

Public Law 85-699

AN ACT

To make equity capital and long-term credit more readily available for small-business concerns, and for other purposes.

August 21, 1958
[S. 3651]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business
Investment Act of
1958.

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act, divided into titles and sections according to the following table of contents, may be cited as the "Small Business Investment Act of 1958."

TABLE OF CONTENTS

TITLE I—SHORT TITLE, STATEMENT OF POLICY, AND DEFINITIONS

- Sec. 101. Short title.
- Sec. 102. Statement of policy.
- Sec. 103. Definitions.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

- Sec. 201. Establishment of Small Business Investment Division.
- Sec. 202. Provision and purposes of funds.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

- Sec. 301. Organization of small business investment companies.
- Sec. 302. Capital stock and subordinated debentures.
- Sec. 303. Borrowing power.
- Sec. 304. Provision of equity capital for small-business concerns.
- Sec. 305. Long-term loans to small-business concerns.
- Sec. 306. Aggregate limitations.
- Sec. 307. Exemptions.
- Sec. 308. Miscellaneous.
- Sec. 309. Approving State chartered companies for operations under this Act.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

- Sec. 601. Repeal of section 13b of the Federal Reserve Act.
- Sec. 602. Fund for management counseling.

TITLE VII—CRIMINAL PENALTIES

STATEMENT OF POLICY

SEC. 102. It is declared to be the policy of the Congress and the purpose of this Act to improve and stimulate the national economy in general and the small-business segment thereof in particular by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply: *Provided, however,* That this policy

shall be carried out in such manner as to insure the maximum participation of private financing sources.

It is the intention of the Congress that the provisions of this Act shall be so administered that any financial assistance provided hereunder shall not result in a substantial increase of unemployment in any area of the country.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration;

(3) the terms "small business investment company" and "company" mean a small business investment company organized as provided in title III, including (except for purposes of section 301 and section 308 (f)) a State-chartered investment company which has obtained the approval of the Administrator to operate under the provisions of this Act as provided in section 309 and a company converted into a small business investment company under section 401 of this Act;

(4) the term "United States" means the several States, the Territories of Alaska and Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) the term "small-business concern" shall have the same meaning as in the Small Business Act; and

(6) the term "development companies" means enterprises incorporated under State law with the authority to promote and assist the growth and development of small-business concerns in the areas covered by their operations.

TITLE II—SMALL BUSINESS INVESTMENT DIVISION OF THE SMALL BUSINESS ADMINISTRATION

ESTABLISHMENT OF SMALL BUSINESS INVESTMENT DIVISION

SEC. 201. There is hereby established in the Small Business Administration a division to be known as the Small Business Investment Division. The Division shall be headed by a Deputy Administrator who shall be appointed by the Administrator, and shall receive compensation at the rate provided by law for other deputy administrators of the Small Business Administration. The powers conferred by this Act upon the Administration shall be exercised by the Administration through the Small Business Investment Division, and the powers herein conferred upon the Administrator shall be exercised by him through the Deputy Administrator appointed hereunder. In the performance of, and with respect to the functions, powers, and duties vested by this Act, the Administrator and the Administration shall (in addition to any authority otherwise vested by this Act) have the functions, powers, and duties set forth in the Small Business Act, and the provisions of sections 13 and 16 of that Act, insofar as applicable, are extended to apply to the functions of the Administrator and the Administration under this Act.

Ante, p. 394,
395.

PROVISION AND PURPOSES OF FUNDS

SEC. 202. (a) Section 4 (c) of the Small Business Act is amended—

(1) by striking out "\$650,000,000" each place it appears and inserting in lieu thereof "\$900,000,000";

Ante, p. 385.

(2) by inserting before the period at the end of the fourth sentence the following: “, and in the exercise of the functions of the Administration under the Small Business Investment Act of 1958”; and

(3) by inserting after the seventh sentence the following new sentence: “Not to exceed an aggregate of \$250,000,000 shall be outstanding at any one time for the exercise of the functions of the Administration under the Small Business Investment Act of 1958.”

(b) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the administrative expenses of the Administration under this Act.

Appropriation.

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

SEC. 301. (a) Small business investment companies may be formed for the purpose of operating under this Act by any number of persons, not less than 10, who shall subscribe to the articles of incorporation of any such company: *Provided*, That no such company shall be chartered by the Administration under this section in any State unless the Administration determines that investment companies cannot be chartered under the laws of such State and operate in accordance with the purpose of this Act: *Provided further*, That no such company shall be chartered by the Administration under this section after June 30, 1961.

(b) The articles of incorporation of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) The articles of incorporation and amendments thereto shall be forwarded to the Administration for consideration and approval or disapproval. In determining whether to approve the establishment of such a company and its proposed articles of incorporation, the Administration shall give due regard, among other things, to the need for the financing of small-business concerns in the area in which the proposed company is to commence business, the general character of the proposed management of the company, the number of such companies previously organized in the United States, and the volume of their operations. After consideration of all relevant factors, the Administration may in its discretion approve the articles of incorporation and issue a permit to begin business.

(d) Upon issuance of such permit, the company shall become and be a body corporate, and as such, and in the name designated in its articles shall have power—

(1) to adopt and use a corporate seal;

(2) to have succession for a period of thirty years, unless extended as provided in section 308 (f), or unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an Act of Congress, or unless its franchise becomes forfeited by some violation of law or regulation issued hereunder;

- (3) to make contracts;
 - (4) to sue and be sued, complain, and defend in any court of law or equity;
 - (5) by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, fix their compensation, require bonds of such of them as it deems advisable and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure, and appoint others to fill their places;
 - (6) to adopt bylaws regulating the manner in which its stock shall be transferred, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed;
 - (7) to establish branch offices or agencies subject to the approval of the Administration;
 - (8) to acquire, hold, operate, and dispose of any property (real, personal, or mixed) whenever necessary or appropriate to the carrying out of its lawful functions;
 - (9) to act as depository or fiscal agent of the United States when so designated by the Secretary of the Treasury;
 - (10) to operate in such area or areas as may be specified in its articles of incorporation and approved by the Administration; and
 - (11) to exercise the other powers set forth in this Act and such incidental powers as may reasonably be necessary to carry on the business for which the company is established.
- (e) The board of directors of each small business investment company shall consist of nine members who shall be elected annually by the holders of the shares of stock of the company.

CAPITAL STOCK AND SUBORDINATED DEBENTURES

SEC. 302. (a) Each company authorized to operate under this Act shall have a paid-in capital and surplus equal to at least \$300,000. In order to facilitate the formation of small business investment companies, the Administration is hereby authorized, notwithstanding any other provisions of law, to purchase the debentures of any such company in an amount equal to not more than \$150,000. Any debentures purchased by the Administration under this subsection shall be subordinate to any other debenture bonds, promissory notes, or other obligations which may be issued by such companies, and shall be deemed a part of the capital and surplus of such companies for purposes of this section and sections 303 (b) and 306 of this Act.

(b) Shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event shall any such bank hold shares in small business investment companies in an amount aggregating more than 1 percent of its capital and surplus.

(c) The aggregate amount of shares in any such company or companies which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Administration.

BORROWING POWER

SEC. 303. (a) Each small business investment company shall have authority to borrow money and to issue its debenture bonds, promissory notes, or other obligations under such general conditions and

subject to such limitations and regulations as the Administration may prescribe.

(b) To encourage the formation and growth of small business investment companies, the Administration is authorized to lend funds to such companies through the purchase of their obligations which shall bear interest at such rate, and contain such other terms, as the Administration may fix. The total amount of obligations purchased and outstanding at any one time by the Administration under this subsection in any one company shall not exceed 50 percent of the paid-in capital and surplus of such company.

PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS CONCERNS

SEC. 304. (a) It shall be a primary function of each small business investment company to provide a source of needed equity capital for small-business concerns in the manner and subject to the conditions described in this section.

(b) Capital shall be provided by a company to a small-business concern under this section only through the purchase of debenture bonds (of such concern) which shall—

(1) bear interest at such rate, and contain such other terms, as the company may fix with the approval of the Administration;

(2) be callable on any interest payment date, upon three months' notice, at par plus accrued interest; and

(3) be convertible at the option of the company, or a holder in due course, up to and including the effective date of any call by the issuer, into stock of the small-business concern at the sound book value of such stock determined at the time of the issuance of the debentures.

(c) Before any capital is provided to a small-business concern under this section—

(1) the company may require such concern to refinance any or all of its outstanding indebtedness so that the company is the only holder of any evidence of indebtedness of such concern; and

(2) except as provided in regulations issued by the Administration, such concern shall agree that it will not thereafter incur any indebtedness without first securing the approval of the company and giving the company the first opportunity to finance such indebtedness.

(d) Whenever a company provides capital to a small-business concern under this section, such concern shall be required to become a stockholder-proprietor of the company by investing in the capital stock of the company, in an amount equal to not less than 2 percent nor more than 5 percent of the amount of the capital so provided, in accordance with regulations prescribed by the Administrator.

LONG-TERM LOANS TO SMALL-BUSINESS CONCERNS

SEC. 305. (a) Each company is authorized to make loans, in the manner and subject to the conditions described in this section, to incorporated and unincorporated small-business concerns in order to provide such concerns with funds needed for sound financing, growth, modernization, and expansion.

(b) Loans made under this section may be made directly or in cooperation with other lending institutions through agreements to participate on an immediate or deferred basis. In agreements to participate in loans on a deferred basis under this subsection, the participation by the company shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(c) The maximum rate of interest for the company's share of any

loan made under this section shall be determined by the Administration.

(d) Any loan made under this section shall have a maturity not exceeding twenty years.

(e) Any loan made under this section shall be of such sound value, or so secured, as reasonably to assure repayment.

(f) Any company which has made a loan to a small-business concern under this section is authorized to extend the maturity of or renew such loan for additional periods, not exceeding ten years, if the company finds that such extension or renewal will aid in the orderly liquidation of such loan.

AGGREGATE LIMITATIONS

SEC. 306. Without the approval of the Administration, the aggregate amount of obligations and securities acquired and for which commitments may be issued by any small business investment company under the provisions of this Act for any single enterprise shall not exceed 20 percent of the combined capital and surplus of such small business investment company authorized by this Act.

EXEMPTIONS

48 Stat. 75.

SEC. 307. (a) Section 3 of the Securities Act of 1933, as amended (15 U. S. C. 77c), is hereby amended by inserting at the end thereof the following new subsection (c):

"(c) The Commission may from time to time by its rules and regulations and subject to such terms and conditions as may be prescribed therein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors."

53 Stat. 1153.

(b) Section 304 of the Trust Indenture Act of 1939 (15 U. S. C. 77ddd) is hereby amended by adding the following subsection (e):

"(e) The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as may be prescribed herein, add to the securities exempted as provided in this section any class of securities issued by a small business investment company under the Small Business Investment Act of 1958 if it finds, having regard to the purposes of that Act, that the enforcement of this Act with respect to such securities is not necessary in the public interest and for the protection of investors."

54 Stat. 817.

(c) Section 18 of the Investment Company Act of 1940 (15 U. S. C. 80a-18) is amended by adding at the end thereof the following:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958."

MISCELLANEOUS

Fees.

SEC. 308. (a) Wherever practicable the operations of a small business investment company, including the generation of business, may be undertaken in cooperation with banks or other financial institutions, and any servicing or initial investigation required for loans or acquisitions of securities by the company under the provisions of this Act may be handled through such banks or other financial institutions on a fee basis. Any small business investment company may receive fees for services rendered to banks or other financial institutions.

(b) Each small business investment company may make use, wherever practicable, of the advisory services of the Federal Reserve System and of the Department of Commerce which are available for and useful to industrial and commercial businesses, and may provide consulting and advisory services on a fee basis and have on its staff persons competent to provide such services. Any Federal Reserve bank is authorized to act as a depository or fiscal agent for any company organized under this Act. Such companies may invest funds not reasonably needed for their current operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States.

Advisory services.

(c) The Administration is authorized to prescribe regulations governing the operations of small business investment companies, and to carry out the provisions of this Act, in accordance with the purposes of this Act. Each small business investment company shall be subject to examinations made by direction of the Administration by examiners selected or approved by the Administration, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Administration be assessed against the company examined and when so assessed shall be paid by such company. Every such company shall make such reports to the Administration at such times and in such form as the Administration may require; except that the Administration is authorized to exempt from making such reports any such company which is registered under the Investment Company Act of 1940 to the extent necessary to avoid duplication in reporting requirements.

Examinations, etc.

54 Stat. 789.
15 USC 80a-51.

(d) Should any small business investment company violate or fail to comply with any of the provisions of this Act or of regulations prescribed hereunder, all of its rights, privileges, and franchises derived therefrom may thereby be forfeited. Before any such company shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with or violation of this Act shall be determined and adjudged by a court of the United States of competent jurisdiction in a suit brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of such company is located. Any such suit shall be brought by the United States at the instance of the Administration or the Attorney General.

Noncompliance.

(e) Whenever in the judgment of the Administration any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act or of any regulation thereunder, the Administration may make application to the proper district court of the United States, or a United States court of any Territory or other place subject to the jurisdiction of the United States, for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, or regulation, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

Restraining orders.

(f) Any small business investment company may at any time within the two years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Administration for approval to extend the period of its corporate existence for a term of not more than thirty years, and upon approval of the Administration, as provided in section 301 hereof, such company shall have its corporate existence extended for such approved period unless sooner dissolved by the act

Corporate extension.

of the shareholders owning two-thirds of its stock, or by an Act of Congress, or unless its franchise becomes forfeited as herein provided.

(g) Nothing in this Act or in any other provision of law shall be deemed to impose any liability on the United States with respect to any obligations entered into, or stocks issued, or commitments made, by any company organized under this Act.

APPROVING STATE CHARTERED COMPANIES FOR OPERATIONS UNDER
THIS ACT

SEC. 309. Any investment company chartered under the laws of any State expressly for the purpose of operating under this Act may with the approval of the Administrator be permitted to operate under the provisions of this Act. Such approval shall be given with due regard to the factors specified in section 301 (c) with respect to organization of small business investment companies.

TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

SEC. 401. (a) Prior to July 1, 1961, any investment company or any State development company may, by the vote of the shareholders owning not less than 51 percent of the capital stock of such company, with the approval of the Administration, be converted into a small business investment company under this Act; except that nothing contained herein shall be construed to supersede the laws of any State.

(b) In such case the articles of association and organization certificate may be executed by a majority of the directors of the corporation, and the certificate shall declare that the owners of 51 percent of the capital stock have authorized the directors to make such certificate and to change or convert the corporation into a small business investment company. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a small business investment company. The shares of any such company may continue to be for the same amount each as they were before the conversion, and the directors, regardless of number, may continue to be directors of the corporation until the election of the board of directors is held in accordance with regulations of the Administration.

(c) When the Administration has given to such company a certificate that the provisions of this Act have been complied with, such company shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as are prescribed by this Act for companies originally organized as small business investment companies.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

SEC. 501. (a) The Administration is authorized to make loans to State development companies to assist in carrying out the purposes of this Act. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State development company shall not exceed the total amount borrowed by it from all other sources. Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this Act, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator.

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to \$250,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding ten years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

(6) No loan shall be made under this section to any local development company after June 30, 1961.

TITLE VI—CHANGES IN FEDERAL RESERVE AUTHORITY

REPEAL OF SECTION 13b OF THE FEDERAL RESERVE ACT

SEC. 601. Effective one year after the date of enactment of this Act, section 13b of the Federal Reserve Act (12 U. S. C. 352a) is hereby repealed; but such repeal shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under that section.

FUND FOR MANAGEMENT COUNSELING

SEC. 602. (a) Within sixty days after the enactment of this Act, each Federal Reserve bank shall pay to the United States the aggregate amount which the Secretary of the Treasury has heretofore paid to such bank under the provisions of section 13b of the Federal Reserve Act; and such payment shall constitute a full discharge of any obligation or liability of the Federal Reserve bank to the United States or to the Secretary of the Treasury arising out of subsection (e) of said section 13b or out of any agreement thereunder.

(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into a special fund in the Treasury which shall be available for grants under section 7 (d) of the Small Business Act. Any remaining balance of funds set aside in the Treasury for payments under section 13b of the Federal Reserve Act shall be covered into the Treasury as miscellaneous receipts.

(c) Section 7 of the Small Business Act is amended by adding at the end thereof a new subsection as follows:

“(d) The Administration also is empowered to make grants to any State government, or any agency thereof, State chartered development credit or finance corporations, land-grant colleges and universities, and colleges and schools of business, engineering, commerce, or agriculture for studies, research, and counseling concerning the managing, financing, and operation of small-business enterprises and technical and statistical information necessary thereto in order to carry out the purposes of section 8 (b) (1) by coordinating such information with existing information facilities within the State and by making such information available to State and local agencies. Only one such grant shall be made within any one State in any one year, and no such grant shall exceed an aggregate amount of \$40,000. Such grants shall be made from the fund established in the Treasury by section 602 (b) of the Small Business Investment Act of 1958.”

TITLE VII—CRIMINAL PENALTIES

SEC. 701. (a) The first paragraph of section 217 of title 18, United States Code, is amended by inserting after “farm credit examiner,” the following: “or of any small business investment company,”.

(b) Section 218 of such title is amended by inserting after “National Agricultural Credit Corporations,” the following: “or an examiner of small business investment companies,”.

SEC. 702. (a) The first paragraph of section 221 of title 18, United States Code, is amended by inserting after “United States,” the following: “or a small business investment company,”.

(b) The second paragraph of such section 221 is amended by inserting after “Congress,” the following: “or any small business investment company,”.

(c) The heading of such section 221 is amended by striking out “farm loan or land bank” and inserting in lieu thereof “farm loan, land bank, or small business”.

(d) The table of sections for chapter 11 of such title 18 is amended by striking out “farm loan or land bank” in the reference to section 221 and inserting in lieu thereof “farm loan, land bank, or small business”.

SEC. 703. Section 657 of title 18, United States Code, is amended by inserting after “Federal Savings and Loan Insurance Corporation,” the following: “or any small business investment company,”.

SEC. 704. Section 1006 of title 18, United States Code, is amended by inserting after “Federal Savings and Loan Insurance Corporation,” the following: “or any small business investment company,”.

48 Stat. 1105.
12 USC 352a.

Infra.

12 USC 352a.

62 Stat. 694.

62 Stat. 695.

62 Stat. 695.

18 USC prec.
201.

62 Stat. 729.

62 Stat. 750.

SEC. 705. Section 1014 of title 18, United States Code, is amended by inserting after "a Federal Reserve bank," the following: "or of a small business investment company,".

Approved August 21, 1958.

62 Stat. 752.

Public Law 85-700

AN ACT

To amend section 245 of the Immigration and Nationality Act, and for other purposes.

August 21, 1958
[H. R. 13451]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 245 of the Immigration and Nationality Act (66 Stat. 217) be amended to read as follows:

Aliens.
Permanent resi-
dence.
8 USC 1255.

"SEC. 245. (a) The status of an alien who was admitted to the United States as a bona fide nonimmigrant may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, (3) an immigrant visa was immediately available to him at the time of his application, and (4) an immigrant visa is immediately available to him at the time his application is approved. A quota immigrant visa shall be considered immediately available for the purposes of this subsection only if the portion of the quota to which the alien is chargeable is under-subscribed by applicants registered on a consular waiting list.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the quota of the quota area to which the alien is chargeable under section 202 for the fiscal year current at the time such adjustment is made.

8 USC 1152.

"(c) The provisions of this section shall not be applicable to any alien who is a native of any country contiguous to the United States, or of any adjacent island named in section 101 (b) (5)."

8 USC 1101.

SEC. 2. The Act of September 11, 1957 (71 Stat. 639), is hereby amended by inserting after section 12 the following additional section 12A:

8 USC 1153 note.

"SEC. 12A. Any alien eligible for quota immigrant status under the provisions of section 203 (a) (1) of the Immigration and Nationality Act on the basis of a petition approved by the Attorney General prior to July 1, 1958, shall be held to be a nonquota immigrant and shall be issued a nonquota immigrant visa: *Provided*, That upon his application for an immigrant visa and for admission to the United States the alien is found to have retained his status as established in the approved petition. This section shall be applicable only to aliens admissible to the United States except for the fact that an immigrant visa is not promptly available for issuance to them because the quota of the quota area to which they are chargeable is over-subscribed."

Immigrant visas.
8 USC 1153.

Approved August 21, 1958.