

110TH CONGRESS
1ST SESSION

H. R. 3567

AN ACT

To amend the Small Business Investment Act of 1958 to expand opportunities for investments in small businesses, 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Small Business Investment Expansion Act of 2007”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS INVESTMENT COMPANY PROGRAM

Sec. 101. Simplified maximum leverage limits.

Sec. 102. Increased investments in women-owned and socially disadvantaged small businesses.

Sec. 103. Increased investments in smaller enterprises.

Sec. 104. Increased investments in small businesses creating new technologies, manufactured goods, or materials or providing services to reduce carbon emissions in the United States, reduce the use of non-renewable resources, minimize environmental impact, and relate people with the natural environment.

Sec. 105. Simplified aggregate investment limitations.

TITLE II—NEW MARKETS VENTURE CAPITAL PROGRAM

Sec. 201. Expansion of New Markets Venture Capital Program.

Sec. 202. Improved nationwide distribution.

Sec. 203. Increased investment in small manufacturers.

Sec. 204. Updating definition of low-income geographic area.

Sec. 205. Study on availability of equity capital.

Sec. 206. Expanding operational assistance to conditionally approved companies.

Sec. 207. Streamlined application for New Markets Venture Capital Program.

Sec. 208. Elimination of matching requirement.

Sec. 209. Simplified formula for operational assistance grants.

Sec. 210. Authorization of appropriations and dedication to small manufacturing.

TITLE III—ANGEL INVESTMENT PROGRAM

Sec. 301. Establishment of Angel Investment Program.

TITLE IV—SURETY BOND PROGRAM

Sec. 401. Study and report.

Sec. 402. Preferred Surety Bond Program.

Sec. 403. Denial of liability.

Sec. 404. Increasing the bond threshold.

Sec. 405. Fees.

TITLE V—VENTURE CAPITAL INVESTMENT STANDARDS

Sec. 501. Determining whether business concern is independently owned and operated.

TITLE VI—REGULATIONS

Sec. 601. Regulations.

1 **TITLE I—SMALL BUSINESS IN-**
2 **VESTMENT COMPANY PRO-**
3 **GRAM**

4 **SEC. 101. SIMPLIFIED MAXIMUM LEVERAGE LIMITS.**

5 Section 303(b) of the Small Business Investment Act
6 of 1958 (15 U.S.C. 683(b)) is amended—

7 (1) by amending paragraph (2) to read as fol-
8 lows:

9 “(2) MAXIMUM LEVERAGE.—

10 “(A) IN GENERAL.—The maximum
11 amount of outstanding leverage made available
12 to any one company licensed under section
13 301(c) of this Act may not exceed the lesser
14 of—

15 “(i) 300 percent of such company’s
16 private capital; or

17 “(ii) \$150,000,000.

18 “(B) MULTIPLE LICENSES UNDER COM-
19 MON CONTROL.—The maximum amount of out-
20 standing leverage made available to two or more
21 companies licensed under section 301(c) of this
22 Act that are commonly controlled (as deter-
23 mined by the Administrator) and not under

1 capital impairment may not exceed
2 \$225,000,000.”; and

3 (2) by striking paragraph (4).

4 **SEC. 102. INCREASED INVESTMENTS IN WOMEN-OWNED**
5 **AND SOCIALLY DISADVANTAGED SMALL**
6 **BUSINESSES.**

7 Section 303(b)(2) of the Small Business Investment
8 Act of 1958 (15 U.S.C. 683(b)(2)), as amended by section
9 101, is further amended by adding at the end the fol-
10 lowing:

11 “(C) INCREASED INVESTMENTS IN
12 WOMEN-OWNED AND SOCIALLY DISADVANTAGED
13 SMALL BUSINESSES.—The limits provided in
14 subparagraphs (A)(ii) and (B) shall be
15 \$175,000,000 and \$250,000,000, respectively,
16 for any company that certifies in writing that
17 not less than 50 percent of the company’s ag-
18 gregate dollar amount of investments will be
19 made in small businesses that prior to the in-
20 vestment are—

21 “(i) majority owned by one or more—

22 “(I) socially or economically dis-
23 advantaged individuals (as defined by
24 Administrator);

1 “(II) veterans of the Armed
2 Forces; or

3 “(III) current or former members
4 of the National Guard or Reserve; or
5 “(ii) located in a low-income geo-
6 graphic area (as defined in section 351).”.

7 **SEC. 103. INCREASED INVESTMENTS IN SMALLER ENTER-**
8 **PRISES.**

9 Section 303 of the Small Business Investment Act
10 of 1958 (15 U.S.C. 683) is amended by striking sub-
11 section (d) and inserting the following:

12 “(d) INCREASED INVESTMENTS IN SMALLER ENTER-
13 PRISES.—The Administrator shall require each licensee,
14 as a condition of an application for leverage, to certify in
15 writing that not less than 25 percent of the licensee’s ag-
16 gregate dollar amount of financings will be provide to
17 smaller enterprises (as defined in section 103(12)).”.

1 **SEC. 104. INCREASED INVESTMENTS IN SMALL BUSINESSES**
2 **CREATING NEW TECHNOLOGIES, MANUFAC-**
3 **TURED GOODS, OR MATERIALS OR PRO-**
4 **VIDING SERVICES TO REDUCE CARBON EMIS-**
5 **SIONS IN THE UNITED STATES, REDUCE THE**
6 **USE OF NON-RENEWABLE RESOURCES, MINI-**
7 **MIZE ENVIRONMENTAL IMPACT, AND RELATE**
8 **PEOPLE WITH THE NATURAL ENVIRONMENT.**

9 Section 303 of the Small Business Investment Act
10 of 1958 (15 U.S.C. 683), as amended by this Act, is fur-
11 ther amended by adding at the end the following:

12 “(k) INCREASED INVESTMENTS IN SMALL BUSI-
13 NESSES.—The Administrator shall give consideration to
14 investments in small businesses that are creating new
15 technologies, manufactured goods, or materials, or pro-
16 viding services to reduce carbon emissions in the United
17 States, reduce the use of non-renewable resources, mini-
18 mize environmental impact, and relate people with the nat-
19 ural environment.”.

20 **SEC. 105. SIMPLIFIED AGGREGATE INVESTMENT LIMITA-**
21 **TIONS.**

22 Section 306(a) of the Small Business Investment Act
23 of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

24 “(a) If any small business investment company has
25 obtained financing from the Administration and such fi-
26 nancing remains outstanding, the aggregate amount of se-

1 curities acquired and for which commitments may be
2 issued by such company under the provisions of this title
3 for any single enterprise shall not, without the approval
4 of the Administration, exceed 10 percent of the sum of—

5 “(1) the private capital of such company; and

6 “(2) the total amount of leverage projected by
7 the company in the company’s business plan that
8 was approved by the Administration at the time of
9 the grant of the company’s license.”.

10 **TITLE II—NEW MARKETS** 11 **VENTURE CAPITAL PROGRAM**

12 **SEC. 201. EXPANSION OF NEW MARKETS VENTURE CAPITAL** 13 **PROGRAM.**

14 (a) ADMINISTRATION PARTICIPATION REQUIRED.—
15 Section 353 of the Small Business Investment Act of 1958
16 (15 U.S.C. 689b) is amended by striking “under which
17 the Administrator may” and inserting “under which the
18 Administrator shall”.

19 (b) REPORT TO CONGRESS.—Not later than 1 year
20 after the date of the enactment of this Act, the Adminis-
21 trator of the Small Business Administration shall submit
22 to Congress a report evaluating the success of the expan-
23 sion of the New Markets Venture Capital Program under
24 this section.

1 **SEC. 202. IMPROVED NATIONWIDE DISTRIBUTION.**

2 Section 354 of the Small Business Investment Act
3 of 1958 (15 U.S.C. 689c) is amended by adding at the
4 end the following:

5 “(f) GEOGRAPHIC EXPANSION.—From among com-
6 panies submitting applications under subsection (b), the
7 Administrator shall consider the selection criteria and na-
8 tionwide distribution under subsection (c) and shall, to the
9 maximum extent practicable, approve at least one com-
10 pany from each geographic region of the Small Business
11 Administration.”.

12 **SEC. 203. INCREASED INVESTMENT IN SMALL MANUFAC-**
13 **TURERS.**

14 Section 354(d)(1) of the Small Business Investment
15 Act of 1958 (15 U.S.C. 689c(d)(1)) is amended—

16 (1) by striking “Each” and inserting the fol-
17 lowing:

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), each”; and

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

21 “(B) SMALL MANUFACTURER INVESTMENT
22 CAPITAL REQUIREMENTS.—Each conditionally
23 approved company engaged primarily in devel-
24 opment of and investment in small manufactur-
25 ers shall raise not less than \$3,000,000 of pri-
26 vate capital or binding capital commitments

1 from one or more investors (other than agencies
2 or departments of the Federal Government)
3 who meet criteria established by the Adminis-
4 trator.”.

5 **SEC. 204. UPDATING DEFINITION OF LOW-INCOME GEO-**
6 **GRAPHIC AREA.**

7 Section 351 of the Small Business Investment Act
8 of 1958 (15 U.S.C. 689) is amended—

9 (1) by striking paragraphs (2) and (3);

10 (2) by inserting after paragraph (1) the fol-
11 lowing:

12 “(2) **LOW-INCOME GEOGRAPHIC AREA.**—The
13 term ‘low-income geographic area’ has the same
14 meaning given the term ‘low-income community’ in
15 section 45D(e) of the Internal Revenue Code of
16 1986 (26 U.S.C. 45D(e)).”; and

17 (3) by redesignating paragraphs (4) through
18 (8) as (3) through (7), respectively.

19 **SEC. 205. STUDY ON AVAILABILITY OF EQUITY CAPITAL.**

20 (a) **STUDY REQUIRED.**—Before the expiration of the
21 180-day period that begins on the date of the enactment
22 of this Act, the Chief Counsel for Advocacy of the Small
23 Business Administration shall conduct a study on the
24 availability of equity capital in low-income urban and rural
25 areas.

1 (b) REPORT.—Not later than 90 days after the com-
2 pletion of the study under subsection (a) the Adminis-
3 trator of the Small Business Administration shall submit
4 to Congress a report containing the findings of the study
5 required under subsection (a) and any recommendations
6 of the Administrator based on such study.

7 **SEC. 206. EXPANDING OPERATIONAL ASSISTANCE TO CON-**
8 **DITIONALLY APPROVED COMPANIES.**

9 (a) OPERATIONAL ASSISTANCE GRANTS TO CONDI-
10 TIONALLY APPROVED COMPANIES.—Section 358(a) of the
11 Small Business Investment Act of 1958 (15 U.S.C.
12 689(a)) is amended by adding at the end the following
13 new paragraph:

14 “(6) GRANTS TO CONDITIONALLY APPROVED
15 COMPANIES.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graphs (A) and (B), upon the request of a com-
18 pany conditionally-approved under section
19 354(c), the Administrator shall make a grant to
20 the company under this subsection.

21 “(B) REPAYMENT BY COMPANIES NOT AP-
22 PROVED.—If a company receives a grant under
23 paragraph (6) and does not enter into a partici-
24 pation agreement for final approval, the com-

1 pany shall repay the amount of the grant to the
2 Administrator.

3 “(C) DEDUCTION FROM GRANT TO AP-
4 PROVED COMPANY.—If a company receives a
5 grant under paragraph (6) and receives final
6 approval under section 354(e), the Adminis-
7 trator shall deduct the amount of the grant
8 under that paragraph from the total grant
9 amount that the company receives for oper-
10 ational assistance.

11 “(D) AMOUNT OF GRANT.—No company
12 may receive a grant of more than \$50,000
13 under this paragraph.”.

14 (b) LIMITATION ON TIME FOR FINAL APPROVAL.—
15 Section 354(d) of the Small Business Investment Act of
16 1958 (15 U.S.C. 689c(d)) is amended in the matter pre-
17 ceding paragraph (1) by striking “a period of time, not
18 to exceed 2 years,” and inserting “2 years”.

19 (c) EXPANDED DEFINITION OF OPERATIONAL AS-
20 SISTANCE.—Section 351(5) of the Small Business Invest-
21 ment Act of 1958 (15 U.S.C. 689(5)) is amended by in-
22 serting before the period at the end the following: “, in-
23 cluding assistance on how to implement energy efficiency
24 and sustainable practices that reduce the use of non-re-

1 newable resources or minimize environmental impact and
2 reduce overall costs and increase health of employees”.

3 **SEC. 207. STREAMLINED APPLICATION FOR NEW MARKETS**

4 **VENTURE CAPITAL PROGRAM.**

5 Not later than 60 days after the date of the enact-
6 ment of this section, the Administrator of the Small Busi-
7 ness Administration shall prescribe standard documents
8 for final New Markets Venture Capital Company approval
9 application under section 354(e) of the Small Business In-
10 vestment Act of 1958 (15 U.S.C. 689c(e)). The Adminis-
11 trator shall assure that the standard documents shall be
12 designed to substantially reduce the cost burden of the ap-
13 plication process on the companies involved.

14 **SEC. 208. ELIMINATION OF MATCHING REQUIREMENT.**

15 Section 354(d)(2)(A)(i) of the Small Business Invest-
16 ment Act of 1958 (15 U.S.C. 689c(d)(2)(A)(i)) is amend-
17 ed—

18 (1) in subclause (I) by adding “and” at the
19 end;

20 (2) in subclause (II) by striking “and” at the
21 end; and

22 (3) by striking subclause (III).

1 **SEC. 209. SIMPLIFIED FORMULA FOR OPERATIONAL AS-**
2 **SISTANCE GRANTS.**

3 Section 358(a)(4)(A) of the Small Business Invest-
4 ment Act of 1958 (15 U.S.C. 689g(a)(4)(A)) is amend-
5 ed—

6 (1) by striking “shall be equal to” and all that
7 follows through the period at the end and by insert-
8 ing “shall be equal to the lesser of—”; and

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

10 “(i) 10 percent of the resources (in
11 cash or in kind) raised by the company
12 under section 354(d)(2); or

13 “(ii) \$1,000,000.”.

14 **SEC. 210. AUTHORIZATION OF APPROPRIATIONS AND DEDI-**
15 **CATION TO SMALL MANUFACTURING.**

16 Section 368(a) of the Small Business Investment Act
17 of 1958 (15 U.S.C. 689q(a)) is amended—

18 (1) by striking “fiscal years 2001 through
19 2006” and inserting “fiscal years 2008 through
20 2010”;

21 (2) in paragraph (1)—

22 (A) by striking “\$150,000,000” and in-
23 serting “\$30,000,000”; and

24 (B) by inserting before the period at the
25 end the following: “, of which not less than one-
26 quarter shall be used to guarantee debentures

1 of companies engaged primarily in development
 2 of and investment in small manufacturers”; and
 3 (3) in paragraph (2)—

4 (A) by striking “\$30,000,000” and insert-
 5 ing “\$5,000,000”; and

6 (B) by inserting before the period at the
 7 end the following: “, of which not less than one-
 8 quarter shall be used to make grants to compa-
 9 nies engaged primarily in development of and
 10 investment in small manufacturers”.

11 **TITLE III—ANGEL INVESTMENT**
 12 **PROGRAM**

13 **SEC. 301. ESTABLISHMENT OF ANGEL INVESTMENT PRO-**
 14 **GRAM.**

15 (a) ESTABLISHMENT.—Title III of the Small Busi-
 16 ness Investment Act of 1958 (15 U.S.C. 681 et seq.) is
 17 amended by adding at the end the following new part:

18 **“PART C—ANGEL INVESTMENT PROGRAM**

19 **“SEC. 380. OFFICE OF ANGEL INVESTMENT.**

20 “(a) ESTABLISHMENT.—There is established, in the
 21 Investment Division of the Small Business Administra-
 22 tion, the Office of Angel Investment.

23 “(b) DIRECTOR.—The head of the Office of Angel In-
 24 vestment is the Director of Angel Investment.

1 “(c) DUTIES.—Subject to the direction of the Sec-
2 retary, the Director shall perform the following functions:

3 “(1) Provide support for the development of
4 angel investment opportunities for small business
5 concerns.

6 “(2) Administer the Angel Investment Program
7 under section 382 of this Act.

8 “(3) Administer the Federal Angel Network
9 under section 383 of this Act.

10 “(4) Administer the grant program for the de-
11 velopment of angel groups under section 384 of this
12 Act.

13 “(5) Perform such other duties consistent with
14 this section as the Administrator shall prescribe.

15 **“SEC. 381. DEFINITIONS.**

16 “In this part:

17 “(1) The term ‘angel group’ means 10 or more
18 angel investors organized for the purpose of making
19 investments in local or regional small business con-
20 cerns that—

21 “(A) consists primarily of angel investors;

22 “(B) requires angel investors to be accred-
23 ited investors; and

1 “(C) actively involves the angel investors in
2 evaluating and making decisions about making
3 investments.

4 “(2) The term ‘angel investor’ means an indi-
5 vidual who—

6 “(A) qualifies as an accredited investor (as
7 that term is defined under Rule 501 of Regula-
8 tion D of the Securities and Exchange Commis-
9 sion (17 CFR 230.501));

10 “(B) provides capital to or makes invest-
11 ments in a small business concern.

12 “(3) The term ‘small business concern owned
13 and controlled by veterans’ has the meaning given
14 that term under section 3(q)(3) of the Small Busi-
15 ness Act (15 U.S.C. 632(q)(3)).

16 “(4) The term ‘small business concern owned
17 and controlled by women’ has the meaning given
18 that term under section 8(d)(3)(D) of such Act (15
19 U.S.C. 637(d)(3)(D)).

20 “(5) The term ‘socially and economically dis-
21 advantaged small business concern’ has the meaning
22 given that term under section 8(a)(4)(A) of such Act
23 (15 U.S.C. 637(a)(4)(A)).

1 **“SEC. 382. ANGEL INVESTMENT PROGRAM.**

2 “(a) IN GENERAL.—The Director of Angel Invest-
3 ment shall establish and carry out a program, to be known
4 as the Angel Investment Program, to provide financing to
5 approved angel groups for the purpose of providing ven-
6 ture capital investment in small businesses in their com-
7 munities.

8 “(b) ELIGIBILITY.—To be eligible to receive financ-
9 ing under this section, an angel group shall—

10 “(1) have demonstrated experience making in-
11 vestments in local or regional small business con-
12 cerns;

13 “(2) have established protocols and a due dili-
14 gence process for determining its investment strat-
15 egy;

16 “(3) have an established code of ethics; and

17 “(4) submit an application to the Director of
18 Angel Investment at such time and containing such
19 information and assurances as the Director may re-
20 quire.

21 “(c) USE OF FUNDS.—An angel group that receives
22 financing under this section shall use the amounts received
23 to make investments in small business concerns—

24 “(1) that have been in existence for less than
25 5 years as of the date on which the investment is
26 made;

1 “(2) that have fewer than 75 employees as of
2 the date on which the investment is made;

3 “(3) more than 50 percent of the employees of
4 which perform substantially all of their services in
5 the United States as of the date on which the invest-
6 ment is made; and

7 “(4) within the geographic area determined by
8 the Director under subsection (e).

9 “(d) LIMITATION ON AMOUNT.—No angel group re-
10 ceiving financing under this section shall receive more
11 than \$2,000,000.

12 “(e) LIMITATION ON GEOGRAPHIC AREA.—For each
13 angel group receiving financing under this section, the Di-
14 rector shall determine the geographic area in which a
15 small business concern must be located to receive an in-
16 vestment from that angel group.

17 “(f) PRIORITY IN PROVIDING FINANCING.—In pro-
18 viding financing under this section, the Director shall give
19 priority to angel groups that invest in small business con-
20 cerns owned and controlled by veterans, small business
21 concerns owned and controlled by women, and socially and
22 economically disadvantaged small business concerns.

23 “(g) NATIONWIDE DISTRIBUTION OF FINANCING.—
24 In providing financing under this section, the Director

1 shall, to the extent practicable, provide financing to angel
2 groups that are located in a variety of geographic areas.

3 “(h) MATCHING REQUIREMENT.—As a condition of
4 receiving financing under this section, the Director shall
5 require that for each small business concern in which the
6 angel group receiving such financing invests, the angel
7 group shall invest an amount that is equal to or greater
8 than the amount of financing received under this section
9 from a source other than the Federal Government that
10 is equal to the amount of the financing provided under
11 this section that the angel group invests in that small busi-
12 ness concern.

13 “(i) REPAYMENT OF FINANCING.—As a condition of
14 receiving financing under this section, the Director shall
15 require an angel group to repay the Director for any in-
16 vestment on which the angel group makes a profit an
17 amount equal to the percentage of the returns that is
18 equal to the percentage of the total amount invested by
19 the angel group that consisted of financing received under
20 this section.

21 “(j) ANGEL INVESTMENT FUND.—

22 “(1) ESTABLISHMENT.—There is in the Treas-
23 ury a fund to be known as the Angel Investment
24 Fund.

1 “(2) DEPOSIT OF CERTAIN AMOUNTS.—
2 Amounts collected under subsection (i) shall be de-
3 posited in the fund.

4 “(3) USE OF DEPOSITS.—Deposits in the fund
5 shall be available for the purpose of providing fi-
6 nancing under this section in the amounts specified
7 in annual appropriation laws without regard to fiscal
8 year limitations.

9 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
10 is authorized to be appropriated to carry out this section—

11 “(1) \$10,000,000 for fiscal year 2008;

12 “(2) \$20,000,000 for fiscal year 2009; and

13 “(3) \$20,000,000 for fiscal year 2010.

14 **“SEC. 383. FEDERAL ANGEL NETWORK.**

15 “(a) IN GENERAL.—Subject to the succeeding provi-
16 sions of this subsection, the Director of the Office of Angel
17 Investment shall establish and maintain a searchable data-
18 base, to be known as the Federal Angel Network, to assist
19 small business concerns in identifying angel investors.

20 “(b) NETWORK CONTENTS.—The Federal Angel Net-
21 work shall include—

22 “(1) a list of the names and addresses of angel
23 groups and angel investors;

24 “(2) information about the types of investments
25 each angel group or angel investor has made; and

1 program to make grants to eligible entities for the develop-
2 ment of new or existing angel groups and to increase
3 awareness and education about angel investing.

4 “(b) ELIGIBLE ENTITIES.—In this section, the term
5 ‘eligible entity’ means—

6 “(1) a State or unit of local government;

7 “(2) a nonprofit organization;

8 “(3) a state mutual benefit corporation;

9 “(4) a Small Business Development Center es-
10 tablished pursuant to section 21 of the Small Busi-
11 ness Act (15 U.S.C. 648); or

12 “(5) a women’s business center established pur-
13 suant to section 29 of the Small Business Act (15
14 U.S.C. 656).

15 “(c) MATCHING REQUIREMENT.—The Administrator
16 shall require, as a condition of any grant made under this
17 section, that the eligible entity receiving the grant provide
18 from resources (in cash or in kind), other than those pro-
19 vided by the Administrator or any other Federal source,
20 a matching contribution equal to 50 percent of the amount
21 of the grant.

22 “(d) APPLICATION.—To receive a grant under this
23 section, an eligible entity shall submit an application that
24 contains—

1 “(1) a proposal describing how the grant would
2 be used; and

3 “(2) any other information or assurances as the
4 Director may require.

5 “(e) REPORT.—Not later than 3 years after the date
6 on which an eligible entity receives a grant under this sec-
7 tion, such eligible entity shall submit a report to the Ad-
8 ministrator describing the use of grant funds and evalu-
9 ating the success of the angel group developed using the
10 grant funds.

11 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated to carry out this section
13 \$1,500,000, for each of fiscal years 2008 through 2010.”.

14 **TITLE IV—SURETY BOND**
15 **PROGRAM**

16 **SEC. 401. STUDY AND REPORT.**

17 (a) STUDY.—The Administrator of the Small Busi-
18 ness Administration shall conduct a study of the current
19 funding structure of the surety bond program carried out
20 under part B (15 U.S.C. 694a et seq.) of title IV of the
21 Small Business Investment Act of 1958. The study shall
22 include—

23 (1) an assessment of whether the program’s
24 current funding framework and program fees are in-
25 hibiting the program’s growth;

1 (2) an assessment of whether surety companies
2 and small business concerns could benefit from an
3 alternative funding structure; and

4 (3) an assessment of whether permissible pre-
5 mium rates for surety companies participating in the
6 program should be placed on parity with the rates
7 authorized by appropriate State insurance regulators
8 and how such a change would affect the program
9 under the current funding framework.

10 (b) REPORT.—Not later than 180 days after the date
11 of the enactment of this Act, the Administrator shall sub-
12 mit to Congress a report on the results of the study.

13 **SEC. 402. PREFERRED SURETY BOND PROGRAM.**

14 (a) PROGRAM REQUIRED.—Part B (15 U.S.C. 694a
15 et seq.) of title IV of the Small Business Investment Act
16 of 1958 is amended by adding at the end the following:

17 **“SEC. 413. PREFERRED SURETY BOND PROGRAM.**

18 “(a) PROGRAM REQUIRED.—The Administrator shall
19 carry out a program, to be known as the Preferred Surety
20 Bond Program, under which the Administration, by a
21 written agreement between the surety and the Administra-
22 tion, delegates to the surety complete authority to issue,
23 monitor, and service bonds subject to guaranty from the
24 Administration without obtaining the specific approval of

1 the Administration. Bonds made under the program shall
2 carry a 70 percent guaranty.

3 “(b) TERM.—The term of a delegation of authority
4 under such an agreement shall not exceed 2 years.

5 “(c) RENEWAL.—Such an agreement may be renewed
6 one or more times, each such renewal providing one addi-
7 tional term. Before each renewal, the Administrator shall
8 review the surety’s bonds, policies, and procedures for
9 compliance with relevant rules and regulations.

10 “(d) APPLICATION.—The Administrator shall
11 promptly act upon an application from a surety to partici-
12 pate in the program, in accordance with criteria and pro-
13 cedures established in regulations pursuant to section
14 411(d).

15 “(e) REDUCTION OR TERMINATION OF PARTICIPA-
16 TION.—The Administrator is authorized to reduce the al-
17 lotment of bond guarantee authority or terminate the par-
18 ticipation of a surety in the program based on the rate
19 of participation of such surety during the 4 most recent
20 fiscal year quarters compared to the median rate of par-
21 ticipation by the other sureties in the program.”.

22 (b) CONFORMING AMENDMENTS.—Section 411 of the
23 Small Business Investment Act of 1958 (15 U.S.C. 694b)
24 is amended—

1 (1) in subsection (a), by striking paragraphs
2 (3), (4), and (5);

3 (2) in subsection (b)(2), by striking “the au-
4 thority of subsection (a)(3)” and inserting “the au-
5 thority of section 413”;

6 (3) in subsection (c)—

7 (A) by striking paragraph (1); and

8 (B) by redesignating paragraphs (2)
9 through (4) as (1) through (3), respectively;
10 and

11 (4) in subsection (g)(3), by striking “the au-
12 thority of paragraph (3) of subsection (a)” and in-
13 serting “the authority of section 413”.

14 **SEC. 403. DENIAL OF LIABILITY.**

15 Section 411 of the Small Business Investment Act
16 of 1958 (15 U.S.C. 694b) is amended by adding at the
17 end the following:

18 “(k) For bonds made or executed with the prior ap-
19 proval of the Administration, the Administration shall not
20 deny liability to a surety based upon information that was
21 provided as part of the guaranty application.”.

22 **SEC. 404. INCREASING THE BOND THRESHOLD.**

23 Section 411(a) of the Small Business Investment Act
24 of 1958 (15 U.S.C. 694b(a)) is amended by striking
25 “\$2,000,000” and inserting “\$3,000,000”.

1 **SEC. 405. FEES.**

2 Section 411 of the Small Business Investment Act
3 of 1958 (15 U.S.C. 694b) is amended by adding at the
4 end the following:

5 “(1) To the extent that amounts are made available
6 to the Administrator for the purpose of fee contributions,
7 the Administrator shall use such funds to offset fees estab-
8 lished and assessed under this section. Each fee contribu-
9 tion shall be effective for one fiscal quarter and shall be
10 adjusted as necessary to ensure that amounts made avail-
11 able are fully used.”.

12 **TITLE V—VENTURE CAPITAL**
13 **INVESTMENT STANDARDS**

14 **SEC. 501. DETERMINING WHETHER BUSINESS CONCERN IS**
15 **INDEPENDENTLY OWNED AND OPERATED.**

16 Section 3(a) of the Small Business Act (15 U.S.C.
17 632(a)) is amended by adding at the end the following:

18 “(5) NON-AFFILIATION OF VENTURE CAPITAL
19 FROM CONSIDERATION OF SMALL BUSINESS CON-
20 CERN.—For purposes of determining whether a
21 small business concern is independently owned and
22 operated under paragraph (1) or meets the small
23 business size standards instituted under paragraph
24 (2), the Administrator shall not consider a business
25 concern to be affiliated with a venture capital oper-
26 ating company (or with any other business that the

1 venture capital operating company has financed)
2 if—

3 “(A) the venture capital operating com-
4 pany does not own 50 percent or more of the
5 business concern; and

6 “(B) employees of the venture capital oper-
7 ating company do not constitute a majority of
8 the board of directors of the business concern.

9 “(6) DEFINITION OF ‘INDEPENDENTLY OWNED
10 AND OPERATED’.—For purposes of this section, a
11 business concern shall be deemed to be ‘independ-
12 ently owned and operated’ if—

13 “(A) it is owned in majority part by one or
14 more natural persons or venture capital oper-
15 ating companies;

16 “(B) there is no single venture capital op-
17 erating company that owns 50 percent or more
18 of the business concern; and

19 “(C) there is no single venture capital op-
20 erating company the employees of which con-
21 stitute a majority of the board of directors of
22 the business concern.

23 “(7) DEFINITION OF ‘VENTURE CAPITAL OPER-
24 ATING COMPANY’.—For purposes of this section, the

1 term ‘venture capital operating company’ means a
2 business concern—

3 “(A) that—

4 “(i) is a Venture Capital Operating
5 Company, as that term is defined in regu-
6 lations promulgated by the Secretary of
7 Labor; or

8 “(ii) is an entity that—

9 “(I) is registered under the In-
10 vestment Company Act of 1940 (15
11 U.S.C. 80a–51 et seq.);

12 “(II) is an investment company,
13 as defined in section 3(c)(14) of such
14 Act (15 U.S.C. 80a–3(c)(14)), which
15 is not registered under such Act be-
16 cause it is beneficially owned by less
17 than 100 persons; or

18 “(III) is a nonprofit organization
19 affiliated with, or serving as a patent
20 and licensing organization for, a uni-
21 versity or other institution of higher
22 education and that invests primarily
23 in small business concerns; and

1 “(B) that is not controlled by any business
2 concern that is not a small business concern
3 within the meaning of section 3; and

4 “(C) that has fewer than 500 employees;
5 and

6 “(D) that is itself a concern incorporated
7 and domiciled in the United States, or is con-
8 trolled by a concern that is incorporated and
9 domiciled in the United States.”.

10 **TITLE VI—REGULATIONS**

11 **SEC. 601. REGULATIONS.**

12 Not later than 90 days after the date of the enact-
13 ment of this Act, the Administrator shall issue revisions
14 to all existing regulations as necessary to ensure their con-
15 formity with the amendments made by this Act.

 Passed the House of Representatives September 27,
2007.

Attest:

Clerk.

110TH CONGRESS
1ST SESSION

H. R. 3567

AN ACT

To amend the Small Business Investment Act of 1958 to expand opportunities for investments in small businesses, and for other purposes.