d) NOTICE.—The Administrator may serve upon  
10          any officer, director, employee, or other participant in the  
11          conduct of the management or other affairs of an NMVC  
12          company a written notice of the intention of the Adminis-  
13          trator to remove that person from his or her position  
14          whenever, in the opinion of the Administrator, that  
15          person—

16               “(1) has willfully committed any substantial  
17          violation of—

18                       “(A) this Act (or any rule, regulation, or  
19                       order issued under this Act); or

20                       “(B) a participation agreement entered  
21                       into under this part; or

22                       “(C) a cease-and-desist order that has be-  
23                       come final; or

24                       “(2) has willfully committed or engaged in any  
25          act, omission, or practice that constitutes a substan-

1 tial breach of fiduciary duty, and that such violation  
 2 or such breach of fiduciary duty is one involving per-  
 3 sonal dishonesty on the part of such person.

4 “(e) **SUSPENSION OR REMOVAL.**—The Administrator  
 5 may suspend or remove from office any person upon whom  
 6 the Administrator has served a notice under subsection  
 7 (d), in accordance with the procedures set forth in section  
 8 313.

9 **“SEC. 364. REGULATIONS.**

10 “The Administrator may promulgate such regula-  
 11 tions as the Administrator determines to be necessary to  
 12 carry out this part.

13 **“SEC. 365. AUTHORIZATIONS.**

14 “(a) **IN GENERAL.**—There is authorized to be appro-  
 15 priated to the Administration to carry out this part, to  
 16 remain available until expended—

17 “(1) such subsidy budget authority as may be  
 18 necessary to guarantee not more than \$100,000,000  
 19 of debentures; and

20 “(2) not more than \$30,000,000 for technical  
 21 assistance grants.

22 “(b) **PERIOD OF EFFECTIVENESS.**—The authority  
 23 under subsection (a) shall be in effect during the period  
 24 beginning on October 1, 2000, and ending on September  
 25 30, 2005.”.

1 (b) CONFORMING AMENDMENT.—Section  
 2 20(e)(1)(C) of the Small Business Act (15 U.S.C. 631  
 3 note) is amended by inserting “part A of” before “title  
 4 III”.

5 **SEC. 102. BANKRUPTCY EXEMPTION FOR NMVC COMPA-**  
 6 **NIES.**

7 Section 109(b)(2) of title 11, United States Code, is  
 8 amended by inserting after “homestead association,” the  
 9 following: “a new markets venture capital company (as de-  
 10 fined in section 351 of the Small Business Investment Act  
 11 of 1958),”.

12 **SEC. 103. FEDERAL SAVINGS ASSOCIATIONS.**

13 Section 5(e)(4) of the Home Owners’ Loan Act (12  
 14 U.S.C. 1464(e)(4)) is amended by adding at the end the  
 15 following:

16 “(F) NEW MARKETS VENTURE CAPITAL  
 17 COMPANIES.—A Federal savings association  
 18 may invest in stock, obligations, or other securi-  
 19 ties of any new markets venture capital com-  
 20 pany (as defined in section 351 of the Small  
 21 Business Investment Act of 1958). A Federal  
 22 savings association may not make any invest-  
 23 ment under this subparagraph if its aggregate  
 24 outstanding investment under this subpara-

1 graph would exceed 5 percent of the capital and  
 2 surplus of such savings association.”.

3 **TITLE II—COMMUNITY DEVELOP-**  
 4 **MENT VENTURE CAPITAL**  
 5 **ASSISTANCE**

6 **SEC. 201. SHORT TITLE.**

7 This title may be cited as the “Community Develop-  
 8 ment Venture Capital Capacity Building and Professional  
 9 Development Act of 1999”.

10 **SEC. 202. FINDINGS.**

11 Congress finds that—

12 (1) there is a need for the development and ex-  
 13 pansion of organizations that provide private equity  
 14 capital to smaller businesses in areas in which eq-  
 15 uity-type capital is scarce, such as inner cities and  
 16 rural areas, in order to create and retain jobs for  
 17 low-income residents of those areas;

18 (2) to invest successfully in smaller businesses,  
 19 particularly in inner cities and rural areas, requires  
 20 highly specialized investment and management skills;

21 (3) there is a shortage of professionals who pos-  
 22 sess such skills and there are few training grounds  
 23 for individuals to obtain those skills;

24 (4) providing assistance to organizations that  
 25 provide specialized technical assistance and training

1 to individuals and organizations seeking to enter or  
 2 expand in this segment of the market would stimu-  
 3 late small business development and entrepreneur-  
 4 ship in economically distressed communities; and

5 (5) assistance from the Federal Government  
 6 could act as a catalyst to attract investment from  
 7 the private sector and would help to develop a spe-  
 8 cialized venture capital industry focused on creating  
 9 jobs, increasing business ownership, and generating  
 10 wealth in low-income communities.

11 **SEC. 203. COMMUNITY DEVELOPMENT VENTURE CAPITAL**  
 12 **ACTIVITIES.**

13 (a) IN GENERAL.—The Small Business Act (15  
 14 U.S.C. 631 et seq.) is amended—

15 (1) by redesignating section 34 as section 35;  
 16 and

17 (2) by inserting after section 33 the following:

18 **“SEC. 34. COMMUNITY DEVELOPMENT VENTURE CAPITAL**  
 19 **ACTIVITIES.**

20 “(a) DEFINITIONS.—In this section:

21 “(1) COMMUNITY DEVELOPMENT VENTURE  
 22 CAPITAL ORGANIZATION.—The term ‘community de-  
 23 velopment venture capital organization’ means a pri-  
 24 vately-controlled organization that—

1           “(A) has a primary mission of promoting  
2           community development in low-income commu-  
3           nities, as defined by the Administrator, through  
4           investment in private business enterprises; or

5           “(B) administers or is in the process of es-  
6           tablishing a community development venture  
7           capital fund for the purpose of making equity  
8           investments in private business enterprises in  
9           such communities.

10          “(2) DEVELOPMENTAL ORGANIZATION.—The  
11          term ‘developmental organization’—

12                 “(A) means a public or private entity, in-  
13                 cluding a college or university, that provides  
14                 technical assistance to community development  
15                 venture capital organizations or that conducts  
16                 research or training in community development  
17                 venture capital investment; and

18                 “(B) may include an intermediary organi-  
19                 zation.

20          “(3) INTERMEDIARY ORGANIZATION.—The term  
21          ‘intermediary organization’—

22                 “(A) means a private, nonprofit entity that  
23                 has—

24                         “(i) a primary mission of promoting  
25                         community development through invest-

1                   ment in private businesses in low-income  
2                   communities; and

3                   “(ii) significant prior experience in  
4                   providing technical assistance or financial  
5                   assistance to community development ven-  
6                   ture capital organizations;

7                   “(B) may include community development  
8                   venture capital organizations.

9                   “(b) AUTHORITY.—In order to promote the develop-  
10                  ment of community development venture capital organiza-  
11                  tions, the Administrator, may—

12                   “(1) enter into contracts with 1 or more devel-  
13                  opmental organizations to carry out training and re-  
14                  search activities under subsection (c); and

15                   “(2) make grants in accordance with this  
16                  section—

17                   “(A) to developmental organizations to  
18                  carry out training and research activities under  
19                  subsection (c); and

20                   “(B) to intermediary organizations to pro-  
21                  vide intensive marketing, management, and  
22                  technical assistance and training to community  
23                  development venture capital organizations  
24                  under subsection (d).

25                  “(c) TRAINING AND RESEARCH ACTIVITIES.—

1           “(1) IN GENERAL.—Subject to paragraph (2), a  
2           developmental organization that receives a grant  
3           under subsection (b) shall use the funds made avail-  
4           able through the grant for 1 or more of the following  
5           training and research activities:

6                   “(A) STRENGTHENING PROFESSIONAL  
7                   SKILLS.—Creating and operating training pro-  
8                   grams to enhance the professional skills for in-  
9                   dividuals in community development venture  
10                  capital organizations or operating private com-  
11                  munity development venture capital funds.

12                  “(B) INCREASING INTEREST IN COMMU-  
13                  NITY DEVELOPMENT VENTURE CAPITAL.—Cre-  
14                  ating and operating a program to select and  
15                  place students and recent graduates from busi-  
16                  ness and related professional schools as interns  
17                  with community development venture capital or-  
18                  ganizations and intermediary organizations for  
19                  a period of up to 1 year, and to provide sti-  
20                  pends for such interns during the internship pe-  
21                  riod.

22                  “(C) PROMOTING ‘BEST PRACTICES’.—Or-  
23                  ganizing an annual national conference for com-  
24                  munity development venture capital organiza-  
25                  tions to discuss and share information on the

1 best practices regarding issues relevant to the  
2 creation and operation of community develop-  
3 ment venture capital organizations.

4 “(D) MOBILIZING ACADEMIC RE-  
5 SOURCES.—Encouraging the formation of 1 or  
6 more centers for the study of community devel-  
7 opment venture capital at graduate schools of  
8 business and management, providing funding  
9 for the development of materials for courses on  
10 topics in this area, and providing funding for  
11 research on economic, operational, and policy  
12 issues relating to community development ven-  
13 ture capital.

14 “(2) LIMITATION.—The Administrator shall en-  
15 sure that not more than 25 percent of the amount  
16 made available to carry out this section is used for  
17 activities described in paragraph (1).

18 “(d) INTENSIVE MARKETING, MANAGEMENT, AND  
19 TECHNICAL ASSISTANCE AND TRAINING.—An inter-  
20 mediary organization that receives a grant under sub-  
21 section (b) shall use the funds made available through the  
22 grant to provide intensive marketing, management, and  
23 technical assistance and training to promote the develop-  
24 ment of community development venture capital organiza-  
25 tions, which assistance may include grants to community

1 development venture capital organizations for the start up  
2 costs and operating support of those organizations.

3       “(e) **MATCHING CONTRIBUTION REQUIREMENT.**—

4 The Administrator shall require, as a condition of any  
5 grant made to an intermediary organization under this  
6 section, that a matching contribution equal to the amount  
7 of such grant be provided from sources other than the  
8 Federal Government.

9       “(f) **AUTHORIZATION OF APPROPRIATIONS.**—There  
10 is authorized to be appropriated to carry out this section  
11 \$20,000,000 for fiscal years 2000 through 2003, to re-  
12 main available until expended.”.

13       “(b) **REQUIREMENTS.**—The Administrator of the  
14 Small Business Administration may promulgate such reg-  
15 ulations as may be necessary to carry out section 34 of  
16 the Small Business Act, as amended by this section, which  
17 regulations may take effect upon issuance.

## 18       **TITLE III—BUSINESS LINC**

### 19       **SEC. 301. GRANTS AUTHORIZED.**

20       Section 8 of the Small Business Act (15 U.S.C. 637)  
21 is amended by adding at the end the following:

22       “(m) **BUSINESS LINC GRANTS.**—

23               “(1) **IN GENERAL.**—The Administrator may  
24       make grants to and enter into cooperative agree-

1       ments with any coalition of private or public sector  
2       participants that—

3               “(A) ~~expand business-to-business relation-~~  
4               ships between large and small businesses; and

5               “(B) provide businesses, directly or indi-  
6               rectly, with online information and a database  
7               of companies that are interested in mentor-  
8               protege programs or community-based, state-  
9               wide, or local business development programs.

10       “(2) MATCHING REQUIREMENTS.—

11               “(A) IN GENERAL.—Subject to subpara-  
12               graph (B), the Administrator may make grants  
13               to and enter into cooperative agreements with  
14               any coalition of private or public sector partici-  
15               pants if the coalition provides a matching  
16               amount, either in-kind or in cash, equal to the  
17               grant amount.

18               “(B) WAIVER.—In the best interests of the  
19               program, the Administrator may waive the re-  
20               quirements for matching funds to be provided  
21               by the coalition.

22       “(3) AUTHORIZATION OF APPROPRIATIONS.—

23       There is authorized to be appropriated to carry out  
24       this subsection \$3,000,000 for each of fiscal years

1       2000 through 2003, to remain available until ex-  
2       pended.”.

3       **SEC. 302. REGULATIONS.**

4       The Administrator of the Small Business Administra-  
5       tion may promulgate such regulations as the Administra-  
6       tion determines to be necessary to carry out this title and  
7       the amendment made by this title.

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

9       (a) *SHORT TITLE.*—*This Act may be cited as the*  
10      *“Community Development and Venture Capital Act of*  
11      *2000”.*

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

*Sec. 1. Short title; table of contents.*

*TITLE I—NEW MARKETS VENTURE CAPITAL PROGRAM*

*Sec. 101. New Markets Venture Capital Program.*

*Sec. 102. Bankruptcy exemption for NMVC companies.*

*Sec. 103. Federal savings associations.*

*TITLE II—COMMUNITY DEVELOPMENT VENTURE CAPITAL  
ASSISTANCE*

*Sec. 201. Findings.*

*Sec. 202. Community development venture capital activities.*

*TITLE III—BUSINESS LINC*

*Sec. 301. Grants authorized.*

*Sec. 302. Regulations.*

1           **TITLE I—NEW MARKETS**  
 2           **VENTURE CAPITAL PROGRAM**

3   **SEC. 101. NEW MARKETS VENTURE CAPITAL PROGRAM.**

4           (a) *IN GENERAL.*—*Title III of the Small Business In-*  
 5 *vestment Act of 1958 (15 U.S.C. 681 et seq.) is amended—*

6                   (1) *by striking the title designation and heading*  
 7 *and inserting the following:*

8                   **“TITLE III—INVESTMENT**  
 9                   **DIVISION PROGRAMS**  
 10                   **“Subtitle A—Small Business**  
 11                   **Investment Companies”;**

12           *and*

13                   (2) *by adding at the end the following:*

14                   **“Subtitle B—New Markets Venture**  
 15                   **Capital Program**

16   **“SEC. 351. DEFINITIONS.**

17           *“In this subtitle—*

18                   (1) *the term ‘eligible company’ means a com-*  
 19 *pany that—*

20                           (A) *is a newly formed for-profit entity,*  
 21 *which may be a newly formed for-profit sub-*  
 22 *subsidiary of an existing entity; and*

23                           (B) *has a management team with experi-*  
 24 *ence in community development financing or rel-*  
 25 *evant venture capital financing;*

1           “(2) the term ‘low-income individual’ means an  
2 individual whose income (adjusted for family size)  
3 does not exceed—

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

6           “(B) for nonmetropolitan areas, the greater  
7 of—

8           “(i) 80 percent of the area median in-  
9 come; or

10           “(ii) 80 percent of the statewide non-  
11 metropolitan area median income;

12           “(3) the term ‘low-income geographic area’  
13 means—

14           “(A) any population census tract (or in the  
15 case of an area that is not tracted for population  
16 census tracts, the equivalent county division, as  
17 defined by the Bureau of the Census of the De-  
18 partment of Commerce for purposes of defining  
19 poverty areas), if—

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

22           “(ii) in the case of a tract—

23           “(I) that is located within a met-  
24 ropolitan area, 50 percent or more of  
25 the households in that census tract have

1                    *an income equal to less than 60 per-*  
2                    *cent of the area median gross income;*  
3                    *or*

4                    *“(II) that is not located within a*  
5                    *metropolitan area, the median house-*  
6                    *hold income for such tract does not ex-*  
7                    *ceed 80 percent of the statewide me-*  
8                    *dian household income; or*

9                    *“(iii) as determined by the Adminis-*  
10                    *trator based on objective criteria, a substan-*  
11                    *tial population of low-income individuals*  
12                    *reside, an inadequate access to investment*  
13                    *capital exists, or other indications of eco-*  
14                    *nomical distress exist in that census tract; or*  
15                    *“(B) any area located within—*

16                    *“(i) a HUBZone (as defined in section*  
17                    *3(p) of the Small Business Act and the im-*  
18                    *plementing regulations issued under that*  
19                    *section);*

20                    *“(ii) an urban empowerment zone or*  
21                    *urban enterprise community (as designated*  
22                    *by the Secretary of Housing and Urban De-*  
23                    *velopment); or*

1                   “(iii) a rural empowerment zone or  
2                   rural enterprise community (as designated  
3                   by the Secretary of Agriculture);

4                   “(4) the terms ‘new markets venture capital com-  
5                   pany’ and ‘NMVC company’ mean a company that  
6                   has been designated as a new markets venture capital  
7                   company by the Administrator under section 354(d);

8                   “(5) the term ‘participation agreement’ means  
9                   an agreement between the Administrator and a com-  
10                  pany granted final approval under section 354(d)  
11                  that—

12                  “(A) details the operating plan and invest-  
13                  ment criteria of the company; and

14                  “(B) requires the company to make invest-  
15                  ments in smaller enterprises, at least 80 percent  
16                  of which are located in low-income geographic  
17                  areas; and

18                  “(6) the term ‘specialized small business invest-  
19                  ment company’ means any small business investment  
20                  company that—

21                  “(A) invests solely in small business con-  
22                  cerns that contribute to a well-balanced national  
23                  economy by facilitating ownership in such con-  
24                  cerns by persons whose participation in the free

1           *enterprise system is hampered because of social*  
2           *or economic disadvantages;*

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

6           *“(C) was licensed under section 301(d), as*  
7           *in effect before September 30, 1996.*

8   **“SEC. 352. PURPOSES.**

9           *“The purposes of this subtitle are—*

10           *“(1) to encourage venture capital investment in*  
11           *smaller enterprises located within urban and rural*  
12           *areas;*

13           *“(2) to promote the creation of wealth, economic*  
14           *development, and job opportunities in low-income ge-*  
15           *ographic areas; and*

16           *“(3) to establish a venture capital program,*  
17           *which shall be administered by the Administrator—*

18           *“(A) to make grants to NMVC companies*  
19           *and specialized small business investment com-*  
20           *panies for the purpose of providing marketing,*  
21           *management, and technical assistance to smaller*  
22           *enterprises financed, or expected to be financed,*  
23           *by such companies; and*

24           *“(B) to guarantee debentures issued by*  
25           *NMVC companies to enable such companies to*

1           *make venture capital investments in smaller en-*  
2           *terprises within urban and rural areas.*

3   **“SEC. 353. PROGRAM ESTABLISHMENT.**

4           *“There is established the New Markets Venture Capital*  
5 *Program, under which the Administrator is authorized—*

6           *“(1) to make grants to NMVC companies and*  
7 *specialized small business investment companies, as*  
8 *provided in section 355; and*

9           *“(2) to guarantee debentures issued by NMVC*  
10 *companies, as provided in section 356.*

11   **“SEC. 354. SELECTION OF NMVC COMPANIES.**

12           *“(a) APPLICATIONS.—In order to be eligible to partici-*  
13 *pate in the program under this subtitle as an NMVC com-*  
14 *pany, an eligible company shall submit to the Adminis-*  
15 *trator an application, within such period of time as the*  
16 *Administrator shall establish, which shall include—*

17           *“(1) a business plan that—*

18           *“(A) includes the information referred to in*  
19 *subparagraph (A) of section 351(5); and*

20           *“(B) describes the manner and geographic*  
21 *areas in which the applicant will—*

22           *“(i) make successful venture capital in-*  
23 *vestments in smaller enterprises described*  
24 *in subparagraph (B) of section 351(5); and*

1                   “(ii) provide marketing, management,  
2                   and technical assistance to those enterprises;

3                   “(2) the qualifications and general business rep-  
4                   utation of the management of the applicant, specifi-  
5                   cally addressing—

6                   “(A) the experience of the management in  
7                   making venture capital investments in smaller  
8                   enterprises described in section 351(5)(B); and

9                   “(B) the success of those investments in  
10                  terms of business growth, jobs created, and such  
11                  other factors as the Administrator may require;

12                  “(3) a description of the manner in which the  
13                  applicant will interface with community organiza-  
14                  tions;

15                  “(4) a proposal describing the manner in which  
16                  grant amounts made available under this subtitle  
17                  would provide marketing, management, and technical  
18                  assistance to smaller enterprises expected to be fi-  
19                  nanced by the applicant;

20                  “(5) proposed criteria by which to evaluate the  
21                  performance of the applicant in meeting program ob-  
22                  jectives;

23                  “(6) the management and financial strength of  
24                  any parent or affiliated firm, or any firm essential  
25                  to the success of the business plan of the applicant;

1           “(7) *with respect to binding commitments to be*  
2           *made to the company under this subtitle, an estimate*  
3           *of the ratio of cash to in-kind contributions; and*

4           “(8) *such other information as the Administrator*  
5           *may require.*

6           “(b) *CRITERIA FOR CONDITIONAL APPROVAL.—*

7           “(1) *IN GENERAL.—Upon receipt of an applica-*  
8           *tion submitted under subsection (a), the Adminis-*  
9           *trator shall review the application and make a deter-*  
10           *mination regarding whether to grant conditional ap-*  
11           *proval to the applicant to operate as an NMVC com-*  
12           *pany during the time period described in subsection*  
13           *(c), based on—*

14           “(A) *the geographic area and employment*  
15           *characteristics of the smaller enterprises in*  
16           *which the proposed investments of the NMVC*  
17           *company will be made (in order to promote in-*  
18           *vestment nationwide);*

19           “(B) *the likelihood that the applicant will*  
20           *meet the goals of the business plan of the appli-*  
21           *cant;*

22           “(C) *the experience and background of the*  
23           *management team of the company;*

24           “(D) *the need for equity or equity-type in-*  
25           *vestments within the proposed investment areas;*

1           “(E) the extent to which the applicant will  
2           concentrate its activities on serving its invest-  
3           ment areas;

4           “(F) the likelihood that the applicant will  
5           be able to satisfy the requirements of subsection  
6           (c);

7           “(G) the extent to which the proposed ac-  
8           tivities will expand economic opportunities with-  
9           in the investment areas; and

10          “(H) such other factors as the Adminis-  
11          trator determines to be appropriate.

12          “(2) *NATIONWIDE DISTRIBUTION.*—*The Adminis-*  
13          *trator shall select companies under paragraph (1) in*  
14          *such a way that promotes investment nationwide.*

15          “(c) *REQUIREMENTS FOR FINAL APPROVAL.*—

16          “(1) *IN GENERAL.*—*Subject to paragraph (2),*  
17          *each applicant that is granted conditional approval*  
18          *by the Administrator to operate as an NMVC com-*  
19          *pany under subsection (b) shall, before the expiration*  
20          *of a time period established by the Administrator, not*  
21          *to exceed 24 months, beginning on the date on which*  
22          *such conditional approval is granted—*

23          “(A) *raise not less than \$5,000,000 of con-*  
24          *tributed capital or binding capital commitments*  
25          *from 1 or more investors (other than an agency*

1           *of the Federal Government) that meet criteria es-*  
2           *tablished by the Administrator; and*

3           “(B) *in order to provide marketing, man-*  
4           *agement, and technical assistance, have—*

5                   “(i) *cash or binding commitments for*  
6                   *contributions (in cash or in-kind) from 1 or*  
7                   *more sources other than the Administration*  
8                   *that meet criteria established by the Admin-*  
9                   *istrator, payable or available over a*  
10                  *multiyear period acceptable to the Adminis-*  
11                  *trator (not to exceed 10 years), in an*  
12                  *amount equal to 30 percent of the capital*  
13                  *and commitments raised under subpara-*  
14                  *graph (A);*

15                  “(ii) *purchased an annuity from an*  
16                  *insurance company acceptable to the Ad-*  
17                  *ministrator, using amounts (other than the*  
18                  *amounts raised to satisfy the requirements*  
19                  *of subparagraph (A)) from any source other*  
20                  *than the Administration, that would yield*  
21                  *cash payments over a multiyear period ac-*  
22                  *ceptable to the Administrator (not to exceed*  
23                  *10 years), in an amount equal to 30 percent*  
24                  *of the capital and commitments raised*  
25                  *under subparagraph (A); or*

1           “(iii) cash or binding commitments for  
2           contributions (in cash or in-kind) of the  
3           type described in clause (i) and have pur-  
4           chased an annuity of the type described in  
5           clause (ii), that in the aggregate make  
6           available, over a multiyear period accept-  
7           able to the Administrator (not to exceed 10  
8           years), an amount equal to 30 percent of  
9           the capital and commitments raised under  
10          subparagraph (A).

11          “(2) *EXCEPTION.*—The Administrator may, in  
12          the discretion of the Administrator and based upon a  
13          showing of special circumstances and good cause, con-  
14          sider an applicant to have satisfied the requirements  
15          of paragraph (1)(B) if the applicant has—

16                 “(A) a viable plan that reasonably projects  
17                 the capacity of the applicant to raise the amount  
18                 (in cash or in-kind) required under paragraph  
19                 (1)(B); and

20                 “(B) binding commitments in an amount  
21                 equal to not less than 20 percent of the total  
22                 amount required under paragraph (1)(B).

23          “(d) *GRANT OF FINAL APPROVAL; DESIGNATION.*—The  
24          Administrator shall, with respect to each applicant condi-

1 tionally approved to operate as an NMVC company under  
2 subsection (b), either—

3 “(1) grant final approval to the applicant to op-  
4 erate as an NMVC company under this subtitle and  
5 designate the applicant as an NMVC company, if the  
6 applicant—

7 “(A) satisfies the requirements of subsection  
8 (c) on or before the expiration of the time period  
9 described in that subsection; and

10 “(B) enters into a participation agreement  
11 with the Administrator; or

12 “(2) if the applicant fails to satisfy the require-  
13 ments of subsection (c) on or before the expiration of  
14 the time period described in that subsection, revoke  
15 the conditional approval granted under subsection  
16 (b).

17 **“SEC. 355. TECHNICAL ASSISTANCE GRANTS.**

18 “(a) GRANTS.—

19 “(1) GRANTS TO NMVC’S.—

20 “(A) IN GENERAL.—The Administrator, in  
21 accordance with such terms and conditions as  
22 the Administrator may require, is authorized to  
23 award 1 or more grants to each NMVC company,  
24 which shall be used to provide marketing, man-  
25 agement, and technical assistance for the benefit

1           *of smaller enterprises financed, or expected to be*  
2           *financed, by the NMVC company.*

3           “(B) *GRANT AMOUNT.*—*Subject to subpara-*  
4           *graph (C), the amount of a grant awarded to an*  
5           *NMVC company under this subsection shall be*  
6           *equal to 30 percent of the amount of capital and*  
7           *commitments raised under section 354(c)(1)(A).*

8           “(C) *MATCHING REQUIREMENT.*—*In order*  
9           *to receive funds under a grant awarded under*  
10          *this subsection, an NMVC company shall provide*  
11          *a matching contribution (in cash or in-kind)*  
12          *from sources other than the Administration, in*  
13          *an amount equal to the funds to be received.*

14          “(2) *GRANTS TO SPECIALIZED SMALL BUSINESS*  
15          *INVESTMENT COMPANIES.*—

16                 “(A) *AUTHORITY.*—*In accordance with this*  
17                 *section, the Administrator may make grants to*  
18                 *specialized small business investment companies*  
19                 *to provide marketing, management, and tech-*  
20                 *nical assistance to smaller enterprises, if the*  
21                 *smaller enterprise is financed, or expected to be*  
22                 *financed, by such companies after the effective*  
23                 *date of the Community Development and Ven-*  
24                 *ture Capital Act of 2000.*

1           “(B) *USE OF FUNDS.*—*The proceeds of a*  
2           *grant made under this paragraph may be used*  
3           *by the company receiving such grant only to*  
4           *provide marketing, management, and technical*  
5           *assistance in connection with one or more equity*  
6           *or equity-type investments (made with capital*  
7           *raised after the effective date of the Community*  
8           *Development and Venture Capital Act of 2000)*  
9           *in one or more smaller enterprises located in*  
10          *low-income geographic areas.*

11          “(C) *SUBMISSION OF PLANS.*—*A specialized*  
12          *small business investment company shall be eli-*  
13          *gible for a grant under this section only if the*  
14          *company submits to the Administrator, in such*  
15          *form and manner as the Administrator may re-*  
16          *quire, a plan for use of the grant.*

17          “(D) *GRANT AMOUNT.*—*Subject to subpara-*  
18          *graph (E), the amount of a grant awarded to a*  
19          *specialized small business investment company*  
20          *under this subsection shall be equal to not more*  
21          *than 30 percent of the investments of the special-*  
22          *ized small business investment company de-*  
23          *scribed in subparagraph (B).*

24          “(E) *MATCHING REQUIREMENT.*—*In order*  
25          *to receive funds under a grant awarded under*

1           *this subsection, a specialized small business in-*  
2           *vestment company shall provide a matching con-*  
3           *tribution (in cash or in-kind) from sources other*  
4           *than the Administration, in an amount equal to*  
5           *the funds to be received.*

6           “(3) *MULTIYEAR GRANTS.*—*Amounts from a*  
7           *grant awarded under this section shall be paid upon*  
8           *the direction of the Administrator over a multiyear*  
9           *period of not to exceed 10 years.*

10           “(4) *PRO RATA REDUCTIONS.*—*If the amount*  
11           *made available to carry out this section for a fiscal*  
12           *year is insufficient for the Administrator to award*  
13           *grants in the amounts required under paragraphs (1)*  
14           *and (2), the Administrator may make pro rata reduc-*  
15           *tions in the amounts otherwise payable to each NMVC*  
16           *company or specialized small business investment*  
17           *company under those paragraphs.*

18           “(b) *SUPPLEMENTAL GRANTS.*—

19           “(1) *IN GENERAL.*—*In addition to any grant*  
20           *under subsection (a), the Administrator, in accord-*  
21           *ance with such terms and conditions as the Adminis-*  
22           *trator may require, may make 1 or more supple-*  
23           *mental grants to an NMVC company or specialized*  
24           *small business investment company, which shall be*  
25           *used to provide additional marketing, management,*

1       *and technical assistance for the benefit of smaller en-*  
2       *terprises financed, or expected to be financed, by the*  
3       *NMVC company or the specialized small business in-*  
4       *vestment company, as applicable.*

5               “(2) *MATCHING REQUIREMENT.*—*The Adminis-*  
6       *trator may require, as a condition of any supple-*  
7       *mental grant made under this subsection, that the*  
8       *NMVC company or the specialized small business in-*  
9       *vestment company, as applicable, provide a matching*  
10       *contribution (in cash or in-kind) from 1 or more*  
11       *sources other than the Administration in an amount*  
12       *equal to the amount of the supplemental grant.*

13               “(c) *LIMITATION.*—*No part of any grant made avail-*  
14       *able under this section may be used for any purpose other*  
15       *than to provide marketing, management, and technical as-*  
16       *sistance to smaller enterprises financed, or expected to be*  
17       *financed, by an NMVC company or a specialized small*  
18       *business investment company, as applicable.*

19       **“SEC. 356. DEBENTURES.**

20               “(a) *IN GENERAL.*—*The Administrator is authorized*  
21       *to fully and unconditionally guarantee the timely payment*  
22       *of principal and interest on debentures issued by NMVC*  
23       *companies, in accordance with such terms and conditions*  
24       *as the Administrator determines to be appropriate.*

1       “(b) *FULL FAITH AND CREDIT.*—*The full faith and*  
2 *credit of the United States is pledged to the payment of*  
3 *all amounts that may be required to be paid under any*  
4 *guarantee under this section.*

5       “(c) *DEBENTURE REQUIREMENTS.*—*A debenture guar-*  
6 *anteed under this section—*

7               “(1) *may be issued for a term of not to exceed*  
8 *15 years;*

9               “(2) *shall bear interest at a rate approved by the*  
10 *Administrator;*

11               “(3) *shall be subject to a requirement that not*  
12 *less than 25 percent of the proceeds of the debenture*  
13 *shall be invested in smaller enterprises located in*  
14 *HUBZones (as defined in section 3(p) of the Small*  
15 *Business Act (15 U.S.C. 632(p)); and*

16               “(4) *shall contain such other terms and condi-*  
17 *tions as the Administrator may require.*

18       “(d) *TOTAL FACE VALUE.*—

19               “(1) *IN GENERAL.*—*The total face amount of de-*  
20 *bentures issued by an NMVC company and guaran-*  
21 *teed under this section that may be outstanding at*  
22 *any one time shall not exceed 150 percent of the con-*  
23 *tributed capital of the NMVC company, as determined*  
24 *by the Administrator.*

1           “(2) *CONTRIBUTED CAPITAL.*—*For purposes of*  
2           *this subsection, the contributed capital of an NMVC*  
3           *company includes capital that is deemed to be Fed-*  
4           *eral funds contributed by an investor other than an*  
5           *agency of the Federal Government.*

6   **“SEC. 357. ISSUANCE AND GUARANTEE OF TRUST CERTIFI-**  
7                           **CATES.**

8           “(a) *IN GENERAL.*—*The Administrator (or an agent*  
9           *of the Administrator) is authorized to cause a trust to issue*  
10           *trust certificates representing ownership of all or a frac-*  
11           *tional part of debentures guaranteed by the Administrator*  
12           *under section 356, if such trust certificates are based on*  
13           *and backed by a trust or pool approved by the Adminis-*  
14           *trator and composed solely of debentures guaranteed under*  
15           *section 356.*

16           “(b) *GUARANTEE AUTHORITY.*—

17           “(1) *IN GENERAL.*—*The Administrator is au-*  
18           *thorized, upon such terms and conditions as the Ad-*  
19           *ministrator determines to be appropriate, to fully and*  
20           *unconditionally guarantee the timely payment of the*  
21           *principal of and interest on any trust certificate*  
22           *issued under this section.*

23           “(2) *REDUCTION.*—*If a debenture in a trust or*  
24           *pool described in subsection (a) is prepaid, or in the*  
25           *event of default of a debenture, the guarantee of time-*

1        *ly payment of principal and interest on the related*  
2        *trust certificate issued under this section shall be re-*  
3        *duced in proportion to the corresponding payment*  
4        *amount of principal and interest on the trust certifi-*  
5        *cates, provided that the guarantee of timely payment*  
6        *of principal and interest on the trust certificates after*  
7        *such reduction shall remain full and unconditional.*

8            *“(3) ACCRUAL OF INTEREST.—Interest on pre-*  
9        *paid or defaulted debentures shall accrue and be guar-*  
10       *anteed by the Administrator only through the date of*  
11       *payment of the guarantee.*

12           *“(4) REDEMPTION OF TRUST CERTIFICATES.—*  
13       *During the term of any trust certificate issued under*  
14       *this subsection, the trust certificate may be called for*  
15       *redemption due to prepayment or default of all deben-*  
16       *tures in the trust or pool.*

17           *“(c) FULL FAITH AND CREDIT.—The full faith and*  
18       *credit of the United States is pledged to the payment of*  
19       *all amounts that may be required to be paid under any*  
20       *guarantee of a trust certificate issued under this section.*

21           *“(d) FEES.—The Administrator shall not collect a fee*  
22       *for any guarantee of a trust certificate issued under this*  
23       *section, except that nothing in this subsection may be con-*  
24       *strued to preclude an agent of the Administrator from col-*

1 *lecting a fee approved by the Administrator for the func-*  
2 *tions described in subsection (f)(2).*

3 “(e) *SUBROGATION.*—

4 “(1) *IN GENERAL.*—*If the Administrator pays a*  
5 *claim under a guarantee issued under this section, the*  
6 *Administration shall be subrogated fully to the rights*  
7 *satisfied by such payment.*

8 “(2) *OWNERSHIP RIGHTS.*—*No Federal, State, or*  
9 *local law shall preclude or limit the exercise by the*  
10 *Administrator of the ownership rights of the Adminis-*  
11 *trator in the debentures residing in a trust or pool*  
12 *against which trust certificates are issued under this*  
13 *section.*

14 “(f) *CENTRAL REGISTRATION.*—

15 “(1) *IN GENERAL.*—*The Administrator may pro-*  
16 *vide for a central registration of all trust certificates*  
17 *issued under this section.*

18 “(2) *CONTRACTING OF FUNCTIONS.*—

19 “(A) *IN GENERAL.*—*The Administrator*  
20 *may contract with an agent or agents to carry*  
21 *out on behalf of the Administrator the pooling*  
22 *and the central registration functions referred to*  
23 *in this section, including, notwithstanding any*  
24 *other provision of law—*

1           “(i) maintenance on behalf of and  
2           under the direction of the Administrator of  
3           such commercial bank accounts or invest-  
4           ments in obligations of the United States as  
5           may be necessary to facilitate trusts or  
6           pools backed by debentures guaranteed  
7           under this subtitle; and

8           “(ii) the issuance of trust certificates to  
9           facilitate such poolings.

10          “(B) FIDELITY BOND OR INSURANCE RE-  
11          QUIRED.—An agent contracting with the Admin-  
12          istrator under this paragraph shall be required  
13          to provide a fidelity bond or insurance in such  
14          amounts as the Administrator determines to be  
15          necessary to fully protect the interests of the Gov-  
16          ernment.

17          “(3) REGULATION OF BROKERS AND DEALERS.—  
18          The Administrator may regulate brokers and dealers  
19          in trust certificates issued under this section.

20          “(4) ELECTRONIC REGISTRATION.—Nothing in  
21          this subsection may be construed to prohibit the use  
22          of a book-entry or other electronic form of registration  
23          for trust certificates issued under this section.

1 **“SEC. 358. FEES.**

2       *“Except as provided under section 357(d), the Admin-*  
3 *istrator may charge such fees as the Administrator deter-*  
4 *mines to be appropriate with respect to any guarantee*  
5 *issued or grant awarded under this subtitle.*

6 **“SEC. 359. BANK PARTICIPATION.**

7       *“Any national bank, or any member bank of the Fed-*  
8 *eral Reserve System or nonmember insured bank, to the ex-*  
9 *tent permitted under applicable State law, may invest in*  
10 *any 1 or more NMVC companies, or in any entity estab-*  
11 *lished to invest solely in NMVC companies, except that in*  
12 *no event shall the total amount of such investments of any*  
13 *such bank exceed 5 percent of the total capital and surplus*  
14 *of the bank.*

15 **“SEC. 360. FEDERAL FINANCING BANK.**

16       *“Section 318 shall not apply to any debenture issued*  
17 *by a NMVC company under this subtitle.*

18 **“SEC. 361. REPORTING REQUIREMENTS.**

19       *“Each NMVC company shall provide to the Adminis-*  
20 *trator such information as the Administrator may request,*  
21 *including—*

22               *“(1) information related to the measurement cri-*  
23 *teria that the NMVC company proposed in the appli-*  
24 *cation submitted under section 354(a);*

25               *“(2) documentation on the use of technical as-*  
26 *sistance grants under this subtitle; and*

1           “(3) *in each case in which the company under*  
2           *this subtitle makes an investment in, or a loan or*  
3           *grant to, a business that is not located in a low-in-*  
4           *come geographic area, a report on the number and*  
5           *percentage of employees of the business who reside in*  
6           *such areas.*

7   **“SEC. 362. EXAMINATIONS.**

8           “(a) *IN GENERAL.—Each NMVC company shall be*  
9           *subject to examinations made at the direction of the Invest-*  
10          *ment Division of the Administration, which may be con-*  
11          *ducted with the assistance of a private sector entity that*  
12          *has both the qualifications to conduct and the expertise in*  
13          *conducting such examinations.*

14          “(b) *ASSESSMENT OF COSTS.—The cost of examina-*  
15          *tions under subsection (a), including the compensation of*  
16          *the examiners, may, in the discretion of the Administrator,*  
17          *be assessed against the company examined, and when so*  
18          *assessed shall be paid by such company.*

19          “(c) *DEPOSIT OF FEES.—Fees collected under this sec-*  
20          *tion shall be deposited in the account for salaries and ex-*  
21          *penses of the Administration.*

22   **“SEC. 363. INJUNCTIONS AND OTHER ORDERS.**

23          “(a) *IN GENERAL.—If, in the judgment of the Admin-*  
24          *istrator, an NMVC company or any other person has en-*  
25          *gaged or is about to engage in any act or practice that con-*

1 *stitutes or will constitute a violation of any provision of*  
2 *this subtitle (or any rule, regulation, or order issued under*  
3 *this subtitle) or of a participation agreement entered into*  
4 *under this subtitle—*

5           “(1) *the Administrator may make application to*  
6 *the proper district court of the United States or a*  
7 *United States court of any place subject to the juris-*  
8 *isdiction of the United States for an order enjoining*  
9 *such act or practice, or for an order enforcing compli-*  
10 *ance with such provision; and*

11           “(2) *such court shall—*

12                   “(A) *have jurisdiction over such application*  
13 *and any ensuing proceedings; and*

14                   “(B) *upon a showing by the Administrator*  
15 *that such NMVC company or other person has*  
16 *engaged or is about to engage in any such act*  
17 *or practice, grant without bond a permanent or*  
18 *temporary injunction, restraining order, or other*  
19 *appropriate order.*

20           “(b) *POWERS OF COURT.—In any proceeding under*  
21 *subsection (a)—*

22                   “(1) *the court as a court of equity may, to such*  
23 *extent as the court determines to be necessary, take ex-*  
24 *clusive jurisdiction of the NMVC company and the as-*  
25 *sets thereof, wherever located; and*

1           “(2) *the court shall have jurisdiction in any such*  
2           *proceeding to appoint a trustee or receiver to hold or*  
3           *administer under the direction of the court the assets*  
4           *so possessed.*

5           “(c) *TRUSTEE OR RECEIVER.—The Administrator is*  
6           *authorized to act as trustee or receiver of the NMVC com-*  
7           *pany referred to in subsection (a). Upon request by the Ad-*  
8           *ministrator, the court may appoint the Administrator to*  
9           *act in such capacity, unless the court determines such ap-*  
10          *pointment to be inequitable or otherwise inappropriate*  
11          *based on the special circumstances at issue.*

12          “**SEC. 364. UNLAWFUL ACTS AND OMISSIONS BY OFFICERS,**  
13                            **DIRECTORS, EMPLOYEES, OR AGENTS;**  
14                            **BREACH OF FIDUCIARY DUTY.**

15          “(a) *IN GENERAL.—If an NMVC company violates*  
16          *any provision of this subtitle (or any rule or regulation*  
17          *issued under this subtitle), or of a participation agreement*  
18          *entered into under this subtitle, by failing to comply with*  
19          *the terms thereof or by engaging in any act or practice that*  
20          *constitutes or will constitute a violation thereof, such viola-*  
21          *tion shall be deemed to be also a violation and an unlawful*  
22          *act on the part of any person who, directly or indirectly,*  
23          *authorizes, orders, participates in, or causes, brings about,*  
24          *counsels, aids, or abets in the commission of any act, prac-*

1 *tice, or transaction that constitutes or will constitute, in*  
 2 *whole or in part, such violation.*

3       “(b) *BREACH OF FIDUCIARY DUTY.*—*It shall be un-*  
 4 *lawful for any officer, director, employee, agent, or other*  
 5 *participant in the management or conduct of the affairs*  
 6 *of an NMVC company to engage in any act or practice,*  
 7 *or to omit any act, in breach of the fiduciary duty of such*  
 8 *officer, director, employee, agent, or participant, if, as a*  
 9 *result thereof, the NMVC company has suffered or is in im-*  
 10 *minent danger of suffering financial loss or other damage.*

11       “(c) *OTHER PROHIBITIONS.*—*Except with the written*  
 12 *consent of the Administrator, it shall be unlawful—*

13               “(1) *for any person to take office as an officer,*  
 14 *director, or employee of an NMVC company, or to be-*  
 15 *come an agent or participant in the conduct of the af-*  
 16 *fairs or management of an NMVC company, if that*  
 17 *person—*

18                       “(A) *has been convicted of a felony, or any*  
 19 *other criminal offense involving dishonesty or*  
 20 *breach of trust; or*

21                       “(B) *has been found civilly liable in dam-*  
 22 *ages, or has been permanently or temporarily en-*  
 23 *joined by order, judgment, or decree of a court*  
 24 *of competent jurisdiction, by reason of any act*  
 25 *or practice involving fraud or breach of trust; or*

1           “(2) for any person to continue to serve in any  
2 of the capacities described in paragraph (1), if that  
3 person is subsequently—

4           “(A) convicted of a felony, or any other  
5 criminal offense involving dishonesty or breach  
6 of trust; or

7           “(B) found civilly liable in damages, or is  
8 permanently or temporarily enjoined by an  
9 order, judgment, or decree of a court of com-  
10 petent jurisdiction, by reason of any act or prac-  
11 tice involving fraud or breach of trust.

12       “(d) NOTICE.—The Administrator may serve upon  
13 any officer, director, employee, or other participant in the  
14 conduct of the management or other affairs of an NMVC  
15 company a written notice of the intention of the Adminis-  
16 trator to remove that person from his or her position when-  
17 ever, in the opinion of the Administrator, that person—

18           “(1) has willfully committed any substantial vio-  
19 lation of—

20           “(A) this subtitle (or any rule, regulation,  
21 or order issued under this subtitle); or

22           “(B) a participation agreement entered into  
23 under this subtitle; or

24           “(C) a cease-and-desist order that has be-  
25 come final; or

1           “(2) *has willfully committed or engaged in any*  
2           *act, omission, or practice that constitutes a substan-*  
3           *tial breach of fiduciary duty, and that such violation*  
4           *or such breach of fiduciary duty is one involving per-*  
5           *sonal dishonesty on the part of such person.*

6           “(e) *SUSPENSION OR REMOVAL.—The Administrator*  
7           *may suspend or remove from office any person upon whom*  
8           *the Administrator has served a notice under subsection (d),*  
9           *in accordance with the procedures set forth in section 313.*

10       **“SEC. 365. REGULATIONS.**

11           *“The Administrator may promulgate such regulations*  
12           *as the Administrator determines to be necessary to carry*  
13           *out this subtitle.*

14       **“SEC. 366. AUTHORIZATIONS.**

15           “(a) *IN GENERAL.—There is authorized to be appro-*  
16           *priated to the Administration, for fiscal years 2000 through*  
17           *2005, to remain available until expended—*

18                   “(1) *such subsidy budget authority as may be*  
19                   *necessary to guarantee \$150,000,000 of debentures*  
20                   *under this subtitle; and*

21                   “(2) *\$30,000,000 to make grants under this sub-*  
22                   *title.*

23           “(b) *FUNDS COLLECTED FOR EXAMINATIONS.—Funds*  
24           *deposited under section 362(c) may be used only for the*  
25           *costs of examinations under section 362 and for the costs*

1 *of other oversight activities with respect to the program es-*  
 2 *tablished under this subtitle.”.*

3 (b) *CONFORMING AMENDMENT.*—Section 20(e)(1)(C)  
 4 *of the Small Business Act (15 U.S.C. 631 note) is amended*  
 5 *by inserting “subtitle A of” before “title III”.*

6 (c) *CLERICAL AMENDMENT.*—Subtitle A of title III of  
 7 *the Small Business Investment Company Act of 1958 (15*  
 8 *U.S.C. 681 et seq.), as so designated by this Act, is amended*  
 9 *by striking “this title” each place that term appears and*  
 10 *inserting “this subtitle”.*

11 **SEC. 102. BANKRUPTCY EXEMPTION FOR NMVC COMPANIES.**

12 Section 109(b)(2) of title 11, United States Code, is  
 13 amended by inserting after “homestead association,” the fol-  
 14 lowing: “a new markets venture capital company (as de-  
 15 fined in section 351 of the Small Business Investment Act  
 16 of 1958),”.

17 **SEC. 103. FEDERAL SAVINGS ASSOCIATIONS.**

18 Section 5(c)(4) of the Home Owners’ Loan Act (12  
 19 U.S.C. 1464(c)(4)) is amended by adding at the end the  
 20 following:

21 “(F) *NEW MARKETS VENTURE CAPITAL*  
 22 *COMPANIES.*—A Federal savings association may  
 23 *invest in stock, obligations, or other securities of*  
 24 *any new markets venture capital company (as*  
 25 *defined in section 351 of the Small Business In-*

1           *vestment Act of 1958). A Federal savings asso-*  
 2           *ciation may not make any investment under this*  
 3           *subparagraph if its aggregate outstanding invest-*  
 4           *ment under this subparagraph would exceed 5*  
 5           *percent of the capital and surplus of such sav-*  
 6           *ings association.”.*

7   ***TITLE II—COMMUNITY DEVELOP-***  
 8       ***MENT VENTURE CAPITAL AS-***  
 9       ***SISTANCE***

10 ***SEC. 201. FINDINGS.***

11       *Congress finds that—*

12           (1) *there is a need for the development and ex-*  
 13           *pansion of organizations that provide private equity*  
 14           *capital to smaller businesses in areas in which eq-*  
 15           *uity-type capital is scarce, such as inner cities and*  
 16           *rural areas, in order to create and retain jobs for low-*  
 17           *income residents of those areas;*

18           (2) *to invest successfully in smaller businesses,*  
 19           *particularly in inner cities and rural areas, requires*  
 20           *highly specialized investment and management skills;*

21           (3) *there is a shortage of professionals who pos-*  
 22           *sess such skills and there are few training grounds for*  
 23           *individuals to obtain those skills;*

24           (4) *providing assistance to organizations that*  
 25           *provide specialized technical assistance and training*

1 *to individuals and organizations seeking to enter or*  
 2 *expand in this segment of the market would stimulate*  
 3 *small business development and entrepreneurship in*  
 4 *economically distressed communities; and*

5 *(5) assistance from the Federal Government*  
 6 *could act as a catalyst to attract investment from the*  
 7 *private sector and would help to develop a specialized*  
 8 *venture capital industry focused on creating jobs, in-*  
 9 *creasing business ownership, and generating wealth*  
 10 *in low-income communities.*

11 **SEC. 202. COMMUNITY DEVELOPMENT VENTURE CAPITAL**  
 12 **ACTIVITIES.**

13 *(a) IN GENERAL.—The Small Business Act (15 U.S.C.*  
 14 *631 et seq.) is amended—*

15 *(1) by redesignating section 34 as section 35;*

16 *and*

17 *(2) by inserting after section 33 the following:*

18 **“SEC. 34. COMMUNITY DEVELOPMENT VENTURE CAPITAL**  
 19 **ACTIVITIES.**

20 *“(a) DEFINITIONS.—In this section, the following defi-*  
 21 *nitions shall apply:*

22 *“(1) COMMUNITY DEVELOPMENT VENTURE CAP-*  
 23 *ITAL ORGANIZATION.—The term ‘community develop-*  
 24 *ment venture capital organization’ means a pri-*  
 25 *vately-controlled organization that—*

1           “(A) has a primary mission of promoting  
2           community development in low-income commu-  
3           nities, as defined by the Administrator, through  
4           investment in private business enterprises; or

5           “(B) administers or is in the process of es-  
6           tablishing a community development venture  
7           capital fund for the purpose of making equity  
8           investments in private business enterprises in  
9           such communities.

10          “(2) *DEVELOPMENTAL ORGANIZATION.*—The  
11          term ‘developmental organization’—

12                 “(A) means a public or private entity, in-  
13                 cluding a college or university, that provides  
14                 technical assistance to community development  
15                 venture capital organizations or that conducts  
16                 research or training in community development  
17                 venture capital investment; and

18                 “(B) may include an intermediary organi-  
19                 zation.

20          “(3) *INTERMEDIARY ORGANIZATION.*—The term  
21          ‘intermediary organization’—

22                 “(A) means a private, nonprofit entity that  
23                 has—

24                         “(i) a primary mission of promoting  
25                         community development through investment

1                   *in private businesses in low-income commu-*  
2                   *nities; and*

3                   “*(ii) significant prior experience in*  
4                   *providing technical assistance or financial*  
5                   *assistance to community development ven-*  
6                   *ture capital organizations; and*

7                   “*(B) may include community development*  
8                   *venture capital organizations.*

9                   “*(b) AUTHORITY.—In order to promote the develop-*  
10                  *ment of community development venture capital organiza-*  
11                  *tions, the Administrator may—*

12                   “*(1) enter into contracts with 1 or more develop-*  
13                   *mental organizations to carry out training and re-*  
14                   *search activities under subsection (c); and*

15                   “*(2) make grants in accordance with this*  
16                   *section—*

17                   “*(A) to developmental organizations to*  
18                   *carry out training and research activities under*  
19                   *subsection (c); and*

20                   “*(B) to intermediary organizations to pro-*  
21                   *vide intensive marketing, management, and tech-*  
22                   *nical assistance and training to community de-*  
23                   *velopment venture capital organizations under*  
24                   *subsection (d).*

25                   “*(c) TRAINING AND RESEARCH ACTIVITIES.—*

1           “(1) *IN GENERAL.*—Subject to paragraph (2), a  
2           *developmental organization that receives a grant*  
3           *under subsection (b) shall use the funds made avail-*  
4           *able through the grant for 1 or more of the following*  
5           *training and research activities:*

6                   “(A)    *STRENGTHENING    PROFESSIONAL*  
7                   *SKILLS.*—Creating and operating training pro-  
8                   *grams to enhance the professional skills for indi-*  
9                   *viduals in community development venture cap-*  
10                   *ital organizations or operating private commu-*  
11                   *nity development venture capital funds.*

12                   “(B) *INCREASING INTEREST IN COMMUNITY*  
13                   *DEVELOPMENT    VENTURE    CAPITAL.*—Creating  
14                   *and operating a program to select and place stu-*  
15                   *dents and recent graduates from business and re-*  
16                   *lated professional schools as interns with commu-*  
17                   *nity development venture capital organizations*  
18                   *and intermediary organizations for a period of*  
19                   *up to 1 year, and to provide stipends for such*  
20                   *interns during the internship period.*

21                   “(C) *PROMOTING ‘BEST PRACTICES’.*—Orga-  
22                   *nizing an annual national conference for com-*  
23                   *munity development venture capital organiza-*  
24                   *tions to discuss and share information on the*  
25                   *best practices regarding issues relevant to the*

1           *creation and operation of community develop-*  
2           *ment venture capital organizations.*

3           “(D) *MOBILIZING ACADEMIC RESOURCES.—*  
4           *Encouraging the formation of 1 or more centers*  
5           *for the study of community development venture*  
6           *capital at graduate schools of business and man-*  
7           *agement, providing funding for the development*  
8           *of materials for courses on topics in this area,*  
9           *and providing funding for research on economic,*  
10          *operational, and policy issues relating to com-*  
11          *munity development venture capital.*

12          “(2) *LIMITATION.—The Administrator shall en-*  
13          *sure that not more than 25 percent of the amount*  
14          *made available to carry out this section is used for*  
15          *the activities described in paragraph (1).*

16          “(d) *INTENSIVE MARKETING, MANAGEMENT, AND*  
17          *TECHNICAL ASSISTANCE AND TRAINING.—An intermediary*  
18          *organization that receives a grant under subsection (b) shall*  
19          *use the funds made available through the grant to provide*  
20          *intensive marketing, management, and technical assistance*  
21          *and training to promote the development of community de-*  
22          *velopment venture capital organizations, which assistance*  
23          *may include grants to community development venture cap-*  
24          *ital organizations for the start up costs and operating sup-*  
25          *port of those organizations.*

1       “(e) *MATCHING CONTRIBUTION REQUIREMENT.*—The  
 2 Administrator shall require, as a condition of any grant  
 3 made to an intermediary organization under this section,  
 4 that a matching contribution equal to the amount of such  
 5 grant be provided from sources other than the Federal Gov-  
 6 ernment.

7       “(f) *AUTHORIZATION OF APPROPRIATIONS.*—There is  
 8 authorized to be appropriated to carry out this section  
 9 \$20,000,000 for fiscal years 2000 through 2005, to remain  
 10 available until expended.”.

11       “(b) *REQUIREMENTS.*—The Administrator of the Small  
 12 Business Administration may promulgate such regulations  
 13 as may be necessary to carry out section 34 of the Small  
 14 Business Act, as added by this section, which regulations  
 15 may take effect upon issuance.

## 16       **TITLE III—BUSINESS LINC**

### 17       **SEC. 301. GRANTS AUTHORIZED.**

18       Section 8 of the Small Business Act (15 U.S.C. 637)  
 19 is amended by adding at the end the following:

20       “(m) *BUSINESS LINC GRANTS.*—

21               “(1) *IN GENERAL.*—The Administrator may  
 22 make grants to and enter into cooperative agreements  
 23 with any coalition of private or public sector partici-  
 24 pants that—

1           “(A) *expand business-to-business relation-*  
2           *ships between large and small businesses; and*

3           “(B) *provide businesses, directly or indi-*  
4           *rectly, with information about companies that*  
5           *are interested in mentor-protegee programs or*  
6           *community-based, state-wide, or local business*  
7           *development programs.*

8           “(2) *MATCHING REQUIREMENTS.—*

9           “(A) *IN GENERAL.—Subject to subpara-*  
10          *graph (B), the Administrator may make grants*  
11          *to and enter into cooperative agreements with*  
12          *any coalition of private or public sector partici-*  
13          *pants if the coalition provides a matching*  
14          *amount, either in-kind or in cash, equal to the*  
15          *grant amount.*

16          “(B) *WAIVER.—In the best interests of the*  
17          *program established under this subsection, the*  
18          *Administrator may waive the requirements for*  
19          *matching funds to be provided by the coalition*  
20          *under subparagraph (A).*

21          “(3) *AUTHORIZATION OF APPROPRIATIONS.—*

22          *There is authorized to be appropriated to carry out*  
23          *this subsection \$6,600,000 for each of fiscal years*  
24          *2000 through 2005, to remain available until ex-*  
25          *pended.”.*

1 **SEC. 302. REGULATIONS.**

2       *The Administrator of the Small Business Administra-*  
3 *tion may promulgate such regulations as the Administrator*  
4 *determines to be necessary to carry out this Act and the*  
5 *amendment made by this Act.*

Calendar No. 759

106TH CONGRESS  
2D SESSION

**S. 1594**

[Report No. 106-383]

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**A BILL**

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

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AUGUST 25, 2000

Reported with an amendment