

Calendar No. 422

110TH CONGRESS
1ST SESSION

S. 1662

[Report No. 110-199]

To amend the Small Business Investment Act of 1958 to reauthorize the venture capital program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2007

Mr. KERRY (for himself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

OCTOBER 16, 2007

Reported by Mr. KERRY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Small Business Investment Act of 1958 to reauthorize the venture capital program, 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 **SECTION 1. SHORT TITLE.**

4 ~~This Act may be cited as the “Small Business Ven-~~
5 ~~ture Capital Act of 2007”.~~

1 **SEC. 2. REAUTHORIZATION.**

2 Section 20 of the Small Business Act (15 U.S.C. 631
3 note) is amended by inserting after subsection (e) the fol-
4 lowing:

5 “(f) **SMALL BUSINESS VENTURE CAPITAL.**—For the
6 programs authorized under part A of title III of the Small
7 Business Investment Act of 1958 (15 U.S.C. 681 et seq.);
8 the Administrator is authorized to make—

9 “(1) \$500,000,000 in purchases of participating
10 securities for each of fiscal years 2007 through
11 2010; and

12 “(2)(A) \$2,000,000,000 in guarantees of deben-
13 tures for fiscal year 2007;

14 “(B) \$2,250,000,000 in guarantees of deben-
15 tures for fiscal year 2008;

16 “(C) \$2,500,000,000 in guarantees of deben-
17 tures for fiscal year 2009; and

18 “(D) \$2,775,000,000 in guarantees of deben-
19 tures for fiscal year 2010.”.

20 **SEC. 3. LEVERAGE.**

21 (a) **IN GENERAL.**—Section 303(b)(2) of the Small
22 Business Investment Act of 1958 (15 U.S.C. 683(b)(2))
23 is amended to read as follows:

24 “(2) **MAXIMUM LEVERAGE.**—

25 “(A) **IN GENERAL.**—The maximum
26 amount of outstanding leverage made available

1 to any 1 company licensed under section 301(e)
 2 may not exceed the lesser of—

3 “(i) 300 percent of private capital; or

4 “(ii) \$150,000,000.

5 “(B) MULTIPLE LICENSES UNDER COM-
 6 MON CONTROL.—The maximum amount of out-
 7 standing leverage made available to 2 or more
 8 companies licensed under section 301(e) that
 9 are commonly controlled (as determined by the
 10 Administrator) may not exceed \$225,000,000.

11 “(C) INVESTMENTS IN WOMEN-OWNED
 12 AND MINORITY-OWNED BUSINESSES AND IN
 13 LOW-INCOME GEOGRAPHIC AREAS.—

14 “(i) IN GENERAL.—The maximum
 15 amount of outstanding leverage made
 16 available to—

17 “(I) any 1 company described in
 18 clause (ii) may not exceed the lesser
 19 of—

20 “(aa) 300 percent of private
 21 capital; or

22 “(bb) \$175,000,000; and

23 “(II) 2 or more companies de-
 24 scribed in clause (ii) that are com-
 25 monly controlled (as determined by

1 the Administrator) may not exceed
2 \$250,000,000.

3 “(ii) **APPLICABILITY.**—A company de-
4 scribed in this clause is a company licensed
5 under section 301(e) that certifies in writ-
6 ing that not less than 50 percent of the
7 dollar amount of investments of that com-
8 pany shall be made in companies that,
9 prior to that investment, are owned by
10 women or minorities (as determined by the
11 Administrator) or are located in a low-in-
12 come geographic area (as that term is de-
13 fined in section 351).

14 “(iii) **EXCEPTION.**—The Adminis-
15 trator may, on a case-by-case basis, impose
16 such additional terms and conditions as
17 the Administrator determines to be appro-
18 priate to minimize the risk of loss to the
19 Administration in the event of a default.”

20 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—
21 Section 303(b) of the Small Business Investment Act of
22 1958 (15 U.S.C. 683(b)) is amended by striking para-
23 graph (4).

1 **SEC. 4. INVESTMENTS IN SMALLER ENTERPRISES.**

2 Section 303(d) of the Small Business Investment Act
3 of 1958 (15 U.S.C. 683(d)) is amended to read as follows:

4 “(d) INVESTMENTS IN SMALLER ENTERPRISES.—
5 The Administrator shall require each licensee, as a condi-
6 tion of an application for leverage, to certify in writing
7 that not less than 25 percent of the aggregate dollar
8 amount of financings of that licensee shall be provided to
9 smaller enterprises.”

10 **SEC. 5. PRIVATE CAPITAL.**

11 (a) IN GENERAL.—Section 103(9)(A)(ii) of the Small
12 Business Investment Act of 1958 (15 U.S.C.
13 662(9)(A)(ii)) is amended by inserting “, for any company
14 licensed under section 301(e) on or after October 1,
15 2004,” before “leverage shall not be funded based on such
16 commitments”.

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as the “Small Business Venture*
19 *Capital Act of 2007”.*

20 **SEC. 2. DEFINITIONS.**

21 *In this Act—*

22 (1) *the terms “Administration” and “Adminis-*
23 *trator” mean the Small Business Administration and*
24 *the Administrator thereof, respectively;*

25 (2) *the term “low-income geographic area” has*
26 *the meaning given that term in section 351 of the*

1 *Small Business Investment Act of 1958 (15 U.S.C.*
 2 *689), as amended by this Act;*

3 *(3) the term “New Markets Venture Capital com-*
 4 *pany” has the meaning given that term in section*
 5 *351 of the Small Business Investment Act of 1958 (15*
 6 *U.S.C. 689); and*

7 *(4) the term “New Markets Venture Capital Pro-*
 8 *gram” means the program under part B of title III*
 9 *of the Small Business Investment Act of 1958 (15*
 10 *U.S.C. 689 et seq.).*

11 **SEC. 3. TABLE OF CONTENTS.**

12 *The table of contents for this Act is as follows:*

- Sec. 1. Short title.*
- Sec. 2. Definitions.*
- Sec. 3. Table of contents.*

TITLE I—SMALL BUSINESS INVESTMENT COMPANY PROGRAM

- Sec. 101. Reauthorization.*
- Sec. 102. Leverage.*
- Sec. 103. Investments in small er enterprises.*
- Sec. 104. Private capital.*
- Sec. 105. Maximum investment in a company.*

TITLE II—NEW MARKETS VENTURE CAPITAL PROGRAM

- Sec. 201. Diversification of New Markets Venture Capital Program.*
- Sec. 202. Establishment of Office of New Markets Venture Capital.*
- Sec. 203. Low-income geographic areas.*
- Sec. 204. Applications for New Markets Venture Capital Program.*
- Sec. 205. Operational assistance grants.*
- Sec. 206. Authorization.*

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

4 **SEC. 101. REAUTHORIZATION.**

5 *Section 20 of the Small Business Act (15 U.S.C. 631*
6 *note) is amended by inserting after subsection (e) the fol-*
7 *lowing:*

8 “(f) *SMALL BUSINESS VENTURE CAPITAL.—For the*
9 *programs authorized under part A of title III of the Small*
10 *Business Investment Act of 1958 (15 U.S.C. 681 et seq.),*
11 *the Administrator is authorized to make—*

12 *“(1) \$500,000,000 in purchases of participating*
13 *securities for each of fiscal years 2007 through 2010;*
14 *and*

15 *“(2)(A) \$2,000,000,000 in guarantees of deben-*
16 *tures for fiscal year 2007;*

17 *“(B) \$2,250,000,000 in guarantees of debentures*
18 *for fiscal year 2008;*

19 *“(C) \$2,500,000,000 in guarantees of debentures*
20 *for fiscal year 2009; and*

21 *“(D) \$2,750,000,000 in guarantees of debentures*
22 *for fiscal year 2010.”.*

1 **SEC. 102. LEVERAGE.**

2 (a) *IN GENERAL.*—Section 303(b)(2) of the Small
3 *Business Investment Act of 1958 (15 U.S.C. 683(b)(2))* is
4 *amended to read as follows:*

5 “(2) *MAXIMUM LEVERAGE.*—

6 “(A) *IN GENERAL.*—The maximum amount
7 of outstanding leverage made available to any 1
8 company licensed under section 301(c) may not
9 exceed the lesser of—

10 “(i) 300 percent of private capital; or

11 “(ii) \$150,000,000.

12 “(B) *MULTIPLE LICENSES UNDER COMMON*
13 *CONTROL.*—The maximum amount of out-
14 standing leverage made available to 2 or more
15 companies licensed under section 301(c) that are
16 commonly controlled (as determined by the Ad-
17 ministrator) may not exceed \$225,000,000.

18 “(C) *INVESTMENTS IN WOMEN-OWNED AND*
19 *MINORITY-OWNED BUSINESSES AND IN LOW-IN-*
20 *COME GEOGRAPHIC AREAS.*—

21 “(i) *IN GENERAL.*—The maximum
22 amount of outstanding leverage made avail-
23 able to—

24 “(I) any 1 company described in
25 clause (ii) may not exceed the lesser
26 of—

1 “(aa) 300 percent of private
2 capital; or

3 “(bb) \$175,000,000; and

4 “(II) 2 or more companies de-
5 scribed in clause (i) that are com-
6 monly controlled (as determined by the
7 Administrator) may not exceed
8 \$250,000,000.

9 “(i) *APPLICABILITY*.—A company de-
10 scribed in this clause is a company licensed
11 under section 301(c) that certifies in writ-
12 ing that not less than 50 percent of the dol-
13 lar amount of investments of that company
14 shall be made in companies that, prior to
15 that investment, are owned by women or
16 minorities (as determined by the Adminis-
17 trator) or are located in a low-income geo-
18 graphic area (as that term is defined in sec-
19 tion 351).

20 “(D) *EXCEPTION*.—The Administrator may,
21 on a case-by-case basis, impose such additional
22 terms and conditions relating to the maximum
23 amount of outstanding leverage made available
24 as the Administrator determines to be appro-

1 *priate to minimize the risk of loss to the Admin-*
2 *istration in the event of a default.”.*

3 *(b) TECHNICAL AND CONFORMING AMENDMENTS.—*
4 *Section 303(b) of the Small Business Investment Act of*
5 *1958 (15 U.S.C. 683(b)) is amended by striking paragraph*
6 *(4).*

7 **SEC. 103. INVESTMENTS IN SMALLER ENTERPRISES.**

8 *Section 303(d) of the Small Business Investment Act*
9 *of 1958 (15 U.S.C. 683(d)) is amended to read as follows:*

10 *“(d) INVESTMENTS IN SMALLER ENTERPRISES.—The*
11 *Administrator shall require each licensee, as a condition of*
12 *an application for leverage, to certify in writing that not*
13 *less than 25 percent of the aggregate dollar amount of*
14 *financings of that licensee shall be provided to smaller en-*
15 *terprises.”.*

16 **SEC. 104. PRIVATE CAPITAL.**

17 *Section 103(9)(A)(ii) of the Small Business Invest-*
18 *ment Act of 1958 (15 U.S.C. 662(9)(A)(ii)) is amended by*
19 *inserting “, except for any company licensed under section*
20 *301(c) on or before September 30, 2004, that holds commit-*
21 *ments from the Administration for participating security*
22 *leverage,” before “leverage shall not be funded based on such*
23 *commitments”.*

1 **SEC. 105. MAXIMUM INVESTMENT IN A COMPANY.**

2 *Section 306(a) of the Small Business Investment Act*
 3 *of 1958 (15 U.S.C. 686(a)) is amended by striking “20 per*
 4 *centum” and inserting “30 percent”.*

5 **TITLE II—NEW MARKETS**
 6 **VENTURE CAPITAL PROGRAM**

7 **SEC. 201. DIVERSIFICATION OF NEW MARKETS VENTURE**
 8 **CAPITAL PROGRAM.**

9 *(a) SELECTION OF COMPANIES IN EACH GEOGRAPHIC*
 10 *REGION.—Section 354 of the Small Business Investment*
 11 *Act of 1958 (15 U.S.C. 689c) is amended by adding at the*
 12 *end the following:*

13 *“(f) GEOGRAPHIC GOAL.—In selecting companies to*
 14 *participate as New Markets Venture Capital companies in*
 15 *the program established under this part, the Administrator*
 16 *shall have as a goal to select, from among companies sub-*
 17 *mitting applications under subsection (b), at least 1 com-*
 18 *pany from each geographic region of the Administration.”.*

19 *(b) PARTICIPATION IN NEW MARKETS VENTURE CAP-*
 20 *ITAL PROGRAM.—*

21 *(1) ADMINISTRATION PARTICIPATION RE-*
 22 *QUIRED.—Section 353 of the Small Business Invest-*
 23 *ment Act of 1958 (15 U.S.C. 689b) is amended in the*
 24 *matter preceding paragraph (1), by striking “under*
 25 *which the Administrator may” and inserting “under*
 26 *which the Administrator shall”.*

1 (2) *SMALL MANUFACTURER PARTICIPATION.*—
 2 *Section 353(1) of the Small Business Investment Act*
 3 *of 1958 (15 U.S.C. 689b(1)) is amended by inserting*
 4 *after “section 352” the following: “(with a goal of at*
 5 *least 1 such agreement to be with a company engaged*
 6 *primarily in the development of and investment in*
 7 *small manufacturers, to the extent practicable)”.*

8 **SEC. 202. ESTABLISHMENT OF OFFICE OF NEW MARKETS**
 9 **VENTURE CAPITAL.**

10 *Title II of the Small Business Investment Act of 1958*
 11 *(15 U.S.C. 671) is amended by adding at the end the fol-*
 12 *lowing:*

13 **“SEC. 202. OFFICE OF NEW MARKETS VENTURE CAPITAL.**

14 **“(a) ESTABLISHMENT.**—*There is established in the In-*
 15 *vestment Division of the Administration, the Office of New*
 16 *Markets Venture Capital.*

17 **“(b) DIRECTOR.**—*The head of the Office of New Mar-*
 18 *kets Venture Capital shall be an individual appointed in*
 19 *the competitive service or excepted service.*

20 **“(c) RESPONSIBILITIES OF DIRECTOR.**—*The respon-*
 21 *sibilities of the head of the Office of New Markets Venture*
 22 *Capital include—*

23 **“(1) to administer the New Markets Venture**
 24 **Capital Program under part B of title III;**

1 “(2) to assess, not less frequently than once every
2 2 years, the nature and scope of the New Markets
3 Venture Capital Program and to advise the Adminis-
4 trator on recommended changes to the program, based
5 on such assessment;

6 “(3) to work to expand the number of small busi-
7 ness concerns participating in the New Markets Ven-
8 ture Capital Program; and

9 “(4) to encourage investment in small manufac-
10 turing.”.

11 **SEC. 203. LOW-INCOME GEOGRAPHIC AREAS.**

12 (a) *IN GENERAL.*—Section 351 of the Small Business
13 *Investment Act of 1958 (15 U.S.C. 689) is amended—*

14 (1) *by striking paragraph (2);*

15 (2) *by redesignating paragraphs (3) through (8)*
16 *as paragraphs (2) through (7), respectively; and*

17 (3) *in paragraph (2), as so redesignated—*

18 (A) *in the matter preceding subparagraph*

19 (A)—

20 (i) *by striking “the term” and insert-*
21 *ing “The term”; and*

22 (ii) *by striking “means”;*

23 (B) *by striking subparagraph (A) and in-*
24 *serting the following:*

1 “(A) means a ‘low-income community’
 2 within the meaning of section 45D(e) of the In-
 3 ternal Revenue Code of 1986 (relating to the new
 4 markets tax credit); and”;

5 (C) in subparagraph (B), in the matter pre-
 6 ceding clause (i), by inserting “includes” before
 7 “any area”.

8 (b) *APPLICATION OF AMENDED DEFINITION TO CAP-*
 9 *ITAL REQUIREMENT.*—The definition of a low-income geo-
 10 graphic area in section 351 of the Small Business Invest-
 11 ment Act of 1958, as amended by subsection (a), shall apply
 12 to capital raised by a New Markets Venture Capital com-
 13 pany before, on, or after the date of enactment of this Act.

14 **SEC. 204. APPLICATIONS FOR NEW MARKETS VENTURE CAP-**
 15 **ITAL PROGRAM.**

16 Not later than 1 year after the date of enactment of
 17 this Act, the Administrator shall prescribe standard docu-
 18 ments for an application for final approval by a New Mar-
 19 kets Venture Capital company under section 354(e) of the
 20 Small Business Investment Act of 1958 (15 U.S.C. 689c(e)).
 21 The Administrator shall ensure that such documents are de-
 22 signed to substantially reduce the cost burden of the appli-
 23 cation process on a company making such an application.

1 **SEC. 205. OPERATIONAL ASSISTANCE GRANTS.**

2 (a) *IN GENERAL.*—Section 358(a)(4)(A) of the Small
3 *Business Investment Act of 1958 (15 U.S.C. 689g(a)(4)(A))*
4 *is amended to read as follows:*

5 “(A) *NEW MARKETS VENTURE CAPITAL*
6 *COMPANIES.*—Notwithstanding section 354(d)(2),
7 *the amount of a grant made under this sub-*
8 *section to a New Markets Venture Capital com-*
9 *pany shall be equal to the lesser of—*

10 “(i) *10 percent of the private capital*
11 *raised by the company; or*

12 “(ii) *\$1,000,000.*”.

13 (b) *CONFORMING AMENDMENT AND LIMITATION ON*
14 *TIME FOR FINAL APPROVAL OF COMPANIES.*—Section
15 *354(d) of the Small Business Investment Act of 1958 (15*
16 *U.S.C. 689c(d)) is amended to read as follows:*

17 “(d) *REQUIREMENTS TO BE MET FOR FINAL AP-*
18 *PROVAL.*—*The Administrator shall grant each conditionally*
19 *approved company 2 years to raise not less than \$5,000,000*
20 *of private capital or binding capital commitments from one*
21 *or more investors (other than agencies or departments of*
22 *the Federal Government) who met criteria established by*
23 *the Administrator.*”.

24 **SEC. 206. AUTHORIZATION.**

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

1 (1) *in the matter preceding paragraph (1), by*
2 *striking “fiscal years 2001 through 2006” and insert-*
3 *ing “fiscal years 2007 through 2010”; and*

4 (2) *in paragraph (2), by striking “\$30,000,000”*
5 *and inserting “\$20,000,000”.*

Calendar No. 422

110TH CONGRESS
1ST Session

S. 1662

[Report No. 110-199]

A BILL

To amend the Small Business Investment Act of 1958 to reauthorize the venture capital program, and for other purposes.

OCTOBER 16, 2007

Reported with an amendment