

110TH CONGRESS
1ST SESSION

H. R. 2389

To help small businesses to develop, invest in, and purchase energy efficient buildings, fixtures, equipment, and technology.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2007

Mr. SHULER (for himself and Ms. VELÁZQUEZ) introduced the following bill;
which was referred to the Committee on Small Business

A BILL

To help small businesses to develop, invest in, and purchase energy efficient buildings, fixtures, equipment, and technology.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Energy Efficient Businesses Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Larger 504 loan limits to help business develop energy efficient technologies and purchases.

- Sec. 4. Reduced 7(a) fees and higher loan guarantees for purchase of energy efficient technologies.
- Sec. 5. Small Business Sustainability Initiative.
- Sec. 6. Small Business Administration to educate and promote energy efficiency ideas to small businesses and work with the small business community to make such information widely available.
- Sec. 7. Energy saving debentures.
- Sec. 8. Investments in energy saving small businesses.
- Sec. 9. Renewable fuel capital investment company.
- Sec. 10. Study and report.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Energy efficiency is in our national interest
 4 for our long term economic well being, for the health
 5 and safety of our citizens and the world, and for our
 6 independence and security.

7 (2) Small businesses are more efficient, nimble,
 8 and innovative than large businesses and therefore
 9 more likely to integrate and benefit from energy effi-
 10 cient technology advances and upgrades, but they
 11 are less likely to have the capital to institute these
 12 advances quickly.

13 (3) The majority of businesses (two-thirds) say
 14 they have been unable to invest in comprehensive en-
 15 ergy efficiency programs for their businesses thus
 16 far, though they know of them and believe they are
 17 effective.

18 (4) A pilot program has demonstrated that in-
 19 dividualized counseling and training combined with
 20 loan and grant availability and other incentives are

1 very popular and effective in helping small busi-
2 nesses learn about and adopt energy conservation
3 methods.

4 (5) The energy saving benefit of such programs,
5 if they can be implemented on a national basis,
6 would contribute significantly to our energy inde-
7 pendence and security.

8 (6) New and emerging technologies are on the
9 rise, and small businesses are leading the way, for
10 example the vast majority of renewable fuels pro-
11 ducers, such as biodiesel and ethanol, are small busi-
12 nesses.

13 (7) Small businesses currently use almost half
14 of the Nation's business related energy consumption
15 and employ half of the Nation's workforce, yet the
16 Energy Star program, the lead Federal energy effi-
17 ciency program allocates less than 2 percent of its
18 resources to its small business program and should
19 allocate more to educate small businesses.

20 (8) Therefore, it is in the national interest for
21 the Federal Government to invest in incentives in
22 the form of improved loan terms, additional invest-
23 ment inducements, and expert counseling and infor-
24 mation to assist small businesses to develop, invest

1 in, and purchase energy efficient buildings, equip-
2 ment, fixtures, and other technology.

3 **SEC. 3. LARGER 504 LOAN LIMITS TO HELP BUSINESS DE-**
4 **VELOP ENERGY EFFICIENT TECHNOLOGIES**
5 **AND PURCHASES.**

6 (a) ELIGIBILITY FOR ENERGY EFFICIENCY
7 PROJECTS.—Section 501(d)(3) of the Small Business In-
8 vestment Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

9 (1) in subparagraph (G) by striking “or” at the
10 end;

11 (2) in subparagraph (H) by striking the period
12 at the end and inserting a comma; and

13 (3) by inserting after subparagraph (H) the fol-
14 lowing:

15 “(I) reduction of energy consumption by at
16 least 10 percent,

17 “(J) increased use of sustainable design or
18 low-impact design to produce buildings that re-
19 duce the use of non-renewable resources, mini-
20 mize environmental impact, and relate people
21 with the natural environment, or

22 “(K) plant, equipment and process up-
23 grades of renewable energy sources such as
24 micropower or renewable fuels producers includ-
25 ing biodiesel and ethanol producers.”.

1 (b) LOANS FOR PLANT PROJECTS USED FOR EN-
 2 ERGY-EFFICIENT PURPOSES.—Section 502(2)(A) of the
 3 Small Business Investment Act of 1958 (15 U.S.C.
 4 696(2)(A)) is amended—

5 (1) in clause (ii) by striking “and” at the end;

6 (2) in clause (iii) by striking the period at the
 7 end and inserting a semicolon; and

8 (3) by adding at the end the following new
 9 clauses:

10 “(iv) \$4,000,000 for each project that
 11 reduces the borrower’s energy consumption
 12 by at least 10 percent; and

13 “(v) \$4,000,000 for each project that
 14 generates renewable energy or renewable
 15 fuels, such as biodiesel or ethanol produc-
 16 tion.”.

17 **SEC. 4. REDUCED 7(a) FEES AND HIGHER LOAN GUARAN-**
 18 **TEES FOR PURCHASE OF ENERGY EFFICIENT**
 19 **TECHNOLOGIES.**

20 Section 7(a) of the Small Business Act (15 U.S.C.
 21 636(a)) is amended by adding at the end the following:

22 “(35) LOANS FOR ENERGY EFFICIENT TECH-
 23 NOLOGIES.—The Administrator shall carry out a
 24 program for loans the proceeds of which are used to
 25 purchase energy efficient equipment or fixtures or to

1 reduce the energy consumption of the borrower, in-
 2 cluding, but not limited to, renewable fuels and en-
 3 ergy products such as biodiesel and ethanol, by 10
 4 percent or more. For a loan made under this para-
 5 graph, the following shall apply:

6 “(A) The loan shall include the participa-
 7 tion by the Administration equal to 90 percent
 8 of the balance of the financing outstanding at
 9 the time of disbursement.

10 “(B) The fees on the loan under para-
 11 graphs (18) and (23) shall be reduced by half.”.

12 **SEC. 5. SMALL BUSINESS SUSTAINABILITY INITIATIVE.**

13 Section 21 of the Small Business Act (15 U.S.C. 648)
 14 is amended by adding at the end the following:

15 “(n) SMALL BUSINESS SUSTAINABILITY INITIA-
 16 TIVE.—

17 “(1) IN GENERAL.—A Small Business Develop-
 18 ment Center may apply for an additional grant to
 19 carry out a small business sustainability initiative
 20 program.

21 “(2) ELEMENTS OF PROGRAM.—Under a pro-
 22 gram under paragraph (1), the Center shall—

23 “(A) provide necessary support to smaller
 24 and medium-sized businesses to—

1 “(i) evaluate energy efficiency and
2 green building opportunities;

3 “(ii) evaluate renewable energy
4 sources such as the use of solar and small
5 wind to supplement power consumption;

6 “(iii) secure financing to achieve en-
7 ergy efficiency or to construct green build-
8 ings; and

9 “(iv) empower management to imple-
10 ment energy efficiency projects;

11 “(B) assist entrepreneurs with clean tech-
12 nology development and technology commer-
13 cialization through—

14 “(i) technology assessment;

15 “(ii) intellectual property;

16 “(iii) Small Business Innovation Re-
17 search submissions;

18 “(iv) strategic alliances;

19 “(v) business model development; and

20 “(vi) preparation for investors; and

21 “(C) help small business improve environ-
22 mental performance by shifting to less haz-
23 ardous materials and reducing waste and emis-
24 sions at the source, including by providing as-
25 sistance for businesses to adapt the materials

1 they use, the processes they operate, and the
2 products and services they produce.

3 “(3) MINIMUM AMOUNT.—Each grant under
4 this subsection shall be for at least \$150,000.

5 “(4) MAXIMUM AMOUNT.—A grant under this
6 subsection may not exceed \$300,000.

7 “(5) AUTHORIZATION OF APPROPRIATIONS.—
8 Subject to amounts approved in advance in appro-
9 priations Acts and separate from amounts approved
10 to carry out section 21(a)(1), the Administrator may
11 make grants or enter into cooperative agreements to
12 carry out the provisions of this subsection.”.

13 **SEC. 6. SMALL BUSINESS ADMINISTRATION TO EDUCATE**
14 **AND PROMOTE ENERGY EFFICIENCY IDEAS**
15 **TO SMALL BUSINESSES AND WORK WITH THE**
16 **SMALL BUSINESS COMMUNITY TO MAKE**
17 **SUCH INFORMATION WIDELY AVAILABLE.**

18 The Small Business Act is amended—

19 (1) by redesignating section 37 as section 99;
20 and

21 (2) by inserting after section 36 (15 U.S.C.
22 657f) the following:

1 **“SEC. 37. PROGRAM TO PROVIDE EDUCATION ON ENERGY**
2 **EFFICIENCY.**

3 “(a) PROGRAM REQUIRED.—The Administrator shall
4 develop and coordinate a Government-wide program,
5 building on the Energy Star for Small Business program,
6 to assist small businesses in—

7 “(1) becoming more energy efficient;

8 “(2) understanding the cost savings from im-
9 proved energy efficiency; and

10 “(3) identifying financing options for energy ef-
11 ficiency upgrades.

12 “(b) CONSULTATION AND COOPERATION.—The pro-
13 gram required by subsection (a) shall be developed and
14 coordinated—

15 “(1) in consultation with the Secretary of En-
16 ergy and the Administrator of the Environmental
17 Protection Agency; and

18 “(2) in cooperation with any entities the Ad-
19 ministrator considers appropriate, such as industry
20 trade associations, industry members, and energy ef-
21 ficiency organizations.

22 “(c) AVAILABILITY OF INFORMATION.—The Admin-
23 istrator shall make available the information and materials
24 developed under the program required by subsection (a)
25 to—

26 “(1) small businesses; and

1 “(2) other Federal programs for energy effi-
 2 ciency, such as the Energy Star for Small Business
 3 program.

4 “(d) STRATEGY AND REPORT.—

5 “(1) STRATEGY REQUIRED.—The Adminis-
 6 trator shall develop a strategy to educate, encourage,
 7 and assist small business to adopt energy efficient
 8 building fixtures and equipment.

9 “(2) REPORT.—Not later than December 31,
 10 2008, the Administrator shall submit to Congress a
 11 report containing a plan to implement the strat-
 12 egy.”.

13 **SEC. 7. ENERGY SAVING DEBENTURES.**

14 Section 303 of the Small Business Investment Act
 15 of 1958 (15 U.S.C. 683) is amended by adding at the end
 16 the following new subsection:

17 “(k) ENERGY SAVING DEBENTURES.—

18 “(1) IN GENERAL.—In addition to any other
 19 authority under this Act, a small business invest-
 20 ment company licensed after September 30, 2007,
 21 shall have authority to issue Energy Saving debent-
 22 tures.

23 “(2) ENERGY SAVING DEBENTURE DEFINED.—

24 As used in this Act, the term ‘Energy Saving debent-
 25 ture’ means a deferred interest debenture that—

1 “(A) is issued at a discount;

2 “(B) has a five-year maturity or a ten-year
3 maturity;

4 “(C) requires no interest payment or an-
5 nual charge for the first five years;

6 “(D) is restricted to Energy Saving quali-
7 fied investments; and

8 “(E) is issued at no cost (as defined in
9 section 502 of the Credit Reform Act of 1990)
10 with respect to purchasing and guaranteeing
11 the debenture.

12 “(3) ENERGY SAVING QUALIFIED INVESTMENT
13 DEFINED.—As used in this Act, the term ‘Energy
14 Saving qualified investment’ means investment in a
15 small business that is primarily engaged in research-
16 ing, manufacturing, developing, or providing prod-
17 ucts, goods, or services that reduce the use or con-
18 sumption of non-renewable energy resources.”.

19 **SEC. 8. INVESTMENTS IN ENERGY SAVING SMALL BUSI-**
20 **NESSES.**

21 (a) **MAXIMUM LEVERAGE.**—Paragraph (2) of sub-
22 section (b) of section 303 of the Small Business Invest-
23 ment Act of 1958 (15 U.S.C. 303(b)(2)) is amended by
24 adding at the end the following new subparagraph:

1 “(D) INVESTMENTS IN ENERGY SAVING
2 SMALL BUSINESSES.—In calculating the out-
3 standing leverage of a company for purposes of
4 subparagraph (A), the Administrator shall not
5 include the amount of the cost basis of any En-
6 ergy Saving qualified investment (as defined in
7 subsection (k)) made after September 30, 2007,
8 by a company licensed after September 30,
9 2007, in a smaller enterprise, to the extent that
10 the total of such amounts does not exceed 50
11 percent of the company’s private capital, sub-
12 ject to such terms as the Administrator may
13 impose to assure no cost (as defined in section
14 502 of the Federal Credit Reform Act of 1990)
15 with respect to purchasing or guaranteeing any
16 debenture involved.”.

17 (b) MAXIMUM AGGREGATE AMOUNT OF LEVER-
18 AGE.—Paragraph (4) of subsection (b) of section 303 of
19 the Small Business Investment Act of 1958 (15 U.S.C.
20 303(b)(4)) is amended by adding at the end the following
21 new subparagraph:

22 “(E) INVESTMENTS IN ENERGY SAVING
23 SMALL BUSINESSES.—In calculating the aggre-
24 gate outstanding leverage of a company for pur-
25 poses of subparagraph (A), the Administrator

1 shall not include the amount of the cost basis
 2 of any Energy Saving qualified investment (as
 3 defined in subsection (k)) made after Sep-
 4 tember 30, 2007, by a company licensed after
 5 September 30, 2007, in a smaller enterprise, to
 6 the extent that the total of such amounts does
 7 not exceed 50 percent of the company’s private
 8 capital, subject to such terms as the Adminis-
 9 trator may impose to assure no cost (as defined
 10 in section 502 of the Federal Credit Reform
 11 Act of 1990) with respect to purchasing or
 12 guaranteeing any debenture involved.”.

13 **SEC. 9. RENEWABLE FUEL CAPITAL INVESTMENT COM-**
 14 **PANY.**

15 Title III of the Small Business Investment Act of
 16 1958 (15 U.S.C. 681 et seq.) is amended by adding at
 17 the end the following new part:

18 **“PART C—RENEWABLE FUEL CAPITAL**
 19 **INVESTMENT PILOT PROGRAM**

20 **“SEC. 381. DEFINITIONS.**

21 “In this part, the following definitions apply:

22 “(1) VENTURE CAPITAL.—The term ‘venture
 23 capital’ means capital in the form of equity capital
 24 investments. For the purposes of this paragraph, the

1 term ‘equity capital’ has the same meaning given
2 such term in section 303(g)(4).

3 “(2) RENEWABLE FUEL CAPITAL INVESTMENT
4 COMPANY.—The term ‘Renewable Fuel Capital In-
5 vestment Company’ means a company that—

6 “(A) has been granted final approval by
7 the Administrator under section 384(e); and

8 “(B) has entered into a participation
9 agreement with the Administrator.

10 “(3) OPERATIONAL ASSISTANCE.—The term
11 ‘operational assistance’ means management, mar-
12 keting, and other technical assistance that assists a
13 small business concern with business development.

14 “(4) PARTICIPATION AGREEMENT.—The term
15 ‘participation agreement’ means an agreement, be-
16 tween the Administrator and a company granted
17 final approval under section 384(e), that—

18 “(A) details the company’s operating plan
19 and investment criteria; and

20 “(B) requires the company to make invest-
21 ments in smaller enterprises primarily engaged
22 in researching, manufacturing, developing, or
23 bringing to market renewable energy sources.

24 “(5) RENEWABLE ENERGY.—The term ‘renew-
25 able energy means’ energy derived from resources

1 that are regenerative or that cannot be depleted, in-
2 cluding but not limited to ethanol and biodiesel
3 fuels.

4 “(6) STATE.—The term ‘State’ means such of
5 the several States, the District of Columbia, the
6 Commonwealth of Puerto Rico, the Virgin Islands,
7 Guam, American Samoa, the Commonwealth of the
8 Northern Mariana Islands, and any other common-
9 wealth, territory, or possession of the United States.

10 **“SEC. 382. PURPOSES.**

11 “The purposes of the Renewable Fuel Capital Invest-
12 ment Program established under this part are—

13 “(1) to promote the research, development,
14 manufacture and bringing to market of renewable
15 energy sources by encouraging venture capital in-
16 vestments in smaller enterprises primarily engaged
17 such activities; and

18 “(2) to establish a venture capital program,
19 with the mission of addressing the unmet equity in-
20 vestment needs of small enterprises engaged in re-
21 searching, developing, manufacturing, and bringing
22 to market renewable energy sources, to be adminis-
23 tered by the Administrator—

1 “(A) to enter into participation agreements
2 with Renewable Fuel Capital Investment com-
3 panies;

4 “(B) to guarantee debentures of Renew-
5 able Fuel Capital Investment companies to en-
6 able each such company to make venture capital
7 investments in smaller enterprises engaged in
8 the research, development, manufacture, and
9 bringing to market renewable energy sources;
10 and

11 “(C) to make grants to Renewable Fuel
12 Investment Capital companies, and to other en-
13 tities, for the purpose of providing operational
14 assistance to smaller enterprises financed, or
15 expected to be financed, by such companies.

16 **“SEC. 383. ESTABLISHMENT.**

17 “In accordance with this part, the Administrator
18 shall establish a Renewable Fuel Capital Investment Pro-
19 gram, under which the Administrator may—

20 “(1) enter into participation agreements with
21 companies granted final approval under section
22 384(e) for the purposes set forth in section 382; and

23 “(2) guarantee the debentures issued by Renew-
24 able Fuel Capital Investment companies as provided
25 in section 385.

1 **“SEC. 384. SELECTION OF RENEWABLE FUEL CAPITAL IN-**
2 **VESTMENT COMPANIES.**

3 “(a) ELIGIBILITY.—A company shall be eligible to
4 apply to participate, as a Renewable Fuel Capital Invest-
5 ment company, in the program established under this part
6 if—

7 “(1) the company is a newly formed for-profit
8 entity or a newly formed for-profit subsidiary of an
9 existing entity;

10 “(2) the company has a management team with
11 experience in alternative energy financing or relevant
12 venture capital financing; and

13 “(3) the company has a primary objective of in-
14 vestment in companies that research, manufacture,
15 develop, or bring to market renewable energy
16 sources.

17 “(b) APPLICATION.—To participate, as a Renewable
18 Fuel Capital Investment company, in the program estab-
19 lished under this part a company meeting the eligibility
20 requirements set forth in subsection (a) shall submit an
21 application to the Administrator that includes—

22 “(1) a business plan describing how the com-
23 pany intends to make successful venture capital in-
24 vestments in smaller businesses primarily engaged in
25 the research, manufacture, development, or bringing
26 to market of renewable energy sources;

1 “(2) information regarding the relevant venture
2 capital qualifications and general reputation of the
3 company’s management;

4 “(3) a description of how the company intends
5 to seek to address the unmet capital needs of the
6 smaller businesses served;

7 “(4) a proposal describing how the company in-
8 tends to use the grant funds provided under this
9 part to provide operational assistance to smaller en-
10 terprises financed by the company, including infor-
11 mation regarding whether the company intends to
12 use licensed professionals when necessary on the
13 company’s staff or from an outside entity;

14 “(5) with respect to binding commitments to be
15 made to the company under this part, an estimate
16 of the ratio of cash to in-kind contributions;

17 “(6) a description of the criteria to be used to
18 evaluate whether and to what extent the company
19 meets the objectives of the program established
20 under this part;

21 “(7) information regarding the management
22 and financial strength of any parent firm, affiliated
23 firm, or any other firm essential to the success of
24 the company’s business plan; and

1 “(8) such other information as the Adminis-
2 trator may require.

3 “(c) CONDITIONAL APPROVAL.—

4 “(1) IN GENERAL.—From among companies
5 submitting applications under subsection (b), the
6 Administrator shall, in accordance with this sub-
7 section, conditionally approve companies to partici-
8 pate in the Renewable Fuel Capital Investment Pro-
9 gram.

10 “(2) SELECTION CRITERIA.—In selecting com-
11 panies under paragraph (1), the Administrator shall
12 consider the following:

13 “(A) The likelihood that the company will
14 meet the goal of its business plan.

15 “(B) The experience and background of
16 the company’s management team.

17 “(C) The need for venture capital invest-
18 ments in the geographic areas in which the
19 company intends to invest.

20 “(D) The extent to which the company will
21 concentrate its activities on serving the geo-
22 graphic areas in which it intends to invest.

23 “(E) The likelihood that the company will
24 be able to satisfy the conditions under sub-
25 section (d).

1 “(F) The extent to which the activities
2 proposed by the company will expand economic
3 opportunities in the geographic areas in which
4 the company intends to invest.

5 “(G) The strength of the company’s pro-
6 posal to provide operational assistance under
7 this part as the proposal relates to the ability
8 of the applicant to meet applicable cash require-
9 ments and properly utilize in-kind contribu-
10 tions, including the use of resources for the
11 services of licensed professionals, when nec-
12 essary, whether provided by persons on the
13 company’s staff or by persons outside of the
14 company.

15 “(H) Any other factors deemed appro-
16 priate by the Administrator.

17 “(3) NATIONWIDE DISTRIBUTION.—The Admin-
18 istrator shall select companies under paragraph (1)
19 in such a way that promotes investment nationwide.

20 “(d) REQUIREMENTS TO BE MET FOR FINAL AP-
21 PROVAL.—The Administrator shall grant each condi-
22 tionally approved company a period of time, not to exceed
23 2 years, to satisfy the following requirements:

24 “(1) CAPITAL REQUIREMENT.—Each condi-
25 tionally approved company shall raise not less than

1 \$5,000,000 of private capital or binding capital com-
2 mitments from one or more investors (other than
3 agencies or departments of the Federal Government)
4 who met criteria established by the Administrator.

5 “(2) NONADMINISTRATION RESOURCES FOR
6 OPERATIONAL ASSISTANCE.—

7 “(A) IN GENERAL.—In order to provide
8 operational assistance to smaller enterprises ex-
9 pected to be financed by the company, each
10 conditionally approved company—

11 “(i) shall have binding commitments
12 (for contribution in cash or in kind)—

13 “(I) from any sources other than
14 the Small Business Administration
15 that meet criteria established by the
16 Administrator;

17 “(II) payable or available over a
18 multiyear period acceptable to the Ad-
19 ministrator (not to exceed 10 years);
20 and

21 “(III) in an amount not less than
22 30 percent of the total amount of cap-
23 ital and commitments raised under
24 paragraph (1);

1 “(ii) shall have purchased an annu-
2 ity—

3 “(I) from an insurance company
4 acceptable to the Administrator;

5 “(II) using funds (other than the
6 funds raised under paragraph (1)),
7 from any source other than the Ad-
8 ministrator; and

9 “(III) that yields cash payments
10 over a multiyear period acceptable to
11 the Administrator (not to exceed 10
12 years) in an amount not less than 30
13 percent of the total amount of capital
14 and commitments raised under para-
15 graph (1); or

16 “(iii) shall have binding commitments
17 (for contributions in cash or in kind) of the
18 type described in clause (i) and shall have
19 purchased an annuity of the type described
20 in clause (ii), which in the aggregate make
21 available, over a multiyear period accept-
22 able to the Administrator (not to exceed 10
23 years), an amount not less than 30 percent
24 of the total amount of capital and commit-
25 ments raised under paragraph (1).

1 “(B) EXCEPTION.—The Administrator
2 may, in the discretion of the Administrator and
3 based upon a showing of special circumstances
4 and good cause, consider an applicant to have
5 satisfied the requirements of subparagraph (A)
6 if the applicant has—

7 “(i) a viable plan that reasonably
8 projects the capacity of the applicant to
9 raise the amount (in cash or in-kind) re-
10 quired under subparagraph (A); and

11 “(ii) binding commitments in an
12 amount equal to not less than 20 percent
13 of the total amount required under para-
14 graph (A).

15 “(C) LIMITATION.—In order to comply
16 with the requirements of subparagraphs (A)
17 and (B), the total amount of a company’s in-
18 kind contributions may not exceed 50 percent
19 of the company’s total contributions.

20 “(e) FINAL APPROVAL; DESIGNATION.—The Admin-
21 istrator shall, with respect to each applicant conditionally
22 approved to operate as a Renewable Fuel Capital Invest-
23 ment Company under subsection (c), either—

24 “(1) grant final approval to the applicant to op-
25 erate as a Renewable Fuel Capital Investment com-

1 pany under this part and designate the applicant as
2 such a company, if the applicant—

3 “(A) satisfies the requirements of sub-
4 section (d) on or before the expiration of the
5 time period described in that subsection; and

6 “(B) enters into a participation agreement
7 with the Administrator; or

8 “(2) if the applicant fails to satisfy the require-
9 ments of subsection (d) on or before the expiration
10 of the time period described in that subsection, re-
11 voke the conditional approval granted under that
12 subsection.

13 **“SEC. 385. DEBENTURES.**

14 “(a) IN GENERAL.—The Administrator may guar-
15 antee the timely payment of principal and interest, as
16 scheduled, on debentures issued by any Renewable Fuel
17 Capital Investment company.

18 “(b) TERMS AND CONDITIONS.—The Administrator
19 may make guarantees under this section on such terms
20 and conditions as it deems appropriate, except that the
21 term of any debenture guaranteed under this section shall
22 not exceed 15 years.

23 “(c) FULL FAITH AND CREDIT OF THE UNITED
24 STATES.—The full faith and credit of the United States

1 is pledged to pay all amounts that may be required to be
2 paid under any guarantee under this part.

3 “(d) MAXIMUM GUARANTEE.—

4 “(1) IN GENERAL.—Under this section, the Ad-
5 ministrator may guarantee the debentures issued by
6 a Renewable Fuel Capital Investment company only
7 to the extent that the total face amount of out-
8 standing guaranteed debentures of such company
9 does not exceed 150 percent of the private capital of
10 the company, as determined by the Administrator.

11 “(2) TREATMENT OF CERTAIN FEDERAL
12 FUNDS.—For the purposes of paragraph (1), private
13 capital shall include capital that is considered to be
14 Federal funds, if such capital is contributed by an
15 investor other than an agency or department of the
16 Federal Government.

17 **“SEC. 386. ISSUANCE AND GUARANTEE OF TRUST CERTIFI-**
18 **CATES.**

19 “(a) ISSUANCE.—The Administrator may issue trust
20 certificates representing ownership of all or a fractional
21 part of debentures issued by a Renewable Fuel Capital
22 Investment company and guaranteed by the Administrator
23 under this part, if such certificates are based on and
24 backed by a trust or pool approved by the Administrator
25 and composed solely of guaranteed debentures.

1 “(b) GUARANTEE.—

2 “(1) IN GENERAL.—The Administrator may,
3 under such terms and conditions as it deems appro-
4 priate, guarantee the timely payment of the principal
5 of and interest on trust certificates issued by the
6 Administrator or its agents for purposes of this sec-
7 tion.

8 “(2) LIMITATION.—Each guarantee under this
9 subsection shall be limited to the extent of principal
10 and interest on the guaranteed debentures that com-
11 pose the trust or pool.

12 “(3) PREPAYMENT OR DEFAULT.—In the event
13 that a debenture in a trust or pool is prepaid, or in
14 the event of default of such a debenture, the guar-
15 antee of timely payment of principal and interest on
16 the trust certificates shall be reduced in proportion
17 to the amount of principal and interest such prepaid
18 debenture represents in the trust or pool. Interest on
19 prepaid or defaulted debentures shall accrue and be
20 guaranteed by the Administrator only through the
21 date of payment of the guarantee. At any time dur-
22 ing its term, a trust certificate may be called for re-
23 demption due to prepayment or default of all deben-
24 tures.

1 “(c) FULL FAITH AND CREDIT OF THE UNITED
2 STATES.—The full faith and credit of the United States
3 is pledged to pay all amounts that may be required to be
4 paid under any guarantee of a trust certificate issued by
5 the Administrator or its agents under this section.

6 “(d) FEES.—The Administrator shall not collect a fee
7 for any guarantee of a trust certificate under this section,
8 but any agent of the Administrator may collect a fee ap-
9 proved by the Administrator for the functions described
10 in subsection (f)(2).

11 “(e) SUBROGATION AND OWNERSHIP RIGHTS.—

12 “(1) SUBROGATION.—In the event the Adminis-
13 trator pays a claim under a guarantee issued under
14 this section, it shall be subrogated fully to the rights
15 satisfied by such payment.

16 “(2) OWNERSHIP RIGHTS.—No Federal, State,
17 or local law shall preclude or limit the exercise by
18 the Administrator of its ownership rights in the de-
19 bentures residing in a trust or pool against which
20 trust certificates are issued under this section.

21 “(f) MANAGEMENT AND ADMINISTRATION.—

22 “(1) REGISTRATION.—The Administrator may
23 provide for a central registration of all trust certifi-
24 cates issued under this section.

25 “(2) CONTRACTING OF FUNCTIONS.—

1 “(A) IN GENERAL.—The Administrator
2 may contract with an agent or agents to carry
3 out on behalf of the Administrator the pooling
4 and the central registration functions provided
5 for in this section including, notwithstanding
6 any other provision of law—

7 “(i) maintenance, on behalf of and
8 under the direction of the Administrator,
9 of such commercial bank accounts or in-
10 vestments in obligations of the United
11 States as may be necessary to facilitate the
12 creation of trusts or pools backed by de-
13 bentures guaranteed under this part; and

14 “(ii) the issuance of trust certificates
15 to facilitate the creation of such trusts or
16 pools.

17 “(B) FIDELITY BOND OR INSURANCE RE-
18 QUIREMENT.—Any agent performing functions
19 on behalf of the Administrator under this para-
20 graph shall provide a fidelity bond or insurance
21 in such amounts as the Administrator deter-
22 mines to be necessary to fully protect the inter-
23 ests of the United States.

1 “(3) REGULATION OF BROKERS AND DEAL-
2 ERS.—The Administrator may regulate brokers and
3 dealers in trust certificates issued under this section.

4 “(4) ELECTRONIC REGISTRATION.—Nothing in
5 this subsection may be construed to prohibit the use
6 of a book-entry or other electronic form of registra-
7 tion for trust certificates issued under this section.

8 **“SEC. 387. FEES.**

9 “(a) IN GENERAL.—Except as provided in section
10 386(d), the Administrator may charge such fees as it
11 deems appropriate with respect to any guarantee or grant
12 issued under this part, in an amount established annually
13 by the Administration, as necessary to reduce to zero the
14 cost (as defined in section 502 of the Federal Credit Re-
15 form Act of 1990) to the Administration of purchasing
16 and guaranteeing debentures under this Act, which
17 amounts shall be paid to and retained by the Administra-
18 tion.

19 “(b) OFFSET.—The Administrator may, as provided
20 by section 388, offset fees charged and collected under
21 subsection (a).

22 **“SEC. 388. FEE CONTRIBUTION.**

23 “(a) IN GENERAL.—To the extent that amounts are
24 made available to the Administrator for the purpose of fee
25 contributions, the administrator shall contribute to fees

1 paid by the Renewable Fuel Capital Investment companies
2 under section 387.

3 “(b) ANNUAL ADJUSTMENT.—Each fee contribution
4 under subsection (a) shall be effective for one fiscal year
5 and shall be adjusted as necessary for each fiscal year
6 thereafter to ensure that amounts under subsection (a) are
7 fully used. The fee contribution for a fiscal year shall be
8 based on the outstanding commitments made and the
9 guarantees and grants that the Administrator projects will
10 be made during that fiscal year, given the program level
11 authorized by law for that fiscal year and any other fac-
12 tors that the Administrator deems appropriate.

13 **“SEC. 389. OPERATIONAL ASSISTANCE GRANTS.**

14 “(a) IN GENERAL.—

15 “(1) AUTHORITY.—In accordance with this sec-
16 tion, the Administrator may make grants to Renew-
17 able Fuel Capital Investment companies and to
18 other entities, as authorized by this part, to provide
19 operational assistance to smaller enterprises fi-
20 nanced, or expected to be financed, by such compa-
21 nies or other entities.

22 “(2) TERMS.—Grants made under this sub-
23 section shall be made over a multiyear period not to
24 exceed 10 years, under such other terms as the Ad-
25 ministrator may require.

1 “(3) GRANTS TO SPECIALIZED SMALL BUSINESS
2 INVESTMENT COMPANIES.—

3 “(A) AUTHORITY.—In accordance with
4 this section, the Administrator may make
5 grants to specialized small business investment
6 companies to provide operational assistance to
7 smaller enterprises financed, or expected to be
8 financed, by such companies after the effective
9 date of the Small Energy Efficient Businesses
10 Act.

11 “(B) USE OF FUNDS.—The proceeds of a
12 grant made under this paragraph may be used
13 by the company receiving such grant only to
14 provide operational assistance in connection
15 with an equity investment (made with capital
16 raised after the effective date of the Small En-
17 ergy Efficient Businesses Act) in a business lo-
18 cated in a low-income geographic area.

19 “(C) SUBMISSION OF PLANS.—A special-
20 ized small business investment company shall
21 be eligible for a grant under this section only if
22 the company submits to the Administrator, in
23 such form and manner as the Administrator
24 may require, a plan for use of the grant.

25 “(4) GRANT AMOUNT.—

1 “(A) RENEWABLE FUEL CAPITAL INVEST-
2 MENT COMPANIES.—The amount of a grant
3 made under this subsection to a Renewable
4 Fuel Capital Investment company shall be equal
5 to the resources (in cash or in kind) raised by
6 the company under section 354(d)(2).

7 “(B) OTHER ENTITIES.—The amount of a
8 grant made under this subsection to any entity
9 other than a Renewable Fuel Capital Invest-
10 ment company shall be equal to the resources
11 (in cash or in kind) raised by the entity in ac-
12 cordance with the requirements applicable to
13 Renewable Fuel Capital Investment companies
14 set forth in section 384(d)(2).

15 “(5) PRO RATA REDUCTIONS.—If the amount
16 made available to carry out this section is insuffi-
17 cient for the Administrator to provide grants in the
18 amounts provided for in paragraph (4), the Adminis-
19 trator shall make pro rata reductions in the amounts
20 otherwise payable to each company and entity under
21 such paragraph.

22 “(b) SUPPLEMENTAL GRANTS.—

23 “(1) IN GENERAL.—The Administrator may
24 make supplemental grants to Renewable Fuel Cap-
25 ital Investment companies and to other entities, as

1 authorized by this part under such terms as the Ad-
2 ministrator may require, to provide additional oper-
3 ational assistance to smaller enterprises financed, or
4 expected to be financed, by the companies.

5 “(2) MATCHING REQUIREMENT.—The Adminis-
6 trator may require, as a condition of any supple-
7 mental grant made under this subsection, that the
8 company or entity receiving the grant provide from
9 resources (in a cash or in kind), other than those
10 provided by the Administrator, a matching contribu-
11 tion equal to the amount of the supplemental grant.

12 “(c) LIMITATION.—None of the assistance made
13 available under this section may be used for any overhead
14 or general and administrative expense of a Renewable
15 Fuel Capital Investment company or a specialized small
16 business investment company.

17 **“SEC. 390. BANK PARTICIPATION.**

18 “(a) IN GENERAL.—Except as provided in subsection
19 (b), any national bank, any member bank of the Federal
20 Reserve System, and (to the extent permitted under appli-
21 cable State law) any insured bank that is not a member
22 of such system, may invest in any Renewable Fuel Capital
23 Investment company, or in any entity established to invest
24 solely in Renewable Fuel Capital Investment companies.

1 “(b) LIMITATION.—No bank described in subsection
2 (a) may make investments described in such subsection
3 that are greater than 5 percent of the capital and surplus
4 of the bank.

5 **“SEC. 391. FEDERAL FINANCING BANK.**

6 “Section 318 shall not apply to any debenture issued
7 by a Renewable Fuel Capital Investment company under
8 this part.

9 **“SEC. 392. REPORTING REQUIREMENT.**

10 “Each Renewable Fuel Capital Investment company
11 that participates in the program established under this
12 part shall provide to the Administrator such information
13 as the Administrator may require, including—

14 “(1) information related to the measurement
15 criteria that the company proposed in its program
16 application; and

17 “(2) in each case in which the company under
18 this part makes an investment in, or a loan or a
19 grant to, a business that is not primarily engaged in
20 the research, development, manufacture, or bringing
21 to market or renewable energy sources, a report on
22 the nature, origin, and revenues of the business in
23 which investments are made.

1 **“SEC. 393. EXAMINATIONS.**

2 “(a) IN GENERAL.—Each Renewable Fuel Capital
3 Investment company that participates in the program es-
4 tablished under this part shall be subject to examinations
5 made at the direction of the Investment Division of the
6 Small Business Administration in accordance with this
7 section.

8 “(b) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—
9 Examinations under this section may be conducted with
10 the assistance of a private sector entity that has both the
11 qualifications and the expertise necessary to conduct such
12 examinations.

13 “(c) COSTS.—

14 “(1) ASSESSMENT.—

15 “(A) IN GENERAL.—The Administrator
16 may assess the cost of examinations under this
17 section, including compensation of the exam-
18 iners, against the company examined.

19 “(B) PAYMENT.—Any company against
20 which the Administrator assesses costs under
21 this paragraph shall pay such costs.

22 “(2) DEPOSIT OF FUNDS.—Funds collected
23 under this section shall be deposited in the account
24 for salaries and expenses of the Small Business Ad-
25 ministration.

1 **“SEC. 394. MISCELLANEOUS.**

2 “To the extent such procedures are not inconsistent
3 with the requirements of this part, the Administrator may
4 take such action as set forth in sections 309, 311, 312,
5 and 314 of this Act.

6 **“SEC. 395. REMOVAL OR SUSPENSION OF DIRECTORS OR**
7 **OFFICERS.**

8 “Using the procedures for removing or suspending a
9 director or an officer of a licensee set forth in section 313
10 (to the extent such procedures are not inconsistent with
11 the requirements of this part), the Administrator may re-
12 move or suspend any director or officer of any Renewable
13 Fuel Capital Investment company.

14 **“SEC. 396. REGULATIONS.**

15 “The Administrator may issue such regulations as it
16 deems necessary to carry out the provisions of this part
17 in accordance with its purposes.

18 **“SEC. 397. AUTHORIZATIONS OF APPROPRIATIONS.**

19 “(a) GRANTS.—The Administrator is authorized to
20 make \$15,000,000 per fiscal year in operational assistance
21 grants.

22 “(b) FUNDS COLLECTED FOR EXAMINATIONS.—
23 Funds deposited under section 393(c)(2) are authorized
24 to be appropriated only for the costs of examinations
25 under section 393 and for the costs of other oversight ac-

1 tivities with respect to the program established under this
2 part.”.

3 **SEC. 10. STUDY AND REPORT.**

4 The Administrator shall conduct a study of the Re-
5 newable Fuel Capital Investment Program under part C
6 of title III of the Small Business Investment Act of 1958.
7 Not later than 3 years after the date of the enactment
8 of this Act, the Administrator shall complete the study
9 and submit to the Congress a report of the results of the
10 study.

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