

106TH CONGRESS
2D SESSION

H. RES. 533

Providing for the concurrence by the House with an amendment in the amendment of the Senate to H.R. 2614.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2000

Mr. TALENT submitted the following resolution; which was considered and agreed to

RESOLUTION

Providing for the concurrence by the House with an amendment in the amendment of the Senate to H.R. 2614.

1 *Resolved*, That upon the adoption of this resolution
2 the House shall be considered to have taken from the
3 Speaker's table the bill H.R. 2614, with the amendment
4 of the Senate thereto, and to have concurred in the
5 amendment of the Senate with an amendment as follows:

6 In lieu of the matter proposed to be inserted by the
7 amendment of the Senate, insert the following:

8 **SECTION 1. SHORT TITLE.**

9 This Act may be cited as the "Certified Development
10 Company Program Improvements Act of 2000".

1 **SEC. 2. WOMEN-OWNED BUSINESSES.**

2 Section 501(d)(3)(C) of the Small Business Invest-
3 ment Act of 1958 (15 U.S.C. 695(d)(3)(C)) is amended
4 by inserting before the comma “or women-owned business
5 development”.

6 **SEC. 3. MAXIMUM DEBENTURE SIZE.**

7 Section 502(2) of the Small Business Investment Act
8 of 1958 (15 U.S.C. 696(2)) is amended to read as follows:

9 “(2) LOAN LIMITS.—Loans made by the Ad-
10 ministration under this section shall be limited to
11 \$1,000,000 for each such identifiable small business
12 concern, other than loans meeting the criteria speci-
13 fied in section 501(d)(3), which shall be limited to
14 \$1,300,000 for each such identifiable small business
15 concern.”.

16 **SEC. 4. FEES.**

17 Section 503(f) of the Small Business Investment Act
18 of 1958 (15 U.S.C. 697(f)) is amended to read as follows:

19 “(f) EFFECTIVE DATE.—The fees authorized by sub-
20 sections (b) and (d) shall apply to any financing approved
21 by the Administration during the period beginning on Oc-
22 tober 1, 1996 and ending on September 30, 2003.”.

23 **SEC. 5. PREMIER CERTIFIED LENDERS PROGRAM.**

24 Section 217(b) of the Small Business Administration
25 Reauthorization and Amendments Act of 1994 (15 U.S.C.
26 697e note) is repealed.

1 **SEC. 6. SALE OF CERTAIN DEFAULTED LOANS.**

2 Section 508 of the Small Business Investment Act
3 of 1958 (15 U.S.C. 697e) is amended—

4 (1) in subsection (a), by striking “On a pilot
5 program basis, the” and inserting “The”;

6 (2) by redesignating subsections (d) through (i)
7 as subsections (e) through (j), respectively;

8 (3) in subsection (f) (as redesignated by para-
9 graph (2)), by striking “subsection (f)” and insert-
10 ing “subsection (g)”;

11 (4) in subsection (h) (as redesignated by para-
12 graph (2)), by striking “subsection (f)” and insert-
13 ing “subsection (g)”;

14 (5) by inserting after subsection (c) the fol-
15 lowing:

16 “(d) SALE OF CERTAIN DEFAULTED LOANS.—

17 “(1) NOTICE.—

18 “(A) IN GENERAL.—If, upon default in re-
19 payment, the Administration acquires a loan
20 guaranteed under this section and identifies
21 such loan for inclusion in a bulk asset sale of
22 defaulted or repurchased loans or other
23 financings, the Administration shall give prior
24 notice thereof to any certified development com-
25 pany that has a contingent liability under this
26 section.

1 “(B) TIMING.—The notice required by
 2 subparagraph (A) shall be given to the certified
 3 development company as soon as possible after
 4 the financing is identified, but not later than 90
 5 days before the date on which the Administra-
 6 tion first makes any record on such financing
 7 available for examination by prospective pur-
 8 chasers prior to its offering in a package of
 9 loans for bulk sale.

10 “(2) LIMITATIONS.—The Administration may
 11 not offer any loan described in paragraph (1)(A) as
 12 part of a bulk sale, unless the Administration—

13 “(A) provides prospective purchasers with
 14 the opportunity to examine the records of the
 15 Administration with respect to such loan; and

16 “(B) provides the notice required by para-
 17 graph (1).”.

18 **SEC. 7. LOAN LIQUIDATION.**

19 (a) LIQUIDATION AND FORECLOSURE.—Title V of
 20 the Small Business Investment Act of 1958 (15 U.S.C.
 21 695 et seq.) is amended by adding at the end the fol-
 22 lowing:

23 **“SEC. 510. FORECLOSURE AND LIQUIDATION OF LOANS.**

24 “(a) DELEGATION OF AUTHORITY.—In accordance
 25 with this section, the Administration shall delegate to any

1 qualified State or local development company (as defined
2 in section 503(e)) that meets the eligibility requirements
3 of subsection (b)(1) of this section the authority to fore-
4 close and liquidate, or to otherwise treat in accordance
5 with this section, defaulted loans in its portfolio that are
6 funded with the proceeds of debentures guaranteed by the
7 Administration under section 503.

8 “(b) ELIGIBILITY FOR DELEGATION.—

9 “(1) REQUIREMENTS.—A qualified State or
10 local development company shall be eligible for a del-
11 egation of authority under subsection (a) if—

12 “(A) the company—

13 “(i) has participated in the loan liq-
14 uidation pilot program established by the
15 Small Business Programs Improvement
16 Act of 1996 (15 U.S.C. 695 note), as in
17 effect on the day before the date of
18 issuance of final regulations by the Admin-
19 istration implementing this section;

20 “(ii) is participating in the Premier
21 Certified Lenders Program under section
22 508; or

23 “(iii) during the 3 fiscal years imme-
24 diately prior to seeking such a delegation,
25 has made an average of not fewer than 10

1 loans per year that are funded with the
2 proceeds of debentures guaranteed under
3 section 503; and

4 “(B) the company—

5 “(i) has 1 or more employees—

6 “(I) with not less than 2 years of
7 substantive, decision-making experi-
8 ence in administering the liquidation
9 and workout of problem loans secured
10 in a manner substantially similar to
11 loans funded with the proceeds of de-
12 bentures guaranteed under section
13 503; and

14 “(II) who have completed a train-
15 ing program on loan liquidation devel-
16 oped by the Administration in con-
17 junction with qualified State and local
18 development companies that meet the
19 requirements of this paragraph; or

20 “(ii) submits to the Administration
21 documentation demonstrating that the
22 company has contracted with a qualified
23 third-party to perform any liquidation ac-
24 tivities and secures the approval of the
25 contract by the Administration with re-

1 spect to the qualifications of the contractor
2 and the terms and conditions of liquidation
3 activities.

4 “(2) CONFIRMATION.—On request, the Admin-
5 istration shall examine the qualifications of any com-
6 pany described in subsection (a) to determine if such
7 company is eligible for the delegation of authority
8 under this section. If the Administration determines
9 that a company is not eligible, the Administration
10 shall provide the company with the reasons for such
11 ineligibility.

12 “(c) SCOPE OF DELEGATED AUTHORITY.—

13 “(1) IN GENERAL.—Each qualified State or
14 local development company to which the Administra-
15 tion delegates authority under subsection (a) may,
16 with respect to any loan described in subsection
17 (a)—

18 “(A) perform all liquidation and fore-
19 closure functions, including the purchase in ac-
20 cordance with this subsection of any other in-
21 debtedness secured by the property securing the
22 loan, in a reasonable and sound manner, ac-
23 cording to commercially accepted practices, pur-
24 suant to a liquidation plan approved in advance
25 by the Administration under paragraph (2)(A);

1 “(B) litigate any matter relating to the
2 performance of the functions described in sub-
3 paragraph (A), except that the Administration
4 may—

5 “(i) defend or bring any claim if—

6 “(I) the outcome of the litigation
7 may adversely affect management by
8 the Administration of the loan pro-
9 gram established under section 502;
10 or

11 “(II) the Administration is enti-
12 tled to legal remedies not available to
13 a qualified State or local development
14 company, and such remedies will ben-
15 efit either the Administration or the
16 qualified State or local development
17 company; or

18 “(ii) oversee the conduct of any such
19 litigation; and

20 “(C) take other appropriate actions to
21 mitigate loan losses in lieu of total liquidation
22 or foreclosure, including the restructuring of a
23 loan in accordance with prudent loan servicing
24 practices and pursuant to a workout plan ap-

1 proved in advance by the Administration under
2 paragraph (2)(C).

3 “(2) ADMINISTRATION APPROVAL.—

4 “(A) LIQUIDATION PLAN.—

5 “(i) IN GENERAL.—Before carrying
6 out functions described in paragraph
7 (1)(A), a qualified State or local develop-
8 ment company shall submit to the Admin-
9 istration a proposed liquidation plan.

10 “(ii) ADMINISTRATION ACTION ON
11 PLAN.—

12 “(I) TIMING.—Not later than 15
13 business days after a liquidation plan
14 is received by the Administration
15 under clause (i), the Administration
16 shall approve or reject the plan.

17 “(II) NOTICE OF NO DECISION.—

18 With respect to any liquidation plan
19 that cannot be approved or denied
20 within the 15-day period required by
21 subclause (I), the Administration
22 shall, during such period, provide no-
23 tice in accordance with subparagraph
24 (E) to the company that submitted
25 the plan.

1 “(iii) ROUTINE ACTIONS.—In carrying
2 out functions described in paragraph
3 (1)(A), a qualified State or local develop-
4 ment company may undertake any routine
5 action not addressed in a liquidation plan
6 without obtaining additional approval from
7 the Administration.

8 “(B) PURCHASE OF INDEBTEDNESS.—

9 “(i) IN GENERAL.—In carrying out
10 functions described in paragraph (1)(A), a
11 qualified State or local development com-
12 pany shall submit to the Administration a
13 request for written approval before com-
14 mitting the Administration to the purchase
15 of any other indebtedness secured by the
16 property securing a defaulted loan.

17 “(ii) ADMINISTRATION ACTION ON RE-
18 QUEST.—

19 “(I) TIMING.—Not later than 15
20 business days after receiving a request
21 under clause (i), the Administration
22 shall approve or deny the request.

23 “(II) NOTICE OF NO DECISION.—

24 With respect to any request that can-
25 not be approved or denied within the

1 15-day period required by subclause
2 (I), the Administration shall, during
3 such period, provide notice in accord-
4 ance with subparagraph (E) to the
5 company that submitted the request.

6 “(C) WORKOUT PLAN.—

7 “(i) IN GENERAL.—In carrying out
8 functions described in paragraph (1)(C), a
9 qualified State or local development com-
10 pany shall submit to the Administration a
11 proposed workout plan.

12 “(ii) ADMINISTRATION ACTION ON
13 PLAN.—

14 “(I) TIMING.—Not later than 15
15 business days after a workout plan is
16 received by the Administration under
17 clause (i), the Administration shall
18 approve or reject the plan.

19 “(II) NOTICE OF NO DECISION.—

20 With respect to any workout plan that
21 cannot be approved or denied within
22 the 15-day period required by sub-
23 clause (I), the Administration shall,
24 during such period, provide notice in

1 accordance with subparagraph (E) to
2 the company that submitted the plan.

3 “(D) COMPROMISE OF INDEBTEDNESS.—

4 In carrying out functions described in para-
5 graph (1)(A), a qualified State or local develop-
6 ment company may—

7 “(i) consider an offer made by an obli-
8 gor to compromise the debt for less than
9 the full amount owing; and

10 “(ii) pursuant to such an offer, re-
11 lease any obligor or other party contin-
12 gently liable, if the company secures the
13 written approval of the Administration.

14 “(E) CONTENTS OF NOTICE OF NO DECI-
15 SION.—Any notice provided by the Administra-
16 tion under subparagraph (A)(ii)(II), (B)(ii)(II),
17 or (C)(ii)(II)—

18 “(i) shall be in writing;

19 “(ii) shall state the specific reason for
20 the inability of the Administration to act
21 on the subject plan or request;

22 “(iii) shall include an estimate of the
23 additional time required by the Adminis-
24 tration to act on the plan or request; and

1 “(iv) if the Administration cannot act
2 because insufficient information or docu-
3 mentation was provided by the company
4 submitting the plan or request, shall speci-
5 fy the nature of such additional informa-
6 tion or documentation.

7 “(3) CONFLICT OF INTEREST.—In carrying out
8 functions described in paragraph (1), a qualified
9 State or local development company shall take no ac-
10 tion that would result in an actual or apparent con-
11 flict of interest between the company (or any em-
12 ployee of the company) and any third party lender
13 (or any associate of a third party lender) or any
14 other person participating in a liquidation, fore-
15 closure, or loss mitigation action.

16 “(d) SUSPENSION OR REVOCATION OF AUTHOR-
17 ITY.—The Administration may revoke or suspend a dele-
18 gation of authority under this section to any qualified
19 State or local development company, if the Administration
20 determines that the company—

21 “(1) does not meet the requirements of sub-
22 section (b)(1);

23 “(2) has violated any applicable rule or regula-
24 tion of the Administration or any other applicable
25 provision of law; or

1 “(3) has failed to comply with any reporting re-
2 quirement that may be established by the Adminis-
3 tration relating to carrying out functions described
4 in subsection (c)(1).

5 “(e) REPORT.—

6 “(1) IN GENERAL.—Based on information pro-
7 vided by qualified State and local development com-
8 panies and the Administration, the Administration
9 shall annually submit to the Committees on Small
10 Business of the House of Representatives and the
11 Senate a report on the results of delegation of au-
12 thority under this section.

13 “(2) CONTENTS.—Each report submitted under
14 paragraph (1) shall include—

15 “(A) with respect to each loan foreclosed
16 or liquidated by a qualified State or local devel-
17 opment company under this section, or for
18 which losses were otherwise mitigated by the
19 company pursuant to a workout plan under this
20 section—

21 “(i) the total cost of the project fi-
22 nanced with the loan;

23 “(ii) the total original dollar amount
24 guaranteed by the Administration;

1 “(iii) the total dollar amount of the
2 loan at the time of liquidation, foreclosure,
3 or mitigation of loss;

4 “(iv) the total dollar losses resulting
5 from the liquidation, foreclosure, or mitiga-
6 tion of loss; and

7 “(v) the total recoveries resulting
8 from the liquidation, foreclosure, or mitiga-
9 tion of loss, both as a percentage of the
10 amount guaranteed and the total cost of
11 the project financed;

12 “(B) with respect to each qualified State
13 or local development company to which author-
14 ity is delegated under this section, the totals of
15 each of the amounts described in clauses (i)
16 through (v) of subparagraph (A);

17 “(C) with respect to all loans subject to
18 foreclosure, liquidation, or mitigation under this
19 section, the totals of each of the amounts de-
20 scribed in clauses (i) through (v) of subpara-
21 graph (A);

22 “(D) a comparison between—

23 “(i) the information provided under
24 subparagraph (C) with respect to the 12-

1 month period preceding the date on which
2 the report is submitted; and

3 “(ii) the same information with re-
4 spect to loans foreclosed and liquidated, or
5 otherwise treated, by the Administration
6 during the same period; and

7 “(E) the number of times that the Admin-
8 istration has failed to approve or reject a liq-
9 uidation plan in accordance with subsection
10 (c)(2)(A) or a workout plan in accordance with
11 subsection (c)(2)(C), or to approve or deny a
12 request for purchase of indebtedness under sub-
13 section (c)(2)(B), including specific information
14 regarding the reasons for the failure of the Ad-
15 ministration and any delay that resulted.”.

16 (b) REGULATIONS.—

17 (1) IN GENERAL.—Not later than 150 days
18 after the date of enactment of this Act, the Adminis-
19 trator shall issue such regulations as may be nec-
20 essary to carry out section 510 of the Small Busi-
21 ness Investment Act of 1958, as added by subsection
22 (a) of this section.

23 (2) TERMINATION OF PILOT PROGRAM.—Effec-
24 tive on the date on which final regulations are issued
25 under paragraph (1), section 204 of the Small Busi-

1 ness Programs Improvement Act of 1996 (15 U.S.C.
2 695 note) shall cease to have legal effect.

3 **SEC. 8. FUNDING LEVELS FOR CERTAIN FINANCINGS**
4 **UNDER THE SMALL BUSINESS INVESTMENT**
5 **ACT OF 1958.**

6 Section 20 of the Small Business Act (15 U.S.C. 631
7 note) is amended by adding at the end the following:

8 “(g) PROGRAM LEVELS FOR CERTAIN SMALL BUSI-
9 NESS INVESTMENT ACT OF 1958 FINANCINGS.—The fol-
10 lowing program levels are authorized for financings under
11 section 504 of the Small Business Investment Act of 1958:

12 “(1) \$4,000,000,000 for fiscal year 2001.

13 “(2) \$5,000,000,000 for fiscal year 2002.

14 “(3) \$6,000,000,000 for fiscal year 2003.”.

○