

Public Law 92-595

AN ACT

October 27, 1972
[S. 3337]

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

Small Business
Investment Act
Amendments of
1972.

75 Stat. 752.
15 USC 662.

Investment com-
panies financing
disadvantaged
persons.

72 Stat. 691;
81 Stat. 269.
15 USC 681.

Purchase of
debentures.
81 Stat. 270;
85 Stat. 776.
15 USC 683.

Supra.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Investment Act Amendments of 1972".

SEC. 2. The Small Business Investment Act of 1958, as amended, is further amended as follows:

(a) Sections 103 (3) and (7) are amended by striking "(c)" after "Section 301" at the end thereof.

(b) Section 301 is amended by adding the following new subsection:

"(d) Notwithstanding any other provision of this Act, a small business investment company, the investment policy of which is that its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages may be organized and chartered under State business or non-profit corporation statutes, and may be licensed by the Administration to operate under the provisions of this Act."

(c) Section 303 is amended—

(1) by inserting the word "private" in the first sentence of paragraph (1) of subsection (b), to read "combined private paid-in capital and paid-in surplus";

(2) by striking the figure "\$7,500,000" in the last sentence of paragraph (1) of subsection (b), and inserting the figure "\$15,000,000";

(3) by amending paragraph (2) of said subsection (b) to read as follows:

"(2) The total amount of debentures which may be purchased or guaranteed and outstanding at any one time from a company not complying with section 301(d) of this Act, which has investments or legal commitments of 65 per centum or more of its total funds available for investment in small business concerns invested or committed in venture capital, and which has combined private paid-in capital and paid-in surplus of \$500,000 or more shall not exceed 300 per centum of its combined private paid-in capital and paid-in surplus. In no event shall the debentures of any such company purchased or guaranteed and outstanding under this paragraph exceed \$20,000,000. Such additional purchases or guarantees which the Administration makes under this paragraph shall contain conditions to insure appropriate maintenance by the company receiving such assistance of the described ratio during the period in which debentures under this paragraph are outstanding."

(d) Section 303 is amended by adding the following new subsection:

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by small business investment companies operating under authority of section 301(d) of this Act. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"The Administration may purchase—

Nonvoting preferred securities, purchase.

"(1) shares of nonvoting stock (or other securities having similar characteristics), provided—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation or redemption, the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration may require the preferred payment of the difference between dividends paid thereon and cumulative dividends payable at a rate equal to the interest rate determined pursuant to section 303(b) for debentures with a term of fifteen years, without interest on such difference;

"(iii) the purchase price shall be at par value and, in any one sale, \$50,000 or more; and

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed (A) from a company having combined private paid-in capital and paid-in surplus of less than \$300,000 and licensed on or before October 13, 1971, the amount of combined private paid-in capital and paid-in surplus invested after such date, nor (B) from any company having combined private paid-in capital and paid-in surplus of \$300,000 or more but less than \$500,000, the amount of its combined private paid-in capital and paid-in surplus in excess of \$300,000, nor (C) from any company having combined private paid-in capital and paid-in surplus of \$500,000 or more, the amount of its combined private paid-in capital and paid-in surplus.

"The Administration may purchase or guarantee—

Subordinated debentures, purchase or guarantee.

"(2) debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)), provided—

"(i) such debentures are issued for a term of not to exceed fifteen years;

"(ii) the interest rate is determined pursuant to sections 303(b) and 317; and

"(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than \$500,000 shall not exceed 200 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of \$500,000 or more, 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

"(3) debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(iii) of this subsection (c).

"(4) the Administration may require, as a condition of the purchase or guarantee of any securities in excess of 200 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintains a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate."

Ante, p. 1314.
Post, p. 1316.

74 Stat. 196.
15 USC 684.

81 Stat. 271.
15 USC 686.

Repeal.

72 Stat. 691;
80 Stat. 1360.
15 USC 681.
Interest sub-
sidy.

Ante, p. 1314.

Joint ownership
companies, bene-
fits.

Preferred stock
asset coverage
requirement, ex-
emption.

54 Stat. 817;
72 Stat. 694.

15 USC 661
note.

80 Stat. 132.

Handicapped
persons, loans.
Ante, p. 898.

(e) Subsection 304(a) of the Small Business Investment Act of 1958 is amended by inserting "and unincorporated" after "incorporated".

(f) Section 306 is amended (1) by inserting the word "private" in subsection (a) thereof to read "combined private paid-in capital and paid-in surplus" and (2) by repealing subsection (b) thereof.

(g) Title III is further amended by adding thereto new sections to read as follows:

"SEC. 317. Notwithstanding section 303(b), the effective rate of interest after October 13, 1971, during the first five years thereafter of the term of any debenture purchased by the Administration from a small business investment company under authority of section 303(c), shall be the greater of 3 per centum or 3 percentage points below the interest rate determined pursuant to section 303(b). The Administration is authorized to apply interest paid to it by such company for the period from October 13, 1971, to the effective date of this section, without interest thereon, to interest payable after such effective date. No company which has received the benefit of this section may make a distribution (other than to the Administration) unless it has first paid to the Administration an amount equal to the difference between the rate of interest payable to the Administration pursuant to the previous sentence, and the rate of interest which would have been payable pursuant to section 303(b).

"SEC. 318. The Administration is authorized to extend the benefits of sections 303(c) and 317 to any small business investment company operating under authority of section 301(d) of this Act, and which is owned, in whole or in part, by one or more small business investment companies, in accordance with regulations promulgated by the Administration.

"SEC. 319. Section 18 of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-18), is further amended by amending subsection (k) to read as follows:

"(k) The provisions of subparagraphs (A) and (B) of paragraph (1) of subsection (a) of this section shall not apply to investment companies operating under the Small Business Investment Act of 1958, and the provisions of paragraph (2) of said subsection shall not apply to such companies so long as such class of senior security shall be held or guaranteed by the Small Business Administration."

SEC. 3. The Small Business Act is amended as follows:

(a) Subsection (c) of section 4 of the Small Business Act (15 U.S.C. 633(c)) is amended by inserting "7(g)," immediately after "7(e)," in each of paragraphs (1), (2), and (4) thereof.

(b) Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Administration also is empowered, where other financial assistance is not available on reasonable terms, to make such loans (either directly or in cooperation with Banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate—

"(A) to assist any public or private organization—

"(i) which is organized under the laws of the United States or of any State, operated in the interest of handicapped individuals, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

"(ii) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

“(iii) which, in the production of commodities and in the provision of services during any fiscal year in which it receives financial assistance under this subsection, employs handicapped individuals for not less than 75 per centum of the man-hours required for the production or provision of the commodities or services; or

“(B) to assist any handicapped individual in establishing, acquiring, or operating a small business concern.

“(2) The Administration's share of any loan made under this subsection shall not exceed \$350,000, nor may any such loan be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by section 4(c)(1)(B) of this Act would exceed \$350,000. In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation may total 100 per centum of the balance of the loan at the time of disbursement. Any loan made under this subsection shall bear interest at the rate of 3 per centum per annum. The maximum term of any such loan, including extensions and renewals thereof, may not exceed fifteen years. All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment: *Provided, however,* That any reasonable doubt shall be resolved in favor of the applicant.

“(3) For purposes of this subsection, the term ‘handicapped individual’ means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.”

Approved October 27, 1972.

Limitation.

80 Stat. 132.
15 USC 633.

“Handicapped individual.”

Public Law 92-596

AN ACT

To amend titles 10 and 37, United States Code, to authorize members of the armed forces who are in a missing status to accumulate leave without limitation, to amend title 10, United States Code, to authorize an additional Deputy Secretary of Defense, and for other purposes.

October 27, 1972
[H. R. 14911]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 701 of title 10, United States Code, is amended—

(1) by inserting “and subsection (g)” after “subsection (f)” in subsection (b); and

(2) by adding the following new subsection:

“(g) A member who is in a missing status, as defined in section 551(2) of title 37, accumulates leave without regard to the sixty-day limitation in subsection (b) and the ninety-day limitation in subsection (f). Notwithstanding the death of a member while in a missing status, he continues to earn leave through the date—

“(1) the Secretary concerned receives evidence that the member is dead; or

“(2) that his death is prescribed or determined under section 555 of title 37.

Leave accumulated while in missing status shall be accounted for separately. It may not be taken, but shall be paid for under section 501(h) of title 37. However, a member whose death is prescribed or determined under section 555 or 556 of title 37 may, in addition to

Armed Forces.
Members in
missing status,
leave accumula-
tion.

76 Stat. 492;
81 Stat. 782.

80 Stat. 625.

80 Stat. 628.

Post, p. 1318.