

H. Res. 533

In the House of Representatives, U.S.,

June 27, 2000.

Resolved, That upon the adoption of this resolution the House shall be considered to have taken from the Speaker's table the bill H.R. 2614, with the amendment of the Senate thereto, and to have concurred in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

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 Invest-
6 ment Act of 1958 (15 U.S.C. 695(d)(3)(C)) is amended
7 by inserting before the comma “or women-owned business
8 development”.

9 SEC. 3. MAXIMUM DEBENTURE SIZE.

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

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

8 **SEC. 4. FEES.**

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

11 “(f) EFFECTIVE DATE.—The fees authorized by sub-
 12 sections (b) and (d) shall apply to any financing approved
 13 by the Administration during the period beginning on Oc-
 14 tober 1, 1996 and ending on September 30, 2003.”.

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

16 Section 217(b) of the Small Business Administration
 17 Reauthorization and Amendments Act of 1994 (15 U.S.C.
 18 697e note) is repealed.

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

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

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

24 (2) by redesignating subsections (d) though (i)
 25 as subsections (e) though (j), respectively;

(3) in subsection (f) (as redesignated by paragraph (2)), by striking “subsection (f)” and inserting “subsection (g)”;

(4) in subsection (h) (as redesignated by paragraph (2)), by striking “subsection (f)” and inserting “subsection (g)”; and

(5) by inserting after subsection (c) the following:

“(d) SALE OF CERTAIN DEFAULTED LOANS.—

“(1) NOTICE.—

“(A) IN GENERAL.—If, upon default in repayment, the Administration acquires a loan guaranteed under this section and identifies such loan for inclusion in a bulk asset sale of defaulted or repurchased loans or other financings, the Administration shall give prior notice thereof to any certified development company that has a contingent liability under this section.

“(B) TIMING.—The notice required by subparagraph (A) shall be given to the certified development company as soon as possible after the financing is identified, but not later than 90 days before the date on which the Administration first makes any record on such financing

1 available for examination by prospective pur-
 2 chasers prior to its offering in a package of
 3 loans for bulk sale.

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

7 “(A) provides prospective purchasers with
 8 the opportunity to examine the records of the
 9 Administration with respect to such loan; and

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

12 **SEC. 7. LOAN LIQUIDATION.**

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

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
 22 of subsection (b)(1) of this section the authority to fore-
 23 close and liquidate, or to otherwise treat in accordance
 24 with this section, defaulted loans in its portfolio that are

1 funded with the proceeds of debentures guaranteed by the
2 Administration under section 503.

3 “(b) ELIGIBILITY FOR DELEGATION.—

4 “(1) REQUIREMENTS.—A qualified State or
5 local development company shall be eligible for a del-
6 egation 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
11 Act of 1996 (15 U.S.C. 695 note), as in
12 effect on the day before the date of
13 issuance of final regulations by the Admin-
14 istration implementing 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
22 proceeds of debentures guaranteed under
23 section 503; and

24 “(B) the company—

25 “(i) has one or more employees—

1 “(I) with not less than 2 years of
2 substantive, decision-making experi-
3 ence in administering the liquidation
4 and workout of problem loans secured
5 in a manner substantially similar to
6 loans funded with the proceeds of de-
7 bentures guaranteed under section
8 503; and

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

15 “(ii) submits to the Administration
16 documentation demonstrating that the
17 company has contracted with a qualified
18 third-party to perform any liquidation ac-
19 tivities and secures the approval of the
20 contract by the Administration with re-
21 spect to the qualifications of the contractor
22 and the terms and conditions of liquidation
23 activities.

24 “(2) CONFIRMATION.—On request, the Admin-
25 istration shall examine the qualifications of any com-

pany described in subsection (a) to determine if such company is eligible for the delegation of authority under this section. If the Administration determines that a company is not eligible, the Administration shall provide the company with the reasons for such ineligibility.

“(c) SCOPE OF DELEGATED AUTHORITY.—

“(1) IN GENERAL.—Each qualified State or local development company to which the Administration delegates authority under subsection (a) may, with respect to any loan described in subsection (a)—

“(A) perform all liquidation and foreclosure functions, including the purchase in accordance with this subsection of any other indebtedness secured by the property securing the loan, in a reasonable and sound manner, according to commercially accepted practices, pursuant to a liquidation plan approved in advance by the Administration under paragraph (2)(A);

“(B) litigate any matter relating to the performance of the functions described in subparagraph (A), except that the Administration may—

“(i) defend or bring any claim if—

1 “(I) the outcome of the litigation
 2 may adversely affect management by
 3 the Administration of the loan pro-
 4 gram established under section 502;
 5 or

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

13 “(ii) oversee the conduct of any such
 14 litigation; and

15 “(C) take other appropriate actions to
 16 mitigate loan losses in lieu of total liquidation
 17 or foreclosure, including the restructuring of a
 18 loan in accordance with prudent loan servicing
 19 practices and pursuant to a workout plan ap-
 20 proved in advance by the Administration under
 21 paragraph (2)(C).

22 “(2) ADMINISTRATION APPROVAL.—

23 “(A) LIQUIDATION PLAN.—

24 “(i) IN GENERAL.—Before carrying
 25 out functions described in paragraph

1 (1)(A), a qualified State or local develop-
2 ment company shall submit to the Admin-
3 istration a proposed liquidation plan.

4 “(ii) ADMINISTRATION ACTION ON
5 PLAN.—

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

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

20 “(iii) ROUTINE ACTIONS.—In carrying
21 out functions described in paragraph
22 (1)(A), a qualified State or local develop-
23 ment company may undertake any routine
24 action not addressed in a liquidation plan

1 without obtaining additional approval from
2 the Administration.

3 “(B) PURCHASE OF INDEBTEDNESS.—

4 “(i) IN GENERAL.—In carrying out
5 functions described in paragraph (1)(A), a
6 qualified State or local development com-
7 pany shall submit to the Administration a
8 request for written approval before com-
9 mitting the Administration to the purchase
10 of any other indebtedness secured by the
11 property securing a defaulted loan.

12 “(ii) ADMINISTRATION ACTION ON RE-
13 QUEST.—

14 “(I) TIMING.—Not later than 15
15 business days after receiving a request
16 under clause (i), the Administration
17 shall approve or deny the request.

18 “(II) NOTICE OF NO DECISION.—

19 With respect to any request that can-
20 not be approved or denied within the
21 15-day period required by subclause
22 (I), the Administration shall, during
23 such period, provide notice in accord-
24 ance with subparagraph (E) to the
25 company that submitted the request.

1 “(C) WORKOUT PLAN.—

2 “(i) IN GENERAL.—In carrying out
3 functions described in paragraph (1)(C), a
4 qualified State or local development com-
5 pany shall submit to the Administration a
6 proposed workout plan.

7 “(ii) ADMINISTRATION ACTION ON
8 PLAN.—

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

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

22 “(D) COMPROMISE OF INDEBTEDNESS.—
23 In carrying out functions described in para-
24 graph (1)(A), a qualified State or local develop-
25 ment company may—

1 “(i) consider an offer made by an obli-
2 gor to compromise the debt for less than
3 the full amount owing; and

4 “(ii) pursuant to such an offer, re-
5 lease any obligor or other party contin-
6 gently liable, if the company secures the
7 written approval of the Administration.

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

12 “(i) shall be in writing;

13 “(ii) shall state the specific reason for
14 the inability of the Administration to act
15 on the subject plan or request;

16 “(iii) shall include an estimate of the
17 additional time required by the Adminis-
18 tration to act on the plan or request; and

19 “(iv) if the Administration cannot act
20 because insufficient information or docu-
21 mentation was provided by the company
22 submitting the plan or request, shall speci-
23 fy the nature of such additional informa-
24 tion or documentation.

1 “(3) CONFLICT OF INTEREST.—In carrying out
2 functions described in paragraph (1), a qualified
3 State or local development company shall take no ac-
4 tion that would result in an actual or apparent con-
5 flict of interest between the company (or any em-
6 ployee of the company) and any third party lender
7 (or any associate of a third party lender) or any
8 other person participating in a liquidation, fore-
9 closure, or loss mitigation action.

10 “(d) SUSPENSION OR REVOCATION OF AUTHOR-
11 ITY.—The Administration may revoke or suspend a dele-
12 gation of authority under this section to any qualified
13 State or local development company, if the Administration
14 determines that the company—

15 “(1) does not meet the requirements of sub-
16 section (b)(1);

17 “(2) has violated any applicable rule or regula-
18 tion of the Administration or any other applicable
19 provision of law; or

20 “(3) has failed to comply with any reporting re-
21 quirement that may be established by the Adminis-
22 tration relating to carrying out functions described
23 in subsection (c)(1).

24 “(e) REPORT.—

1 “(1) IN GENERAL.—Based on information pro-
2 vided by qualified State and local development com-
3 panies and the Administration, the Administration
4 shall annually submit to the Committees on Small
5 Business of the House of Representatives and the
6 Senate a report on the results of delegation of au-
7 thority under this section.

8 “(2) CONTENTS.—Each report submitted under
9 paragraph (1) shall include—

10 “(A) with respect to each loan foreclosed
11 or liquidated by a qualified State or local devel-
12 opment company under this section, or for
13 which losses were otherwise mitigated by the
14 company pursuant to a workout plan under this
15 section—

16 “(i) the total cost of the project fi-
17 nanced with the loan;

18 “(ii) the total original dollar amount
19 guaranteed by the Administration;

20 “(iii) the total dollar amount of the
21 loan at the time of liquidation, foreclosure,
22 or mitigation of loss;

23 “(iv) the total dollar losses resulting
24 from the liquidation, foreclosure, or mitiga-
25 tion of loss; and

1 “(v) the total recoveries resulting
2 from the liquidation, foreclosure, or mitiga-
3 tion of loss, both as a percentage of the
4 amount guaranteed and the total cost of
5 the project financed;

6 “(B) with respect to each qualified State
7 or local development company to which author-
8 ity is delegated under this section, the totals of
9 each of the amounts described in clauses (i)
10 through (v) of subparagraph (A);

11 “(C) with respect to all loans subject to
12 foreclosure, liquidation, or mitigation under this
13 section, the totals of each of the amounts de-
14 scribed in clauses (i) through (v) of subpara-
15 graph (A);

16 “(D) a comparison between—

17 “(i) the information provided under
18 subparagraph (C) with respect to the 12-
19 month period preceding the date on which
20 the report is submitted; and

21 “(ii) the same information with re-
22 spect to loans foreclosed and liquidated, or
23 otherwise treated, by the Administration
24 during the same period; and

“(E) the number of times that the Administration has failed to approve or reject a liquidation plan in accordance with subsection (c)(2)(A) or a workout plan in accordance with subsection (c)(2)(C), or to approve or deny a request for purchase of indebtedness under subsection (c)(2)(B), including specific information regarding the reasons for the failure of the Administration and any delay that resulted.”.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 150 days after the date of the enactment of this Act, the Administrator shall issue such regulations as may be necessary to carry out section 510 of the Small Business Investment Act of 1958, as added by subsection (a) of this section.

(2) TERMINATION OF PILOT PROGRAM.—Effective on the date on which final regulations are issued under paragraph (1), section 204 of the Small Business Programs Improvement Act of 1996 (15 U.S.C. 695 note) shall cease to have legal effect.

1 **SEC. 8. FUNDING LEVELS FOR CERTAIN FINANCINGS**
2 **UNDER THE SMALL BUSINESS INVESTMENT**
3 **ACT OF 1958.**

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

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

10 “(1) \$4,000,000,000 for fiscal year 2001.

11 “(2) \$5,000,000,000 for fiscal year 2002.

12 “(3) \$6,000,000,000 for fiscal year 2003.”.

Attest:

Clerk.