we act upon when we return after the Thanksgiving work recess. We have a few other conference reports to clean up on that. We also have a very important bill to stimulate the economy, a reinsurance bill, the trade bill and others; but I could only say to the gentleman we are hoping that even as we are working through this recess period in our districts to have some of that work proceed during that time and be better able to move that work along.

So at this point I can only say we are all anxious, as I am sure the other body is, to complete that work as soon as possible. What can I say? I can say I would encourage all our Members to sing with great confidence ''I'll be Home for Christmas,'' and maybe earlier.

Mr. FROST. Mr. Speaker, I would further ask the gentleman, when we return on the 27th, will there be suspension bills that day?

Mr. ARMEY. Again, I thank the gentleman for inquiring.

Mr. Speaker, we will have a list of suspension bills. We are in the process of clearing them now; and Members will be advised of that, if not today, certainly by Monday next week in their offices.

ELECTION OF MEMBER TO COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Mr. FROST. Mr. Speaker, I offer a resolution (H. Res. 292) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. FOSSELLA). The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 292

Resolved, That the following named Members, be, and is hereby, elected to the following standing committee of the House of Representatives:

Committee on Government Reform: Mr. LYNCH of Massachusetts, to rank after Ms. WATSON of California.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONSIDERING MEMBER AS PRIMARY SPONSOR OF H.R. 2815

Mr. ROEMER. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the primary sponsor of H.R. 2815, a bill originally introduced by Representative SCARBOROUGH of Florida, for the purpose of adding co-sponsors and requesting reprintings under clause 7 of rule XII.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SMALL BUSINESS INVESTMENT COMPANY AMENDMENTS ACT OF 2001

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1196) to amend the Small Business Investment Act of 1958, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Ms. VELÁZQUEZ. Mr. Speaker, reserving the right to object, and I do not intend to object, I ask the gentleman from Illinois (Mr. MANZULLO) to explain his request.

Mr. MANZULLO. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Illinois.

Mr. MANZULLO. Mr. Speaker, the purpose is so that the 7(a) program and the 504 program, it will reduce fees in both those programs effective on October of next year; but the overall bill is important because it continues the SBIC programs going.

SMALL BUSINESS ADMINISTRATION,
Washington, DC, November 14, 2001.

Hon. DONALD A. MANZULLO,
Chairman, Committee on Small Business, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Congress will soon pass H.R. 2500, Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2002. As you know, under the terms of the Continuing Resolution, upon enactment of H.R. 2500 its provisions will immediately take effect. That enactment will have a significant impact upon the Small Business Investment Company (SBIC) participating securities program.

Under H.R. 2500, there is no subsidy budget authority available for the participating securities program. The Committee on Appropriations removed that funding in anticipation of legislation from the Committee on Small Business to enhance the fee structure of the participating securities program. Those legislative changes would result in a zero subsidy rate for the participating securities program. This legislation was part of the Administration's budget submission to the Congress and is supported by the SBIC industry. Unfortunately, the authorizing language has not yet passed the Congress.

Absent the authorizing language the Small Business Administration will be unable to make future commitments for participating securities leverage until the authorizing language is passed. I fear that such disruption will have a chilling effect upon private sector participation in the SBIC program. There are currently 30 participating securities license applicants awaiting approval backed by approximately $600 million dollars in capital. This capital, enhanced by SBA's leverage, represents a significant potential investment in America's small businesses, an investment that could be negatively affected by the uncertainty of a suspension.

Mr. Chairman, the SBIC participating securities program has invested billions of dollars in small businesses and created thousands of jobs, and has the potential to create so many more. I urge you and your colleagues to work quickly to pass the requisite legislation to raise the fee structure in the participating securities program by 37.6 basis points and prevent the suspension of the program. The SBA stands ready to work with you on this legislation and help keep this program working for small business.

Sincerely,

HECTOR V. BARRETO,
Administrator.

Ms. VELÁZQUEZ. Mr. Speaker, further reserving the right to object, I rise in support of the amendment. Earlier this week, the Commerce, Justice and State bill sent to the President failed to provide any funding for the Small Business Investment Company program, which will force its complete shutdown.

The SBIC program has been a real partner in helping America's small businesses grow both in times of economic prosperity and in times of economic slowdown. SBICs have assisted small business owners by investing over $15 billion in long-term debt and equity capital to more than 90,000 small businesses and by investing more than $600 million to businesses in low- and moderate-income areas. The SBICs have given such Fortune 500 companies as Intel, Federal Express, AOL, and Staples the tools they need to succeed and to become today's industry leaders.

In an effort to keep the program operating, S. 1196 will increase the fees to make up for the lack of appropriated funds, but an increase in program fees will rule out the SBIC as an option for many small businesses across this country.

A way to ensure lending options for this Nation's small businesses is to adopt the amendment under consideration. The amendment will reduce the costs of the 7(a) program which will allow for greater access to capital that small businesses, especially start-ups and those in low-income areas, need to continue serving as the engine of this economy.

I urge its adoption.

Mr. MANZULLO. Mr. Speaker, I rise in support of S. 1196, the Small Business Investment Company Amendments Act of 2001. This is a fairly straightforward bill—it will keep venture capital flowing to small businesses during this critical time in our nation's economic recovery. Right now, there are 30 participating securities license applicants awaiting approval of this bill, with $600 million private equity capital at stake.

In 1958, Congress created the SBIC program to assist small business owners in locating investment capital. The problems are still the same as they were 40 years ago, which are magnified by the collapse of many ''dot.coms,'' the general economic slowdown, and the tragic events of September 11th. However, with other sources of private venture capital drying up, the SBIC program is becoming more and more critically important.

Last year, SBIC financed 4,600 venture capital deals, investing $5.6 billion in fast-growing small businesses. Since 1996, investing by SBIC-licensed firms accounted for about half of all venture capital deals made in the United States. Since its inception, the SBIC program has also returned $700 million directly to the

U.S. Treasury. Indirectly, the SBIC program has generated millions of dollars in corporate tax revenue from companies as diverse as Federal Express, Apple Computer, Intel Corporation, America Online, Callaway Golf, and the Outback Steakhouse. They all had their start with an infusion of venture capital from SBIC-licensed firms.

The main purpose of S. 1196 is to adjust the fees charged to Participating Security SBICs from 1.0 percent to 1.38 percent. This change is necessary because both the President and Congress have agreed to eliminate funding for this program. The FY '02 Commerce/Justice/State Appropriations bill (H.R. 2500), which passed both bodies earlier this week, contained no funding for the Participating Securities SBIC program. The Debentures SBIC program already operates at zero cost to the taxpayer. If the President signs H.R. 2500 without any funding or and S. 1196, with a fee increase, does not reach his desk, then the SBIC Participating Securities program terminates. According to a letter I received from the SBA Administrator, Hector Barreto, which I include for the record, there are currently 30 participating securities license applicants awaiting approval backed by approximately $600 million dollars in capital. If S. 1196 does not pass, these and all future small business investment opportunities through the SBIC program would vanish.

H.R. 2500 also contains increased program levels for the SBIC program. S. 1196 is needed to accommodate the anticipated increased demand for venture capital financing as the private sector has withdrawn from the marketplace. The SBIC program serves best as a counter cyclical program—it is particularly needed during a downturn in our economy.

The other provisions in S. 1196 affecting the SBIC program strengthen the oversight and authority of the SBA to take action against bad actors within the program, promoting the integrity of the program, and streamline its operation.

The House amendments to S. 1196 modestly lower the fees in the other main access to capital programs of the SBA—the 7(a) General Business loan program and the 504 Certified Development Company (CDC) program. In 1995, Congress increased the fees in the programs to lower the cost to the taxpayer. Since then, the Office of Management and Budget (OMB), the Congressional Budget Office (CBO), and the General Accounting Office (GAO) have all agreed that small business borrowers and lenders have paid in far too much fees to keep the program operating at no cost to the taxpayer. In fact, CBO estimates that participants in the 7(a) program alone have overpaid the U.S. Treasury in terms of higher fees to the tune of $1.258 billion over the past nine years.

These amendments are a small beginning to rectify this problem. The fee changes include lowering the fees on 7(a) loans from between $150,000 to $250,000 to two percent. For all loans above $250,000, the fees would be three percent. This amendment eliminates the 3.5 percent fee on loans above $700,000. The annual fee would drop in half from 0.25 percent to 0.50 percent. In addition, 504 fees would be reduced in terms of both the upfront and on-going fee for the entire life of the loan.

It should be made clear that fee reductions contained in the House amendments to S. 1196 are applicable only after October 1, 2002—at the beginning of the next fiscal year. Thus, there should be no interruption in the level of service offered small business borrowers and lenders during this fiscal year. Also, these changes are subject to appropriations, which I am optimistic will be addressed when OMB makes its promised changes to the subsidy rate calculation model.

Mr. Speaker, I rise in support of S. 1196 as amended, and I urge my colleagues to support these needed changes to these programs.

Ms. Velázquez. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Investment Company Amendments Act of 2001''.

SEC. 2. SUBSIDY FEES.

(a) IN GENERAL.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) by striking ''of not more than 1 percent per year'';

(B) by inserting ''which amount may not exceed 1.38 percent per year, and'' before ''which shall be paid''; and

(C) by striking ''September 30, 2000'' and inserting ''September 30, 2001''; and

(2) in subsection (g)(2)—

(A) by striking ''of not more than 1 percent per year'';

(B) by inserting ''which amount may not exceed 1.38 percent per year, and'' before ''which shall be paid''; and

(C) by striking ''September 30, 2000'' and inserting ''September 30, 2001''.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2001.

SEC. 3. CONFLICTS OF INTEREST.

Section 312 of the Small Business Investment Act of 1958 (15 U.S.C. 687d) is amended by striking ''(including disclosure in the locality most directly affected by the transaction)''.

SEC. 4. PENALTIES FOR FALSE STATEMENTS.

(a) CRIMINAL PENALTIES.—Section 1014 of title 18, United States Code, is amended by inserting '', as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act'' after ''small business investment company''.

(b) CIVIL PENALTIES.—Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) in subsection (c)—

(A) in paragraph (1), by striking ''or'' at the end;

(B) in paragraph (2)—

(i) by striking ''1341;'' and inserting ''1341''; and

(ii) by striking ''institution.'' and inserting ''institution; or'';

(C) by inserting immediately after paragraph (2) the following:

''(3) section 16(a) of the Small Business Act (15 U.S.C. 645(a)).''; and

(D) by striking ''This section shall'' and inserting the following:

''(d) EFFECTIVE DATE.—This section shall''.

SEC. 5. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

Section 313 of the Small Business Investment Act of 1958 (15 U.S.C. 687e) is amended to read as follows:

''SEC. 313. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

''(a) DEFINITION OF 'MANAGEMENT OFFICIAL'.—In this section, the term 'management official' means an officer, director, general partner, manager, employee, agent, or other participant in the management or conduct of the affairs of a licensee.

''(b) REMOVAL OF MANAGEMENT OFFICIALS.—

''(1) NOTICE OF REMOVAL.—The Administrator may serve upon any management official a written notice of its intention to remove that management official whenever, in the opinion of the Administrator—

''(A) such management official—

''(i) has willfully and knowingly committed any substantial violation of—

''(I) this Act;

''(II) any regulation issued under this Act; or

''(III) a cease-and-desist order which has become final; or

''(ii) has willfully and knowingly committed or engaged in any act, omission, or practice which constitutes a substantial breach of a fiduciary duty of that person as a management official; and

''(B) the violation or breach of fiduciary duty is one involving personal dishonesty on the part of such management official.

''(2) CONTENTS OF NOTICE.—A notice of intention to remove a management official, as provided in paragraph (1), shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon.

''(3) HEARINGS.—

''(A) TIMING.—A hearing described in paragraph (2) shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of notice of the hearing, unless an earlier or a later date is set by the Administrator at the request of—

''(i) the management official, and for good cause shown; or

''(ii) the Attorney General of the United States.

''(B) CONSENT.—Unless the management official shall appear at a hearing described in this paragraph in person or by a duly authorized representative, that management official shall be deemed to have consented to the issuance of an order of removal under paragraph (1).

''(4) ISSUANCE OF ORDER OF REMOVAL.—

''(A) IN GENERAL.—In the event of consent under paragraph (3)(B), or if upon the record made at a hearing described in this subsection, the Administrator finds that any of the grounds specified in the notice of removal has been established, the Administrator may issue such orders of removal from office as the Administrator deems appropriate.

''(B) EFFECTIVENESS.—An order under subparagraph (A) shall—

''(i) become effective at the expiration of 30 days after the date of service upon the subject licensee and the management official concerned (except in the case of an order issued upon consent as described in paragraph (3)(B), which shall become effective at the time specified in such order); and

''(ii) remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court in accordance with this section.

''(c) AUTHORITY TO SUSPEND OR PROHIBIT PARTICIPATION.—

''(1) IN GENERAL.—The Administrator may, if the Administrator deems it necessary for the protection of the licensee or the interests of the Administration, suspend from office or prohibit from further participation in any manner in the management or conduct of the affairs of the licensee, or both, any management official referred to in subsection (b)(1), by written notice to such effect served upon the management official.

''(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1)—

''(A) shall become effective upon service of notice under paragraph (1); and

''(B) unless stayed by a court in proceedings authorized by paragraph (3), shall remain in effect—

''(i) pending the completion of the administrative proceedings pursuant to a notice of intention to remove served under subsection (b); and

''(ii) until such time as the Administrator shall dismiss the charges specified in the notice, or, if an order of removal or prohibition is issued against the management official, until the effective date of any such order.

''(3) JUDICIAL REVIEW.—Not later than 10 days after any management official has been suspended from office or prohibited from participation in the management or conduct of the affairs of a licensee, or both, under paragraph (1), that management official may apply to the United States district court for the judicial district in which the home office of the licensee is located, or the United States District Court for the District of Columbia, for a stay of the suspension or prohibition pending the completion of the administrative proceedings pursuant to a notice of intent to remove served upon the management official under subsection (b), and such court shall have jurisdiction to stay such action.

''(d) AUTHORITY TO SUSPEND ON CRIMINAL CHARGES.—

''(1) IN GENERAL.—Whenever a management official is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon that management official, suspend that management official from office or prohibit that management official from further participation in any manner in the management or conduct of the affairs of the licensee, or both.

''(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1) shall remain in effect until the subject information, indictment, or complaint is finally disposed of, or until terminated by the Administrator.

''(3) AUTHORITY UPON CONVICTION.—If a judgment of conviction with respect to an offense described in paragraph (1) is entered against a management official, then at such time as the judgment is not subject to further appellate review, the Administrator may issue and serve upon the management official an order removing that management official, which removal shall become effective upon service of a copy of the order upon the licensee.

''(4) AUTHORITY UPON DISMISSAL OR OTHER DISPOSITION.—A finding of not guilty or other disposition of charges described in paragraph (1) shall not preclude the Administrator from thereafter instituting proceedings to suspend or remove the management official from office, or to prohibit the management official from participation in the management or conduct of the affairs of the licensee, or both, pursuant to subsection (b) or (c).

''(e) NOTIFICATION TO LICENSEES.—Copies of each notice required to be served on a management official under this section shall also be served upon the interested licensee.

''(f) PROCEDURAL PROVISIONS; JUDICIAL REVIEW.—

''(1) HEARING VENUE.—Any hearing provided for in this section shall be—

''(A) held in the Federal judicial district or in the territory in which the principal office of the licensee is located, unless the party afforded the hearing consents to another place; and

''(B) conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

''(2) ISSUANCE OF ORDERS.—After a hearing provided for in this section, and not later than 90 days after the Administrator has notified the parties that the case has been submitted for final decision, the Administrator shall render a decision in the matter (which shall include findings of fact upon which its decision is predicated), and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section.

''(3) AUTHORITY TO MODIFY ORDERS.—The Administrator may modify, terminate, or set aside any order issued under this section—

''(A) at any time, upon such notice, and in such manner as the Administrator deems proper, unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (4)(B), and thereafter until the record in the proceeding has been filed in accordance with paragraph (4)(C); and

''(B) upon such filing of the record, with permission of the court.

''(4) JUDICIAL REVIEW.—

''(A) IN GENERAL.—Judicial review of an order issued under this section shall be exclusively as provided in this subsection.

''(B) PETITION FOR REVIEW.—Any party to a hearing provided for in this section may obtain a review of any order issued pursuant to paragraph (2) (other than an order issued with the consent of the management official concerned, or an order issued under subsection (d)), by filing in the court of appeals of the United States for the circuit in which the principal office of the licensee is located, or in the United States Court of Appeals for the District of Columbia Circuit, not later than 30 days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside.

''(C) NOTIFICATION TO ADMINISTRATION.—A copy of a petition filed under subparagraph (B) shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

''(D) COURT JURISDICTION.—Upon the filing of a petition under subparagraph (A)—

''(i) the court shall have jurisdiction, which, upon the filing of the record under subparagraph (C), shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator, except as provided in the last sentence of paragraph (3)(B);

''(ii) review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code; and

''(iii) the judgment and decree of the court shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, United States Code.

''(E) JUDICIAL REVIEW NOT A STAY.—The commencement of proceedings for judicial review under this paragraph shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator under this section.''.

SEC. 6. REDUCTION OF FEES.

(a) TWO-YEAR REDUCTION OF SECTION 7(a) FEES.—

(1) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

''(C) TWO-YEAR REDUCTION IN FEES.—With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

''(i) A guarantee fee equal to 2 percent of the deferred participation share of a total loan amount that is not more than $250,000.

''(ii) A guarantee fee equal to 3 percent of the deferred participation share of a total loan amount that is more than $250,000.''.

(2) ANNUAL FEES.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: ''With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.''.

(b) REDUCTION OF SECTION 504 FEES.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking ''not exceed the lesser'' and inserting ''not exceed—

''(i) the lesser''; and

(C) by adding at the end the following:

''(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 2-year period beginning on October 1, 2002, for the life of the loan; and''; and

(2) by adding at the end the following:

''(i) TWO-YEAR WAIVER OF FEES.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 2-year period beginning on October 1, 2002.''.

(c) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title III or V of the Small Business Investment Act of 1958 (15 U.S.C. 697a), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) USE OF FUNDS.—The amendments made by this section shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2002.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MANZULLO

Mr. MANZULLO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MANZULLO:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Investment Company Amendments Act of 2001''.

SEC. 2. SUBSIDY FEES.

(a) IN GENERAL.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) by striking ''of not more than 1 percent per year'';

(B) by inserting ''which amount may not exceed 1.38 percent per year, and'' before ''which shall be paid''; and

(C) by striking ''September 30, 2000'' and inserting ''September 30, 2001''; and

(2) in subsection (g)(2)—

(A) by striking ''of not more than 1 percent per year'';

(B) by inserting ''which amount may not exceed 1.38 percent per year, and'' before ''which shall be paid''; and

(C) by striking ''September 30, 2000'' and inserting ''September 30, 2001''.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2001.

SEC. 3. CONFLICTS OF INTEREST.

Section 312 of the Small Business Investment Act of 1958 (15 U.S.C. 687d) is amended by striking ''(including disclosure in the locality most directly affected by the transaction)''.

SEC. 4. PENALTIES FOR FALSE STATEMENTS.

(a) CRIMINAL PENALTIES.—Section 1014 of title 18, United States Code, is amended by inserting '', as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act'' after ''small business investment company''.

(b) CIVIL PENALTIES.—Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) in subsection (c)—

(A) in paragraph (1), by striking ''or'' at the end;

(B) in paragraph (2)—

(i) by striking ''1341;'' and inserting ''1341''; and

(ii) by striking ''institution.'' and inserting ''institution; or'';

(C) by inserting immediately after paragraph (2) the following:

''(3) section 16(a) of the Small Business Act (15 U.S.C. 645(a)).''; and

(D) by striking ''This section shall'' and inserting the following:

''(d) EFFECTIVE DATE.—This section shall''.

SEC. 5. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

Section 313 of the Small Business Investment Act of 1958 (15 U.S.C. 687e) is amended to read as follows:

''SEC. 313. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

''(a) DEFINITION OF 'MANAGEMENT OFFICIAL'.—In this section, the term 'management official' means an officer, director, general partner, manager, employee, agent, or other participant in the management or conduct of the affairs of a licensee.

''(b) REMOVAL OF MANAGEMENT OFFICIALS.—

''(1) NOTICE OF REMOVAL.—The Administrator may serve upon any management official a written notice of its intention to remove that management official whenever, in the opinion of the Administrator—

''(A) such management official—

''(i) has willfully and knowingly committed any substantial violation of—

''(I) this Act;

''(II) any regulation issued under this Act; or

''(III) a cease-and-desist order which has become final; or

''(ii) has willfully and knowingly committed or engaged in any act, omission, or practice which constitutes a substantial breach of a fiduciary duty of that person as a management official; and

''(B) the violation or breach of fiduciary duty is one involving personal dishonesty on the part of such management official.

''(2) CONTENTS OF NOTICE.—A notice of intention to remove a management official, as provided in paragraph (1), shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon.

''(3) HEARINGS.—

''(A) TIMING.—A hearing described in paragraph (2) shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of notice of the hearing, unless an earlier or a later date is set by the Administrator at the request of—

''(i) the management official, and for good cause shown; or

''(ii) the Attorney General of the United States.

''(B) CONSENT.—Unless the management official shall appear at a hearing described in this paragraph in person or by a duly authorized representative, that management official shall be deemed to have consented to the issuance of an order of removal under paragraph (1).

''(4) ISSUANCE OF ORDER OF REMOVAL.—

''(A) IN GENERAL.—In the event of consent under paragraph (3)(B), or if upon the record made at a hearing described in this subsection, the Administrator finds that any of the grounds specified in the notice of removal has been established, the Administrator may issue such orders of removal from office as the Administrator deems appropriate.

''(B) EFFECTIVENESS.—An order under subparagraph (A) shall—

''(i) become effective at the expiration of 30 days after the date of service upon the subject licensee and the management official concerned (except in the case of an order issued upon consent as described in paragraph (3)(B), which shall become effective at the time specified in such order); and

''(ii) remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court in accordance with this section.

''(c) AUTHORITY TO SUSPEND OR PROHIBIT PARTICIPATION.—

''(1) IN GENERAL.—The Administrator may, if the Administrator deems it necessary for the protection of the licensee or the interests of the Administration, suspend from office or prohibit from further participation in any manner in the management or conduct of the affairs of the licensee, or both, any management official referred to in subsection (b)(1), by written notice to such effect served upon the management official.

''(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1)—

''(A) shall become effective upon service of notice under paragraph (1); and

''(B) unless stayed by a court in proceedings authorized by paragraph (3), shall remain in effect—

''(i) pending the completion of the administrative proceedings pursuant to a notice of intention to remove served under subsection (b); and

''(ii) until such time as the Administrator shall dismiss the charges specified in the notice, or, if an order of removal or prohibition is issued against the management official, until the effective date of any such order.

''(3) JUDICIAL REVIEW.—Not later than 10 days after any management official has been suspended from office or prohibited from participation in the management or conduct of the affairs of a licensee, or both, under paragraph (1), that management official may apply to the United States district court for the judicial district in which the home office of the licensee is located, or the United States District Court for the District of Columbia, for a stay of the suspension or prohibition pending the completion of the administrative proceedings pursuant to a notice of intent to remove served upon the management official under subsection (b), and such court shall have jurisdiction to stay such action.

''(d) AUTHORITY TO SUSPEND ON CRIMINAL CHARGES.—

''(1) IN GENERAL.—Whenever a management official is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon that management official, suspend that management official from office or prohibit that management official from further participation in any manner in the management or conduct of the affairs of the licensee, or both.

''(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1) shall remain in effect until the subject information, indictment, or complaint is finally disposed of, or until terminated by the Administrator.

''(3) AUTHORITY UPON CONVICTION.—If a judgment of conviction with respect to an offense described in paragraph (1) is entered against a management official, then at such time as the judgment is not subject to further appellate review, the Administrator may issue and serve upon the management official an order removing that management official, which removal shall become effective upon service of a copy of the order upon the licensee.

''(4) AUTHORITY UPON DISMISSAL OR OTHER DISPOSITION.—A finding of not guilty or other disposition of charges described in paragraph (1) shall not preclude the Administrator from thereafter instituting proceedings to suspend or remove the management official from office, or to prohibit the management official from participation in the management or conduct of the affairs of the licensee, or both, pursuant to subsection (b) or (c).

''(e) NOTIFICATION TO LICENSEES.—Copies of each notice required to be served on a management official under this section shall also be served upon the interested licensee.

''(f) PROCEDURAL PROVISIONS; JUDICIAL REVIEW.—

''(1) HEARING VENUE.—Any hearing provided for in this section shall be—

''(A) held in the Federal judicial district or in the territory in which the principal office of the licensee is located, unless the party afforded the hearing consents to another place; and

''(B) conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

''(2) ISSUANCE OF ORDERS.—After a hearing provided for in this section, and not later than 90 days after the Administrator has notified the parties that the case has been submitted for final decision, the Administrator shall render a decision in the matter (which shall include findings of fact upon which its decision is predicated), and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section.

''(3) AUTHORITY TO MODIFY ORDERS.—The Administrator may modify, terminate, or set aside any order issued under this section—

''(A) at any time, upon such notice, and in such manner as the Administrator deems proper, unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (4)(B), and thereafter until the record in the proceeding has been filed in accordance with paragraph (4)(C); and

''(B) upon such filing of the record, with permission of the court.

''(4) JUDICIAL REVIEW.—

''(A) IN GENERAL.—Judicial review of an order issued under this section shall be exclusively as provided in this subsection.

''(B) PETITION FOR REVIEW.—Any party to a hearing provided for in this section may obtain a review of any order issued pursuant to paragraph (2) (other than an order issued with the *consent of the management official concerned, or an order issued under subsection (d)), by filing in the court of appeals of the United States for the circuit in which the principal office of the licensee is located, or in the United States Court of Appeals for the District of Columbia Circuit, not later than 30 days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside.*

''(C) NOTIFICATION TO ADMINISTRATION.—A copy of a petition filed under subparagraph (B) shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

''(D) COURT JURISDICTION.—Upon the filing of a petition under subparagraph (A)—

''(i) the court shall have jurisdiction, which, upon the filing of the record under subparagraph (C), shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator, except as provided in the last sentence of paragraph (3)(B);

''(ii) review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code; and

''(iii) the judgment and decree of the court shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, United States Code.

''(E) JUDICIAL REVIEW NOT A STAY.—The commencement of proceedings for judicial review under this paragraph shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator under this section.''.

SEC. 6. REDUCTION OF FEES.

(a) TWO-YEAR REDUCTION OF SECTION 7(a) FEES.—

(1) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

''(C) TWO-YEAR REDUCTION IN FEES.—With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

''(i) A guarantee fee equal to 2 percent of the deferred participation share of a total loan amount that is not more than $250,000.

''(ii) A guarantee fee equal to 3 percent of the deferred participation share of a total loan amount that is more than $250,000.''.

(2) ANNUAL FEES.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: ''With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.''.

(b) REDUCTION OF SECTION 504 FEES.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking ''not exceed the lesser'' and inserting ''not exceed—

''(i) the lesser''; and

(C) by adding at the end the following:

''(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 2-year period beginning on October 1, 2002, for the life of the loan; and''; and

(2) by adding at the end the following:

''(i) TWO-YEAR WAIVER OF FEES.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 2-year period beginning on October 1, 2002.''.

(c) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title III or V of the Small Business Investment Act of 1958 (15 U.S.C. 697a), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) USE OF FUNDS.—The amendments made by this section shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2002.

Mr. MANZULLO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MANZULLO) is recognized for 1 hour.

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume.

As I stated, the purpose of the amendment is to decrease the fees of the 7(a) program and the 504 program effective October 1 of the year 2002.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. MANZULLO).

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR USE OF ROTUNDA OF CAPITOL FOR A NATIONAL DAY OF RECONCILIATION

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 83) providing for a National Day of Reconciliation, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF ROTUNDA OF THE CAPITOL.

The rotunda of the Capitol is authorized to be used at any time on November 27, 2001, or December 4, 2001, for a National Day of Reconciliation where—

(1) the 2 Houses of Congress shall assemble in the rotunda with the Chaplain of the House of Representatives and the Chaplain of the Senate in attendance; and

(2) during this assembly, the Members of the 2 Houses may gather to humbly seek the blessings of Providence for forgiveness, reconciliation, unity, and charity for all people of the United States, thereby assisting the Nation to realize its potential as—

(A) the champion of hope;

(B) the vindicator of the defenseless; and

(C) the guardian of freedom.

SEC. 2. PHYSICAL PREPARATIONS FOR THE ASSEMBLY.

Physical preparations for the assembly shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

HONORING CONTINUING SERVICE AND COMMITMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVE UNITS

Mr. FORBES. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the resolution (H. Res. 287) honoring the continuing service and commitment of the members of the National Guard and Reserve units activated in support of Operation Enduring Freedom, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Ms. SANCHEZ. Mr. Speaker, reserving the right to object, I rise in support of House Resolution 287 offered by my colleague, the gentleman from Virginia (Mr. FORBES). House Resolution 287 honors the National Guard and Reserve units that have been called to service in support of Operation Enduring Freedom and Operation Noble Eagle.

On September 11 Americans were shocked and saddened to learn of the deadly terrorist attacks on the World Trade Center in New York City and on the Pentagon in Washington, D.C. The heroic efforts of those aboard a fourth commercial airliner foiled the terrorist attempts to potentially destroy another target in the Nation's capital.

Shock and outrage were quickly replaced with determination, and the President declared a national emergency; and on September 14, he announced the partial mobilization of nearly 50,000 National Guard and Reservists to assist in national security efforts.

Five days later, units across the country received notice that they were being called to duty. Today, over 42,000 Reservists and members of the National Guard are on call. They represent all 50 States, the District of Columbia, Puerto Rico, and Guam.

Many have been protecting our Nation's airports. Others have brought their expertise in medical supply intelligence and other important disciplines