

105TH CONGRESS  
1ST SESSION

# H. R. 1734

To amend the Small Business Investment Act of 1958, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1997

Mr. LAFALCE (for himself, Mr. SISISKY, and Mr. WEYGAND) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Investment Act of 1958, 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       That this Act may be cited as the “Certified Development  
4       Company Enhancement and Improvement Act of 1997”.

5       SEC. 2. Section 20 of the Small Business Act (15  
6       U.S.C. 631 note) is amended by inserting the following  
7       new subsection:

1       “(r) The following program levels are authorized in  
2       financings as provided in section 7(a)(13) and section 504  
3       of the Small Business Investment Act of 1958:

4               “(1) \$3,000,000,000 for fiscal year 1998;

5               “(2) \$3,500,000,000 for fiscal year 1999; and

6               “(3) \$4,500,000,000 for fiscal year 2000.”.

7       SEC. 3. Section 503 of the Small Business Invest-  
8       ment Act of 1958 (15 U.S.C. 697) is amended—

9               (1) by striking subsection (b)(7)(A) and insert-  
10       ing the following:

11               “(A) assesses and collects a fee, which  
12       shall be payable by the borrower, in an amount  
13       equal to 0.9375 percent per year of the out-  
14       standing balance of the loan; and”;

15               (2) by striking from subsection (d)(2) “equal to  
16       50 basis points” and inserting “equal to not more  
17       than 50 basis points,”;

18               (3) by adding the following at the end of sub-  
19       section (d)(2): “The amount of the fee authorized  
20       herein shall be established annually by the Adminis-  
21       tration in the minimal amount necessary to reduce  
22       the cost (as that term is defined in section 502 of  
23       the Federal Credit Reform Act of 1990) to the Ad-  
24       ministration of purchasing and guaranteeing deben-  
25       tures under this Act to zero.”; and

1           (4) by striking from subsection (f) “1997” and  
2           inserting “2000”.

3           SEC. 4. Section 508(a) of the Small Business Invest-  
4           ment Act of 1958 (15 U.S.C. 697e(a)) is amended by  
5           striking “not more than 15”.

6           SEC. 5. Section 508(b)(2) of the Small Business In-  
7           vestment Act of 1958 (15 U.S.C. 697e(b)(2)) is amended  
8           by striking paragraphs (A) and (B) and inserting:

9                   “(A) is an active certified development  
10           company in good standing and has been an ac-  
11           tive participant in the accredited lenders pro-  
12           gram during the entire 12-month period preced-  
13           ing the date on which the company submits an  
14           application under paragraph (1), except that  
15           the Administration may waive this requirement  
16           if the company is qualified to participate in the  
17           accredited lenders program;

18                   “(B) has a history (i) of submitting to the  
19           Administration adequately analyzed debenture  
20           guarantee application packages and (ii) of prop-  
21           erly closing section 504 loans and servicing its  
22           loan portfolio; and”.

23           SEC. 6. Section 508(c) of the Small Business Invest-  
24           ment Act of 1958 (15 U.S.C. 697e(c)) is amended to read  
25           as follows:

1 “(c) LOSS RESERVE.—

2 “(1) ESTABLISHMENT.—A company designated  
3 as a premier certified lender shall establish a loss re-  
4 serve for financing approved pursuant to this sec-  
5 tion.

6 “(2) AMOUNT.—The amount of the loss reserve  
7 shall be equal to 10 percent of the amount of the  
8 company’s exposure as determined under subsection  
9 (b)(2)(C).

10 “(3) ASSETS.—The loss reserve shall be com-  
11 prised of any combination of the following types of  
12 assets:

13 “(A) segregated funds on deposit in an ac-  
14 count or accounts with a federally insured de-  
15 pository institution or institutions selected by  
16 the company, subject to a collateral assignment  
17 in favor of, and in a format acceptable to, the  
18 Administration; or

19 “(B) irrevocable letter or letters of credit,  
20 with a collateral assignment in favor of, and a  
21 commercially reasonable format acceptable to,  
22 the Administration.

23 “(4) CONTRIBUTIONS.—The company shall  
24 make contributions to the loss reserve, either cash or

1 letters of credit as provided above, in the following  
2 amounts and at the following intervals:

3 “(A) 50 percent when a debenture is  
4 closed;

5 “(B) 25 percent additional not later than  
6 1 year after a debenture is closed; and

7 “(C) 25 percent additional not later than  
8 2 years after a debenture is closed.

9 “(5) REPLENISHMENT.—If a loss has been sus-  
10 tained by the Administration, any portion of the loss  
11 reserve, and other funds provided by the premier  
12 company as necessary, may be used to reimburse the  
13 Administration for the company’s 10 percent share  
14 of the loss as provided in subsection (b)(2)(C). If the  
15 company utilizes the reserve, within 30 days it shall  
16 replace an equivalent amount of funds.

17 “(6) DISBURSEMENTS.—The Administration  
18 shall allow the certified development company to  
19 withdraw from the loss reserve amounts attributable  
20 to any debenture which has been repaid.”.

21 SEC. 7. Section 508 of the Small Business Invest-  
22 ment Act of 1958 (15 U.S.C. 697e) is amended by insert-  
23 ing the following after subsection (d) and by redesignating  
24 subsections (e) to (i) as (f) to (j):

1       “(e) PROGRAM GOALS.—Certified development com-  
 2 panies participating in this program shall establish a goal  
 3 of processing a minimum of at least 50 percent of their  
 4 loan applications for section 504 assistance pursuant to  
 5 the premier certified lender program authorized in this  
 6 section.”.

7       SEC. 8. Section 508(g) of the Small Business Invest-  
 8 ment Act of 1958 (15 U.S.C. 697(g)), as redesignated  
 9 herein, is amended by striking “State or local” and insert-  
 10 ing “certified”.

11       SEC. 9. Section 508(h) of the Small Business Invest-  
 12 ment Act of 1958 (15 U.S.C. 697e(h)), as redesignated  
 13 herein, is amended—

14               (1) by striking “EFFECT OF SUSPENSION  
 15 OR DESIGNATION” and inserting “EFFECT OF  
 16 SUSPENSION OR REVOCATION”; and

17               (2) by striking “under subsection (f)” and in-  
 18 serting “under subsection (g)”.

19       SEC. 10. Section 508(i) of the Small Business Invest-  
 20 ment Act of 1958 (15 U.S.C. 697e(i)), as redesignated  
 21 herein, is amended to read as follows:

22               “(i) REGULATIONS.—Not later than 90  
 23 days after the date of enactment of this section,  
 24 the Administration shall promulgate regulations  
 25 to carry out this section. Not later than 120

1           days after the date of enactment, the Adminis-  
2           tration shall issue program guidelines and im-  
3           plement the changes made herein.”.

4       SEC. 11. Section 508(j) of the Small Business Invest-  
5   ment Act of 1958 (15 U.S.C. 697e(j)), as redesignated  
6   herein, is amended by striking “other lenders” and insert-  
7   ing “other lenders, specifically comparing default rates  
8   and recovery rates on liquidations”.

9       SEC. 12. Section 217(b) of Public Law 103–403 (108  
10 Stat. 4185) is repealed.

11       SEC. 13. Section 508(d) of the Small Business In-  
12 vestment Act of 1958 (15 U.S.C. 697e(d)) is amended by  
13 striking “to approve loans” and inserting “to approve, au-  
14 thorize, close, service, and liquidate loans”.

15       SEC. 14. Section 502(1) of the Small Business In-  
16 vestment Act of 1958 (15 U.S.C. 696(1)) is amended to  
17 read as follows:

18           “(1) The proceeds of any such loan shall be  
19       used solely by such borrower or borrowers to assist  
20       an identifiable small-business or businesses and for  
21       a sound business purpose approved by the Adminis-  
22       tration.”.

23       SEC. 15. Section 502 of the Small Business Invest-  
24 ment Act of 1958 (15 U.S.C. 696) is amended by adding  
25 the following new subsection:

1           “(5) Not to exceed 25 per centum of the project  
2           may be leased by the assisted small business: *Pro-*  
3           *vided*, That the tenant is a small business concern:  
4           *And provided further*, That the assisted small busi-  
5           ness shall be required to occupy and use not less  
6           than 55 per centum of the space in the project after  
7           the execution of any leases authorized in this sec-  
8           tion.”.

9           SEC. 16. Section 502(3) of the Small Business In-  
10          vestment Act of 1958 (15 U.S.C. 696(3)) is amended by  
11          inserting the following new paragraphs:

12                       “(D) SELLER FINANCING.—Seller provided  
13                       financing may be used to meet the requirements  
14                       of—

15                               “(i) paragraph (B), if the seller subor-  
16                               dinates his interest in the property to the  
17                               debenture guaranteed by the Administra-  
18                               tion; and

19                               “(ii) not to exceed 50 percent of the  
20                               amounts required by paragraph (C).

21                       “(E) COLLATERAL REQUIREMENTS.—Col-  
22                       lateral provided by the small business concern  
23                       shall be valued in an amount estimated as the  
24                       reasonable value of the property by a willing  
25                       buyer and a willing seller and shall include



1           property not a part of the project being fi-  
2           nanced only if the Administration determines to  
3           impose such a requirement on a case-by-case  
4           basis.”.

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