

105TH CONGRESS  
1ST SESSION

# H. R. 1985

To amend the Small Business Investment Act of 1958, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 1997

Mr. LAFALCE (for himself, Mr. TALENT, Mr. SISISKY, Mr. WEYGAND, and Mr. PASCRELL) introduced the following bill; which was referred to the Committee on Small Business

---

## A BILL

To amend the Small Business Investment Act of 1958, 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 “Certified Development  
4 Company Enhancement and Improvement Act of 1997”.

5       SEC. 2. Section 20 of the Small Business Act (15  
6 U.S.C. 631 note) is amended by inserting the following  
7 new subsection:

8       “(r) The following program levels are authorized in  
9 financings as provided in section 7(a)(13) and section 504  
10 of the Small Business Investment Act of 1958:

- 1           “(1) \$3,000,000,000 for fiscal year 1998;  
2           “(2) \$3,500,000,000 for fiscal year 1999; and  
3           “(3) \$4,500,000,000 for fiscal year 2000.”.

4           SEC. 3. Section 503 of the Small Business Invest-  
5 ment Act of 1958 (15 U.S.C. 697) is amended—

6           (a) by striking subsection (b)(7)(A) and insert-  
7 ing the following:

8                   “(A) assesses and collects a fee, which  
9                   shall be payable by the borrower, in an amount  
10                   equal to 0.9375 percent per year of the out-  
11                   standing balance of the loan; and”;

12           (b) by striking from subsection (d)(2) “equal to  
13           50 basis points” and inserting “equal to not more  
14           than 50 basis points”;

15           (c) by adding the following at the end of sub-  
16           section (d)(2): “The amount of the fee authorized  
17           herein shall be established annually by the Adminis-  
18           tration in the minimal amount necessary to reduce  
19           the cost (as that term is defined in section 502 of  
20           the Federal Credit Reform Act of 1990) to the Ad-  
21           ministration of purchasing and guaranteeing deben-  
22           tures under this Act to zero.”; and

23           (d) by striking from subsection (f) “1997” and  
24           inserting “2000”.

1       SEC. 4. Section 508(a) of the Small Business Invest-  
2 ment Act of 1958 (15 U.S.C. 697e(a)) is amended by  
3 striking “not more than 15”.

4       SEC. 5. Section 508(b)(2) of the Small Business In-  
5 vestment Act of 1958 (15 U.S.C. 697e(b)(2)) is amended  
6 by striking paragraphs (A) and (B) and inserting:

7               “(A) is an active certified development  
8               company in good standing and has been an ac-  
9               tive participant in the accredited lenders pro-  
10              gram during the entire 12-month period preced-  
11              ing the date on which the company submits an  
12              application under paragraph (1), except that  
13              the Administration may waive this requirement  
14              if the company is qualified to participate in the  
15              accredited lenders program;

16              “(B) has a history (i) of submitting to the  
17              Administration adequately analyzed debenture  
18              guarantee application packages and (ii) of prop-  
19              erly closing section 504 loans and servicing its  
20              loan portfolio; and”.

21       SEC. 6. Section 508(c) of the Small Business Invest-  
22 ment Act of 1958 (15 U.S.C. 697e(c)) is amended to read  
23 as follows:

24       “(c) LOSS RESERVE.—

1           “(1) ESTABLISHMENT.—A company designated  
2 as a premier certified lender shall establish a loss re-  
3 serve for financings approved pursuant to this sec-  
4 tion.

5           “(2) AMOUNT.—The amount of the loss reserve  
6 shall be equal to 10 percent of the amount of the  
7 company’s exposure as determined under subsection  
8 (b)(2)(C).

9           “(3) ASSETS.—The loss reserve shall be com-  
10 prised of any combination of the following types of  
11 assets:

12           “(A) segregated funds on deposit in an ac-  
13 count or accounts with a federally insured de-  
14 pository institution or institutions selected by  
15 the company, subject to a collateral assignment  
16 in favor of, and in a format acceptable to, the  
17 Administration; or

18           “(B) irrevocable letter or letters of credit,  
19 with a collateral assignment in favor of, and a  
20 commercially reasonable format acceptable to,  
21 the Administration.

22           “(4) CONTRIBUTIONS.—The company shall  
23 make contributions to the loss reserve, either cash or  
24 letters of credit as provided above, in the following  
25 amounts and at the following intervals;

1           “(A) 50 percent when a debenture is  
2 closed;

3           “(B) 25 percent additional not later than  
4 1 year after a debenture is closed; and

5           “(C) 25 percent additional not later than  
6 2 years after a debenture is closed.

7           “(5) REPLENISHMENT.—If a loss has been sus-  
8 tained by the Administration, any portion of the loss  
9 reserve, and other funds provided by the premier  
10 company as necessary, may be used to reimburse the  
11 Administration for the company’s 10 percent share  
12 of the loss as provided in subsection (b)(2)(C). If the  
13 company utilizes the reserve, within 30 days it shall  
14 replace an equivalent amount of funds.

15           “(6) DISBURSEMENTS.—The Administration  
16 shall allow the certified development company to  
17 withdraw from the loss reserve amounts attributable  
18 to any debenture which has been repaid.”

19       SEC. 7. Section 508 of the Small Business Invest-  
20 ment Act of 1958 (15 U.S.C. 697e) is amended by insert-  
21 ing the following after subsection (d) and by redesignating  
22 subsections (e) to (i) as (f) to (j):

23           “(e) PROGRAM GOALS.—Certified development com-  
24 panies participating in this program shall establish a goal  
25 of processing a minimum of at least 50 percent of their

1 loan applications for section 504 assistance pursuant to  
2 the premier certified lender program authorized in this  
3 section.”.

4 SEC. 8. Section 508(g) of the Small Business Invest-  
5 ment Act of 1958 (15 U.S.C. 697e(g)), as redesignated  
6 herein, is amended by striking “State or local” and insert-  
7 ing “certified”.

8 SEC. 9. Section 508(h) of the Small Business Invest-  
9 ment Act of 1958 (15U.S.C. 697e(h)), as redesignated  
10 herein, is amended—

11 (1) by striking “EFFECT OF SUSPENSION OR  
12 DESIGNATION” and inserting “EFFECT OF SUSPEN-  
13 SION OR REVOCATION”; and

14 (2) by striking “under subsection (f)” and in-  
15 serting “under subsection (g)”.

16 SEC. 10. Section 508(i) of the Small Business Invest-  
17 ment Act of 1958 (15 U.S.C. 697e(i)), as redesignated  
18 herein, is amended to read as follows:

19 “(i) REGULATIONS.—Not later than 90 days after the  
20 date of enactment of this section, the Administration shall  
21 promulgate regulations to carry out this section. Not later  
22 than 120 days after the date of enactment, the Adminis-  
23 tration shall issue program guidelines and implement the  
24 changes made herein.”.

1        SEC. 11. Section 508(j) of the Small Business Invest-  
2        ment Act of 1958 (15 U.S.C. 697e(j)), as redesignated  
3        herein, is amended by striking “other lenders” and insert-  
4        ing “other lenders, specifically comparing default rates  
5        and recovery rates on liquidations”.

6        SEC. 12. Section 217(b) of Public Law 103–403 (108  
7        Stat. 4185) is repealed.

8        SEC. 13. Section 508(d) of the Small Business In-  
9        vestment Act of 1958 (15 U.S.C. 697e(d)) is amended by  
10       striking “to approve loans” and inserting “to approve, au-  
11       thorize, close, service, and liquidate loans”.

12       SEC. 14. Section 502(1) of the Small Business In-  
13       vestment Act of 1958 (15 U.S.C. 696(1)) is amended to  
14       read as follows:

15                “(1) The proceeds of any such loan shall be  
16        used solely by such borrower or borrowers to assist  
17        an identifiable small-business or businesses and for  
18        a sound business purpose approved by the Adminis-  
19        tration.”.

20       SEC. 15. Section 502 of the Small Business Invest-  
21       ment Act of 1958 (15 U.S.C. 696) is amended by adding  
22       the following new subsection:

23                “(5) Not to exceed 25 per centum of the project  
24        may be leased by the assisted small business: *Pro-*  
25        *vided*, That the tenant is a small business concern:

1       *And provided further,* That the assisted small busi-  
2       ness shall be required to occupy and use not less  
3       than 55 per centum of the space in the project after  
4       the execution of any leases authorized in this sec-  
5       tion.”.

6       SEC. 16. Section 502(3) of the Small Business In-  
7       vestment Act of 1958 (15 U.S.C. 696(3)) is amended by  
8       inserting the following new paragraphs:

9               “(D) SELLER FINANCING.—Seller provided  
10              financing may be used to meet the requirements  
11              of—

12                      “(i) paragraph (B), if the seller subor-  
13                      dinates his interest in the property to the  
14                      debenture guaranteed by the Administra-  
15                      tion; and

16                              “(ii) not to exceed 50 percent of the  
17                      amounts required by paragraph (C).

18               “(E) COLLATERAL REQUIREMENTS.—Col-  
19              lateral provided by the small business concern  
20              shall be valued in an amount estimated as the  
21              reasonable value of the property by a willing  
22              buyer and a willing seller and shall include  
23              property not a part of the project being fi-  
24              nanced only if the Administration determines to

1           impose such a requirement on a case-by-case  
2           basis.”.

○