

111TH CONGRESS
1ST SESSION

H. R. 3684

To amend the Small Business Investment Act of 1958 to improve the New Markets Venture Capital Program and to establish an Angel Investment Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2009

Mr. SESTAK introduced the following bill; which was referred to the
Committee on Small Business

A BILL

To amend the Small Business Investment Act of 1958 to improve the New Markets Venture Capital Program and to establish an Angel Investment Program, 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 “American Small Business Innovation Act”.

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—NEW MARKETS VENTURE CAPITAL PROGRAM

- Sec. 101. Expansion of New Markets Venture Capital Program.
- Sec. 102. Improved nationwide distribution.
- Sec. 103. Increased investment in small manufacturers.
- Sec. 104. Updating definition of low-income geographic area.
- Sec. 105. Study on availability of equity capital.
- Sec. 106. Expanding operational assistance to conditionally approved companies.
- Sec. 107. Streamlined application for New Markets Venture Capital Program.
- Sec. 108. Elimination of matching requirement.
- Sec. 109. Simplified formula for operational assistance grants.
- Sec. 110. Authorization of appropriations.

TITLE II—ANGEL INVESTMENT PROGRAM

- Sec. 201. Establishment of Angel Investment Program.

1 **TITLE I—NEW MARKETS**
 2 **VENTURE CAPITAL PROGRAM**
 3 **SEC. 101. 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.

1 **SEC. 102. IMPROVED NATIONWIDE DISTRIBUTION.**

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

5 “(f) GEOGRAPHIC EXPANSION.—From among com-
6 panies submitting applications under subsection (b), the
7 Administrator shall consider the selection criteria and na-
8 tionwide distribution under subsection (c) and shall, to the
9 maximum extent practicable, approve at least one com-
10 pany from each geographic region of the Small Business
11 Administration.”.

12 **SEC. 103. INCREASED INVESTMENT IN SMALL MANUFAC-**
13 **TURERS.**

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

16 (1) by striking “Each” and inserting the fol-
17 lowing:

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

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

21 “(B) SMALL MANUFACTURER INVESTMENT
22 CAPITAL REQUIREMENTS.—Each conditionally
23 approved company engaged primarily in devel-
24 opment of and investment in small manufactur-
25 ers shall raise not less than \$3,000,000 of pri-
26 vate capital or binding capital commitments

1 from one or more investors (other than agencies
2 or departments of the Federal Government)
3 who meet criteria established by the Adminis-
4 trator.”.

5 **SEC. 104. UPDATING DEFINITION OF LOW-INCOME GEO-**
6 **GRAPHIC AREA.**

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

9 (1) by striking paragraphs (2) and (3);

10 (2) by inserting after paragraph (1) the fol-
11 lowing:

12 “(2) **LOW-INCOME GEOGRAPHIC AREA.**—The
13 term ‘low-income geographic area’ has the same
14 meaning given the term ‘low-income community’ in
15 section 45D(e) of the Internal Revenue Code of
16 1986 (26 U.S.C. 45D(e)).”; and

17 (3) by redesignating paragraphs (4) through
18 (8) as paragraphs (3) through (7), respectively.

19 **SEC. 105. STUDY ON AVAILABILITY OF EQUITY CAPITAL.**

20 (a) **STUDY REQUIRED.**—Before the expiration of the
21 180-day period that begins on the date of the enactment
22 of this Act, the Chief Counsel for Advocacy of the Small
23 Business Administration shall conduct a study on the
24 availability of equity capital in low-income urban and rural
25 areas.

1 (b) REPORT.—Not later than 90 days after the com-
2 pletion of the study under subsection (a), the Adminis-
3 trator of the Small Business Administration shall submit
4 to Congress a report containing the findings of the study
5 required under subsection (a) and any recommendations
6 of the Administrator based on such study.

7 **SEC. 106. EXPANDING OPERATIONAL ASSISTANCE TO CON-**
8 **DITIONALLY APPROVED COMPANIES.**

9 (a) OPERATIONAL ASSISTANCE GRANTS TO CONDI-
10 TIONALLY APPROVED COMPANIES.—Section 358(a) of the
11 Small Business Investment Act of 1958 (15 U.S.C.
12 689g(a)) is amended by adding at the end the following:

13 “(6) GRANTS TO CONDITIONALLY APPROVED
14 COMPANIES.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graphs (B), (C), and (D), upon the request of
17 a company conditionally approved under section
18 354(c), the Administrator shall make a grant to
19 the company under this subsection.

20 “(B) REPAYMENT BY COMPANIES NOT AP-
21 PROVED.—If a company receives a grant under
22 this paragraph and does not enter into a par-
23 ticipation agreement for final approval, the
24 company shall repay the amount of the grant to
25 the Administrator.

1 “(C) DEDUCTION FROM GRANT TO AP-
2 PROVED COMPANY.—If a company receives a
3 grant under this paragraph and receives final
4 approval under section 354(e), the Adminis-
5 trator shall deduct the amount of the grant
6 under this paragraph from the total grant
7 amount that the company receives for oper-
8 ational assistance.

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

12 (b) LIMITATION ON TIME FOR FINAL APPROVAL.—
13 Section 354(d) of the Small Business Investment Act of
14 1958 (15 U.S.C. 689c(d)) is amended in the matter pre-
15 ceding paragraph (1) by striking “a period of time, not
16 to exceed 2 years,” and inserting “2 years”.

17 (c) EXPANDED DEFINITION OF OPERATIONAL AS-
18 SISTANCE.—Section 351(4) of the Small Business Invest-
19 ment Act of 1958, as so redesignated by section 104 of
20 this Act, is amended by inserting before the period at the
21 end the following: “, including assistance on how to imple-
22 ment energy efficiency and sustainable practices that re-
23 duce the use of non-renewable resources or minimize envi-
24 ronmental impact and reduce overall costs and increase
25 health of employees”.

1 **SEC. 107. STREAMLINED APPLICATION FOR NEW MARKETS**
2 **VENTURE CAPITAL PROGRAM.**

3 Not later than 60 days after the date of the enact-
4 ment of this Act, the Administrator of the Small Business
5 Administration shall prescribe standard documents for the
6 final New Markets Venture Capital company approval ap-
7 plication under section 354(e) of the Small Business In-
8 vestment Act of 1958 (15 U.S.C. 689c(e)). The Adminis-
9 trator shall assure that the standard documents shall be
10 designed to substantially reduce the cost burden of the ap-
11 plication process on the companies involved.

12 **SEC. 108. ELIMINATION OF MATCHING REQUIREMENT.**

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

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

18 (2) in subclause (II) by striking “and” at the
19 end; and

20 (3) by striking subclause (III).

21 **SEC. 109. SIMPLIFIED FORMULA FOR OPERATIONAL AS-**
22 **SISTANCE GRANTS.**

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

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

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

5 “(i) 10 percent of the resources (in
6 cash or in kind) raised by the company
7 under section 354(d)(2); or

8 “(ii) \$1,000,000.”.

9 **SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 368(a) of the Small Business Investment Act
11 of 1958 (15 U.S.C. 689q(a)) is amended by striking “fis-
12 cal years 2001 through 2006” and inserting “fiscal years
13 2010 through 2012”.

14 **TITLE II—ANGEL INVESTMENT**
15 **PROGRAM**

16 **SEC. 201. ESTABLISHMENT OF ANGEL INVESTMENT PRO-**
17 **GRAM.**

18 Title III of the Small Business Investment Act of
19 1958 (15 U.S.C. 681 et seq.) is amended by adding at
20 the end the following:

21 **“PART D—ANGEL INVESTMENT PROGRAM**

22 **“SEC. 399A. OFFICE OF ANGEL INVESTMENT.**

23 “(a) ESTABLISHMENT.—There is established, in the
24 Small Business Investment Division of the Small Business
25 Administration, the Office of Angel Investment.

1 “(b) DIRECTOR.—The head of the Office of Angel In-
2 vestment is the Director of Angel Investment.

3 “(c) DUTIES.—Subject to the direction of the Admin-
4 istrator, the Director shall perform the following func-
5 tions:

6 “(1) Provide support for the development of
7 angel investment opportunities for small business
8 concerns.

9 “(2) Administer the Angel Investment Program
10 under section 399C.

11 “(3) Administer the Federal Angel Network
12 under section 399D.

13 “(4) Administer the grant program for the de-
14 velopment of angel groups under section 399E.

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

17 **“SEC. 399B. DEFINITIONS.**

18 “In this part:

19 “(1) The term ‘angel group’ means a group in-
20 cluding 10 or more angel investors organized for the
21 purpose of making investments in local or regional
22 small business concerns that—

23 “(A) consists primarily of angel investors;

24 “(B) requires angel investors to be accred-
25 ited investors; and

1 “(C) actively involves the angel investors in
2 evaluating and making decisions about making
3 investments.

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

6 “(A) qualifies as an accredited investor (as
7 that term is defined under section 230.501 of
8 title 17, Code of Federal Regulations); and

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

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

15 “(4) The term ‘small business concern owned
16 and controlled by women’ has the meaning given
17 that term under section 8(d)(3)(D) of the Small
18 Business Act (15 U.S.C. 637(d)(3)(D)).

19 “(5) The term ‘socially and economically dis-
20 advantaged small business concern’ has the meaning
21 given that term under section 8(a)(4)(A) of the
22 Small Business Act (15 U.S.C. 637(a)(4)(A)).

23 **“SEC. 399C. ANGEL INVESTMENT PROGRAM.**

24 “(a) IN GENERAL.—The Director of Angel Invest-
25 ment shall establish and carry out a program, to be known

1 as the Angel Investment Program, to provide financing to
2 approved angel groups for the purpose of providing ven-
3 ture capital investment in small business concerns in the
4 communities of such groups.

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

7 “(1) have demonstrated experience making in-
8 vestments in local or regional small business con-
9 cerns;

10 “(2) have established protocols and a due dili-
11 gence process for determining its investment strat-
12 egy;

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

14 “(4) submit an application to the Director at
15 such time and containing such information and as-
16 surances as the Director may require.

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

20 “(1) that have been in existence for less than
21 5 years as of the date on which the investment is
22 made;

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

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

5 “(4) within the geographic area determined by
6 the Director under subsection (e).

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

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

15 “(f) PRIORITY IN PROVIDING FINANCING.—In pro-
16 viding financing under this section, the Director shall give
17 priority to angel groups that invest in small business con-
18 cerns owned and controlled by veterans, small business
19 concerns owned and controlled by women, and socially and
20 economically disadvantaged small business concerns.

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

1 “(h) MATCHING REQUIREMENT.—As a condition of
2 receiving financing under this section, the Director shall
3 require that for each small business concern in which the
4 angel group receiving such financing invests, the angel
5 group shall invest an amount from a source other than
6 the Federal Government that is equal to or greater than
7 the amount of the financing provided under this section
8 that the angel group invests in that small business con-
9 cern.

10 “(i) REPAYMENT OF FINANCING.—As a condition of
11 receiving financing under this section, the Director shall
12 require an angel group to repay the Director for any in-
13 vestment on which the angel group makes a profit an
14 amount equal to the percentage of the returns that is
15 equal to the percentage of the total amount invested by
16 the angel group that consisted of financing received under
17 this section.

18 “(j) ANGEL INVESTMENT FUND.—

19 “(1) ESTABLISHMENT.—There is established in
20 the Treasury a fund to be known as the Angel In-
21 vestment Fund.

22 “(2) DEPOSIT OF CERTAIN AMOUNTS.—
23 Amounts collected under subsection (i) shall be de-
24 posited in such fund.

1 “(3) USE OF DEPOSITS.—Deposits in such fund
2 shall be available for the purpose of providing fi-
3 nancing under this section in the amounts specified
4 in annual appropriations Acts without regard to fis-
5 cal year limitations.

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

8 “(1) \$10,000,000 for fiscal year 2010;

9 “(2) \$20,000,000 for fiscal year 2011; and

10 “(3) \$20,000,000 for fiscal year 2012.

11 **“SEC. 399D. FEDERAL ANGEL NETWORK.**

12 “(a) IN GENERAL.—Subject to the succeeding provi-
13 sions of this section, the Director of Angel Investment
14 shall establish and maintain a searchable database, to be
15 known as the Federal Angel Network, to assist small busi-
16 ness concerns in identifying angel investors.

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

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

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

23 “(3) information about other public and private
24 resources and registries that provide information
25 about angel groups or angel investors.

1 “(c) COLLECTION OF INFORMATION.—

2 “(1) IN GENERAL.—The Director shall collect
3 the information to be contained in the Federal Angel
4 Network and shall ensure that such information is
5 updated regularly.

6 “(2) REQUEST FOR EXCLUSION OF INFORMA-
7 TION.—The Director shall not include information
8 concerning an angel investor if that investor contacts
9 the Director to request that such information be ex-
10 cluded from the Network.

11 “(d) AVAILABILITY.—The Director shall make the
12 Federal Angel Network available on the Internet website
13 of the Administration and shall do so in a manner that
14 permits others to download, distribute, and use the infor-
15 mation contained in the Federal Angel Network.

16 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
17 is authorized to be appropriated to carry out this section
18 \$1,000,000, to remain available until expended.

19 **“SEC. 399E. GRANT PROGRAM FOR DEVELOPMENT OF**
20 **ANGEL GROUPS.**

21 “(a) IN GENERAL.—The Director of Angel Invest-
22 ment shall establish and carry out a grant program to
23 make grants to eligible entities for the development of new
24 or existing angel groups and to increase awareness and
25 education about angel investing.

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

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

4 “(2) a nonprofit organization;

5 “(3) a State mutual benefit corporation;

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

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

12 “(c) MATCHING REQUIREMENT.—The Administrator
13 shall require, as a condition of any grant made under this
14 section, that the eligible entity receiving the grant provide
15 from resources (in cash or in kind), other than those pro-
16 vided by the Administrator or any other Federal source,
17 a matching contribution equal to 50 percent of the amount
18 of the grant.

19 “(d) APPLICATION.—To receive a grant under this
20 section, an eligible entity shall submit an application that
21 contains—

22 “(1) a proposal describing how the grant would
23 be used; and

24 “(2) any other information or assurances as the
25 Director may require.

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

7 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
8 is authorized to be appropriated to carry out this section
9 \$1,500,000, for each of fiscal years 2010 through 2012.”.

○