

103^D CONGRESS
1ST SESSION

H. R. 660

To facilitate the providing of loan capital to small business concerns, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. LAFALCE (for himself, Mr. SMITH of Iowa, Mr. MAZZOLI, and Mr. MANN)
introduced the following bill; which was referred to the Committee on
Small Business

DECEMBER 14, 1993

Additional sponsors: Mr. SKELTON, Mr. WYDEN, Mr. SISISKY, Mr. CONYERS,
Mr. BILBRAY, Mr. MFUME, Mr. FLAKE, Mr. SARPALIUS, Mr. POSHARD,
Mr. MEEHAN, Ms. DANNER, Mr. STRICKLAND, Mr. TUCKER, Mr. KLINK,
Ms. ROYBAL-ALLARD, Mr. HILLIARD, Mr. LANCASTER, Mr. FRANKS of
Connecticut, Mr. DE LUGO, Mr. HUGHES, Mr. HINCHEY, Mr. WILSON,
Mrs. CLAYTON, Mr. HASTINGS, Mr. JEFFERSON, Mr. STUDDS, Mr.
FALEOMAVAEGA, Mr. LEVY, Ms. SLAUGHTER, Mr. OLVER, Ms. KAPTUR,
Mr. WYNN, Mr. TORRES, Mrs. LLOYD, Mr. GOODLING, and Mr. PASTOR

A BILL

To facilitate the providing of loan capital to small business
concerns, 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 That this Act may be cited as the “Small Business Credit
4 Availability Act of 1993”.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 The Congress hereby finds that—

3 (1) secondary mortgage markets have success-
4 fully increased the availability and affordability of
5 long-term residential mortgages through government
6 sponsored enterprises;

7 (2) many smaller, innovative businesses could
8 grow more rapidly, create more jobs, and increase
9 United States competitiveness in world markets if
10 additional long-term capital were available to finance
11 purchases of new plant and equipment;

12 (3) institutional investors are a major source of
13 long-term capital for the United States economy, but
14 such investors are not well equipped to make large
15 numbers of direct loans to individual business firms;

16 (4) commercial banks specialize in short-term
17 business lending and have the facilities and special-
18 ized expertise to evaluate loan applications and to
19 originate and service the large number of relatively
20 small loans required by smaller innovative busi-
21 nesses; and

22 (5) a secondary market for industrial mortgages
23 would link the loan production ability of commercial
24 lenders with the long-term investment horizons of
25 pension funds and insurance companies, thereby in-
26 creasing the efficiency of United States capital mar-

1 kets and the amount of long-term capital that is
2 available to finance purchases of plant and equip-
3 ment by smaller innovative businesses.

4 **SEC. 3. STATEMENT OF PURPOSE.**

5 It is the purpose of this Act—

6 (1) to establish a corporation chartered by the
7 Federal Government as a government sponsored en-
8 terprise whose function would be to purchase or
9 guarantee loans and facilitate their packaging into
10 pools for sale to institutional investors;

11 (2) to authorize the certification of loan poolers
12 by the corporation;

13 (3) to provide for a secondary marketing ar-
14 rangement for small business loans that meet the
15 underwriting standards of the Corporation—

16 (A) to increase the availability of long-term
17 credit to small businesses at stable interest
18 rates;

19 (B) to provide greater liquidity and lending
20 capacity in extending credit to small businesses;
21 and

22 (C) to provide an arrangement for new
23 lending to facilitate capital market investments
24 in providing long-term small business funding,
25 including funds at fixed rates of interest; and

1 (4) to enhance the ability of small businesses to
2 obtain financing by improving the distribution of
3 mortgage financing, particularly from institutional
4 investors.

5 **SEC. 4. DEFINITIONS.**

6 For the purpose of this Act:

7 (1) BOARD.—The term “Board” means—

8 (A) the interim board of directors estab-
9 lished in section 6(a), or

10 (B) the permanent board of directors es-
11 tablished in section 6(b),

12 as the case may be.

13 (2) CERTIFIED POOLER.—The term “certified
14 pooler” means a secondary marketing loan pooler
15 that is certified under section 9 of this Act.

16 (3) CORPORATION.—The term “Corporation”
17 means the Venture Enhancement and Loan Develop-
18 ment Administration for Smaller Undercapitalized
19 Enterprises (Velda Sue) established in section 5 of
20 this Act.

21 (4) GUARANTEE.—The term “guarantee”
22 means the guarantee of timely payment of the prin-
23 cipal and interest on qualified loans or securities
24 representing interests in, or obligations backed by,

1 pools of such qualified loans in accordance with this
2 Act.

3 (5) INTERIM BOARD.—The term “interim
4 board” means the interim board of directors estab-
5 lished in section 6(a) of this Act.

6 (6) ORIGINATOR.—The term “originator”
7 means any institution, bank, insurance company,
8 business and industrial development company, sav-
9 ings and loan association, commercial finance com-
10 pany, trust company, credit union, small business
11 lending company or development company licensed
12 by the Small Business Administration to participate
13 in financing programs under the Small Business Act
14 or the Small Business Investment Act of 1958, or
15 other entity that originates and services loans.

16 (7) PERMANENT BOARD.—The term “perma-
17 nent board” means the permanent board of directors
18 established in section 6(b) of this Act.

19 (8) QUALIFIED LOAN.—The term “qualified
20 loan” means an extension of credit which—

21 (A) is secured by a fee-simple or lease hold
22 mortgage with status as a first lien on real es-
23 tate located in the United States or which is se-
24 cured by an unsubordinated lien on any other

1 type of property or equipment as the Board
2 deems appropriate;

3 (B) is used to finance the acquisition, re-
4 habilitation, renovation, modernization, refur-
5 bishing, or improvement of land, facilities,
6 buildings or equipment used for productive
7 business activities conducted in the United
8 States;

9 (C) is an obligation of a person, corpora-
10 tion, or partnership that has training or busi-
11 ness experience that, under criteria established
12 by the Corporation, is sufficient to ensure a
13 reasonable likelihood that the loan will be re-
14 paid according to its terms; and

15 (D) is an obligation of a small business
16 concern.

17 (9) SMALL BUSINESS CONCERN.—The term
18 “Small Business Concern” means a concern which is
19 independently owned and operated and which is not
20 dominant in its field of operations and which, to-
21 gether with its affiliates—

22 (A) qualifies for loans under section 7(a)
23 of the Small Business Act under standards pro-
24 mulgated by the Small Business Administra-
25 tion, or

1 (B) does not have net worth in excess of
2 \$18,000,000 and does not have an average net
3 income, after Federal income taxes, for the pre-
4 ceding two years in excess of \$6,000,000 (aver-
5 age net income to be computed without benefit
6 of any carryover loss).

7 (10) STATE.—The term “State” has the mean-
8 ing given such term in section 3 of the Small Busi-
9 ness Act.

10 **SEC. 5. VENTURE ENHANCEMENT AND LOAN DEVELOP-**
11 **MENT ADMINISTRATION FOR SMALLER**
12 **UNDERCAPITALIZED ENTERPRISES.**

13 (a) ESTABLISHMENT.—There is hereby established a
14 corporation to be known as the Venture Enhancement and
15 Loan Development Administration for Smaller
16 Undercapitalized Enterprises, which shall be a federally
17 chartered instrumentality of the United States.

18 (b) DUTIES.—The Corporation shall—

19 (1) in consultation with originators, develop
20 uniform underwriting, security appraisal, and repay-
21 ment standards for qualified loans;

22 (2) determine the eligibility of certified poolers
23 to contract with the Corporation for the provision of
24 guarantees for specific mortgage pools; and

1 (3) provide guarantees for the timely repayment
2 of principal and interest on qualified loans and secu-
3 rities representing interest in, or obligations backed
4 by, pools of qualified loans.

5 **SEC. 6. BOARD OF DIRECTORS.**

6 (a) INTERIM BOARD.—

7 (1) NUMBER AND APPOINTMENT.—Until the
8 permanent board of directors established in sub-
9 section (b) first meets with a quorum of its members
10 present, the Corporation shall be under the manage-
11 ment of an interim board of directors composed of
12 seven members appointed by the President within
13 ninety days after the effective date of this Act as fol-
14 lows:

15 (A) three members appointed from among
16 persons who are representatives of banks, other
17 financial institutions or entities, and insurance
18 companies,

19 (B) two members appointed from among
20 persons who are representative of small busi-
21 ness, one of whom shall be an owner or opera-
22 tor of a small business,

23 (C) two members appointed from among
24 persons who represent the interests of the gen-
25 eral public and who are not serving, and have

1 not served, as a director or officer of any finan-
2 cial institution or entity.

3 (2) POLITICAL AFFILIATION.—Not more than
4 four members of the interim board shall be of the
5 same political party.

6 (3) VACANCY.—A vacancy in the interim board
7 shall be filled in the manner in which the original
8 appointment was made.

9 (4) TERMS.—The members of the interim board
10 shall be appointed for the life of such board.

11 (5) QUORUM.—Four members of the interim
12 board shall constitute a quorum.

13 (6) CHAIRPERSON.—The President shall des-
14 ignate one of the members of the interim board as
15 the chairperson of the interim board.

16 (7) MEETINGS.—The interim board shall meet
17 at the call of the chairperson or a majority of its
18 members.

19 (8) VOTING COMMON STOCK.—

20 (A) INITIAL OFFERING.—Upon the ap-
21 pointment of sufficient members of the interim
22 board to convene a meeting with a quorum
23 present, the interim board shall arrange for an
24 initial offering of common stock and shall take

1 whatever other actions are necessary to proceed
2 with the operations of the Corporation.

3 (B) PURCHASES.—The voting common
4 stock shall be offered to originators and to cer-
5 tified poolers.

6 (9) TERMINATION.—The interim board shall
7 terminate when the permanent board of directors es-
8 tablished in subsection (b) first meets with a
9 quorum present.

10 (b) PERMANENT BOARD.—

11 (1) ESTABLISHMENT.—Immediately after the
12 date that at least \$30,000,000 of common stock of
13 the Corporation has been purchased and fully paid
14 for, the Corporation shall arrange for the election
15 and appointment of a permanent board of directors.
16 After the termination of the interim board of direc-
17 tors, the Corporation shall be under the manage-
18 ment of the permanent board.

19 (2) COMPOSITION.—The permanent board shall
20 consist of nine members, of which—

21 (A) five members shall be elected by hold-
22 ers of common stock of the Corporation; and

23 (B) four members shall be appointed by
24 the President, by and with the advice and con-

1 sent of the Senate; of the members so ap-
2 pointed,—

3 (i) none shall be, or have been, an
4 owner, officer or director of any financial
5 institution or financial entity;

6 (ii) all shall be representatives of the
7 general public;

8 (iii) not more than two shall be mem-
9 bers of the same political party; and

10 (iv) at least one shall be experienced
11 in operating a small business and shall be
12 a representative of small business.

13 (3) PRESIDENTIAL APPOINTEES.—The Presi-
14 dent shall appoint the members of the permanent
15 board referred to in paragraph (2)(B) not later than
16 60 days after the stock sale referred to in paragraph
17 (1).

18 (4) VACANCY.—

19 (A) ELECTED MEMBERS.—Subject to para-
20 graph (6), a vacancy among the members elect-
21 ed to the permanent board in the manner de-
22 scribed in paragraph (2)(A) shall be filled by
23 the permanent board from among persons eligi-
24 ble for election to the position for which the
25 vacancy exists.

1 (B) APPOINTED MEMBERS.—A vacancy
2 among the members appointed to the perma-
3 nent board under paragraph (2)(B) shall be
4 filled in the manner in which the original
5 appointment was made.

6 (5) CONTINUATION OF MEMBERSHIP.—If—

7 (A) any member of the permanent board
8 who was elected to the permanent board from
9 among persons who are representatives of origi-
10 nators ceases to be such a representative, or

11 (B) any member who was appointed by the
12 President becomes an owner, officer or director
13 of any financial institution or entity,
14 such member may continue as a member for not
15 longer than a forty five-day period beginning on the
16 date such member ceases to be such a representa-
17 tive.

18 (6) TERMS.—

19 (A) APPOINTED MEMBERS.—The members
20 appointed by the President shall serve until
21 their successors have been appointed and have
22 qualified. The terms of such members shall be
23 staggered as follows: one shall serve an initial
24 term of one year, one an initial term of two
25 years, one an initial term of three years, and

1 one an initial term of four years. All subsequent
2 appointments shall be for a term of four years
3 except that any vacancy shall be filled for the
4 unexpired term of the vacancy. Such members
5 shall be removed only for cause.

6 (B) ELECTED MEMBERS.—The members
7 elected under paragraph (2)(A) shall each be
8 elected annually for a term ending on the date
9 of the next annual meeting of the common
10 stockholders of the Corporation and shall serve
11 until their successors are elected and qualified.

12 (C) VACANCY APPOINTMENT.—Any mem-
13 ber elected or appointed to fill a vacancy occur-
14 ring before the expiration of the term for which
15 the predecessor of the member was appointed
16 shall be elected or appointed, as the case may
17 be, only for the remainder of such term.

18 (D) SERVICE AFTER EXPIRATION OF
19 TERM.—A member may serve after the expira-
20 tion of the term of the member until the succes-
21 sor of the member has taken office.

22 (7) QUORUM.—Five members of the permanent
23 board shall constitute a quorum.

24 (8) NO ADDITIONAL PAY FOR FEDERAL OFFI-
25 CERS OR EMPLOYEES.—Members of the permanent

1 board who are full time officers or employees of the
2 United States shall receive no additional pay by rea-
3 son of service on the permanent board.

4 (9) CHAIRPERSON.—The President shall des-
5 ignate one of the members of the permanent board
6 who are appointed by the President as the chair-
7 person of the permanent board.

8 (10) MEETINGS.—The permanent board shall
9 meet at the call of the chairperson or a majority of
10 its members.

11 (c) OFFICERS AND STAFF.—The Board may appoint,
12 employ, fix the pay of, and provide other allowances and
13 benefits for such officers and employees of the Corporation
14 as the Board determines to be appropriate.

15 **SEC. 7. POWERS AND DUTIES OF CORPORATION AND**
16 **BOARD.**

17 (a) AUTHORITY.—After the Board has been duly con-
18 stituted, subject to the other provisions of this Act and
19 other commitments and requirements established pursu-
20 ant to law, the Corporation may guarantee, on such terms
21 and conditions as it determines, qualified loans or securi-
22 ties issued on the security of, or in participation in, pooled
23 interests in qualified loans, or it may issue securities based
24 on the security of, or in participation in, pooled interests
25 in qualified loans as provided in section 10.

1 (b) OBLIGATIONS.—

2 (1) The aggregate amount of obligations of the
3 Corporation and obligations and securities guaran-
4 teed by the Corporation outstanding at any one time
5 shall not exceed thirty times the sum of its capital,
6 capital surplus, general surplus, reserves, and undis-
7 tributed earnings, expressly excluding subordinated
8 obligations, unless, based on amounts needed to as-
9 sure reasonable safety and soundness of the Cor-
10 poration and with due consideration of the need for
11 the Corporation to facilitate the extension of long
12 term credit to small businesses, the Secretary of the
13 Treasury establishes a higher or lower ratio.

14 (2) All obligations issued by the Corporation or
15 guaranteed by the Corporation shall be approved by
16 a majority vote of the Board of Directors and shall
17 be issued at such times and contain such terms and
18 conditions as the Corporation shall determine, with
19 approval of the Secretary of the Treasury. The Sec-
20 retary shall not approve the issuance of any obliga-
21 tions or guarantees if he determines that the issu-
22 ance would impair the financial safety or soundness
23 of the Corporation. In no event shall the Corporation
24 issue obligations or guarantees if the amount of its
25 net realized earnings deficit exceeds or thereby

1 would exceed the sum of its capital, capital surplus,
2 general surplus, reserves and undistributed earnings.

3 (c) DUTIES OF THE BOARD.—The Board shall—

4 (A) determine the general policies that
5 shall govern the operations of the Corporation;

6 (B) select, appoint, and determine the
7 compensation of qualified persons to fill such
8 offices as may be provided for in the bylaws of
9 the Corporation; and

10 (C) assign to such persons such executive
11 functions, powers, and duties as may be pre-
12 scribed by the bylaws of the Corporation or by
13 the Board.

14 (d) POWERS OF THE CORPORATION.—The Corpora-
15 tion shall be a body corporate and shall have the following
16 powers:

17 (1) To operate under the direction of its Board.

18 (2) To issues stock in the manner provided in
19 section 8.

20 (3) To adopt, alter, and use a corporate seal,
21 which shall be judicially noted.

22 (4) To provide for a president, one or more vice
23 presidents, secretary, treasurer, and such other offi-
24 cers, employees, and agents, as may be necessary,
25 define their duties and compensation levels, all with-

1 out regard to title 5, United States Code, and re-
2 quire surety bonds or make other provisions against
3 losses occasioned by acts of the persons.

4 (5) To provide guarantees and issue obligations
5 in the manner provided under section 10.

6 (6) To have succession until dissolved by a law
7 enacted by the Congress.

8 (7) To prescribe bylaws, through the Board, not
9 inconsistent with law, that shall provide for—

10 (A) the classes of the stock of the Corpora-
11 tion; and

12 (B) the manner in which—

13 (i) the stock shall be issued, trans-
14 ferred, and retired;

15 (ii) the officers, employees, and agents
16 of the Corporation are selected;

17 (iii) the property of the Corporation is
18 acquired, held, and transferred;

19 (iv) the commitments are made and
20 other financial assistance of the Corpora-
21 tion is provided;

22 (v) the general business of the Cor-
23 poration is conducted; and

24 (vi) the privileges granted by law to
25 the Corporation are exercised and enjoyed;

1 (8) To prescribe such standards as may be nec-
2 essary to carry out this Act.

3 (9) To enter into contracts and make payments
4 with respect to the contracts.

5 (10) To prescribe and impose fees and charges
6 for services by and guarantees of the Corporation as
7 provided in section 12;

8 (11) To settle, adjust, and compromise, and
9 with or without consideration or benefit to the Cor-
10 poration, to release or waive in whole or in part, in
11 advance or otherwise, any claim, demand or right of,
12 by, or against the Corporation.

13 (12) To sue and be sued in its corporate capac-
14 ity and to complain and defend in any action
15 brought by or against the Corporation in any State
16 or Federal court of competent jurisdiction.

17 (13) To make and perform contracts, agree-
18 ments, and commitments.

19 (14) To acquire, hold, lease, mortgage or dis-
20 pose of, at public or private sale, real and personal
21 property, purchase or sell any securities and obliga-
22 tions, and otherwise exercise all the usual incidents
23 or ownership of property necessary and convenient
24 to the business of the Corporation.

1 (15) To exercise such other incidental powers
2 as are necessary to carry out the powers, duties, and
3 functions of the Corporation in accordance with this
4 Act.

5 (e) FEDERAL RESERVE BANK AS DEPOSITORIES AND
6 FISCAL AGENTS.—Notwithstanding any other provision of
7 law, any depository institution, as defined in section
8 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C.
9 461(b)(1)(A)), shall be authorized to make payments to
10 the Corporation of the capital contributions referred to in
11 this Act, to receive stock of the Corporation evidencing
12 such capital contributions, and to dispose of such stock,
13 subject to the provisions of this Act. It may also act as
14 a depository for, or as a fiscal agent or custodian of, the
15 Corporation.

16 **SEC. 8. STOCK ISSUANCE.**

17 (a) VOTING COMMON STOCK.—

18 (1) ISSUE.—The Corporation shall issue voting
19 common stock having such par value as may be fixed
20 by the Board from time to time. Each share of
21 voting common stock shall be entitled to one vote
22 with rights of cumulative voting at all elections of di-
23 rectors.

24 (2) AUTHORITY OF BOARD TO ESTABLISH
25 TERMS AND PROCEDURES.—The Board shall adopt

1 such terms, conditions, and procedures with regard
2 to the issue of stock under this section as may be
3 necessary, including the establishment of a maxi-
4 mum amount limitation on the number of shares of
5 voting common stock that may be outstanding at
6 any time.

7 (3) TRANSFERABILITY.—Subject to such limita-
8 tions as the Board may impose, any share of any
9 class of voting common stock issued under this sec-
10 tion shall be transferable, except that, as to the Cor-
11 poration, such shares shall be transferable only on
12 the books of the Corporation.

13 (b) REQUIRED CAPITAL CONTRIBUTIONS.—

14 (1) IN GENERAL.—The Corporation may re-
15 quire each originator and each certified pooler to
16 make, or commit to make, such nonrefundable cap-
17 ital contributions to the Corporation as are reason-
18 able and necessary to meet the administrative ex-
19 penses of the Corporation and to contribute to the
20 financial safety and soundness of the Corporation.

21 (2) STOCK ISSUED AS CONSIDERATION FOR
22 CONTRIBUTION.—The Corporation, from time to
23 time, shall issue to each originator or certified pooler
24 voting common stock evidencing any capital con-
25 tributions made pursuant to this subsection.

1 (c) DIVIDENDS.—

2 (1) IN GENERAL.—Such dividends as may be
3 declared by the Board, in its discretion, shall be paid
4 by the Corporation to the holders of the voting com-
5 mon stock of the Corporation pro rata based on the
6 total number of shares.

7 (2) RESERVE REQUIREMENTS.—No dividend
8 may be declared or paid by the Board under this
9 section unless the Board determines that adequate
10 provision has been made for reserves.

11 (3) DIVIDENDS PROHIBITED WHILE OBLIGA-
12 TIONS ARE OUTSTANDING.—No dividend may be de-
13 clared or paid by the Board under this section while
14 any obligation issued by the Corporation to the Sec-
15 retary of the Treasury under section 15 remains
16 outstanding.

17 (d) NONVOTING COMMON STOCK.—The Corporation
18 is authorized to issue nonvoting common stock having
19 such par value as may be determined by the Board from
20 time to time. Such nonvoting common stock shall be freely
21 transferable, except that, as to the Corporation, such stock
22 shall be transferable only on the books of the Corporation.
23 Such dividends as may be declared by the Board, in the
24 discretion of the Board, to the holders of voting common
25 stock shall also be declared by the Corporation to the hold-

1 ers of the nonvoting common stock of the Corporation,
2 subject to paragraphs (2) and (3) of subsection (c).

3 (e) PREFERRED STOCK.—

4 (1) AUTHORITY OF BOARD.—The Corporation
5 is authorized to issue nonvoting preferred stock hav-
6 ing such par value as may be fixed by the Board
7 from time to time. Such preferred stock issued shall
8 be freely transferable, except that, as to the Cor-
9 poration, such stock shall be transferred only on the
10 books of the Corporation.

11 (2) RIGHTS OF PREFERRED STOCK.—Subject to
12 paragraphs (2) and (3) of subsection (c), the holders
13 of the preferred stock shall be entitled to such rate
14 of cumulative dividends, and such holders shall be
15 subject to such redemption or other conversion pro-
16 visions, as may be provided for at the time of issu-
17 ance. No dividends shall be payable on any share of
18 common stock at any time when any dividend is due
19 on any share of preferred stock and has not been
20 paid.

21 (3) PREFERENCE ON TERMINATION OF BUSI-
22 NESS.—In the event of any liquidation, dissolution,
23 or winding up of the business of the Corporation,
24 the holders of the preferred shares of stock shall be
25 paid in full at the par value thereof, plus all accrued

1 dividends, before the holders of the common shares
2 receive any payment.

3 **SEC 9. CERTIFICATION OF LOAN POOLERS.**

4 (a) ELIGIBILITY STANDARDS.—

5 (1) ESTABLISHMENT REQUIRED.—Within one
6 hundred and eighty days after the date on which the
7 permanent board first meets with a quorum present,
8 the Corporation shall issue standards for the certifi-
9 cation of loan poolers, including eligibility standards
10 in accordance with paragraph (2).

11 (2) MINIMUM REQUIREMENTS.—To be eligible
12 to be certified under the standards referred to in
13 paragraph (1), a loan pooler shall—

14 (A) meet or exceed capital standards estab-
15 lished by the Board;

16 (B) have as one of his purposes, the sale
17 or resale of securities representing interests in,
18 or obligations backed by, pools of qualified
19 loans that have been guaranteed by the Cor-
20 poration;

21 (C) demonstrate managerial ability with
22 respect to loan underwriting, servicing, and
23 marketing that is acceptable to the Corporation;

24 (D) adopt appropriate loan underwriting,
25 appraisal, and servicing standards and proce-

1 dures that meet or exceed the standards estab-
2 lished by the Board;

3 (E) for purposes of enabling the Corpora-
4 tion to examine the pooler, agree to allow offi-
5 cers or employees of the Corporation to have
6 access to all books, accounts, financial records,
7 reports, files, and all other papers, things, or
8 property, of any type whatsoever, belonging to
9 or used by such pooler that are necessary to fa-
10 cilitate an examination of his operations in con-
11 nection with securities, and the pools of quali-
12 fied loans that back securities, for which the
13 Corporation has provided guarantees; and

14 (F) adopt appropriate minimum standards
15 and procedures relating to loan administration
16 and disclosure to borrowers concerning the
17 terms and rights applicable to loans for which
18 a guarantee is provided, in conformity with uni-
19 form standards established by the Corporation.

20 (b) CERTIFICATION BY CORPORATION.—Within one
21 hundred and twenty days after receiving an application for
22 certification under this section, the Corporation shall cer-
23 tify the pooler if the applicant meets the standards estab-
24 lished by the Corporation under subsection (a).

1 (c) MAXIMUM TIME PERIOD FOR CERTIFICATION.—
2 Any certification by the Corporation shall be effective for
3 a period determined by the Corporation, but not to exceed
4 five years.

5 (d) REVOCATION.—

6 (1) IN GENERAL.—After notice and an oppor-
7 tunity for a hearing, the Corporation may revoke the
8 certification of a pooler if the Corporation deter-
9 mines that such pooler no longer meets the stand-
10 ards referred to in subsection (a).

11 (2) EFFECT OF REVOCATION.—Revocation of a
12 certification shall not affect any pool guarantee that
13 has been issued by the Corporation.

14 **SEC. 10. GUARANTEES AND OTHER OBLIGATIONS.**

15 (a) GUARANTEE AUTHORIZED.—

16 (1) IN GENERAL.—Subject to the requirements
17 of this section and on such other terms and condi-
18 tions as the Corporation shall consider appropriate,
19 the Corporation shall guarantee the timely payment
20 of not to exceed 80 per centum of principal and in-
21 terest on qualified loans and 100 per centum of the
22 securities issued by a certified pooler that represent
23 the guaranteed portion of interests in, or obligations
24 backed by, any pool of qualified loans held by such
25 certified pooler.

1 (2) DEFAULT.—If the issuer is unable to make
2 any payment of principal or interest on any qualified
3 loan, or security for which a guarantee has been pro-
4 vided by the Corporation under paragraph (1), sub-
5 ject to the provisions of subsection (b) the Corpora-
6 tion shall make such payment as and when due in
7 cash, and on such payment shall be subrogated fully
8 to the rights satisfied by such payment.

9 (3) POWER OF CORPORATION.—Notwithstand-
10 ing any other provision of law, the Corporation is
11 empowered, in connection with any guarantee under
12 this subsection, whether before or after any default,
13 to provide by contract with the issuer for the extin-
14 guishment, on default by the issuer, of any redemp-
15 tion, equitable, legal, or other right, title, or interest
16 of the issuer in any mortgage or mortgages con-
17 stituting the security for the loan or pool against
18 which the guaranteed securities are issued. In the
19 event of default and pursuant to the terms of the
20 contract, the mortgages that constitute such security
21 or pool shall, proportionate to the current ownership
22 interests in the amount of the loans originally re-
23 tained by the originators, become the absolute prop-
24 erty of the Corporation subject only to the
25 unsatisfied rights of the holders of the securities.

1 (b) STANDARDS REQUIRING DIVERSIFIED POOLS.—

2 (1) IN GENERAL.—To reduce the risks incurred
3 by the Corporation in providing guarantees under
4 this section and to further the purposes of this Act,
5 the Board shall establish standards governing the
6 composition of each pool (in connection with which
7 such guarantees are provided) over the period during
8 which the commitment to provide guarantees is ef-
9 fective.

10 (2) MINIMUM CRITERIA FOR LOAN POOLS.—

11 The standards established by the Board pursuant to
12 paragraph (1) for pools of qualified loans shall, at
13 a minimum—

14 (A) require that any pool of loans, if fea-
15 sible based upon the size of the pool—

16 (i) include security interests that are
17 distributed geographically; and

18 (ii) vary in terms of amounts of prin-
19 cipal;

20 (B) prohibit the inclusion in any such pool
21 of—

22 (i) any loan the principal amount of
23 which exceeds 5 per centum of the aggre-
24 gate amount of principal of all loans in
25 such pool; and

1 (ii) two or more loans to related bor-
2 rowers; and

3 (C) require that each pool consist of not
4 less than twenty loans.

5 (c) OTHER RESPONSIBILITIES OF AND LIMITATIONS
6 ON POOLERS.—As a condition for providing any guaran-
7 tees under this section for securities issued by a certified
8 pooler that represent interests in, or obligations backed
9 by, any pool of qualified loans, the Corporation shall re-
10 quire such pooler to agree to comply with the following
11 requirements:

12 (1) DEFAULT RESOLUTION.—The pooler shall
13 act in accordance with the standards of a prudent
14 institutional lender to resolve defaults.

15 (2) SUBROGATION OF UNITED STATES AND
16 CORPORATION TO INTERESTS OF POOLER.—The pro-
17 ceeds of any collateral, judgments, settlements, or
18 guarantees received by the pooler with respect to any
19 loan in such pool shall be applied, after payment of
20 costs of collection—

21 (A) first, to reduce the amount of any
22 principal outstanding on any obligation of the
23 Corporation that was purchased by the Sec-
24 retary of the Treasury under section 15 to the
25 extent the proceeds of such obligation were used

1 to pay claims for guarantees in connection with
2 such securities; and

3 (B) second, to reimburse the Corporation
4 for any such guarantee payments.

5 (3) SERVICING.—The originator of any loan in
6 such pool shall be permitted, at his option, to retain
7 the right to service the loan.

8 (4) COMPLIANCE WITH DIVERSIFIED POOL
9 STANDARDS.—The pooler shall comply with the
10 standards adopted by the Board under subsection
11 (b) in establishing and maintaining the pool.

12 (5) MINORITY PARTICIPATION IN PUBLIC OF-
13 FERINGS.—The pooler shall take such steps as may
14 be necessary to ensure that minority owned or con-
15 trolled investment banking firms, underwriters, and
16 bond counsels throughout the United States have an
17 opportunity to participate to a significant degree in
18 any public offering of securities.

19 (d) ADDITIONAL AUTHORITY OF THE BOARD.—To
20 ensure the liquidity of securities for which guarantees have
21 been provided under this section, the Board shall adopt
22 appropriate standards regarding—

23 (1) the characteristics of any pool of qualified
24 loans serving as collateral for such securities;

1 (2) registration requirements (if any) with re-
2 spect to such securities; and

3 (3) transfer requirements.

4 (e) In addition to the guarantees authorized herein,
5 the Corporation may purchase 80 per centum of the prin-
6 cipal amount of qualified loans. If it makes such pur-
7 chases, it shall promptly issue an equivalent amount of
8 securities which are based on the security of, or in partici-
9 pation in, pooled interests in the purchased portion of the
10 qualified loans.

11 **SEC. 11. STANDARDS FOR QUALIFIED LOANS.**

12 (a) STANDARDS.—Not later than one hundred and
13 eighty days after the appointment and election of the
14 Board, the Corporation, in consultation with originators,
15 shall establish uniform underwriting, security appraisal,
16 and repayment standards for qualified loans. In establish-
17 ing standards for qualified loans, the Corporation shall
18 limit eligibility, so far as practicable, to loans that are
19 deemed by the Board to be of such quality so as to meet,
20 substantially and generally, the purchase standards im-
21 posed by private institutional investors.

22 (b) MINIMUM CRITERIA.—To further the purpose of
23 this Act to provide a new source of long-term fixed rate
24 financing to assist small businesses, the standards estab-

1 lished by the Board pursuant to subsection (a) shall, at
2 a minimum—

3 (1) set the maximum principal amount of any
4 loan which the Corporation will purchase or guaran-
5 tee;

6 (2) limit the maximum term of the loan to thir-
7 ty years in the case of land or facilities or to ten
8 years in the case of equipment, but in no event
9 longer than the useful life of the property;

10 (3) require that the principal amount of the
11 loan will be fully amortized over the life of the loan;

12 (4) provide that no loan shall have a loan-to-
13 value ratio in excess of 90 per centum;

14 (5) require each borrower to demonstrate suffi-
15 cient cashflow to adequately service the loan;

16 (6) contain sufficient documentation standards;
17 and

18 (7) contain adequate standards to protect the
19 integrity of the appraisal process with respect to any
20 loan.

21 (c) CONGRESSIONAL REVIEW.—No standard pre-
22 scribed under this section shall take effect before the later
23 of—

1 (1) the end of a period consisting of thirty leg-
2 islative days and beginning on the date such stand-
3 ards are submitted to the Congress; or

4 (2) the end of a period consisting of ninety cal-
5 endar days and beginning on such date the stand-
6 ards are submitted.

7 (e) NONDISCRIMINATION REQUIREMENT.—The
8 standards established under subsection (a) shall not dis-
9 criminate against small originators or small mortgage
10 loans that are at least \$50,000.

11 **SEC. 12. FUNDING FOR GUARANTEE RESERVES OF COR-**
12 **PORATION.**

13 (a) GUARANTEE FEES.—

14 (1) LOAN FEE.—At the time a guarantee is is-
15 sued for a qualified loan by the Corporation or at
16 the time the Corporation purchases a loan pursuant
17 to section 10(e), the Corporation shall assess the
18 originator a fee of not more than 2 per centum of
19 the initial principal amount of the loan.

20 (2) POOLER FEE.—At the time a guarantee is
21 issued for securities issued by a qualified pooler, the
22 Corporation shall assess such pooler an additional
23 fee of not more than one-half of 1 per centum of the
24 principal amount of the loans then constituting the
25 pool if the originator has already paid the fee for

1 guarantee of a qualified loan as provided in para-
2 graph (1). If the pool includes any loan on which the
3 originator has not paid a guarantee fee, the Cor-
4 poration shall assess the pooler a fee of not more
5 than 2½ per centum of the principal amount of any
6 such loan.

7 (3) DETERMINATION OF AMOUNT.—The Cor-
8 poration shall establish such fees based on the
9 amount of risk incurred by the Corporation in pro-
10 viding the financial assistance or guarantees with re-
11 spect to which such fee is assessed, as determined by
12 the Corporation. Fees assessed under paragraphs (1)
13 or (2) shall be established on an actuarially sound
14 basis, but not to exceed the per centums specified.

15 (b) ANNUAL REVIEW BY GAO.—The Comptroller
16 General of the United States shall annually review, and
17 submit to the Congress a report regarding, the actuarial
18 soundness and reasonableness of the fees established and
19 amounts collected by the Corporation under this sub-
20 section.

21 (c) CORPORATION RESERVE AGAINST GUARANTEE
22 LOSSES REQUIRED.—

23 (1) IN GENERAL.—So much of the fees assessed
24 under this section as the Board determines to be
25 necessary shall be set aside by the Corporation in a

1 segregated account as a reserve against losses arising out of the guarantee activities of the Corporation.
2
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4 (2) EXHAUSTION OF RESERVE REQUIRED.—
5 The Corporation may not issue obligations to the
6 Secretary of the Treasury under section 15 in order
7 to meet the obligations of the Corporation with respect to any guarantees or securities issued provided
8 under this Act until the reserve established under
9 paragraph (1) has been exhausted.
10

11 (d) FEES TO COVER ADMINISTRATIVE COSTS AUTHORIZED.—The Corporation may impose charges or fees
12 in reasonable amounts in connection with the administration of its activities under this Act to recover its costs for
13 performing such administration.
14
15

16 **SEC. 13. SUPERVISION, EXAMINATION, AND REPORT OF**
17 **CONDITION.**

18 (a) REGULATION.—

19 (1) AUTHORITY.—The Secretary of the Treasury (hereinafter in this section referred to as the
20 Secretary) is authorized and directed to examine the
21 financial condition of the Corporation and its activities. The Secretary shall have general regulatory
22 power over the Corporation to insure that the purposes of this Act are accomplished, especially with
23
24
25

1 respect to the Corporation's safety and soundness
2 and the safe and sound performance of the Corpora-
3 tion's powers, functions and duties.

4 (2) CONSIDERATIONS.—In exercising its au-
5 thority pursuant to this section, the Secretary shall
6 consider—

7 (A) the purposes for which the Corporation
8 was created;

9 (B) the practices appropriate to the con-
10 duct of secondary markets in loans; and

11 (C) the reduced levels of risk associated
12 with appropriately structured secondary market
13 transactions.

14 (b) EXAMINATIONS AND AUDITS.—

15 (1) IN GENERAL.—The financial transactions of
16 the Corporation shall be examined by examiners of
17 the Secretary in accordance with the principles and
18 procedures applicable to commercial corporate trans-
19 actions under such rules and regulations as may be
20 prescribed by the Secretary.

21 (2) FREQUENCY.—The examinations shall
22 occur at such times as the Secretary may determine,
23 but in no event less than once each year.

24 (3) ACCESS.—The examiners shall—

1 (A) have access to all books, accounts, fi-
2 nancial records, reports, rules, and all other pa-
3 pers, things, or property belonging to or in use
4 by the Corporation and necessary to facilitate
5 the audit; and

6 (B) be afforded full access for verifying
7 transactions with certified poolers and other en-
8 tities with whom the Corporation conducts
9 transactions.

10 (c) ANNUAL REPORT OF CONDITION.—The Corpora-
11 tion shall make and publish an annual report of condition
12 as prescribed by the Secretary. Each report shall contain
13 financial statements prepared in accordance with generally
14 accepted accounting principles and contain such additional
15 information as the Secretary may by regulation prescribe.
16 The financial statements of the Corporation shall be au-
17 dited by an independent public accountant. If the Sec-
18 retary, in his discretion, determines that it would contrib-
19 ute to the financial safety and soundness of the Corpora-
20 tion and would not impose an undue expense or adminis-
21 trative burden on it, he may also require the Corporation
22 to include in the report additional financial statements
23 prepared on a market-value basis, including the Corpora-
24 tion's market-value net worth.

1 (d) ASSESSMENTS TO COVER COSTS.—The Secretary
2 shall assess the Corporation for the cost to the Secretary
3 of any regulatory activities conducted under this section,
4 including the cost of any examination.

5 **SEC. 14. SECURITIES.**

6 (a) FEDERAL LAWS.—

7 (1) APPLICABILITY OF CERTAIN FEDERAL SE-
8 CURITIES LAWS.—For purposes of section 3(a)(2) of
9 the Securities Act of 1933, no security issued by the
10 Corporation nor qualified loan nor security rep-
11 resenting an interest in a pool of qualified loans for
12 which guarantees have been provided by the Cor-
13 poration shall be deemed to be a security issued or
14 guaranteed by a person controlled or supervised by,
15 or acting as an instrumentality of, the Government
16 of the United States. No such security shall be
17 deemed to be a “government security” for purposes
18 of the Securities Exchange Act of 1934 or for pur-
19 poses of the Investment Company Act of 1940.

20 (2) NO FULL FAITH AND CREDIT OF THE UNIT-
21 ED STATES.—Each loan or security for which credit
22 enhancement has been provided by the Corporation
23 and each security issued by the Corporation shall
24 clearly indicate that it is not an obligation of, and
25 is not guaranteed as to principal or interest by the

1 United States, or any other agency or instrumental-
2 ity of the United States (other than the Venture En-
3 hancement and Loan Development Administration
4 for Smaller Undercapitalized Enterprises).

5 (b) STATE SECURITIES LAWS.—

6 (1) GENERAL EXEMPTION.—Any security is-
7 sued by the Corporation and any qualified loan, se-
8 curity or obligation that has been provided a guaran-
9 tee by the Corporation shall be exempt from any law
10 of any State with respect to or requiring registration
11 or qualification of securities or real estate to the
12 same extent as any obligation issued by, or guaran-
13 teed as to principal and interest by, the United
14 States or any other agency or instrumentality of the
15 United States.

16 (2) STATE OVERRIDE.—The provisions of para-
17 graph (1) shall not be applicable to any State that,
18 during the 5-year period beginning on the effective
19 date of this Act, enacts a law that—

20 (A) specifically refers to this subsection;

21 and

22 (B) expressly provides that paragraph (1)
23 shall not apply to the State.

24 (c) AUTHORIZED INVESTMENTS.—

1 (1) IN GENERAL.—Securities issued by the Cor-
2 poration and qualified loans, or securities represent-
3 ing an interest in, or obligations backed by, pools of
4 qualified loans with respect to which the Corporation
5 has provided a guarantee shall be authorized invest-
6 ments of any person, trust corporation, partnership,
7 association, business trust, or business entity created
8 pursuant to or existing under the laws of the United
9 States or any State to the same extent that the per-
10 son, trust, corporation, partnership, association,
11 business trust, or business entity is authorized under
12 any applicable law to purchase, hold, or invest in ob-
13 ligations issued by or guaranteed as to principal and
14 interest by the United States or any agency or in-
15 strumentality of the United States. Such loans, secu-
16 rities or obligations may be accepted as security for
17 all fiduciary, trust, and public funds, the investment
18 or deposits of which shall be under the authority and
19 control of the United States or any State or any of-
20 ficers of either.

21 (2) STATE LIMITATIONS ON PURCHASE, HOLD-
22 ING, OR INVESTMENT.—If State law limits the pur-
23 chase, holding, or investment in obligations issued
24 by the United States by the person, trust, corpora-
25 tion, partnership, association, business trust, or

1 business entity, then qualified loans, or securities or
2 obligations of a certified pooler on which the Cor-
3 poration has provided a guarantee shall be consid-
4 ered to be obligations issued by the United States
5 for purposes of the limitation.

6 (3) NONAPPLICABILITY OF PROVISIONS.—

7 (A) SUBSEQUENT STATE LAW.—Para-
8 graphs (1) and (2) shall not apply with respect
9 to a particular person, trust, corporation, part-
10 nership, association, business trust, or business
11 entity, or class thereof, in any State that, prior
12 to the expiration of the five year period begin-
13 ning on the date of the enactment of this Act,
14 enacts a law that specifically refers to this sec-
15 tion and either prohibits or provides for a more
16 limited authority to purchase, hold, or invest in
17 the qualified loans or securities by any person,
18 trust, corporation, partnership, association,
19 business trust, or business entity, or class
20 thereof, than is provided in paragraphs (1) and
21 (2).

22 (B) EFFECT OF SUBSEQUENT STATE
23 LAW.—The enactment by any State of a law of
24 the type described in subparagraph (A) shall
25 not affect the validity of any contractual com-

1 mitment to purchase, hold, or invest that was
2 made prior to the effective date of the law and
3 shall not require the sale or other disposition of
4 any loans or securities acquired prior to the ef-
5 fective date of the law.

6 (d) STATE USURY LAWS SUPERSEDED.—Any provi-
7 sion of the constitution or law of any State which expressly
8 limits the rate or amount of interest, discount points, fi-
9 nance charges, or other charges that may be charged,
10 taken, received, or reserved by the Corporation, origina-
11 tors or certified poolers shall not apply to any qualified
12 loan made by an originator or to security issued by the
13 Corporation or a certified pooler in accordance with this
14 Act.

15 **SEC. 15. AUTHORITY TO ISSUE OBLIGATIONS TO COVER**
16 **LOSSES OF CORPORATION.**

17 (a) SALE OF OBLIGATIONS TO TREASURY.—

18 (1) IN GENERAL.—Subject to the limitations
19 contained in section 12(c) and the requirement of
20 paragraph (2), the Corporation may issue obliga-
21 tions to the Secretary of the Treasury, the proceeds
22 of which may be used by the Corporation solely for
23 the purpose of fulfilling the obligations of the Cor-
24 poration under any security issued by the Corpora-

1 tion or guarantee provided by the Corporation under
2 this Act.

3 (2) CERTIFICATION.—The Secretary of the
4 Treasury may purchase obligations of the Corpora-
5 tion under paragraph (1) only if the Corporation
6 certifies to the Secretary that—

7 (A) the requirements of section 12(c) have
8 been fulfilled; and

9 (B) the proceeds of the sale of such obliga-
10 tions are needed to fulfill the obligations of the
11 Corporation under any guarantee provided by
12 or security issued by the Corporation under this
13 Act.

14 (b) LIMITATION OF AMOUNT OF OUTSTANDING OB-
15 LIGATIONS.—The aggregate amount of obligations issued
16 by the Corporation under subsection (a)(1) which may be
17 held by the Secretary of the Treasury at any time (as de-
18 termined by the Secretary) shall not exceed
19 \$1,500,000,000.

20 (c) TERMS OF OBLIGATION.—

21 (1) INTEREST.—Each obligation purchased by
22 the Secretary of the Treasury shall bear interest at
23 a rate determined by the Secretary, taking into con-
24 sideration the average rate on outstanding market-
25 able obligations of the United States as of the last

1 day of the last calendar month ending before the
2 date of the purchase of such obligation.

3 (2) REDEMPTION.—The Secretary of the Treas-
4 ury shall require that such obligations be
5 repurchased by the Corporation within a reasonable
6 time.

7 (d) COORDINATION WITH TITLE 31, UNITED STATES
8 CODE.—

9 (1) AUTHORITY TO USE PROCEEDS FROM SALE
10 OF TREASURY SECURITIES.—For the purpose of pur-
11 chasing obligations of the Corporation, the Secretary
12 of the Treasury may use as a public debt transaction
13 the proceeds from the sale by the Secretary of any
14 securities issued under chapter 31 of title 31, United
15 States Code, and the purposes for which securities
16 may be issued under such chapter are extended to
17 include such purchases.

18 (2) TREATMENT OF TRANSACTIONS.—All pur-
19 chases and sales by the Secretary of the Treasury of
20 obligations issued by the Corporation under this sec-
21 tion shall be treated as public debt transactions of
22 the United States.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated to the Secretary of the

1 Treasury \$1,500,000,000, without fiscal year limitation,
2 to carry out the purposes of this Act.

3 **SEC. 16. FEDERAL JURISDICTION.**

4 (a) Notwithstanding section 1349 of title 28, United
5 States Code, or any other provision of law:

6 (1) The Corporation shall be considered an
7 agency under sections 1345 and 1442 of such title.

8 (2) All civil actions to which the Corporation is
9 a party shall be deemed to arise under the laws of
10 the United States and, to the extent applicable, shall
11 be deemed to be governed by Federal common law.
12 The district courts of the United States shall have
13 original jurisdiction of all such actions, without re-
14 gard to the amount of value.

15 (3) Any civil or other action, case, or con-
16 troversy in a court of a State or any court, other
17 than a district court of the United States, to which
18 the Corporation is a party may at any time before
19 trial be removed by the Corporation, without the giv-
20 ing of any bond or security—

21 (A) to the district court of the United
22 States for the district and division embracing
23 the place where the same is pending; or

24 (B) if there is no such district court, to the
25 district court of the United States for the dis-

1 trict in which the principal office of the Cor-
2 poration is located;

3 by following any procedure for removal for causes in
4 effect at the time of such removal.

5 (4) No attachment or execution shall be issued
6 against the Corporation or any of the property of
7 the Corporation before final judgment in any Fed-
8 eral, State, or other court.

9 (b) NATURE OF CORPORATION.—The Corporation
10 shall, for the purposes of section 14(b)(2) of the Federal
11 Reserve Act (12 U.S.C. 355), be deemed to be an agency
12 of the United States. The obligations of the Corporation
13 shall be deemed to be obligations of the United States for
14 purposes of section 3124 of title 31, United States Code.
15 For the purpose of section 101(41) of title 11, United
16 States Code, the Corporation shall be deemed to be an
17 agency of the United States; however, for the purpose of
18 section 101(35) of title 11, United States Code, the Cor-
19 poration shall not be deemed to be a governmental unit,
20 but instead shall be deemed to be a corporation.

21 (c) FRAUD BY CORPORATE OFFICER.—Section 1006
22 of title 18, United States Code, is amended by inserting
23 before “or any Small Business Investment Company,” the
24 following: “or the Venture Enhancement and Loan Devel-

1 opment Administration for Smaller Undercapitalized En-
2 terprises,”.

3 (d) BANKING AUTHORITY.—The sixth sentence of the
4 seventh paragraph of section 5136 of the Revised Statutes
5 of the United States (12 U.S.C. 24) is amended by insert-
6 ing after “Student Loan Marketing Association,” the fol-
7 lowing “or obligations or other instruments or securities
8 of the Venture Enhancement and Loan Development Ad-
9 ministration for Smaller Undercapitalized Enterprises,”.

10 **SEC. 17. GAO AUDIT OF CORPORATION.**

11 (a) AUDITS AUTHORIZED.—Notwithstanding any
12 other provision of law and under such regulations as the
13 Comptroller General may prescribe, the Comptroller Gen-
14 eral shall perform a financial audit of the Corporation on
15 whatever basis the Comptroller General determines to be
16 necessary.

17 (b) COOPERATION OF CORPORATION REQUIRED.—
18 The Corporation shall—

19 (1) make available to the Comptroller General
20 for audit all records and property of, or used or
21 managed by, the Corporation which may be nec-
22 essary for the audit; and

23 (2) provide the Comptroller General with facili-
24 ties for verifying transactions with the balances of

1 securities held by any depository, fiscal agent, or
2 custodian.

3 **SEC. 18. FEDERAL FUNDING.**

4 (a) INTERIM TEMPORARY ADVANCES.—After the
5 Corporation has sold the minimum amount of common
6 stock as provided in section 10(b)(1), the Secretary of the
7 Treasury shall purchase obligations of the Corporation in
8 such sums, and at such times, as the Corporation may
9 request, but not to exceed \$300,000,000. The proceeds
10 shall be deemed to be capital of the Corporation for pur-
11 poses of section 7(b)(1).

12 (1) TERM AND INTEREST.—The obligations
13 shall be repayable over a term of ten years com-
14 mencing fifteen years after the date of the purchase
15 by the Secretary. Repayments shall be amortized
16 and the obligations shall bear interest at a rate de-
17 termined by the Secretary, taking into consideration
18 the current average market yield on outstanding
19 marketable obligations of the United States with fif-
20 teen years maturities, adjusted to the nearest one-
21 eighth of 1 per centum. During the first five years
22 of each obligation, interest payments shall be limited
23 annually not to exceed the retained earnings of the
24 corporation after all other expenses except such in-
25 terest payments have been made.

1 (2) PREPAYMENTS.—The Corporation may pre-
2 pay the obligations at any time without the payment
3 of any type of prepayment penalty.

4 (b) WARRANTS.—Upon the purchase of obligations
5 pursuant to subsection (a), the Corporation shall issue
6 warrants to the Secretary of the Treasury for the purchase
7 of non-voting common stock in the Corporation. If the
8 warrants are exercised by the Secretary, the stock so ac-
9 quired shall be non-voting as long as it is held by the Sec-
10 retary. The warrants shall be freely transferable and if
11 exercised by any person in any capacity other than as an
12 employee or officer of the Federal government, stock so
13 acquired shall be with full voting rights.

14 (1) AMOUNT.—The exercise price of the war-
15 rants shall be the average price at which voting com-
16 mon stock of the Corporation, was sold during the
17 year preceding issuance of the warrants, plus 10 per
18 centum. The Secretary shall receive warrants in such
19 amounts as will enable the Secretary to purchase
20 one dollar in common stock for each ten dollars of
21 obligations purchased under subsection (a).

22 (2) DURATION.—The warrants shall be exer-
23 cisable at any time by the Secretary for a period of
24 15 years from the date of issuance.

1 (c) AUTHORIZATION.—In addition to the amounts
2 authorized in section 15(e), there are authorized to be ap-
3 propriated to the Secretary of Treasury, \$300,000,000
4 without fiscal year limitation, to carry out the provisions
5 of this section.

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