

116TH CONGRESS
2D SESSION

H. R. 8199

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2020

Received; read twice and referred to the Committee on Small Business and
Entrepreneurship

AN ACT

To amend the Small Business Act to enhance the Office of Credit Risk Management, to require the Administrator of the Small Business Administration to issue rules relating to environmental obligations of certified development companies, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “504 Credit Risk Man-
3 agement Improvement Act of 2020”.

4 **SEC. 2. ENHANCEMENTS TO THE OFFICE OF CREDIT RISK**
5 **MANAGEMENT.**

6 Section 47 of the Small Business Act (15 U.S.C.
7 657t) is amended—

8 (1) by striking subsection (b) and inserting the
9 following:

10 “(b) DUTIES.—The Office—

11 “(1) shall be responsible for—

12 “(A) supervising—

13 “(i) any lender making loans under
14 section 7(a) (in this section referred to as
15 a ‘7(a) lender’);

16 “(ii) any Lending Partner or Inter-
17 mediary participant of the Administration
18 in a lending program of the Office of Cap-
19 ital Access of the Administration;

20 “(iii) any small business lending com-
21 pany or a non-Federally regulated lender
22 without regard to the requirements of sec-
23 tion 23; and

24 “(iv) any certified development com-
25 pany described under the program estab-
26 lished under title V of the Small Business

1 Investment Act of 1958 (referred to in this
2 section as a ‘certified development com-
3 pany’), as provided in subsection (k); and
4 “(B) conducting file reviews with respect
5 to loan closings under the program established
6 under title V of the Small Business Investment
7 Act of 1958, as provided in subsection (j); and
8 “(2) may—

9 “(A) take formal and informal enforcement
10 actions against a certified development com-
11 pany, as provided in subsection (l); and

12 “(B) charge a certified development com-
13 pany a fee, as provided in subsection (m).”; and

14 (2) by adding at the end the following new sub-
15 sections:

16 “(j) LOAN CLOSING FILE REVIEWS.—With respect
17 to a loan closing under the program established under title
18 V of the Small Business Investment Act of 1958, the Of-
19 fice shall be responsible for the following:

20 “(1) Conducting a complete file review of a ran-
21 dom selection of all loan closings, the number, fre-
22 quency, and conduct of which shall be at the discre-
23 tion of the Office, to ensure program integrity, in-
24 cluding a review of the items listed on the Checklist

1 for Complete File Review contained in the appro-
2 priate form of the Administration.

3 “(2) Not later than 60 days after the date on
4 which each complete file review conducted under
5 paragraph (1) is completed, preparing a written re-
6 port documenting the results of that review, which
7 the Office shall send to—

8 “(A) the applicable certified development
9 company;

10 “(B) the designated attorney that closed
11 the loan for the certified development company;
12 and

13 “(C) the Commercial Loan Service Center.

14 “(3) If a complete file review conducted under
15 paragraph (1) reveals a deficiency that could result
16 in a loss to the Administration, requiring the appli-
17 cable certified development company or the des-
18 ignated attorney to promptly correct the deficiency.

19 “(k) SUPERVISION OF CERTIFIED DEVELOPMENT
20 COMPANIES.—With respect to the supervision of certified
21 development companies—

22 “(1) an employee of the Office shall—

23 “(A) be present for, and supervise, the re-
24 view of any such company that is conducted by

1 a contractor of the Office on the premises of
2 the company; and

3 “(B) supervise the review of any such com-
4 pany that is conducted by a contractor of the
5 Office that is not conducted on the premises of
6 the company; and

7 “(2) the Administrator shall—

8 “(A) develop a timeline for the review by
9 the Office of certified development companies
10 and the submission of reports regarding those
11 reviews, under which the Administrator shall—

12 “(i) submit to a certified development
13 company a written report of any review of
14 the company not later than 90 days after
15 the date on which the review is concluded;
16 or

17 “(ii) if the Administrator expects to
18 submit the report after the end of the 90-
19 day period described in clause (i), notify
20 the company of the expected date of sub-
21 mission of the report and the reason for
22 the delay; and

23 “(B) if a response by a certified develop-
24 ment company is requested in a report sub-
25 mitted under subparagraph (A)(i), require the

1 company to submit responses to the Adminis-
2 trator not later than 45 business days after the
3 date on which the company receives the report.

4 “(1) ENFORCEMENT AUTHORITY AGAINST CER-
5 TIFIED DEVELOPMENT COMPANIES.—

6 “(1) INFORMAL ENFORCEMENT AUTHORITY.—

7 The Director may take an informal enforcement ac-
8 tion against a certified development company if the
9 Director finds that the company has violated a stat-
10 utory or regulatory requirement or any requirement
11 in a Standard Operating Procedures Manual or Pol-
12 icy Notice relating to a program or function of the
13 Office of Capital Access.

14 “(2) FORMAL ENFORCEMENT AUTHORITY.—

15 “(A) IN GENERAL.—With the approval of
16 the Lender Oversight Committee established
17 under section 48, the Director may take a for-
18 mal enforcement action against any certified de-
19 velopment company if the Director finds that
20 the company has violated—

21 “(i) a statutory or regulatory require-
22 ment, including a requirement relating to
23 the necessary funds for making loans when
24 those funds are not made available to the

1 company from private sources on reason-
2 able terms; or

3 “(ii) any requirement described in a
4 Standard Operating Procedures Manual or
5 Policy Notice relating to a program or
6 function of the Office of Capital Access.

7 “(B) ENFORCEMENT ACTIONS.—The deci-
8 sion to take an enforcement action against a
9 certified development company under subpara-
10 graph (A) shall be based on the severity or fre-
11 quency of the violation and may include assess-
12 ing a civil monetary penalty against the com-
13 pany in an amount that is not greater than
14 \$250,000.

15 “(3) FAILURE TO SUBMIT ANNUAL REPORT.—
16 With respect to a certified development company
17 that, as of the date that is 30 days after the date
18 on which the company is required to submit any re-
19 port, fails to submit that report, the Director may—

20 “(A) suspend the company from partici-
21 pating in the program established under title V
22 of the Small Business Investment Act of 1958
23 for a period that is not longer than 30 days; or

24 “(B) impose a penalty on the company in
25 an amount to be determined by the Director,

1 except that the amount of the penalty shall be
2 not more than \$10,000.

3 “(m) **FEE AUTHORITY REGARDING CERTIFIED DE-**
4 **VELOPMENT COMPANIES.—**

5 “(1) **IN GENERAL.—**Effective one year after the
6 date of the enactment of this subsection, the Office
7 may collect from each certified development com-
8 pany a fee, the amount of which—

9 “(A) shall be determined on a graduated
10 scale according to the size of the portfolio of
11 the certified development company with respect
12 to the program carried out under title V of the
13 Small Business Investment Act of 1958; and

14 “(B) shall not exceed the amount that is 1
15 basis point with respect to the value of the
16 portfolio described in subparagraph (A).

17 “(2) **PAYMENT.—**A certified development com-
18 pany on which a fee is imposed under paragraph (1)
19 shall pay the fee from the servicing fees collected by
20 the development company pursuant to regulation.”.

21 **SEC. 3. RULES RELATING TO OBLIGATIONS OF CERTIFIED**
22 **DEVELOPMENT COMPANIES UNDER THE NA-**
23 **TIONAL ENVIRONMENTAL POLICY ACT.**

24 (a) **IN GENERAL.—**Not later than 180 days after the
25 date of the enactment of this Act, the Administrator of

1 the Small Business Administration shall issue rules to
2 clarify the procedures necessary for an eligible certified
3 development company to comply with the applicable re-
4 quirements under National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.).

6 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion shall be construed to modify the requirements of the
8 National Environmental Policy Act of 1969 (42 U.S.C.
9 4321 et seq.).

10 (c) ELIGIBLE CERTIFIED DEVELOPMENT COMPANY
11 DEFINED.—In this section, the term “eligible certified de-
12 velopment company” means a certified development com-
13 pany defined under title V of the Small Business Invest-
14 ment Act of 1958 (15 U.S.C. 695 et seq.) that receives
15 assistance pursuant to such title.

16 **SEC. 4. DETERMINATION OF BUDGETARY EFFECTS.**

17 The budgetary effects of this Act, for the purpose of
18 complying with the Statutory Pay-As-You-Go Act of 2010,
19 shall be determined by reference to the latest statement
20 titled “Budgetary Effects of PAYGO Legislation” for this
21 Act, submitted for printing in the Congressional Record
22 by the Chairman of the House Budget Committee, pro-

1 vided that such statement has been submitted prior to the
2 vote on passage.

Passed the House of Representatives December 3,
2020.

Attest: CHERYL L. JOHNSON,
Clerk.