

110TH CONGRESS  
1ST SESSION

# H. R. 3567

To amend the Small Business Investment Act of 1958 to expand opportunities for investments in small businesses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2007

Mr. ALTMIRE (for himself, Mr. GRAVES, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Investment Act of 1958 to expand opportunities for investments in small businesses, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Small Business Investment Expansion Act of 2007”.

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

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS INVESTMENT COMPANY PROGRAM

Sec. 101. Simplified maximum leverage limits.

- Sec. 102. Increased investments in women-owned and socially disadvantaged small businesses.
- Sec. 103. Increased investments in smaller enterprises.
- Sec. 104. Simplified aggregate investment limitations.

#### TITLE II—NEW MARKETS VENTURE CAPITAL PROGRAM

- Sec. 201. Expansion of New Markets Venture Capital Program.
- Sec. 202. Improved nationwide distribution.
- Sec. 203. Increased investment in small manufacturers.
- Sec. 204. Updating definition of low-income geographic area.
- Sec. 205. Study on availability of equity capital.
- Sec. 206. Expanding operational assistance to conditionally approved companies.
- Sec. 207. Streamlined application for New Markets Venture Capital Program.
- Sec. 208. Elimination of matching requirement.
- Sec. 209. Simplified formula for operational assistance grants.
- Sec. 210. Authorization of appropriations and dedication to small manufacturing.

#### TITLE III—ANGEL INVESTMENT PROGRAM

- Sec. 301. Establishment of Angel Investment Program.

#### TITLE IV—SURETY BOND PROGRAM

- Sec. 401. Study and report.
- Sec. 402. Preferred Surety Bond Program.
- Sec. 403. Denial of liability.
- Sec. 404. Increasing the bond threshold.
- Sec. 405. Fees.

#### TITLE V—VENTURE CAPITAL INVESTMENT STANDARDS

- Sec. 501. Determining whether business concern is independently owned and operated.

#### TITLE VI—REGULATIONS

- Sec. 601. Regulations.

## 1 **TITLE I—SMALL BUSINESS IN-** 2 **VESTMENT COMPANY PRO-** 3 **GRAM**

### 4 **SEC. 101. SIMPLIFIED MAXIMUM LEVERAGE LIMITS.**

5 Section 303(b) of the Small Business Investment Act  
 6 of 1958 (15 U.S.C. 683(b)) is amended—

7 (1) by amending paragraph (2) to read as fol-  
 8 lows:

1 “(2) MAXIMUM LEVERAGE.—

2 “(A) IN GENERAL.—The maximum  
3 amount of outstanding leverage made available  
4 to any one company licensed under section  
5 301(c) of this Act may not exceed the lesser  
6 of—

7 “(i) 300 percent of such company’s  
8 private capital; or

9 “(ii) \$150,000,000.

10 “(B) MULTIPLE LICENSES UNDER COM-  
11 MON CONTROL.—The maximum amount of out-  
12 standing leverage made available to two or more  
13 companies licensed under section 301(c) of this  
14 Act that are commonly controlled (as deter-  
15 mined by the Administrator) and not under  
16 capital impairment may not exceed  
17 \$225,000,000.”; and

18 (2) by striking paragraph (4).

19 **SEC. 102. INCREASED INVESTMENTS IN WOMEN-OWNED**  
20 **AND SOCIALLY DISADVANTAGED SMALL**  
21 **BUSINESSES.**

22 Section 303(b)(2) of the Small Business Investment  
23 Act of 1958 (15 U.S.C. 683(b)(2)), as amended by section  
24 101, is further amended by adding at the end the fol-  
25 lowing:

1           “(C) INCREASED INVESTMENTS IN  
2 WOMEN-OWNED AND SOCIALLY DISADVANTAGED  
3 SMALL BUSINESSES.—The limits provided in  
4 subparagraphs (A)(ii) and (B) shall be  
5 \$175,000,000 and \$250,000,000, respectively,  
6 for any company that certifies in writing that  
7 not less than 50 percent of the company’s ag-  
8 gregate dollar amount of investments will be  
9 made in small businesses that prior to the in-  
10 vestment are—

11                   “(i) majority owned by one or more—

12                           “(I) socially or economically dis-  
13 advantaged individuals (as defined by  
14 Administrator);

15                           “(II) veterans of the Armed  
16 Forces; or

17                           “(III) current or former members  
18 of the National Guard or Reserve; or

19                           “(ii) located in a low-income geo-  
20 graphic area (as defined in section 351).”.

21 **SEC. 103. INCREASED INVESTMENTS IN SMALLER ENTER-**  
22 **PRISES.**

23           Section 303 of the Small Business Investment Act  
24 of 1958 (15 U.S.C. 683) is amended by striking sub-  
25 section (d) and inserting the following:

1       “(d) INCREASED INVESTMENTS IN SMALLER ENTER-  
2 PRISES.—The Administrator shall require each licensee,  
3 as a condition of an application for leverage, to certify in  
4 writing that not less than 25 percent of the licensee’s ag-  
5 gregate dollar amount of financings will be provide to  
6 smaller enterprises (as defined in section 103(12)).”.

7 **SEC. 104. SIMPLIFIED AGGREGATE INVESTMENT LIMITA-**  
8 **TIONS.**

9       Section 306(a) of the Small Business Investment Act  
10 of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

11       “(a) If any small business investment company has  
12 obtained financing from the Administration and such fi-  
13 nancing remains outstanding, the aggregate amount of se-  
14 curities acquired and for which commitments may be  
15 issued by such company under the provisions of this title  
16 for any single enterprise shall not, without the approval  
17 of the Administration, exceed 10 percent of the sum of—

18               “(1) the private capital of such company; and

19               “(2) the total amount of leverage projected by  
20 the company in the company’s business plan that  
21 was approved by the Administration at the time of  
22 the grant of the company’s license.”.

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

3   **SEC. 201. EXPANSION OF NEW MARKETS VENTURE CAPITAL**  
4                           **PROGRAM.**

5           (a) ADMINISTRATION PARTICIPATION REQUIRED.—  
6 Section 353 of the Small Business Investment Act of 1958  
7 (15 U.S.C. 689b) is amended by striking “under which  
8 the Administrator may” and inserting “under which the  
9 Administrator shall”.

10          (b) REPORT TO CONGRESS.—Not later than 1 year  
11 after the date of the enactment of this Act, the Adminis-  
12 trator of the Small Business Administration shall submit  
13 to Congress a report evaluating the success of the expan-  
14 sion of the New Markets Venture Capital Program under  
15 this section.

16   **SEC. 202. IMPROVED NATIONWIDE DISTRIBUTION.**

17          Section 354 of the Small Business Investment Act  
18 of 1958 (15 U.S.C. 689c) is amended by adding at the  
19 end the following:

20           “(f) GEOGRAPHIC EXPANSION.—From among com-  
21 panies submitting applications under subsection (b), the  
22 Administrator shall consider the selection criteria and na-  
23 tionwide distribution under subsection (c) and shall, to the  
24 maximum extent practicable, approve at least one com-

1 pany from each geographic region of the Small Business  
2 Administration.”.

3 **SEC. 203. INCREASED INVESTMENT IN SMALL MANUFAC-**  
4 **TURERS.**

5 Section 354(d)(1) of the Small Business Investment  
6 Act of 1958 (15 U.S.C. 689e(d)(1)) is amended—

7 (1) by striking “Each” and inserting the fol-  
8 lowing:

9 “(A) IN GENERAL.—Except as provided in  
10 subparagraph (B), each”; and

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

12 “(B) SMALL MANUFACTURER INVESTMENT  
13 CAPITAL REQUIREMENTS.—Each conditionally  
14 approved company engaged primarily in devel-  
15 opment of and investment in small manufactur-  
16 ers shall raise not less than \$3,000,000 of pri-  
17 vate capital or binding capital commitments  
18 from one or more investors (other than agencies  
19 or departments of the Federal Government)  
20 who meet criteria established by the Adminis-  
21 trator.”.

22 **SEC. 204. UPDATING DEFINITION OF LOW-INCOME GEO-**  
23 **GRAPHIC AREA.**

24 Section 351 of the Small Business Investment Act  
25 of 1958 (15 U.S.C. 689) is amended—

1 (1) by striking paragraphs (2) and (3);  
2 (2) by inserting after paragraph (1) the fol-  
3 lowing:

4 “(2) LOW-INCOME GEOGRAPHIC AREA.—The  
5 term ‘low-income geographic area’ has the same  
6 meaning given the term ‘low-income community’ in  
7 section 45D(e) of the Internal Revenue Code of  
8 1986 (26 U.S.C. 45D(e)).”; and

9 (3) by redesignating paragraphs (4) through  
10 (8) as (3) through (7), respectively.

11 **SEC. 205. STUDY ON AVAILABILITY OF EQUITY CAPITAL.**

12 (a) STUDY REQUIRED.—Before the expiration of the  
13 180-day period that begins on the date of the enactment  
14 of this Act, the Chief Counsel for Advocacy of the Small  
15 Business Administration shall conduct a study on the  
16 availability of equity capital in low-income urban and rural  
17 areas.

18 (b) REPORT.—Not later than 90 days after the com-  
19 pletion of the study under subsection (a) the Adminis-  
20 trator of the Small Business Administration shall submit  
21 to Congress a report containing the findings of the study  
22 required under subsection (a) and any recommendations  
23 of the Administrator based on such study.

1 **SEC. 206. EXPANDING OPERATIONAL ASSISTANCE TO CON-**  
2 **DITIONALLY APPROVED COMPANIES.**

3 (a) OPERATIONAL ASSISTANCE GRANTS TO CONDI-  
4 TIONALLY APPROVED COMPANIES.—Section 358(a) of the  
5 Small Business Investment Act of 1958 (15 U.S.C.  
6 689(a)) is amended by adding at the end the following  
7 new paragraph:

8 “(6) GRANTS TO CONDITIONALLY APPROVED  
9 COMPANIES.—

10 “(A) IN GENERAL.—Subject to subpara-  
11 graphs (A) and (B), upon the request of a com-  
12 pany conditionally-approved under section  
13 354(c), the Administrator shall make a grant to  
14 the company under this subsection.

15 “(B) REPAYMENT BY COMPANIES NOT AP-  
16 PROVED.—If a company receives a grant under  
17 paragraph (6) and does not enter into a partici-  
18 pation agreement for final approval, the com-  
19 pany shall repay the amount of the grant to the  
20 Administrator.

21 “(C) DEDUCTION FROM GRANT TO AP-  
22 PROVED COMPANY.—If a company receives a  
23 grant under paragraph (6) and receives final  
24 approval under section 354(e), the Adminis-  
25 trator shall deduct the amount of the grant  
26 under that paragraph from the total grant

1 amount that the company receives for oper-  
2 ational assistance.

3 “(D) AMOUNT OF GRANT.—No company  
4 may receive a grant of more than \$50,000  
5 under this paragraph.”.

6 (b) LIMITATION ON TIME FOR FINAL APPROVAL.—  
7 Section 354(d) of the Small Business Investment Act of  
8 1958 (15 U.S.C. 689c(d)) is amended in the matter pre-  
9 ceding paragraph (1) by striking “a period of time, not  
10 to exceed 2 years,” and inserting “2 years”.

11 **SEC. 207. STREAMLINED APPLICATION FOR NEW MARKETS**  
12 **VENTURE CAPITAL PROGRAM.**

13 Not later than 60 days after the date of the enact-  
14 ment of this section, the Administrator of the Small Busi-  
15 ness Administration shall prescribe standard documents  
16 for final New Markets Venture Capital Company approval  
17 application under section 354(e) of the Small Business In-  
18 vestment Act of 1958 (15 U.S.C. 689c(e)). The Adminis-  
19 trator shall assure that the standard documents shall be  
20 designed to substantially reduce the cost burden of the ap-  
21 plication process on the companies involved.

22 **SEC. 208. ELIMINATION OF MATCHING REQUIREMENT.**

23 Section 354(d)(2)(A)(i) of the Small Business Invest-  
24 ment Act of 1958 (15 U.S.C. 689c(d)(2)(A)(i)) is amend-  
25 ed—

1 (1) in subclause (I) by adding “and” at the  
2 end;

3 (2) in subclause (II) by striking “and” at the  
4 end; and

5 (3) by striking subclause (III).

6 **SEC. 209. SIMPLIFIED FORMULA FOR OPERATIONAL AS-**  
7 **SISTANCE GRANTS.**

8 Section 358(a)(4)(A) of the Small Business Invest-  
9 ment Act of 1958 (15 U.S.C. 689g(a)(4)(A)) is amend-  
10 ed—

11 (1) by striking “shall be equal to” and all that  
12 follows through the period at the end and by insert-  
13 ing “shall be equal to the lesser of—”; and

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

15 “(i) 10 percent of the resources (in  
16 cash or in kind) raised by the company  
17 under section 354(d)(2); or

18 “(ii) \$1,000,000.”.

19 **SEC. 210. AUTHORIZATION OF APPROPRIATIONS AND DEDI-**  
20 **CATION TO SMALL MANUFACTURING.**

21 Section 368(a) of the Small Business Investment Act  
22 of 1958 (15 U.S.C. 689q(a)) is amended—

23 (1) by striking “fiscal years 2001 through  
24 2006” and inserting “fiscal years 2008 through  
25 2010”;

1 (2) in paragraph (1)—

2 (A) by striking “\$150,000,000” and in-  
3 serting “\$30,000,000”; and

4 (B) by inserting before the period at the  
5 end the following: “, of which not less than one-  
6 quarter shall be used to guarantee debentures  
7 of companies engaged primarily in development  
8 of and investment in small manufacturers”; and

9 (3) in paragraph (2)—

10 (A) by striking “\$30,000,000” and insert-  
11 ing “\$5,000,000”; and

12 (B) by inserting before the period at the  
13 end the following: “, of which not less than one-  
14 quarter shall be used to make grants to compa-  
15 nies engaged primarily in development of and  
16 investment in small manufacturers”.

17 **TITLE III—ANGEL INVESTMENT**  
18 **PROGRAM**

19 **SEC. 301. ESTABLISHMENT OF ANGEL INVESTMENT PRO-**  
20 **GRAM.**

21 (a) ESTABLISHMENT.—Title III of the Small Busi-  
22 ness Investment Act of 1958 (15 U.S.C. 681 et seq.) is  
23 amended by adding at the end the following new part:

1       **“PART C—ANGEL INVESTMENT PROGRAM**

2       **“SEC. 380. OFFICE OF ANGEL INVESTMENT.**

3       “(a) **ESTABLISHMENT.**—There is established, in the  
4 Investment Division of the Small Business Administra-  
5 tion, the Office of Angel Investment.

6       “(b) **DIRECTOR.**—The head of the Office of Angel In-  
7 vestment is the Director of Angel Investment.

8       “(c) **DUTIES.**—Subject to the direction of the Sec-  
9 retary, the Director shall perform the following functions:

10           “(1) Provide support for the development of  
11 angel investment opportunities for small business  
12 concerns.

13           “(2) Administer the Angel Investment Program  
14 under section 382 of this Act.

15           “(3) Administer the Federal Angel Network  
16 under section 383 of this Act.

17           “(4) Administer the grant program for the de-  
18 velopment of angel groups under section 384 of this  
19 Act.

20           “(5) Perform such other duties consistent with  
21 this section as the Administrator shall prescribe.

22       **“SEC. 381. DEFINITIONS.**

23       “In this part:

24           “(1) The term ‘angel group’ means 10 or more  
25 angel investors organized for the purpose of making

1 investments in local or regional small business con-  
2 cerns that—

3 “(A) consists primarily of angel investors;

4 “(B) requires angel investors to be accred-  
5 ited investors; and

6 “(C) actively involves the angel investors in  
7 evaluating and making decisions about making  
8 investments.

9 “(2) The term ‘angel investor’ means an indi-  
10 vidual who—

11 “(A) qualifies as an accredited investor (as  
12 that term is defined under Rule 501 of Regula-  
13 tion D of the Securities and Exchange Commis-  
14 sion (17 C.F.R. 230.501));

15 “(B) provides capital to or makes invest-  
16 ments in a small business concern.

17 “(3) The term ‘small business concern owned  
18 and controlled by veterans’ has the meaning given  
19 that term under section 3(q)(3) of the Small Busi-  
20 ness Act (15 U.S.C. 632(q)(3)).

21 “(4) The term ‘small business concern owned  
22 and controlled by women’ has the meaning given  
23 that term under section 8(d)(3)(D) of such Act (15  
24 U.S.C. 637(d)(3)(D)).

1           “(5) The term ‘socially and economically dis-  
2           advantaged small business concern’ has the meaning  
3           given that term under section 8(a)(4)(A) of such Act  
4           (15 U.S.C. 637(a)(4)(A)).

5   **“SEC. 382. ANGEL INVESTMENT PROGRAM.**

6           “(a) IN GENERAL.—The Director of Angel Invest-  
7           ment shall establish and carry out a program, to be known  
8           as the Angel Investment Program, to provide financing to  
9           approved angel groups for the purpose of providing ven-  
10          ture capital investment in small businesses in their com-  
11          munities.

12          “(b) ELIGIBILITY.—To be eligible to receive financ-  
13          ing under this section, an angel group shall—

14                  “(1) have demonstrated experience making in-  
15                  vestments in local or regional small business con-  
16                  cerns;

17                  “(2) have established protocols and a due dili-  
18                  gence process for determining its investment strat-  
19                  egy;

20                  “(3) have an established code of ethics; and

21                  “(4) submit an application to the Director of  
22                  Angel Investment at such time and containing such  
23                  information and assurances as the Director may re-  
24                  quire.

1       “(c) USE OF FUNDS.—An angel group that receives  
2 financing under this section shall use the amounts received  
3 to make investments in small business concerns—

4           “(1) that have been in existence for less than  
5 5 years as of the date on which the investment is  
6 made;

7           “(2) that have fewer than 75 employees as of  
8 the date on which the investment is made;

9           “(3) more than 50 percent of the employees of  
10 which perform substantially all of their services in  
11 the United States as of the date on which the invest-  
12 ment is made; and

13           “(4) within the geographic area determined by  
14 the Director under subsection (e).

15       “(d) LIMITATION ON AMOUNT.—No angel group re-  
16 ceiving financing under this section shall receive more  
17 than \$2,000,000.

18       “(e) LIMITATION ON GEOGRAPHIC AREA.—For each  
19 angel group receiving financing under this section, the Di-  
20 rector shall determine the geographic area in which a  
21 small business concern must be located to receive an in-  
22 vestment from that angel group.

23       “(f) PRIORITY IN PROVIDING FINANCING.—In pro-  
24 viding financing under this section, the Director shall give  
25 priority to angel groups that invest in small business con-

cerns owned and controlled by veterans, small business concerns owned and controlled by women, and socially and economically disadvantaged small business concerns.

“(g) NATIONWIDE DISTRIBUTION OF FINANCING.—  
In providing financing under this section, the Director shall, to the extent practicable, provide financing to angel groups that are located in a variety of geographic areas.

“(h) MATCHING REQUIREMENT.—As a condition of receiving financing under this section, the Director shall require that for each small business concern in which the angel group receiving such financing invests, the angel group shall invest an amount that is equal to or greater than the amount of financing received under this section from a source other than the Federal Government that is equal to the amount of the financing provided under this section that the angel group invests in that small business concern.

“(i) REPAYMENT OF FINANCING.—As a condition of receiving financing under this section, the Director shall require an angel group to repay the Director for any investment on which the angel group makes a profit an amount equal to the percentage of the returns that is equal to the percentage of the total amount invested by the angel group that consisted of financing received under this section.

1 “(j) ANGEL INVESTMENT FUND.—

2 “(1) ESTABLISHMENT.—There is in the Treas-  
3 ury a fund to be known as the Angel Investment  
4 Fund.

5 “(2) DEPOSIT OF CERTAIN AMOUNTS.—  
6 Amounts collected under subsection (i) shall be de-  
7 posited in the fund.

8 “(3) USE OF DEPOSITS.—Deposits in the fund  
9 shall be available for the purpose of providing fi-  
10 nancing under this section in the amounts specified  
11 in annual appropriation laws without regard to fiscal  
12 year limitations.

13 “(k) AUTHORIZATION OF APPROPRIATIONS.—There  
14 is authorized to be appropriated to carry out this section—

15 “(1) \$10,000,000 for fiscal year 2008;

16 “(2) \$20,000,000 for fiscal year 2009; and

17 “(3) \$20,000,000 for fiscal year 2010.

18 **“SEC. 383. FEDERAL ANGEL NETWORK.**

19 “(a) IN GENERAL.—Subject to the succeeding provi-  
20 sions of this subsection, the Director of the Office of Angel  
21 Investment shall establish and maintain a searchable data-  
22 base, to be known as the Federal Angel Network, to assist  
23 small business concerns in identifying angel investors.

24 “(b) NETWORK CONTENTS.—The Federal Angel Net-  
25 work shall include—

1           “(1) a list of the names and addresses of angel  
2 groups and angel investors;

3           “(2) information about the types of investments  
4 each angel group or angel investor has made; and

5           “(3) information about other public and private  
6 resources and registries that provide information  
7 about angel groups or angel investors.

8           “(c) COLLECTION OF INFORMATION.—

9           “(1) IN GENERAL.—The Director shall collect  
10 the information to be contained in the Federal Angel  
11 Network and shall ensure that such information is  
12 updated regularly.

13           “(2) REQUEST FOR EXCLUSION OF INFORMA-  
14 TION.—The Director shall not include such informa-  
15 tion concerning an angel investor if that investor  
16 contacts the Director to request that such informa-  
17 tion be excluded from the Network.

18           “(d) AVAILABILITY.—The Director shall make the  
19 Federal Angel Network available on the Internet website  
20 of the Administration and shall do so in a manner that  
21 permits others to download, distribute, and use the infor-  
22 mation contained in the Federal Angel Network.

23           “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
24 is authorized to be appropriated to carry out this section  
25 \$1,000,000, to remain available until expended.

1 **“SEC. 384. GRANT PROGRAM FOR DEVELOPMENT OF ANGEL**  
2 **GROUPS.**

3 “(a) IN GENERAL.—The Director of the Office of  
4 Angel Investment shall establish and carry out a grant  
5 program to make grants to eligible entities for the develop-  
6 ment of new or existing angel groups and to increase  
7 awareness and education about angel investing.

8 “(b) ELIGIBLE ENTITIES.—In this section, the term  
9 ‘eligible entity’ means—

10 “(1) a State or unit of local government;

11 “(2) a nonprofit organization;

12 “(3) a state mutual benefit corporation;

13 “(4) a Small Business Development Center es-  
14 tablished pursuant to section 21 of the Small Busi-  
15 ness Act (15 U.S.C. 648); or

16 “(5) a women’s business center established pur-  
17 suant to section 29 of the Small Business Act (15  
18 U.S.C. 656).

19 “(c) MATCHING REQUIREMENT.—The Administrator  
20 shall require, as a condition of any grant made under this  
21 section, that the eligible entity receiving the grant provide  
22 from resources (in cash or in kind), other than those pro-  
23 vided by the Administrator or any other Federal source,  
24 a matching contribution equal to 50 percent of the amount  
25 of the grant.

1       “(d) APPLICATION.—To receive a grant under this  
2 section, an eligible entity shall submit an application that  
3 contains—

4               “(1) a proposal describing how the grant would  
5 be used; and

6               “(2) any other information or assurances as the  
7 Director may require.

8       “(e) REPORT.—Not later than 3 years after the date  
9 on which an eligible entity receives a grant under this sec-  
10 tion, such eligible entity shall submit a report to the Ad-  
11 ministrator describing the use of grant funds and evalu-  
12 ating the success of the angel group developed using the  
13 grant funds.

14       “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
15 is authorized to be appropriated to carry out this section  
16 \$1,500,000, for each of fiscal years 2008 through 2010.”.

17                   **TITLE IV—SURETY BOND**  
18                                   **PROGRAM**

19       **SEC. 401. STUDY AND REPORT.**

20       (a) STUDY.—The Administrator of the Small Busi-  
21 ness Administration shall conduct a study of the current  
22 funding structure of the surety bond program carried out  
23 under part B (15 U.S.C. 694a et seq.) of title IV of the  
24 Small Business Investment Act of 1958. The study shall  
25 include—

1           (1) an assessment of whether the program’s  
2           current funding framework and program fees are in-  
3           hibiting the program’s growth;

4           (2) an assessment of whether surety companies  
5           and small business concerns could benefit from an  
6           alternative funding structure; and

7           (3) an assessment of whether permissible pre-  
8           mium rates for surety companies participating in the  
9           program should be placed on parity with the rates  
10          authorized by appropriate State insurance regulators  
11          and how such a change would affect the program  
12          under the current funding framework.

13          (b) REPORT.—Not later than 180 days after the date  
14          of the enactment of this Act, the Administrator shall sub-  
15          mit to Congress a report on the results of the study.

16          **SEC. 402. PREFERRED SURETY BOND PROGRAM.**

17          (a) PROGRAM REQUIRED.—Part B (15 U.S.C. 694a  
18          et seq.) of title IV of the Small Business Investment Act  
19          of 1958 is amended by adding at the end the following:

20          **“SEC. 413. PREFERRED SURETY BOND PROGRAM.**

21          “(a) PROGRAM REQUIRED.—The Administrator shall  
22          carry out a program, to be known as the Preferred Surety  
23          Bond Program, under which the Administration, by a  
24          written agreement between the surety and the Administra-  
25          tion, delegates to the surety complete authority to issue,

1 monitor, and service bonds subject to guaranty from the  
2 Administration without obtaining the specific approval of  
3 the Administration. Bonds made under the program shall  
4 carry a 70 percent guaranty.

5 “(b) TERM.—The term of a delegation of authority  
6 under such an agreement shall not exceed 2 years.

7 “(c) RENEWAL.—Such an agreement may be renewed  
8 one or more times, each such renewal providing one addi-  
9 tional term. Before each renewal, the Administrator shall  
10 review the surety’s bonds, policies, and procedures for  
11 compliance with relevant rules and regulations.

12 “(d) APPLICATION.—The Administrator shall  
13 promptly act upon an application from a surety to partici-  
14 pate in the program, in accordance with criteria and pro-  
15 cedures established in regulations pursuant to section  
16 411(d).

17 “(e) REDUCTION OR TERMINATION OF PARTICIPA-  
18 TION.—The Administrator is authorized to reduce the al-  
19 lotment of bond guarantee authority or terminate the par-  
20 ticipation of a surety in the program based on the rate  
21 of participation of such surety during the 4 most recent  
22 fiscal year quarters compared to the median rate of par-  
23 ticipation by the other sureties in the program.”

1 (b) CONFORMING AMENDMENTS.—Section 411 of the  
2 Small Business Investment Act of 1958 (15 U.S.C. 694b)  
3 is amended—

4 (1) in subsection (a), by striking paragraphs  
5 (3), (4), and (5);

6 (2) in subsection (b)(2), by striking “the au-  
7 thority of subsection (a)(3)” and inserting “the au-  
8 thority of section 413”;

9 (3) in subsection (c)—

10 (A) by striking paragraph (1); and

11 (B) by redesignating paragraphs (2)  
12 through (4) as (1) through (3), respectively;  
13 and

14 (4) in subsection (g)(3), by striking “the au-  
15 thority of paragraph (3) of subsection (a)” and in-  
16 serting “the authority of section 413”.

17 **SEC. 403. DENIAL OF LIABILITY.**

18 Section 411 of the Small Business Investment Act  
19 of 1958 (15 U.S.C. 694b) is amended by adding at the  
20 end the following:

21 “(k) For bonds made or executed with the prior ap-  
22 proval of the Administration, the Administration shall not  
23 deny liability to a surety based upon information that was  
24 provided as part of the guaranty application.”

1 **SEC. 404. INCREASING THE BOND THRESHOLD.**

2 Section 411(a) of the Small Business Investment Act  
3 of 1958 (15 U.S.C. 694b(a)) is amended by striking  
4 “\$2,000,000” and inserting “\$3,000,000”.

5 **SEC. 405. FEES.**

6 Section 411 of the Small Business Investment Act  
7 of 1958 (15 U.S.C. 694b) is amended by adding at the  
8 end the following:

9 “(l) To the extent that amounts are made available  
10 to the Administrator for the purpose of fee contributions,  
11 the Administrator shall use such funds to offset fees estab-  
12 lished and assessed under this section. Each fee contribu-  
13 tion shall be effective for one fiscal quarter and shall be  
14 adjusted as necessary to ensure that amounts made avail-  
15 able are fully used.”.

16 **TITLE V—VENTURE CAPITAL**  
17 **INVESTMENT STANDARDS**

18 **SEC. 501. DETERMINING WHETHER BUSINESS CONCERN IS**  
19 **INDEPENDENTLY OWNED AND OPERATED.**

20 Section 3(a) of the Small Business Act (15 U.S.C.  
21 632(a)) is amended by adding at the end the following:

22 “(5) NON-AFFILIATION OF VENTURE CAPITAL  
23 FROM CONSIDERATION OF SMALL BUSINESS CON-  
24 CERN.—For purposes of determining whether a  
25 small business concern is independently owned and  
26 operated under paragraph (1) or meets the small

1 business size standards instituted under paragraph  
2 (2), the Administrator shall not consider a concern  
3 that has received financing from a venture capital  
4 operating company to be affiliated with either the  
5 venture capital operating company or any other  
6 business which the venture capital operating com-  
7 pany has financed.

8 “(6) DEFINITION OF ‘INDEPENDENTLY OWNED  
9 AND OPERATED’.—For purposes of this section, a  
10 business concern shall be deemed to be ‘independ-  
11 ently owned and operated’ if it is owned in majority  
12 part by one or more natural persons or venture cap-  
13 ital operating companies meeting the definition in  
14 paragraph (7).

15 “(7) DEFINITION OF ‘VENTURE CAPITAL OPER-  
16 ATING COMPANY’.—For purposes of this section, the  
17 term ‘venture capital operating company’ means a  
18 business concern—

19 “(A) that—

20 “(i) is a Venture Capital Operating  
21 Company, as that term is defined in regu-  
22 lations promulgated by the Secretary of  
23 Labor; or

24 “(ii) is an entity that—

1           “(I) is registered under the In-  
2           vestment Company Act of 1940 (15  
3           U.S.C. 80a–51 et seq.);

4           “(II) is an investment company,  
5           as defined in section 3(c)(14) of such  
6           Act (15 U.S.C. 80a–3(c)(14)), which  
7           is not registered under such Act be-  
8           cause it is beneficially owned by less  
9           than 100 persons; or

10           “(III) is a nonprofit organization  
11           affiliated with, or serving as a patent  
12           and licensing organization for, a uni-  
13           versity or other institution of higher  
14           education and that invests primarily  
15           in small business concerns; and

16           “(B) that is not controlled by any business  
17           concern that is not a small business concern  
18           within the meaning of section 3; and

19           “(C) that has fewer than 500 employees;  
20           and

21           “(D) that is itself a business concern in-  
22           corporated and domiciled in the United States,  
23           or is controlled by a business concern that is in-  
24           corporated and domiciled in the United  
25           States.”.

1           **TITLE VI—REGULATIONS**

2   **SEC. 601. REGULATIONS.**

3           Not later than 90 days after the date of the enact-  
4   ment of this Act, the Administrator shall issue revisions  
5   to all existing regulations as necessary to ensure their con-  
6   formity with the amendments made by this Act.

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