

111TH CONGRESS
1ST SESSION

S. 1831

To amend the Small Business Investment Act of 1958 to reauthorize the venture capital program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2009

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To amend the Small Business Investment Act of 1958 to reauthorize the venture capital program, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Ven-
5 ture Capital Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the terms “Administration” and “Adminis-
9 trator” mean the Small Business Administration
10 and the Administrator thereof, respectively;

1 (2) the term “New Markets Venture Capital
2 company” has the meaning given that term in sec-
3 tion 351 of the Small Business Investment Act of
4 1958 (15 U.S.C. 689); and

5 (3) the term “New Markets Venture Capital
6 Program” means the program under part B of title
7 III of the Small Business Investment Act of 1958
8 (15 U.S.C. 689 et seq.).

9 **SEC. 3. TABLE OF CONTENTS.**

10 The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Definitions.
Sec. 3. Table of contents.

TITLE I—SMALL BUSINESS INVESTMENT COMPANY PROGRAM

Sec. 101. Reauthorization.
Sec. 102. Leverage.
Sec. 103. Private capital.
Sec. 104. Maximum investment in a company.

TITLE II—NEW MARKETS VENTURE CAPITAL PROGRAM

Sec. 201. Diversification of New Markets Venture Capital Program.
Sec. 202. Establishment of Office of New Markets Venture Capital.
Sec. 203. Low-income geographic areas.
Sec. 204. Applications for New Markets Venture Capital Program.
Sec. 205. Operational assistance grants.
Sec. 206. Authorization.

11 **TITLE I—SMALL BUSINESS IN-**
12 **VESTMENT COMPANY PRO-**
13 **GRAM**

14 **SEC. 101. REAUTHORIZATION.**

15 Section 20 of the Small Business Act (15 U.S.C. 631
16 note) is amended—

1 (1) by redesignating subsection (j) as sub-
2 section (f); and

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

4 “(g) SMALL BUSINESS VENTURE CAPITAL.—For the
5 programs authorized under part A of title III of the Small
6 Business Investment Act of 1958 (15 U.S.C. 681 et seq.),
7 the Administrator is authorized to make—

8 “(1) \$500,000,000 in purchases of participating
9 securities for each of fiscal years 2010 through
10 2013; and

11 “(2)(A) \$2,000,000,000 in guarantees of debentures for fiscal year 2010;

12 “(B) \$2,250,000,000 in guarantees of debentures for fiscal year 2011;

13 “(C) \$2,500,000,000 in guarantees of debentures for fiscal year 2012; and

14 “(D) \$2,750,000,000 in guarantees of debentures for fiscal year 2013.”.

15 **SEC. 102. LEVERAGE.**

16 Section 303(b)(2) of the Small Business Investment
17 Act of 1958 (15 U.S.C. 683(b)(2)) is amended by adding
18 at the end the following:

19 “(E) INVESTMENTS IN SMALL BUSINESS
20 CONCERNS OWNED AND CONTROLLED BY
21 WOMEN AND SOCIALLY AND ECONOMICALLY

1 DISADVANTAGED SMALL BUSINESS CON-
2 CERNs.—

3 “(i) IN GENERAL.—The maximum
4 amount of outstanding leverage made
5 available to—

6 “(I) any 1 small business invest-
7 ment company described in clause (ii)
8 may not exceed the lesser of—

9 “(aa) 300 percent of private
10 capital; or

11 “(bb) \$175,000,000; and

12 “(II) 2 or more small business
13 investment companies described in
14 clause (ii) that are commonly con-
15 trolled (as determined by the Adminis-
16 trator) may not exceed \$250,000,000.

17 “(ii) APPLICABILITY.—A small busi-
18 ness investment company described in this
19 clause is a small business investment com-
20 pany that certifies in writing that not less
21 than 50 percent of the dollar amount of in-
22 vestments of the small business investment
23 company are or will be made in small busi-
24 ness concerns owned and controlled by
25 women, as defined in section 3 of the

1 Small Business Act (15 U.S.C. 632), or
 2 socially and economically disadvantaged
 3 small business concerns, as defined in sec-
 4 tion 8(a)(4)(A) of the Small Business Act
 5 (15 U.S.C. 637(a)(4)(A)).”.

6 **SEC. 103. PRIVATE CAPITAL.**

7 Section 103(9)(A)(ii) of the Small Business Invest-
 8 ment Act of 1958 (15 U.S.C. 662(9)(A)(ii)) is amended
 9 by inserting “, except for any company licensed under sec-
 10 tion 301(c) on or before September 30, 2004, that holds
 11 commitments from the Administration for participating
 12 security leverage,” before “leverage shall not be funded
 13 based on such commitments”.

14 **SEC. 104. MAXIMUM INVESTMENT IN A COMPANY.**

15 Section 306(a) of the Small Business Investment Act
 16 of 1958 (15 U.S.C. 686(a)) is amended by striking “10
 17 percent” and inserting “30 percent”.

18 **TITLE II—NEW MARKETS**
 19 **VENTURE CAPITAL PROGRAM**

20 **SEC. 201. DIVERSIFICATION OF NEW MARKETS VENTURE**
 21 **CAPITAL PROGRAM.**

22 (a) SELECTION OF COMPANIES IN EACH GEO-
 23 GRAPHIC REGION.—Section 354 of the Small Business In-
 24 vestment Act of 1958 (15 U.S.C. 689e) is amended by
 25 adding at the end the following:

1 “(f) GEOGRAPHIC GOAL.—In selecting companies to
2 participate as New Markets Venture Capital companies in
3 the program established under this part, the Adminis-
4 trator shall, to the maximum extent practicable, select at
5 least 1 company from each geographic region of the Ad-
6 ministration.”.

7 (b) PARTICIPATION IN NEW MARKETS VENTURE
8 CAPITAL PROGRAM.—

9 (1) ADMINISTRATION PARTICIPATION RE-
10 REQUIRED.—Section 353 of the Small Business Invest-
11 ment Act of 1958 (15 U.S.C. 689b) is amended in
12 the matter preceding paragraph (1), by striking
13 “under which the Administrator may” and inserting
14 “under which the Administrator shall”.

15 (2) SMALL MANUFACTURER PARTICIPATION.—
16 Section 353(1) of the Small Business Investment
17 Act of 1958 (15 U.S.C. 689b(1)) is amended by in-
18 serting “, and shall set a goal of entering into at
19 least 1 such agreement each fiscal year with a com-
20 pany that is engaged primarily in development of,
21 and investment in, small manufacturers, as that
22 term is defined in section 501(e)(6)” after “section
23 352”.

1 **SEC. 202. ESTABLISHMENT OF OFFICE OF NEW MARKETS**
 2 **VENTURE CAPITAL.**

3 Title II of the Small Business Investment Act of
 4 1958 (15 U.S.C. 671) is amended by adding at the end
 5 the following:

6 **“SEC. 202. OFFICE OF NEW MARKETS VENTURE CAPITAL.**

7 “(a) ESTABLISHMENT.—There is established in the
 8 Small Business Investment Division of the Administra-
 9 tion, the Office of New Markets Venture Capital.

10 “(b) DIRECTOR.—The head of the Office of New
 11 Markets Venture Capital shall be an individual appointed
 12 by the Administrator in the competitive service or the ex-
 13 cepted service.

14 “(c) RESPONSIBILITIES OF DIRECTOR.—The head of
 15 the Office of New Markets Venture Capital shall—

16 “(1) administer the New Markets Venture Cap-
 17 ital Program under part B of title III;

18 “(2) assess, not less frequently than once every
 19 2 years, the nature and scope of the New Markets
 20 Venture Capital Program and advise the Adminis-
 21 trator on recommended changes to the program;

22 “(3) make efforts to expand the number of
 23 small-business concerns that participate in the New
 24 Markets Venture Capital Program; and

25 “(4) encourage investment in small manufactur-
 26 ers, as that term is defined in section 501(e)(6).”.

1 **SEC. 203. LOW-INCOME GEOGRAPHIC AREAS.**

2 (a) IN GENERAL.—Section 351 of the Small Business
3 Investment Act of 1958 (15 U.S.C. 689) is amended—

4 (1) by striking paragraph (2);

5 (2) by redesignating paragraphs (3) through
6 (8) as paragraphs (2) through (7), respectively; and

7 (3) in paragraph (2), as so redesignated—

8 (A) in the matter preceding subparagraph

9 (A)—

10 (i) by striking “the term” and insert-
11 ing “The term”; and

12 (ii) by striking “means”;

13 (B) by striking subparagraph (A) and in-
14 serting the following:

15 “(A) means a ‘low-income community’
16 within the meaning of section 45D(e) of the In-
17 ternal Revenue Code of 1986 (relating to the
18 new markets tax credit); and”;

19 (C) in subparagraph (B), in the matter
20 preceding clause (i), by inserting “includes” be-
21 fore “any area”.

22 (b) APPLICATION OF AMENDED DEFINITION TO CAP-
23 ITAL REQUIREMENT.—The definition of the term “low-in-
24 come geographic area” under section 351 of the Small
25 Business Investment Act of 1958, as amended by sub-
26 section (a), shall apply to capital raised by a New Markets

1 Venture Capital company before, on, or after the date of
2 enactment of this Act.

3 **SEC. 204. APPLICATIONS FOR NEW MARKETS VENTURE**
4 **CAPITAL PROGRAM.**

5 Not later than 1 year after the date of enactment
6 of this Act, the Administrator shall prescribe standard
7 documents for an application by a New Markets Venture
8 Capital company for final approval under section 354(e)
9 of the Small Business Investment Act of 1958 (15 U.S.C.
10 689c(e)). The Administrator shall ensure that such docu-
11 ments are designed to substantially reduce the cost of the
12 application process for a company making such an applica-
13 tion.

14 **SEC. 205. OPERATIONAL ASSISTANCE GRANTS.**

15 (a) IN GENERAL.—Section 358(a)(4)(A) of the Small
16 Business Investment Act of 1958 (15 U.S.C.
17 689g(a)(4)(A)) is amended to read as follows:

18 “(A) NEW MARKETS VENTURE CAPITAL
19 COMPANIES.—Notwithstanding section 354(d),
20 the amount of a grant made under this sub-
21 section to a New Markets Venture Capital com-
22 pany shall be equal to the lesser of—

23 “(i) 10 percent of the private capital
24 raised by the company; or

25 “(ii) \$1,000,000.”.

1 (b) REQUIREMENTS TO BE MET FOR FINAL AP-
2 PROVAL.—Section 354(d) of the Small Business Invest-
3 ment Act of 1958 (15 U.S.C. 689c(d)) is amended to read
4 as follows:

5 “(d) REQUIREMENTS TO BE MET FOR FINAL AP-
6 PROVAL.—Not later than 2 years after the date on which
7 a company is conditionally approved by the Administrator
8 under subsection (c)(1), the company shall raise not less
9 than \$5,000,000 of private capital, or binding capital com-
10 mitments, from 1 or more investors that—

11 “(1) are not agencies or departments of the
12 Federal Government; and

13 “(2) meet criteria established by the Adminis-
14 trator.”.

15 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
16 Section 358(a)(4) of the Small Business Investment Act
17 of 1958 (15 U.S.C. 689g(a)(4)) is amended by striking
18 “section 354(d)(2)” each place it appears and inserting
19 “section 354(d)”.

20 **SEC. 206. AUTHORIZATION.**

21 Section 368(a) of the Small Business Investment Act
22 of 1958 (15 U.S.C. 689q(a)) is amended—

23 (1) in the matter preceding paragraph (1), by
24 striking “fiscal years 2001 through 2006” and in-
25 serting “fiscal years 2010 through 2013”; and

1 (2) in paragraph (2), by striking
2 “\$30,000,000” and inserting “\$20,000,000”.

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