

106TH CONGRESS
1ST SESSION

S. 1594

To amend the Small Business Act and Small Business Investment Act of 1958.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 1999

Mr. KERRY (for himself, Mr. WELLSTONE, Mr. BINGAMAN, Mr. SARBANES, Mr. LEVIN, and Mr. CLELAND) introduced the following bill; which was read twice and referred to the Committee on Small Business

A BILL

To amend the Small Business Act and Small Business Investment Act of 1958.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Community Development and Venture Capital Act of
6 1999”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NEW MARKETS VENTURE CAPITAL PROGRAM

- Sec. 101. New Markets Venture Capital Program.
- Sec. 102. Bankruptcy exemption for NMVC companies.
- Sec. 103. Federal savings associations.

TITLE II—COMMUNITY DEVELOPMENT VENTURE CAPITAL ASSISTANCE

- Sec. 201. Short title.
- Sec. 202. Findings and purposes.
- Sec. 203. Community development venture capital activities.

TITLE III—BUSINESS LINC

- Sec. 301. Grants authorized.
- Sec. 302. Regulations.

1 **TITLE I—NEW MARKETS**
 2 **VENTURE CAPITAL PROGRAM**

3 **SEC. 101. NEW MARKETS VENTURE CAPITAL PROGRAM.**

4 (a) IN GENERAL.—Title III of the Small Business
 5 Investment Act of 1958 (15 U.S.C. 661 et seq.) is
 6 amended—

7 (1) by striking the title designation and heading
 8 and inserting the following:

9 **“TITLE III—INVESTMENT**
 10 **DIVISION PROGRAMS**

11 **“PART A—SMALL BUSINESS INVESTMENT**
 12 **COMPANIES”;**

13 and

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

15 **“PART B—NEW MARKETS VENTURE CAPITAL**
 16 **PROGRAM**

17 **“SEC. 351. DEFINITIONS.**

18 “In this part—

1 “(1) the term ‘eligible company’ means a com-
2 pany that—

3 “(A) is a newly formed for-profit entity,
4 which may be a newly formed for-profit sub-
5 sidiary of an existing entity; and

6 “(B) has a management team with experi-
7 ence in community development financing or
8 relevant venture capital financing;

9 “(2) the term ‘low-income individual’ means an
10 individual whose income (adjusted for family size)
11 does not exceed—

12 “(A) for metropolitan areas, 80 percent of
13 the area median income; and

14 “(B) for nonmetropolitan areas, the great-
15 er of—

16 “(i) 80 percent of the area median in-
17 come; or

18 “(ii) 80 percent of the statewide non-
19 metropolitan area median income;

20 “(3) the term ‘low- or moderate-income geog-
21 raphy’ means—

22 “(A) any population census tract (or in the
23 case of an area that is not tracted for popu-
24 lation census tracts, the equivalent county divi-
25 sion, as defined by the Bureau of the Census of

1 the Department of Commerce for purposes of
2 defining poverty areas) if—

3 “(i) the poverty rate for such census
4 tract is not less than 20 percent; or

5 “(ii)(I) in the case of a tract located
6 within a metropolitan area, the median
7 family income for such tract does not ex-
8 ceed the greater of 80 percent of the state-
9 wide median family income or 80 percent
10 of the metropolitan area median family in-
11 come; or

12 “(II) in the case of a tract not located
13 within a metropolitan area, the median
14 family income for such tract does not ex-
15 ceed 80 percent of the statewide median
16 family income; or

17 “(B) any area located within—

18 “(i) a HUBZone (as defined in sec-
19 tion 3(p) of the Small Business Act and
20 the implementing regulations issued under
21 that section);

22 “(ii) an urban empowerment zone or
23 urban enterprise community (as designated
24 by the Secretary of Housing and Urban
25 Development); or

1 “(iii) a rural empowerment zone or
2 rural enterprise community (as designated
3 by the Secretary of Agriculture);

4 “(4) the terms ‘new markets venture capital
5 company’ and ‘NMVC company’ mean a company
6 that has been designated as a new markets venture
7 capital company by the Administrator under section
8 354(d);

9 “(5) the term ‘participation agreement’ means
10 an agreement between the Administrator and an
11 NMVC company that furthers the purposes set forth
12 in section 352, detailing the operating plan and in-
13 vestment criteria of the company and requiring that
14 not less than 80 percent of the investments of the
15 company be made in smaller enterprises—

16 “(A) that are located in 1 or more low- or
17 moderate-income geographies or 1 or more tar-
18 geted population areas; or

19 “(B) not less than 35 percent of the em-
20 ployees of which—

21 “(i) reside or will reside in a low- or
22 moderate-income geography or a targeted
23 population area; or

24 “(ii) are or will be low-income individ-
25 uals;

1 “(6) the term ‘targeted population’ means an
2 identifiable group of individuals, including an Indian
3 tribe, as determined by the Administrator, who are
4 low-income individuals; and

5 “(7) the term ‘targeted population area’ means
6 an identifiable geographic area, as determined by the
7 Administrator, containing a concentration of 1 or
8 more targeted populations.

9 **“SEC. 352. PURPOSES.**

10 “The purposes of this part are—

11 “(1) to encourage venture capital investment in
12 smaller enterprises located within urban and rural
13 areas;

14 “(2) to promote the creation of wealth, eco-
15 nomic development, and job opportunities in low-
16 and moderate-income geographies and for targeted
17 populations; and

18 “(3) to establish a venture capital program,
19 which shall be administered by the Administrator—

20 “(A) to make grants to NMVC companies
21 for the purpose of providing marketing, man-
22 agement, and technical assistance to smaller en-
23 terprises financed, or expected to be financed,
24 by such companies; and

1 “(B) to guarantee debentures issued by
2 NMVC companies to enable such companies to
3 make venture capital investments in smaller en-
4 terprises within urban and rural areas.

5 **“SEC. 353. PROGRAM ESTABLISHMENT.**

6 “There is established a New Markets Venture Capital
7 Program, under which the Administrator is authorized
8 to—

9 “(1) make grants to NMVC companies, as pro-
10 vided in section 355; and

11 “(2) guarantee debentures issued by NMVC
12 companies, as provided in section 356.

13 **“SEC. 354. APPROVAL OF NMVC COMPANIES.**

14 “(a) APPLICATIONS.—In order to be eligible to par-
15 ticipate in the program under this part as an NMVC com-
16 pany, an eligible company shall submit to the Adminis-
17 trator an application, within such period of time as the
18 Administrator shall establish, which shall include—

19 “(1) a business plan that describes the manner
20 and geographic areas in which the applicant will
21 make successful venture capital investments in
22 smaller enterprises described in subparagraphs (A)
23 and (B) of section 351(5) and provide marketing,
24 management, and technical assistance to those en-
25 terprises;

1 “(2) the qualifications and general business
2 reputation of the management of the applicant, spe-
3 cifically addressing—

4 “(A) the experience of the management in
5 making venture capital investments in smaller
6 enterprises described in subparagraphs (A) and
7 (B) of section 351(5); and

8 “(B) the success of those investments in
9 terms of business growth, jobs created, and
10 such other factors as the Administrator may re-
11 quire; and

12 “(3) a description of the manner in which the
13 applicant will interface with community organiza-
14 tions;

15 “(4) a proposal describing the manner in which
16 grant amounts made available under this part would
17 provide marketing, management, and technical as-
18 sistance to smaller enterprises expected to be fi-
19 nanced by the applicant;

20 “(5) proposed criteria by which to evaluate the
21 performance of the applicant in meeting program ob-
22 jectives;

23 “(6) the management and financial strength of
24 any parent or affiliated firm, or any firm essential

1 to the success of the business plan of the applicant;
2 and

3 “(7) such other information as the Adminis-
4 trator may require.

5 “(b) CRITERIA FOR CONDITIONAL APPROVAL.—

6 Upon receipt of an application submitted under subsection
7 (a), the Administrator shall review the application and
8 make a determination regarding whether to grant condi-
9 tional approval to the applicant to operate as an NMVC
10 company during the time period described in subsection
11 (c), based on—

12 “(1) the geographic area and employment char-
13 acteristics of the smaller enterprises in which the
14 proposed investments of the NMVC company will be
15 made (in order to promote investment nationwide);

16 “(2) the likelihood that the applicant will meet
17 the goals of the business plan of the applicant;

18 “(3) the experience and background of the com-
19 pany’s management team;

20 “(4) the need for equity investments within the
21 proposed investment areas;

22 “(5) the extent to which the applicant will con-
23 centrate its activities on serving its investment
24 areas;

1 “(6) the likelihood that the applicant will be
2 able to satisfy the requirements of subsection (c);

3 “(7) the extent to which the proposed activities
4 will expand economic opportunities within the invest-
5 ment areas; and

6 “(8) such other factors as the Administrator
7 determines to be appropriate.

8 “(c) REQUIREMENTS FOR FINAL APPROVAL.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 each applicant that is granted conditional approval
11 by the Administrator to operate as an NMVC com-
12 pany under subsection (b), shall, before the expira-
13 tion of a time period established by the Adminis-
14 trator not to exceed 24 months, beginning on the
15 date on which such conditional approval is
16 granted—

17 “(A) raise not less than \$5,000,000 of con-
18 tributed capital or binding capital commitments
19 from 1 or more investors (other than an agency
20 of the Federal Government) that meet criteria
21 established by the Administrator; and

22 “(B) in order to provide marketing, man-
23 agement, and technical assistance, have—

24 “(i) cash or binding commitments for
25 contributions (in cash or in-kind) from 1

1 or more sources other than the Adminis-
2 tration that meet criteria established by
3 the Administrator, payable or available
4 over a multiyear period acceptable to the
5 Administrator (not to exceed 10 years), in
6 an amount equal to 30 percent of the cap-
7 ital and commitments raised under sub-
8 paragraph (A);

9 “(ii) purchased an annuity from an
10 insurance company acceptable to the Ad-
11 ministrator, using amounts (other than the
12 amounts raised to satisfy the requirements
13 of subparagraph (A)) from any source
14 other than the Administration, that would
15 yield cash payments over a multiyear pe-
16 riod acceptable to the Administrator (not
17 to exceed 10 years), in an amount equal to
18 30 percent of the capital and commitments
19 raised under subparagraph (A); or

20 “(iii) cash or binding commitments
21 for contributions (in cash or in-kind) of the
22 type described in clause (i) and have pur-
23 chased an annuity of the type described in
24 clause (ii), that in the aggregate make
25 available, over a multiyear period accept-

1 able to the Administrator (not to exceed 10
2 years), an amount equal to 30 percent of
3 the capital and commitments raised under
4 subparagraph (A).

5 “(2) EXCEPTION.—The Administrator may, in
6 the discretion of the Administrator and based upon
7 a showing of special circumstances and good cause,
8 consider an applicant to have satisfied the require-
9 ments of paragraph (1)(B) if the applicant has a
10 viable plan that reasonably projects the capacity of
11 the applicant to raise the amount (in cash or in-
12 kind) required under paragraph (1)(B).

13 “(d) GRANT OF FINAL APPROVAL; DESIGNATION.—
14 The Administrator shall, with respect to each applicant
15 conditionally approved to operate as an NMVC company
16 under subsection (b), either—

17 “(1) grant final approval to the applicant to op-
18 erate as an NMVC company under this part and
19 designate the applicant as an NMVC company, if
20 the applicant—

21 “(A) satisfies the requirements of sub-
22 section (c) on or before the expiration of the
23 time period described in that subsection; and

24 “(B) enters into a participation agreement
25 with the Administrator; or

1 “(2) if the applicant fails to satisfy the require-
2 ments of subsection (c) on or before the expiration
3 of the time period described in that subsection, re-
4 voke the conditional approval granted under that
5 subsection.

6 **“SEC. 355. TECHNICAL ASSISTANCE GRANTS.**

7 “(a) GRANTS.—

8 “(1) IN GENERAL.—The Administrator, in ac-
9 cordance with such terms and conditions as the Ad-
10 ministrator may require, is authorized to award 1 or
11 more grants to each NMVC company in accordance
12 with this subsection, which shall be used to provide
13 marketing, management, and technical assistance for
14 the benefit of smaller enterprises financed, or ex-
15 pected to be financed, by the NMVC company.

16 “(2) MULTIYEAR GRANTS.—Amounts from a
17 grant awarded under this section shall be paid upon
18 the direction of the Administrator over a multiyear
19 period of not to exceed 10 years.

20 “(3) GRANT AMOUNT.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), the amount of a grant awarded to
23 an NMVC company under this subsection shall
24 be equal to 30 percent of the amount of capital

1 and commitments raised under section
2 354(c)(1)(A).

3 “(B) MATCHING REQUIREMENT.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), in order to receive
6 funds under a grant awarded under this
7 subsection, an NMVC company shall pro-
8 vide a matching contribution (in cash or
9 in-kind) from sources other than the Ad-
10 ministration, in an amount equal to the
11 funds to received.

12 “(ii) EXCEPTION.—The Administrator
13 may waive in whole or in part the match-
14 ing requirement of clause (i), if the Admin-
15 istrator determines that such action is con-
16 sistent with the purposes set forth in sec-
17 tion 352 and with protecting the creditor
18 status of the Federal Government as a
19 guarantor of debentures issued by an
20 NMVC company.

21 “(4) PRO RATA REDUCTIONS.—If the amount
22 made available to carry out this section for a fiscal
23 year is insufficient for the Administrator to award
24 grants in the amounts required under paragraph
25 (3), the Administrator shall make pro rata reduc-

1 tions in the amounts otherwise payable to each
2 NMVC company under that paragraph.

3 “(b) SUPPLEMENTAL GRANTS.—

4 “(1) IN GENERAL.—In addition to any grant
5 under subsection (a), the Administrator, in accord-
6 ance with such terms and conditions as the Adminis-
7 trator may require, may make 1 or more supple-
8 mental grants to an NMVC company, which shall be
9 used to provide additional marketing, management,
10 and technical assistance for the benefit of smaller
11 enterprises financed, or expected to be financed, by
12 the NMVC company.

13 “(2) MATCHING REQUIREMENT.—The Adminis-
14 trator may require, as a condition of any supple-
15 mental grant made under this subsection, that the
16 NMVC company provide a matching contribution (in
17 cash or in-kind) from 1 or more sources other than
18 the Administrator in an amount equal to the amount
19 of the supplemental grant.

20 **“SEC. 356. DEBENTURES.**

21 “(a) IN GENERAL.—The Administrator is authorized
22 to guarantee the timely payment of principal and interest
23 as scheduled on debentures issued by NMVC companies,
24 in accordance with such terms and conditions the Admin-
25 istrator determines to be appropriate.

1 “(b) FULL FAITH AND CREDIT.—The full faith and
2 credit of the United States is pledged to the payment of
3 all amounts that may be required to be paid under any
4 guarantee under this section.

5 “(c) DEBENTURE REQUIREMENTS.—A debenture
6 guaranteed under this section—

7 “(1) may be issued for a term of not to exceed
8 15 years;

9 “(2) shall bear interest at a rate approved by
10 the Administrator; and

11 “(3) shall contain such other terms and condi-
12 tions as the Administrator may require.

13 “(d) TOTAL FACE VALUE.—The total face amount
14 of debentures issued by an NMVC company and guaran-
15 teed under this section that may be outstanding at any
16 1 time shall not exceed 150 percent of the contributed cap-
17 ital of the NMVC company, as determined by the Adminis-
18 trator. For purposes of this subsection, the contributed
19 capital of an NMVC company includes capital that is
20 deemed to be Federal funds contributed by an investor
21 other than an agency of the Federal Government.

22 **“SEC. 357. ISSUANCE AND GUARANTEE OF TRUST CERTIFI-**
23 **CATES.**

24 “(a) IN GENERAL.—The Administrator (or an agent
25 of the Administrator) is authorized to issue trust certifi-

1 cates representing ownership of all or a fractional part of
2 debentures guaranteed by the Administrator under section
3 356, if such trust certificates are based on and backed
4 by a trust or pool approved by the Administrator and com-
5 posed solely of debentures guaranteed under section 356.

6 “(b) GUARANTEE AUTHORITY.—

7 “(1) IN GENERAL.—The Administrator is au-
8 thorized to, upon such terms and conditions as the
9 Administrator determines to be appropriate, guar-
10 antee the timely payment of the principal of and in-
11 terest on any trust certificate issued under this sec-
12 tion.

13 “(2) LIMITATION.—A guarantee under this sub-
14 section shall be limited to the extent of the principal
15 of and interest on the guaranteed debentures that
16 compose the trust or pool described in subsection
17 (a).

18 “(3) REDUCTION.—If a debenture in a trust or
19 pool described in subsection (a) is prepaid, or in the
20 event of default of a debenture, the guarantee of
21 timely payment of principal and interest on the re-
22 lated trust certificate issued under this section shall
23 be reduced in proportion to the amount of principal
24 and interest that such prepaid debenture represents
25 in that trust or pool.

1 “(4) ACCRUAL OF INTEREST.—Interest on pre-
2 paid or defaulted debentures shall accrue and be
3 guaranteed by the Administrator only through the
4 date of payment of the guarantee.

5 “(5) REDEMPTION OF TRUST CERTIFICATES.—
6 During the term of any trust certificate issued under
7 this subsection, the trust certificate may be called
8 for redemption due to prepayment or default of all
9 debentures in the trust or pool.

10 “(c) FULL FAITH AND CREDIT.—The full faith and
11 credit of the United States is pledged to the payment of
12 all amounts that may be required to be paid under any
13 guarantee of a trust certificate issued under this section.

14 “(d) FEES.—The Administrator shall not collect a fee
15 for any guarantee of a trust certificate issued under this
16 section, except that nothing in this subsection may be con-
17 strued to preclude an agent of the Administrator from col-
18 lecting a fee approved by the Administrator for the func-
19 tions described in subsection (f)(2).

20 “(e) SUBROGATION.—

21 “(1) IN GENERAL.—If the Administrator pays a
22 claim under a guarantee issued under this section,
23 the Administration shall be subrogated fully to the
24 rights satisfied by such payment.

1 “(2) OWNERSHIP RIGHTS.—No Federal, State,
2 or local law shall preclude or limit the exercise by
3 the Administrator of the ownership rights of the Ad-
4 ministrator in the debentures residing in a trust or
5 pool against which trust certificates are issued under
6 this section.

7 “(f) CENTRAL REGISTRATION.—

8 “(1) IN GENERAL.—The Administrator may
9 provide for a central registration of all trust certifi-
10 cates issued under this section.

11 “(2) CONTRACTING OUT.—

12 “(A) IN GENERAL.—The Administrator
13 may contract with an agent or agents to carry
14 out on behalf of the Administrator the pooling
15 and the central registration functions of this
16 section including, notwithstanding any other
17 provision of law—

18 “(i) maintenance on behalf of and
19 under the direction of the Administrator of
20 such commercial bank accounts or invest-
21 ments in obligations of the United States
22 as may be necessary to facilitate trusts or
23 pools backed by debentures guaranteed
24 under this part; and

1 “(ii) the issuance of trust certificates
2 to facilitate such poolings.

3 “(B) FIDELITY BOND OR INSURANCE RE-
4 QUIRED.—An agent contracting with the Ad-
5 ministrators under this paragraph shall be re-
6 quired to provide a fidelity bond or insurance in
7 such amounts as the Administrator determines
8 to be necessary to fully protect the interests of
9 the Government.

10 “(3) REGULATION OF BROKERS AND DEAL-
11 ERS.—The Administrator may regulate brokers and
12 dealers in trust certificates issued under this section.

13 “(4) ELECTRONIC REGISTRATION.—Nothing in
14 this subsection may be construed to prohibit the use
15 of a book-entry or other electronic form of registra-
16 tion for trust certificates issued under this section.

17 **“SEC. 358. FEES.**

18 “Except as provided under section 357(d), the Ad-
19 ministrators may charge such fees as the Administrator de-
20 termines to be appropriate with respect to any guarantee
21 issued or grant awarded under this part.

22 **“SEC. 359. BANK PARTICIPATION.**

23 “Any national bank, or any member bank of the Fed-
24 eral Reserve System or nonmember insured bank to the
25 extent permitted under applicable State law, may invest

1 in any 1 or more NMVC companies, or in any entity estab-
2 lished to invest solely in NMVC companies, except that
3 in no event shall the total amount of such investments of
4 any such bank exceed 5 percent of the total capital and
5 surplus of the bank.

6 **“SEC. 360. REPORTING REQUIREMENTS.**

7 “Each NMVC company shall provide to the Adminis-
8 trator such information as the Administrator may request,
9 including reporting on the measurement criteria that the
10 NMVC company proposed in the application submitted
11 under section 354(a).

12 **“SEC. 361. EXAMINATIONS.**

13 “(a) IN GENERAL.—Each NMVC company shall be
14 subject to examinations made at the direction of the In-
15 vestment Division of the Administration, which may be
16 conducted with the assistance of a private sector entity
17 that has both the qualifications to conduct and the exper-
18 tise in conducting such examinations.

19 “(b) ASSESSMENT OF COSTS.—The cost of such ex-
20 aminations, including the compensation of the examiners,
21 may in the discretion of the Administrator be assessed
22 against the company examined and when so assessed shall
23 be paid by such company.

24 “(c) USE OF FEES.—Fees collected under this sec-
25 tion shall be deposited in the account for salaries and ex-

1 penses of the Administration and may be used solely to
2 cover the costs of examinations and other program over-
3 sight activities.

4 **“SEC. 362. INJUNCTIONS AND OTHER ORDERS.**

5 “(a) IN GENERAL.—If, in the judgment of the Ad-
6 ministrator, an NMVC company or any other person has
7 engaged or is about to engage in any act or practice that
8 constitutes or will constitute a violation of any provision
9 of this Act (or any rule, regulation, or order issued under
10 this Act) or of a participation agreement entered into
11 under this part—

12 “(1) the Administrator may make application to
13 the proper district court of the United States or a
14 United States court of any place subject to the juris-
15 diction of the United States for an order enjoining
16 such act or practice, or for an order enforcing com-
17 pliance with such provision; and

18 “(2) such court shall—

19 “(A) have jurisdiction over such applica-
20 tion and any ensuing proceedings; and

21 “(B) upon a showing by the Administrator
22 that such NMVC company or other person has
23 engaged or is about to engage in any such act
24 or practice, grant without bond a permanent or

1 temporary injunction, restraining order, or
2 other appropriate order.

3 “(b) POWERS OF COURT.—In any proceeding under
4 subsection (a)—

5 “(1) the court as a court of equity may, to such
6 extent as the court determines to be necessary, take
7 exclusive jurisdiction of the NMVC company and the
8 assets thereof, wherever located; and

9 “(2) the court shall have jurisdiction in any
10 such proceeding to appoint a trustee or receiver to
11 hold or administer under the direction of the court
12 the assets so possessed.

13 “(c) TRUSTEE OR RECEIVER.—The Administrator is
14 authorized to act as trustee or receiver of the NMVC com-
15 pany. Upon request by the Administrator, the court may
16 appoint the Administrator to act in such capacity unless
17 the court determines such appointment to be inequitable
18 or otherwise inappropriate based on the special cir-
19 cumstances at issue.

20 **“SEC. 363. UNLAWFUL ACTS AND OMISSIONS BY OFFICERS,**
21 **DIRECTORS, EMPLOYEES, OR AGENTS;**
22 **BREACH OF FIDUCIARY DUTY.**

23 “(a) IN GENERAL.—If an NMVC company violates
24 any provision of this Act (or any rule or regulation issued
25 under this Act), or of a participation agreement entered

1 into under this part, by failing to comply with the terms
2 thereof or by engaging in any act or practice that con-
3 stitutes or will constitute a violation thereof, such violation
4 shall be deemed to be also a violation and an unlawful
5 act on the part of any person who, directly or indirectly,
6 authorizes, orders, participates in, or causes, brings about,
7 counsels, aids, or abets in the commission of any act, prac-
8 tice, or transaction that constitutes or will constitute, in
9 whole or in part, such violation.

10 “(b) BREACH OF FIDUCIARY DUTY.—It shall be un-
11 lawful for any officer, director, employee, agent, or other
12 participant in the management or conduct of the affairs
13 of an NMVC company to engage in any act or practice,
14 or to omit any act, in breach of the fiduciary duty of such
15 officer, director, employee, agent, or participant, if, as a
16 result thereof, the NMVC company has suffered or is in
17 imminent danger of suffering financial loss or other dam-
18 age.

19 “(c) OTHER PROHIBITIONS.—Except with the writ-
20 ten consent of the Administrator, it shall be unlawful—

21 “(1) for any person to take office as an officer,
22 director, or employee of an NMVC company, or to
23 become an agent or participant in the conduct of the
24 affairs or management of an NMVC company, if
25 that person—

1 “(A) has been convicted of a felony, or any
2 other criminal offense involving dishonesty or
3 breach of trust; or

4 “(B) has been found civilly liable in dam-
5 ages, or has been permanently or temporarily
6 enjoined by order, judgment, or decree of a
7 court of competent jurisdiction, by reason of
8 any act or practice involving fraud or breach of
9 trust; or

10 “(2) for any person to continue to serve in any
11 of the above-described capacities, if that person is
12 subsequently—

13 “(A) convicted of a felony, or any other
14 criminal offense involving dishonesty or breach
15 of trust; or

16 “(B) found civilly liable in damages, or is
17 permanently or temporarily enjoined by an
18 order, judgment, or decree of a court of com-
19 petent jurisdiction, by reason of any act or
20 practice involving fraud or breach of trust.

21 “(d) NOTICE.—The Administrator may serve upon
22 any officer, director, employee, or other participant in the
23 conduct of the management or other affairs of an NMVC
24 company a written notice of the intention of the Adminis-
25 trator to remove that person from his or her position

1 whenever, in the opinion of the Administrator, that
2 person—

3 “(1) has willfully committed any substantial
4 violation of—

5 “(A) this Act (or any rule, regulation, or
6 order issued under this Act); or

7 “(B) a participation agreement entered
8 into under this part; or

9 “(C) a cease-and-desist order that has be-
10 come final; or

11 “(2) has willfully committed or engaged in any
12 act, omission, or practice that constitutes a substan-
13 tial breach of fiduciary duty, and that such violation
14 or such breach of fiduciary duty is one involving per-
15 sonal dishonesty on the part of such person.

16 “(e) **SUSPENSION OR REMOVAL.**—The Administrator
17 may suspend or remove from office any person upon whom
18 the Administrator has served a notice under subsection
19 (d), in accordance with the procedures set forth in section
20 313.

21 **“SEC. 364. REGULATIONS.**

22 “The Administrator may promulgate such regula-
23 tions as the Administrator determines to be necessary to
24 carry out this part.

1 **“SEC. 365. AUTHORIZATIONS.**

2 “(a) IN GENERAL.—There is authorized to be appro-
3 priated to the Administration to carry out this part, to
4 remain available until expended—

5 “(1) such subsidy budget authority as may be
6 necessary to guarantee not more than \$100,000,000
7 of debentures; and

8 “(2) not more than \$30,000,000 for technical
9 assistance grants.

10 “(b) PERIOD OF EFFECTIVENESS.—The authority
11 under subsection (a) shall be in effect during the period
12 beginning on October 1, 2000, and ending on September
13 30, 2005.”.

14 (b) CONFORMING AMENDMENT.—Section
15 20(e)(1)(C) of the Small Business Act (15 U.S.C. 631
16 note) is amended by inserting “part A of” before “title
17 III”.

18 **SEC. 102. BANKRUPTCY EXEMPTION FOR NMVC COMPA-**
19 **NIES.**

20 Section 109(b)(2) of title 11, United States Code, is
21 amended by inserting after “homestead association,” the
22 following: “a new markets venture capital company (as de-
23 fined in section 351 of the Small Business Investment Act
24 of 1958),”.

1 **SEC. 103. FEDERAL SAVINGS ASSOCIATIONS.**

2 Section 5(c)(4) of the Home Owners' Loan Act (12
3 U.S.C. 1464(c)(4)) is amended by adding at the end the
4 following:

5 “(F) NEW MARKETS VENTURE CAPITAL
6 COMPANIES.—A Federal savings association
7 may invest in stock, obligations, or other securi-
8 ties of any new markets venture capital com-
9 pany (as defined in section 351 of the Small
10 Business Investment Act of 1958). A Federal
11 savings association may not make any invest-
12 ment under this subparagraph if its aggregate
13 outstanding investment under this subpara-
14 graph would exceed 5 percent of the capital and
15 surplus of such savings association.”.

16 **TITLE II—COMMUNITY DEVEL-**
17 **OPMENT VENTURE CAPITAL**
18 **ASSISTANCE**

19 **SEC. 201. SHORT TITLE.**

20 This title may be cited as the “Community Develop-
21 ment Venture Capital Capacity Building and Professional
22 Development Act of 1999”.

23 **SEC. 202. FINDINGS.**

24 Congress finds that—

25 (1) there is a need for the development and ex-
26 pansion of organizations that provide private equity

1 capital to smaller businesses in areas in which eq-
2 uity-type capital is scarce, such as inner cities and
3 rural areas, in order to create and retain jobs for
4 low-income residents of those areas;

5 (2) to invest successfully in smaller businesses,
6 particularly in inner cities and rural areas, requires
7 highly specialized investment and management skills;

8 (3) there is a shortage of professionals who pos-
9 sess such skills and there are few training grounds
10 for individuals to obtain those skills;

11 (4) providing assistance to organizations that
12 provide specialized technical assistance and training
13 to individuals and organizations seeking to enter or
14 expand in this segment of the market would stimu-
15 late small business development and entrepreneur-
16 ship in economically distressed communities; and

17 (5) assistance from the Federal Government
18 could act as a catalyst to attract investment from
19 the private sector and would help to develop a spe-
20 cialized venture capital industry focused on creating
21 jobs, increasing business ownership, and generating
22 wealth in low-income communities.

1 **SEC. 203. COMMUNITY DEVELOPMENT VENTURE CAPITAL**
2 **ACTIVITIES.**

3 (a) IN GENERAL.—The Small Business Act (15
4 U.S.C. 631 et seq.) is amended—

5 (1) by redesignating section 34 as section 35;

6 and

7 (2) by inserting after section 33 the following:

8 **“SEC. 34. COMMUNITY DEVELOPMENT VENTURE CAPITAL**
9 **ACTIVITIES.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) COMMUNITY DEVELOPMENT VENTURE
12 CAPITAL ORGANIZATION.—The term ‘community de-
13 velopment venture capital organization’ means a pri-
14 vately-controlled organization that—

15 “(A) has a primary mission of promoting
16 community development in low-income commu-
17 nities, as defined by the Administrator, through
18 investment in private business enterprises; or

19 “(B) administers or is in the process of es-
20 tablishing a community development venture
21 capital fund for the purpose of making equity
22 investments in private business enterprises in
23 such communities.

24 “(2) DEVELOPMENTAL ORGANIZATION.—The
25 term ‘developmental organization’—

1 “(A) means a public or private entity, in-
2 cluding a college or university, that provides
3 technical assistance to community development
4 venture capital organizations or that conducts
5 research or training in community development
6 venture capital investment; and

7 “(B) may include an intermediary organi-
8 zation.

9 “(3) INTERMEDIARY ORGANIZATION.—The term
10 ‘intermediary organization’—

11 “(A) means a private, nonprofit entity that
12 has—

13 “(i) a primary mission of promoting
14 community development through invest-
15 ment in private businesses in low-income
16 communities; and

17 “(ii) significant prior experience in
18 providing technical assistance or financial
19 assistance to community development ven-
20 ture capital organizations;

21 “(B) may include community development
22 venture capital organizations.

23 “(b) AUTHORITY.—In order to promote the develop-
24 ment of community development venture capital organiza-
25 tions, the Administrator, may—

1 “(1) enter into contracts with 1 or more devel-
 2 opmental organizations to carry out training and re-
 3 search activities under subsection (c); and

4 “(2) make grants in accordance with this
 5 section—

6 “(A) to developmental organizations to
 7 carry out training and research activities under
 8 subsection (c); and

9 “(B) to intermediary organizations to pro-
 10 vide intensive marketing, management, and
 11 technical assistance and training to community
 12 development venture capital organizations
 13 under subsection (d).

14 “(c) TRAINING AND RESEARCH ACTIVITIES.—

15 “(1) IN GENERAL.—Subject to paragraph (2), a
 16 developmental organization that receives a grant
 17 under subsection (b) shall use the funds made avail-
 18 able through the grant for 1 or more of the following
 19 training and research activities:

20 “(A) STRENGTHENING PROFESSIONAL
 21 SKILLS.—Creating and operating training pro-
 22 grams to enhance the professional skills for in-
 23 dividuals in community development venture
 24 capital organizations or operating private com-
 25 munity development venture capital funds.

1 “(B) INCREASING INTEREST IN COMMU-
2 NITY DEVELOPMENT VENTURE CAPITAL.—Cre-
3 ating and operating a program to select and
4 place students and recent graduates from busi-
5 ness and related professional schools as interns
6 with community development venture capital or-
7 ganizations and intermediary organizations for
8 a period of up to 1 year, and to provide sti-
9 pends for such interns during the internship pe-
10 riod.

11 “(C) PROMOTING ‘BEST PRACTICES’.—Or-
12 ganizing an annual national conference for com-
13 munity development venture capital organiza-
14 tions to discuss and share information on the
15 best practices regarding issues relevant to the
16 creation and operation of community develop-
17 ment venture capital organizations.

18 “(D) MOBILIZING ACADEMIC RE-
19 SOURCES.—Encouraging the formation of 1 or
20 more centers for the study of community devel-
21 opment venture capital at graduate schools of
22 business and management, providing funding
23 for the development of materials for courses on
24 topics in this area, and providing funding for
25 research on economic, operational, and policy

1 issues relating to community development ven-
2 ture capital.

3 “(2) LIMITATION.—The Administrator shall en-
4 sure that not more than 25 percent of the amount
5 made available to carry out this section is used for
6 activities described in paragraph (1).

7 “(d) INTENSIVE MARKETING, MANAGEMENT, AND
8 TECHNICAL ASSISTANCE AND TRAINING.—An inter-
9 mediary organization that receives a grant under sub-
10 section (b) shall use the funds made available through the
11 grant to provide intensive marketing, management, and
12 technical assistance and training to promote the develop-
13 ment of community development venture capital organiza-
14 tions, which assistance may include grants to community
15 development venture capital organizations for the start up
16 costs and operating support of those organizations.

17 “(e) MATCHING CONTRIBUTION REQUIREMENT.—
18 The Administrator shall require, as a condition of any
19 grant made to an intermediary organization under this
20 section, that a matching contribution equal to the amount
21 of such grant be provided from sources other than the
22 Federal Government.

23 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated to carry out this section

1 \$20,000,000 for fiscal years 2000 through 2003, to re-
2 main available until expended.”.

3 (b) REQUIREMENTS.—The Administrator of the
4 Small Business Administration may promulgate such reg-
5 ulations as may be necessary to carry out section 34 of
6 the Small Business Act, as amended by this section, which
7 regulations may take effect upon issuance.

8 **TITLE III—BUSINESS LINC**

9 **SEC. 301. GRANTS AUTHORIZED.**

10 Section 8 of the Small Business Act (15 U.S.C. 637)
11 is amended by adding at the end the following:

12 “(m) BUSINESS LINC GRANTS.—

13 “(1) IN GENERAL.—The Administrator may
14 make grants to and enter into cooperative agree-
15 ments with any coalition of private or public sector
16 participants that—

17 “(A) expand business-to-business relation-
18 ships between large and small businesses; and

19 “(B) provide businesses, directly or indi-
20 rectly, with online information and a database
21 of companies that are interested in mentor-
22 protegé programs or community-based, state-
23 wide, or local business development programs.

24 “(2) MATCHING REQUIREMENTS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the Administrator may make grants
3 to and enter into cooperative agreements with
4 any coalition of private or public sector partici-
5 pants if the coalition provides a matching
6 amount, either in-kind or in cash, equal to the
7 grant amount.

8 “(B) WAIVER.—In the best interests of the
9 program, the Administrator may waive the re-
10 quirements for matching funds to be provided
11 by the coalition.

12 “(3) AUTHORIZATION OF APPROPRIATIONS.—

13 There is authorized to be appropriated to carry out
14 this subsection \$3,000,000 for each of fiscal years
15 2000 through 2003, to remain available until ex-
16 pended.”.

17 **SEC. 302. REGULATIONS.**

18 The Administrator of the Small Business Administra-
19 tion may promulgate such regulations as the Administra-
20 tion determines to be necessary to carry out this title and
21 the amendment made by this title.

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