

***In the Senate of the United States,***

*June 14, 2000.*

*Resolved*, That the bill from the House of Representatives (H.R. 2614) entitled “An Act to amend the Small Business Investment Act to make improvements to the certified development company program, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2       *This Act may be cited as the “Certified Development*  
3 *Company Program Improvements Act of 2000”.*

4 ***SEC. 2. WOMEN-OWNED BUSINESSES.***

5       *Section 501(d)(3)(C) of the Small Business Investment*  
6 *Act of 1958 (15 U.S.C. 695(d)(3)(C)) is amended by insert-*  
7 *ing before the comma “or women-owned business develop-*  
8 *ment”.*

1 **SEC. 3. MAXIMUM DEBENTURE SIZE.**

2 *Section 502(2) of the Small Business Investment Act*  
 3 *of 1958 (15 U.S.C. 696(2)) is amended to read as follows:*

4 “(2) *LOAN LIMITS.*—*Loans made by the Admin-*  
 5 *istration under this section shall be limited to*  
 6 *\$1,000,000 for each such identifiable small business*  
 7 *concern, other than loans meeting the criteria speci-*  
 8 *fied in section 501(d)(3), which shall be limited to*  
 9 *\$1,300,000 for each such identifiable small business*  
 10 *concern.*”.

11 **SEC. 4. FEES.**

12 *Section 503(f) of the Small Business Investment Act*  
 13 *of 1958 (15 U.S.C. 697(f)) is amended to read as follows:*

14 “(f) *EFFECTIVE DATE.*—*The fees authorized by sub-*  
 15 *sections (b) and (d) shall apply to any financing approved*  
 16 *by the Administration during the period beginning on Octo-*  
 17 *ber 1, 1996 and ending on September 30, 2003.*”.

18 **SEC. 5. PREMIER CERTIFIED LENDERS PROGRAM.**

19 *Section 217(b) of the Small Business Administration*  
 20 *Reauthorization and Amendments Act of 1994 (15 U.S.C.*  
 21 *697e note) is repealed.*

22 **SEC. 6. SALE OF CERTAIN DEFAULTED LOANS.**

23 *Section 508 of the Small Business Investment Act of*  
 24 *1958 (15 U.S.C. 697e) is amended—*

25 (1) *in subsection (a), by striking “On a pilot*  
 26 *program basis, the” and inserting “The”;*

1           (2) *by redesignating subsections (d) through (i) as*  
 2           *subsections (e) through (j), respectively;*

3           (3) *in subsection (f) (as redesignated by para-*  
 4           *graph (2)), by striking “subsection (f)” and inserting*  
 5           *“subsection (g)”;*

6           (4) *in subsection (h) (as redesignated by para-*  
 7           *graph (2)), by striking “subsection (f)” and inserting*  
 8           *“subsection (g)”;* and

9           (5) *by inserting after subsection (c) the fol-*  
 10          *lowing:*

11          “(d) *SALE OF CERTAIN DEFAULTED LOANS.—*

12           “(1) *NOTICE.—*

13                   “(A) *IN GENERAL.—If, upon default in re-*  
 14                   *payment, the Administration acquires a loan*  
 15                   *guaranteed under this section and identifies such*  
 16                   *loan for inclusion in a bulk asset sale of de-*  
 17                   *faulted or repurchased loans or other financings,*  
 18                   *the Administration shall give prior notice thereof*  
 19                   *to any certified development company that has a*  
 20                   *contingent liability under this section.*

21                   “(B) *TIMING.—The notice required by sub-*  
 22                   *paragraph (A) shall be given to the certified de-*  
 23                   *velopment company as soon as possible after the*  
 24                   *financing is identified, but not later than 90*  
 25                   *days before the date on which the Administration*

1       *first makes any record on such financing avail-*  
 2       *able for examination by prospective purchasers*  
 3       *prior to its offering in a package of loans for*  
 4       *bulk sale.*

5       “(2) *LIMITATIONS.—The Administration may*  
 6       *not offer any loan described in paragraph (1)(A) as*  
 7       *part of a bulk sale, unless the Administration—*

8               “(A) *provides prospective purchasers with*  
 9               *the opportunity to examine the records of the Ad-*  
 10              *ministration with respect to such loan; and*

11              “(B) *provides the notice required by para-*  
 12              *graph (1).”.*

13   **SEC. 7. LOAN LIQUIDATION.**

14       “(a) *LIQUIDATION AND FORECLOSURE.—Title V of the*  
 15       *Small Business Investment Act of 1958 (15 U.S.C. 695 et*  
 16       *seq.) is amended by adding at the end the following:*

17   **“SEC. 510. FORECLOSURE AND LIQUIDATION OF LOANS.**

18       “(a) *DELEGATION OF AUTHORITY.—In accordance*  
 19       *with this section, the Administration shall delegate to any*  
 20       *qualified State or local development company (as defined*  
 21       *in section 503(e)) that meets the eligibility requirements of*  
 22       *subsection (b)(1) of this section the authority to foreclose*  
 23       *and liquidate, or to otherwise treat in accordance with this*  
 24       *section, defaulted loans in its portfolio that are funded with*

1 *the proceeds of debentures guaranteed by the Administra-*  
2 *tion under section 503.*

3 “(b) *ELIGIBILITY FOR DELEGATION.*—

4 “(1) *REQUIREMENTS.*—*A qualified State or local*  
5 *development company shall be eligible for a delegation*  
6 *of authority under subsection (a) if—*

7 “(A) *the company—*

8 “(i) *has participated in the loan liq-*  
9 *uidation pilot program established by the*  
10 *Small Business Programs Improvement Act*  
11 *of 1996 (15 U.S.C. 695 note), as in effect on*  
12 *the day before the date of issuance of final*  
13 *regulations by the Administration imple-*  
14 *menting this section;*

15 “(ii) *is participating in the Premier*  
16 *Certified Lenders Program under section*  
17 *508; or*

18 “(iii) *during the 3 fiscal years imme-*  
19 *diately prior to seeking such a delegation,*  
20 *has made an average of not fewer than 10*  
21 *loans per year that are funded with the pro-*  
22 *ceeds of debentures guaranteed under section*  
23 *503; and*

24 “(B) *the company—*

25 “(i) *has 1 or more employees—*

1                   “(I) with not less than 2 years of  
2                   substantive, decision-making experience  
3                   in administering the liquidation and  
4                   workout of problem loans secured in a  
5                   manner substantially similar to loans  
6                   funded with the proceeds of debentures  
7                   guaranteed under section 503; and

8                   “(II) who have completed a train-  
9                   ing program on loan liquidation devel-  
10                  oped by the Administration in con-  
11                  junction with qualified State and local  
12                  development companies that meet the  
13                  requirements of this paragraph; or

14                  “(ii) submits to the Administration  
15                  documentation demonstrating that the com-  
16                  pany has contracted with a qualified third-  
17                  party to perform any liquidation activities  
18                  and secures the approval of the contract by  
19                  the Administration with respect to the  
20                  qualifications of the contractor and the  
21                  terms and conditions of liquidation activi-  
22                  ties.

23                  “(2) CONFIRMATION.—On request, the Adminis-  
24                  tration shall examine the qualifications of any com-  
25                  pany described in subsection (a) to determine if such

1      *company is eligible for the delegation of authority*  
 2      *under this section. If the Administration determines*  
 3      *that a company is not eligible, the Administration*  
 4      *shall provide the company with the reasons for such*  
 5      *ineligibility.*

6      “(c) *SCOPE OF DELEGATED AUTHORITY.*—

7            “(1) *IN GENERAL.*—*Each qualified State or local*  
 8      *development company to which the Administration*  
 9      *delegates authority under subsection (a) may, with re-*  
 10     *spect to any loan described in subsection (a)—*

11            “(A) *perform all liquidation and foreclosure*  
 12      *functions, including the purchase in accordance*  
 13      *with this subsection of any other indebtedness se-*  
 14      *cured by the property securing the loan, in a*  
 15      *reasonable and sound manner, according to com-*  
 16      *mercially accepted practices, pursuant to a liq-*  
 17      *uidation plan approved in advance by the Ad-*  
 18      *ministration under paragraph (2)(A);*

19            “(B) *litigate any matter relating to the per-*  
 20      *formance of the functions described in subpara-*  
 21      *graph (A), except that the Administration*  
 22      *may—*

23            “(i) *defend or bring any claim if—*

24            “(I) *the outcome of the litigation*  
 25      *may adversely affect management by*

1           *the Administration of the loan pro-*  
2           *gram established under section 502; or*

3           “(II) *the Administration is enti-*  
4           *tled to legal remedies not available to*  
5           *a qualified State or local development*  
6           *company, and such remedies will ben-*  
7           *efit either the Administration or the*  
8           *qualified State or local development*  
9           *company; or*

10          “(ii) *oversee the conduct of any such*  
11          *litigation; and*

12          “(C) *take other appropriate actions to miti-*  
13          *gate loan losses in lieu of total liquidation or*  
14          *foreclosure, including the restructuring of a loan*  
15          *in accordance with prudent loan servicing prac-*  
16          *tices and pursuant to a workout plan approved*  
17          *in advance by the Administration under para-*  
18          *graph (2)(C).*

19          “(2) *ADMINISTRATION APPROVAL.—*

20          “(A) *LIQUIDATION PLAN.—*

21          “(i) *IN GENERAL.—Before carrying out*  
22          *functions described in paragraph (1)(A), a*  
23          *qualified State or local development com-*  
24          *pany shall submit to the Administration a*  
25          *proposed liquidation plan.*



1                   “(ii) *ADMINISTRATION ACTION ON*  
2                   *PLAN.*—

3                   “(I) *TIMING.*—*Not later than 15*  
4                   *business days after a liquidation plan*  
5                   *is received by the Administration*  
6                   *under clause (i), the Administration*  
7                   *shall approve or reject the plan.*

8                   “(II) *NOTICE OF NO DECISION.*—  
9                   *With respect to any liquidation plan*  
10                  *that cannot be approved or denied*  
11                  *within the 15-day period required by*  
12                  *subclause (I), the Administration shall,*  
13                  *during such period, provide notice in*  
14                  *accordance with subparagraph (E) to*  
15                  *the company that submitted the plan.*

16                  “(iii) *ROUTINE ACTIONS.*—*In carrying*  
17                  *out functions described in paragraph*  
18                  *(1)(A), a qualified State or local develop-*  
19                  *ment company may undertake any routine*  
20                  *action not addressed in a liquidation plan*  
21                  *without obtaining additional approval from*  
22                  *the Administration.*

23                  “(B) *PURCHASE OF INDEBTEDNESS.*—

24                  “(i) *IN GENERAL.*—*In carrying out*  
25                  *functions described in paragraph (1)(A), a*

1           *qualified State or local development com-*  
2           *pany shall submit to the Administration a*  
3           *request for written approval before commit-*  
4           *ting the Administration to the purchase of*  
5           *any other indebtedness secured by the prop-*  
6           *erty securing a defaulted loan.*

7           “(ii) *ADMINISTRATION ACTION ON RE-*  
8           *QUEST.—*

9                     “(I) *TIMING.—Not later than 15*  
10           *business days after receiving a request*  
11           *under clause (i), the Administration*  
12           *shall approve or deny the request.*

13                    “(II) *NOTICE OF NO DECISION.—*  
14           *With respect to any request that cannot*  
15           *be approved or denied within the 15-*  
16           *day period required by subclause (I),*  
17           *the Administration shall, during such*  
18           *period, provide notice in accordance*  
19           *with subparagraph (E) to the company*  
20           *that submitted the request.*

21           “(C) *WORKOUT PLAN.—*

22                     “(i) *IN GENERAL.—In carrying out*  
23           *functions described in paragraph (1)(C), a*  
24           *qualified State or local development com-*

pany shall submit to the Administration a proposed workout plan.

“(ii) ADMINISTRATION ACTION ON PLAN.—

“(I) TIMING.—Not later than 15 business days after a workout plan is received by the Administration under clause (i), the Administration shall approve or reject the plan.

“(II) NOTICE OF NO DECISION.—With respect to any workout plan that cannot be approved or denied within the 15-day period required by subclause (I), the Administration shall, during such period, provide notice in accordance with subparagraph (E) to the company that submitted the plan.

“(D) COMPROMISE OF INDEBTEDNESS.—In carrying out functions described in paragraph (1)(A), a qualified State or local development company may—

“(i) consider an offer made by an obligor to compromise the debt for less than the full amount owing; and

1                   “(ii) pursuant to such an offer, release  
 2                   any obligor or other party contingently lia-  
 3                   ble, if the company secures the written ap-  
 4                   proval of the Administration.

5                   “(E) CONTENTS OF NOTICE OF NO DECI-  
 6                   SION.—Any notice provided by the Administra-  
 7                   tion under subparagraph (A)(ii)(II), (B)(ii)(II),  
 8                   or (C)(ii)(II)—

9                   “(i) shall be in writing;

10                  “(ii) shall state the specific reason for  
 11                  the inability of the Administration to act  
 12                  on the subject plan or request;

13                  “(iii) shall include an estimate of the  
 14                  additional time required by the Administra-  
 15                  tion to act on the plan or request; and

16                  “(iv) if the Administration cannot act  
 17                  because insufficient information or docu-  
 18                  mentation was provided by the company  
 19                  submitting the plan or request, shall specify  
 20                  the nature of such additional information  
 21                  or documentation.

22                  “(3) CONFLICT OF INTEREST.—In carrying out  
 23                  functions described in paragraph (1), a qualified  
 24                  State or local development company shall take no ac-  
 25                  tion that would result in an actual or apparent con-

1     *conflict of interest between the company (or any em-*  
 2     *ployee of the company) and any third party lender*  
 3     *(or any associate of a third party lender) or any*  
 4     *other person participating in a liquidation, fore-*  
 5     *closure, or loss mitigation action.*

6     “(d) *SUSPENSION OR REVOCATION OF AUTHORITY.—*  
 7     *The Administration may revoke or suspend a delegation of*  
 8     *authority under this section to any qualified State or local*  
 9     *development company, if the Administration determines*  
 10    *that the company—*

11             *“(1) does not meet the requirements of subsection*  
 12             *(b)(1);*

13             *“(2) has violated any applicable rule or regula-*  
 14             *tion of the Administration or any other applicable*  
 15             *provision of law; or*

16             *“(3) has failed to comply with any reporting re-*  
 17             *quirement that may be established by the Administra-*  
 18             *tion relating to carrying out functions described in*  
 19             *subsection (c)(1).*

20     “(e) *REPORT.—*

21             *“(1) IN GENERAL.—Based on information pro-*  
 22             *vided by qualified State and local development com-*  
 23             *panies and the Administration, the Administration*  
 24             *shall annually submit to the Committees on Small*  
 25             *Business of the House of Representatives and the Sen-*

1        *ate a report on the results of delegation of authority*  
2        *under this section.*

3                “(2) *CONTENTS.—Each report submitted under*  
4        *paragraph (1) shall include—*

5                “(A) *with respect to each loan foreclosed or*  
6        *liquidated by a qualified State or local develop-*  
7        *ment company under this section, or for which*  
8        *losses were otherwise mitigated by the company*  
9        *pursuant to a workout plan under this section—*

10               “(i) *the total cost of the project fi-*  
11        *nanced with the loan;*

12               “(ii) *the total original dollar amount*  
13        *guaranteed by the Administration;*

14               “(iii) *the total dollar amount of the*  
15        *loan at the time of liquidation, foreclosure,*  
16        *or mitigation of loss;*

17               “(iv) *the total dollar losses resulting*  
18        *from the liquidation, foreclosure, or mitiga-*  
19        *tion of loss; and*

20               “(v) *the total recoveries resulting from*  
21        *the liquidation, foreclosure, or mitigation of*  
22        *loss, both as a percentage of the amount*  
23        *guaranteed and the total cost of the project*  
24        *financed;*

1           “(B) with respect to each qualified State or  
2           local development company to which authority is  
3           delegated under this section, the totals of each of  
4           the amounts described in clauses (i) through (v)  
5           of subparagraph (A);

6           “(C) with respect to all loans subject to fore-  
7           closure, liquidation, or mitigation under this sec-  
8           tion, the totals of each of the amounts described  
9           in clauses (i) through (v) of subparagraph (A);

10          “(D) a comparison between—

11               “(i) the information provided under  
12               subparagraph (C) with respect to the 12-  
13               month period preceding the date on which  
14               the report is submitted; and

15               “(ii) the same information with respect  
16               to loans foreclosed and liquidated, or other-  
17               wise treated, by the Administration during  
18               the same period; and

19          “(E) the number of times that the Adminis-  
20          tration has failed to approve or reject a liquida-  
21          tion plan in accordance with subsection  
22          (c)(2)(A) or a workout plan in accordance with  
23          subsection (c)(2)(C), or to approve or deny a re-  
24          quest for purchase of indebtedness under sub-  
25          section (c)(2)(B), including specific information

1           *regarding the reasons for the failure of the Ad-*  
 2           *ministration and any delay that resulted.”.*

3           ***(b) REGULATIONS.—***

4           ***(1) IN GENERAL.—****Not later than 150 days after*  
 5           *the date of enactment of this Act, the Administrator*  
 6           *shall issue such regulations as may be necessary to*  
 7           *carry out section 510 of the Small Business Invest-*  
 8           *ment Act of 1958, as added by subsection (a) of this*  
 9           *section.*

10           ***(2) TERMINATION OF PILOT PROGRAM.—****Effective*  
 11           *on the date on which final regulations are issued*  
 12           *under paragraph (1), section 204 of the Small Busi-*  
 13           *ness Programs Improvement Act of 1996 (15 U.S.C.*  
 14           *695 note) is repealed.*

15   **SEC. 8. FUNDING LEVELS FOR CERTAIN FINANCINGS**  
 16                   **UNDER THE SMALL BUSINESS INVESTMENT**  
 17                   **ACT OF 1958.**

18           *Section 20 of the Small Business Act (15 U.S.C. 631*  
 19           *note) is amended by adding at the end the following:*

20           ***“(g) PROGRAM LEVELS FOR CERTAIN SMALL BUSI-***  
 21           ***NESS INVESTMENT ACT OF 1958 FINANCINGS.—****The fol-*  
 22           *lowing program levels are authorized for financings under*  
 23           *section 504 of the Small Business Investment Act of 1958:*

24                   ***“(1) \$4,000,000,000 for fiscal year 2001.***

25                   ***“(2) \$5,000,000,000 for fiscal year 2002.***



1 “(3) \$6,000,000,000 for fiscal year 2003.”.

2 **SEC. 9. TIMELY ACTION ON APPLICATIONS.**

3 (a) *AUTOMATIC APPROVAL OF PENDING APPLICA-*  
 4 *TIONS.*—An application by a State or local development  
 5 company to expand its operations under title V of the Small  
 6 Business Investment Act of 1958 into another territory,  
 7 county, or State that is pending on the date of enactment  
 8 of this Act and that was submitted to the Administration  
 9 12 months or more before that date of enactment shall be  
 10 deemed to be approved beginning 21 days after that date  
 11 of enactment, unless the Administration has taken final ac-  
 12 tion to approve or deny the application before the end of  
 13 that 21-day period.

14 (b) *DEFINITIONS.*—In this section—

15 (1) the term “Administration” means the head-  
 16 quarters of the Small Business Administration; and

17 (2) the term “development company” has the  
 18 same meaning as in section 103 of the Small Business  
 19 Investment Act of 1958 (15 U.S.C. 662).

20 **SEC. 10. USE OF CERTAIN UNOBLIGATED AND UNEX-**  
 21 **PENDED FUNDS.**

22 (a) *TRANSFER OF FUNDS.*—Notwithstanding any  
 23 other provision of law, unobligated and unexpended bal-  
 24 ances of the funds described in subsection (b) are transferred  
 25 to and made available to the Small Business Administra-

1 *tion to fund the costs of guaranteed loans under section 7(a)*  
 2 *of the Small Business Act.*

3 (b) *SOURCES.—Funds described in this subsection*  
 4 *are—*

5 (1) *funds transferred to the Business Loan Pro-*  
 6 *gram Account of the Small Business Administration*  
 7 *from the Department of Defense under the Depart-*  
 8 *ment of Defense Appropriations Act, 1995 (Public*  
 9 *Law 103-335) and section 507(g) of the Small Busi-*  
 10 *ness Reauthorization Act of 1997 (15 U.S.C. 636*  
 11 *note) for the DELTA Program under that section*  
 12 *507; and*

13 (2) *funds previously made available under the*  
 14 *Omnibus Consolidated Rescissions and Appropria-*  
 15 *tions Act of 1996 (110 Stat. 1321 et seq.) and the*  
 16 *Omnibus Consolidated Appropriations Act, 1997 (110*  
 17 *Stat. 3009 et seq.) for the microloan guarantee pro-*  
 18 *gram under section 7(m) of the Small Business Act.*

19 **SEC. 11. HUBZONE REDESIGNATED AREAS.**

20 *Section 3(p) of the Small Business Act (15 U.S.C.*  
 21 *632(p)) is amended—*

22 (1) *in paragraph (1)—*

23 (A) *in subparagraph (B), by striking “or”*  
 24 *at the end;*

1                   (B) in subparagraph (C), by striking the  
2                   period at the end and inserting “; or”; and

3                   (C) by adding at the end the following:

4                   “(D) redesignated areas.”; and

5                   (2) in paragraph (4), by adding at the end the  
6                   following:

7                   “(C) *REDESIGNATED AREA*.—The term ‘re-  
8                   designated area’ means any census tract that  
9                   ceases to be qualified under subparagraph (A)  
10                  and any nonmetropolitan county that ceases to  
11                  be qualified under subparagraph (B), except that  
12                  a census tract or a nonmetropolitan county may  
13                  be a ‘redesignated area’ only for the 3-year pe-  
14                  riod following the date on which the census tract  
15                  or nonmetropolitan county ceased to be so quali-  
16                  fied.”.

Attest:

*Secretary.*



106TH CONGRESS  
2D SESSION

**H. R. 2614**

---

---

**AMENDMENT**

HR 2614 EAS—2

HR 2614 EAS—3

HR 2614 EAS—4

HR 2614 EAS—5