

106th CONGRESS

2d Session

**H. R. 4923**

**AN ACT**

To amend the Internal Revenue Code of 1986 to provide tax incentives for the renewal of distressed communities, to provide for nine additional empowerment zones and increased tax incentives for empowerment zone development, to encourage investments in new markets, and for other purposes.

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To amend the Internal Revenue Code of 1986 to provide tax incentives for the renewal of distressed communities, to provide for nine additional empowerment zones and increased tax incentives for empowerment zone development, to encourage investments in new markets, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; ETC.**

(a) SHORT TITLE- This Act may be cited as the 'Community Renewal and New Markets Act of 2000'.

(b) AMENDMENT OF 1986 CODE- Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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## **TITLE I--TAX INCENTIVES FOR RENEWAL COMMUNITIES**

**SEC. 101. DESIGNATION OF AND TAX INCENTIVES FOR RENEWAL COMMUNITIES.**

(a) IN GENERAL- Chapter 1 is amended by adding at the end the following new subchapter:

**`Subchapter X--Renewal Communities**

`Part I. Designation.

`Part II. Renewal community capital gain; renewal community business.

`Part III. Additional incentives.

***`PART I--DESIGNATION***

`Sec. 1400E. Designation of renewal communities.

**`SEC. 1400E. DESIGNATION OF RENEWAL COMMUNITIES.**

`(a) Designation-

`(1) DEFINITIONS- For purposes of this title, the term `renewal community' means any area--

`(A) which is nominated by one or more local governments and the State or States in which it is located for designation as a renewal community (hereafter in this section referred to as a `nominated area'), and

`(B) which the Secretary of Housing and Urban Development designates as a renewal community, after consultation with--

`(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration, and

`(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

`(2) Number of designations-

`(A) IN GENERAL- The Secretary of Housing and Urban Development may designate not more than 40 nominated areas as renewal communities.

`(B) MINIMUM DESIGNATION IN RURAL AREAS- Of the areas designated under paragraph (1), at least eight must be areas--

`(i) which are within a local government jurisdiction or jurisdictions with a

population of less than 50,000,

`(ii) which are outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

`(iii) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

`(3) AREAS DESIGNATED BASED ON DEGREE OF POVERTY, ETC-

`(A) IN GENERAL- Except as otherwise provided in this section, the nominated areas designated as renewal communities under this subsection shall be those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (B), (C), and (D) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area which exceeds such criterion by the greatest amount given the highest ranking.

`(B) EXCEPTION WHERE INADEQUATE COURSE OF ACTION, ETC- An area shall not be designated under subparagraph (A) if the Secretary of Housing and Urban Development determines that the course of action described in subsection (d)(2) with respect to such area is inadequate.

`(4) Limitation on designations-

`(A) PUBLICATION OF REGULATIONS- The Secretary of Housing and Urban Development shall prescribe by regulation no later than 4 months after the date of the enactment of this section, after consultation with the officials described in paragraph (1)(B)--

`(i) the procedures for nominating an area under paragraph (1)(A),

`(ii) the parameters relating to the size and population characteristics of a renewal community, and

`(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

`(B) TIME LIMITATIONS- The Secretary of Housing and Urban Development may designate nominated areas as renewal communities only during the 24-month period beginning on the first day of the first month following the month in which the regulations described in subparagraph (A) are prescribed.

`(C) PROCEDURAL RULES- The Secretary of Housing and Urban Development shall not make any designation of a nominated area as a renewal community under paragraph (2) unless--

`(i) the local governments and the States in which the nominated area is

located have the authority--

`(I) to nominate such area for designation as a renewal community,

`(II) to make the State and local commitments described in subsection (d), and

`(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

`(ii) a nomination regarding such area is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe, and

`(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate.

`(5) **NOMINATION PROCESS FOR INDIAN RESERVATIONS-** For purposes of this subchapter, in the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be treated as being both the State and local governments with respect to such area.

`(b) **PERIOD FOR WHICH DESIGNATION IS IN EFFECT-**

`(1) **IN GENERAL-** Any designation of an area as a renewal community shall remain in effect during the period beginning on July 1, 2001, and ending on the earliest of--

`(A) December 31, 2009,

`(B) the termination date designated by the State and local governments in their nomination, or

`(C) the date the Secretary of Housing and Urban Development revokes such designation.

`(2) **REVOCAION OF DESIGNATION-** The Secretary of Housing and Urban Development may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which the area is located--

`(A) has modified the boundaries of the area, or

`(B) is not complying substantially with, or fails to make progress in achieving, the State or local commitments, respectively, described in subsection (d).

`(3) **EARLIER TERMINATION OF CERTAIN BENEFITS IF EARLIER TERMINATION OF DESIGNATION-** If the designation of an area as a renewal community terminates before December 31, 2009--

`(A) the date of such termination shall be substituted for 'December 31, 2009' in

section 198(h) with respect to such area, and

`(B) the day after the date of such termination shall be substituted for `January 1, 2010' each place it appears in sections 1400F and 1400J with respect to such area.

`(c) Area and Eligibility Requirements-

`(1) IN GENERAL- The Secretary of Housing and Urban Development may designate a nominated area as a renewal community under subsection (a) only if the area meets the requirements of paragraphs (2) and (3) of this subsection.

`(2) AREA REQUIREMENTS- A nominated area meets the requirements of this paragraph if--

`(A) the area is within the jurisdiction of one or more local governments,

`(B) the boundary of the area is continuous, and

`(C) the area--

`(i) has a population of not more than 200,000 and at least--

`(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (within the meaning of section 143(k)(2)(B)) which has a population of 50,000 or greater, or

`(II) 1,000 in any other case, or

`(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

`(3) ELIGIBILITY REQUIREMENTS- A nominated area meets the requirements of this paragraph if the State and the local governments in which it is located certify in writing (and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification) that--

`(A) the area is one of pervasive poverty, unemployment, and general distress;

`(B) the unemployment rate in the area, as determined by the most recent available data, was at least 1 1/2 times the national unemployment rate for the period to which such data relate;

`(C) the poverty rate for each population census tract within the nominated area is at least 20 percent; and

`(D) in the case of an urban area, at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under

section 119(b)(2) of the Housing and Community Development Act of 1974).

`(4) CONSIDERATION OF HIGH INCIDENCE OF CRIME- The Secretary of Housing and Urban Development shall take into account, in selecting nominated areas for designation as renewal communities under this section, the extent to which such areas have a high incidence of crime.

`(5) CONSIDERATION OF COMMUNITIES IDENTIFIED IN GAO STUDY- The Secretary of Housing and Urban Development shall take into account, in selecting nominated areas for designation as renewal communities under this section, if the area has census tracts identified in the May 12, 1998, report of the General Accounting Office regarding the identification of economically distressed areas.

`(d) Required State and Local Commitments-

`(1) IN GENERAL- The Secretary of Housing and Urban Development may designate any nominated area as a renewal community under subsection (a) only if--

`(A) the local government and the State in which the area is located agree in writing that, during any period during which the area is a renewal community, such governments will follow a specified course of action which meets the requirements of paragraph (2) and is designed to reduce the various burdens borne by employers or employees in such area, and

`(B) the economic growth promotion requirements of paragraph (3) are met.

`(2) COURSE OF ACTION-

`(A) IN GENERAL- A course of action meets the requirements of this paragraph if such course of action is a written document, signed by a State (or local government) and neighborhood organizations, which evidences a partnership between such State or government and community-based organizations and which commits each signatory to specific and measurable goals, actions, and timetables. Such course of action shall include at least four of the following:

`(i) A reduction of tax rates or fees applying within the renewal community.

`(ii) An increase in the level of efficiency of local services within the renewal community.

`(iii) Crime reduction strategies, such as crime prevention (including the provision of crime prevention services by nongovernmental entities).

`(iv) Actions to reduce, remove, simplify, or streamline governmental requirements applying within the renewal community.

`(v) Involvement in the program by private entities, organizations, neighborhood organizations, and community groups, particularly those in the renewal community, including a commitment from such private entities to

provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents from the renewal community.

`(vi) The gift (or sale at below fair market value) of surplus real property (such as land, homes, and commercial or industrial structures) in the renewal community to neighborhood organizations, community development corporations, or private companies.

`(B) RECOGNITION OF PAST EFFORTS- For purposes of this section, in evaluating the course of action agreed to by any State or local government, the Secretary of Housing and Urban Development shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

`(3) ECONOMIC GROWTH PROMOTION REQUIREMENTS- The economic growth promotion requirements of this paragraph are met with respect to a nominated area if the local government and the State in which such area is located certify in writing that such government and State (respectively) have repealed or reduced, will not enforce, or will reduce within the nominated area at least four of the following:

`(A) Licensing requirements for occupations that do not ordinarily require a professional degree.

`(B) Zoning restrictions on home-based businesses which do not create a public nuisance.

`(C) Permit requirements for street vendors who do not create a public nuisance.

`(D) Zoning or other restrictions that impede the formation of schools or child care centers.

`(E) Franchises or other restrictions on competition for businesses providing public services, including taxicabs, jitneys, cable television, or trash hauling.

This paragraph shall not apply to the extent that such regulation of businesses and occupations is necessary for and well-tailored to the protection of health and safety.

`(e) COORDINATION WITH TREATMENT OF EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES- For purposes of this title, the designation under section 1391 of any area as an empowerment zone or enterprise community shall cease to be in effect as of the date that the designation of any portion of such area as a renewal community takes effect.

`(f) DEFINITIONS AND SPECIAL RULES- For purposes of this subchapter--

`(1) GOVERNMENTS- If more than one government seeks to nominate an area as a renewal community, any reference to, or requirement of, this section shall apply to all such governments.

`(2) LOCAL GOVERNMENT- The term 'local government' means--

`(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

`(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development.

`(3) APPLICATION OF RULES RELATING TO CENSUS TRACTS- The rules of section 1392(b)(4) shall apply.

`(4) CENSUS DATA- Population and poverty rate shall be determined by using 1990 census data.

`(g) PRIORITY FOR DISTRICT OF COLUMBIA NOMINATED AREA- For purposes of this subchapter--

`(1) IN GENERAL- Any nominated area within the District of Columbia shall be treated for purposes of subsection (a)(3) as having the highest average with respect to the criteria described in subparagraphs (B), (C), and (D) of subsection (c)(3).

`(2) DATE OF DESIGNATION- Notwithstanding subsection (b)(1), the designation of a nominated area within the District of Columbia as a renewal community shall take effect on January 1, 2003.

`(3) NOMINATION- The District of Columbia shall be treated as being both a State and local government with respect to such area.

## ***`PART II--RENEWAL COMMUNITY CAPITAL GAIN; RENEWAL COMMUNITY BUSINESS***

`Sec. 1400F. Renewal community capital gain.

`Sec. 1400G. Renewal community business defined.

### **`SEC. 1400F. RENEWAL COMMUNITY CAPITAL GAIN.**

`(a) GENERAL RULE- Gross income does not include any qualified capital gain from the sale or exchange of a qualified community asset held for more than 5 years.

`(b) QUALIFIED COMMUNITY ASSET- For purposes of this section--

`(1) IN GENERAL- The term `qualified community asset' means--

`(A) any qualified community stock,

`(B) any qualified community partnership interest, and

`(C) any qualified community business property.

`(2) QUALIFIED COMMUNITY STOCK-

`(A) IN GENERAL- Except as provided in subparagraph (B), the term `qualified community stock' means any stock in a domestic corporation if--

`(i) such stock is acquired by the taxpayer after June 30, 2001, and before January 1, 2010, at its original issue (directly or through an underwriter) from the corporation solely in exchange for cash,

`(ii) as of the time such stock was issued, such corporation was a renewal community business (or, in the case of a new corporation, such corporation was being organized for purposes of being a renewal community business), and

`(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as a renewal community business.

`(B) REDEMPTIONS- A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

`(3) QUALIFIED COMMUNITY PARTNERSHIP INTEREST- The term `qualified community partnership interest' means any capital or profits interest in a domestic partnership if--

`(A) such interest is acquired by the taxpayer after June 30, 2001, and before January 1, 2010, from the partnership solely in exchange for cash,

`(B) as of the time such interest was acquired, such partnership was a renewal community business (or, in the case of a new partnership, such partnership was being organized for purposes of being a renewal community business), and

`(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as a renewal community business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

`(4) QUALIFIED COMMUNITY BUSINESS PROPERTY-

`(A) IN GENERAL- The term `qualified community business property' means tangible property if--

`(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after June 30, 2001, and before January 1, 2010,

`(ii) the original use of such property in the renewal community commences with the taxpayer, and

`(iii) during substantially all of the taxpayer's holding period for such

property, substantially all of the use of such property was in a renewal community business of the taxpayer.

`(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS- The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to--

`(i) property which is substantially improved by the taxpayer before January 1, 2010, and

`(ii) any land on which such property is located.

The determination of whether a property is substantially improved shall be made under clause (ii) of section 1400B(b)(4)(B), except that `June 30, 2001' shall be substituted for `December 31, 1997' in such clause.

`(c) QUALIFIED CAPITAL GAIN- For purposes of this section--

`(1) IN GENERAL- Except as otherwise provided in this subsection, the term `qualified capital gain` means any gain recognized on the sale or exchange of--

`(A) a capital asset, or

`(B) property used in the trade or business (as defined in section 1231(b)).

`(2) GAIN BEFORE JULY 1, 2001, OR AFTER 2014 NOT QUALIFIED- The term `qualified capital gain' shall not include any gain attributable to periods before July 1, 2001, or after December 31, 2014.

`(3) CERTAIN RULES TO APPLY- Rules similar to the rules of paragraphs (3), (4), and (5) of section 1400B(e) shall apply for purposes of this subsection.

`(d) CERTAIN RULES TO APPLY- For purposes of this section, rules similar to the rules of paragraphs (5), (6), and (7) of subsection (b), and subsections (f) and (g), of section 1400B shall apply; except that for such purposes section 1400B(g)(2) shall be applied by substituting `July 1, 2001' for `January 1, 1998' and `December 31, 2014' for `December 31, 2007'.

`(e) REGULATIONS- The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section.

## **`SEC. 1400G. RENEWAL COMMUNITY BUSINESS DEFINED.**

`For purposes of this subchapter, the term `renewal community business' means any entity or proprietorship which would be a qualified business entity or qualified proprietorship under section 1397C if references to renewal communities were substituted for references to empowerment zones in such section.

## ***PART III--ADDITIONAL INCENTIVES***

`Sec. 1400H. Renewal community employment credit.

`Sec. 1400I. Commercial revitalization deduction.

`Sec. 1400J. Increase in expensing under section 179.

### **SEC. 1400H. RENEWAL COMMUNITY EMPLOYMENT CREDIT.**

`(a) IN GENERAL- Subject to the modification in subsection (b), a renewal community shall be treated as an empowerment zone for purposes of section 1396 with respect to wages paid or incurred after June 30, 2001.

`(b) MODIFICATION- In applying section 1396 with respect to renewal communities--

`(1) the applicable percentage shall be 15 percent, and

`(2) subsection (c) thereof shall be applied by substituting '\$10,000' for '\$15,000' each place it appears.

### **SEC. 1400I. COMMERCIAL REVITALIZATION DEDUCTION.**

`(a) GENERAL RULE- At the election of the taxpayer, either--

`(1) one-half of any qualified revitalization expenditures chargeable to capital account with respect to any qualified revitalization building shall be allowable as a deduction for the taxable year in which the building is placed in service, or

`(2) a deduction for all such expenditures shall be allowable ratably over the 120-month period beginning with the month in which the building is placed in service.

`(b) QUALIFIED REVITALIZATION BUILDINGS AND EXPENDITURES- For purposes of this section--

`(1) QUALIFIED REVITALIZATION BUILDING- The term 'qualified revitalization building' means any building (and its structural components) if--

`(A) the building is placed in service by the taxpayer in a renewal community and the original use of the building begins with the taxpayer, or

`(B) in the case of such building not described in subparagraph (A), such building--

`(i) is substantially rehabilitated (within the meaning of section 47(c)(1)(C)) by the taxpayer, and

`(ii) is placed in service by the taxpayer after the rehabilitation in a renewal

community.

`(2) QUALIFIED REVITALIZATION EXPENDITURE-

`(A) IN GENERAL- The term `qualified revitalization expenditure' means any amount properly chargeable to capital account for property for which depreciation is allowable under section 168 (without regard to this section) and which is--

`(i) nonresidential real property (as defined in section 168(e)), or

`(ii) section 1250 property (as defined in section 1250(c)) which is functionally related and subordinate to property described in clause (i).

`(B) CERTAIN EXPENDITURES NOT INCLUDED-

`(i) ACQUISITION COST- In the case of a building described in paragraph (1)(B), the cost of acquiring the building or interest therein shall be treated as a qualified revitalization expenditure only to the extent that such cost does not exceed 30 percent of the aggregate qualified revitalization expenditures (determined without regard to such cost) with respect to such building.

`(ii) CREDITS- The term `qualified revitalization expenditure' does not include any expenditure which the taxpayer may take into account in computing any credit allowable under this title unless the taxpayer elects to take the expenditure into account only for purposes of this section.

`(c) DOLLAR LIMITATION- The aggregate amount which may be treated as qualified revitalization expenditures with respect to any qualified revitalization building shall not exceed the lesser of--

`(1) \$10,000,000, or

`(2) the commercial revitalization expenditure amount allocated to such building under this section by the commercial revitalization agency for the State in which the building is located.

`(d) COMMERCIAL REVITALIZATION EXPENDITURE AMOUNT-

`(1) IN GENERAL- The aggregate commercial revitalization expenditure amount which a commercial revitalization agency may allocate for any calendar year is the amount of the State commercial revitalization expenditure ceiling determined under this paragraph for such calendar year for such agency.

`(2) STATE COMMERCIAL REVITALIZATION EXPENDITURE CEILING- The State commercial revitalization expenditure ceiling applicable to any State--

`(A) for the period after June 30, 2001, and before January 1, 2002, is \$6,000,000 for each renewal community in the State,

`(B) for each calendar year after 2001 and before 2010 is \$12,000,000 for each renewal community in the State, and

`(C) for each calendar year thereafter is zero.

`(3) COMMERCIAL REVITALIZATION AGENCY- For purposes of this section, the term `commercial revitalization agency' means any agency authorized by a State to carry out this section.

`(4) TIME AND MANNER OF ALLOCATIONS- Allocations under this section shall be made at the same time and in the same manner as under paragraphs (1) and (7) of section 42(h).

`(e) RESPONSIBILITIES OF COMMERCIAL REVITALIZATION AGENCIES-

`(1) PLANS FOR ALLOCATION- Notwithstanding any other provision of this section, the commercial revitalization expenditure amount with respect to any building shall be zero unless--

`(A) such amount was allocated pursuant to a qualified allocation plan of the commercial revitalization agency which is approved (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) by the governmental unit of which such agency is a part; and

`(B) such agency notifies the chief executive officer (or its equivalent) of the local jurisdiction within which the building is located of such allocation and provides such individual a reasonable opportunity to comment on the allocation.

`(2) QUALIFIED ALLOCATION PLAN- For purposes of this subsection, the term `qualified allocation plan' means any plan--

`(A) which sets forth selection criteria to be used to determine priorities of the commercial revitalization agency which are appropriate to local conditions,

`(B) which considers--

`(i) the degree to which a project contributes to the implementation of a strategic plan that is devised for a renewal community through a citizen participation process,

`(ii) the amount of any increase in permanent, full-time employment by reason of any project, and

`(iii) the active involvement of residents and nonprofit groups within the renewal community, and

`(C) which provides a procedure that the agency (or its agent) will follow in monitoring compliance with this section.

`(f) SPECIAL RULES-

`(1) DEDUCTION IN LIEU OF DEPRECIATION- The deduction provided by this section for qualified revitalization expenditures shall--

`(A) with respect to the deduction determined under subsection (a)(1), be in lieu of any depreciation deduction otherwise allowable on account of one-half of such expenditures, and

`(B) with respect to the deduction determined under subsection (a)(2), be in lieu of any depreciation deduction otherwise allowable on account of all of such expenditures.

`(2) BASIS ADJUSTMENT, ETC- For purposes of sections 1016 and 1250, the deduction under this section shall be treated in the same manner as a depreciation deduction. For purposes of section 1250(b)(5), the straight line method of adjustment shall be determined without regard to this section.

`(3) SUBSTANTIAL REHABILITATIONS TREATED AS SEPARATE BUILDINGS- A substantial rehabilitation (within the meaning of section 47(c)(1)(C)) of a building shall be treated as a separate building for purposes of subsection (a).

`(4) CLARIFICATION OF ALLOWANCE OF DEDUCTION UNDER MINIMUM TAX- Notwithstanding section 56(a)(1), the deduction under this section shall be allowed in determining alternative minimum taxable income under section 55.

`(g) REGULATIONS- For purposes of this section, the Secretary shall, by regulations, provide for the application of rules similar to the rules of section 49 and subsections (a) and (b) of section 50.

`(h) TERMINATION- This section shall not apply to any building placed in service after December 31, 2009.

**SEC. 1400J. INCREASE IN EXPENSING UNDER SECTION 179.**

`(a) IN GENERAL- For purposes of section 1397A--

`(1) a renewal community shall be treated as an empowerment zone,

`(2) a renewal community business shall be treated as an empowerment zone business, and

`(3) qualified renewal property shall be treated as enterprise zone property.

`(b) QUALIFIED RENEWAL PROPERTY- For purposes of this section--

`(1) IN GENERAL- The term 'qualified renewal property' means any property to which section 168 applies (or would apply but for section 179) if--

`(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after June 30, 2001, and before January 1, 2010, and

`(B) such property would be qualified zone property (as defined in section 1397D) if references to renewal communities were substituted for references to empowerment zones in section 1397D.

`(2) CERTAIN RULES TO APPLY- The rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this section.'

**(b) EXCEPTION FOR COMMERCIAL REVITALIZATION DEDUCTION FROM PASSIVE LOSS RULES-**

(1) Paragraph (3) of section 469(i) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

`(C) EXCEPTION FOR COMMERCIAL REVITALIZATION DEDUCTION- Subparagraph (A) shall not apply to any portion of the passive activity loss for any taxable year which is attributable to the commercial revitalization deduction under section 1400I.'

(2) Subparagraph (E) of section 469(i)(3), as redesignated by subparagraph (A), is amended to read as follows:

`(E) ORDERING RULES TO REFLECT EXCEPTIONS AND SEPARATE PHASE-OUTS- If subparagraph (B), (C), or (D) applies for a taxable year, paragraph (1) shall be applied--

`(i) first to the portion of the passive activity loss to which subparagraph (C) does not apply,

`(ii) second to the portion of the passive activity credit to which subparagraph (B) or (D) does not apply,

`(iii) third to the portion of such credit to which subparagraph (B) applies,

`(iv) fourth to the portion of such loss to which subparagraph (C) applies, and

`(v) then to the portion of such credit to which subparagraph (D) applies.'

(3)(A) Subparagraph (B) of section 469(i)(6) is amended by striking `or' at the end of clause (i), by striking the period at the end of clause (ii) and inserting `, or', and by adding at the end the following new clause:

`(iii) any deduction under section 1400I (relating to commercial revitalization deduction).'

(B) The heading for such subparagraph (B) is amended by striking `OR REHABILITATION CREDIT' and inserting `, REHABILITATION CREDIT, OR COMMERCIAL REVITALIZATION DEDUCTION'.

(c) CLERICAL AMENDMENT- The table of subchapters for chapter 1 is amended by adding at the end the following new item:

**`Subchapter X. Renewal Communities.'**

**SEC. 102. EXTENSION OF EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS TO RENEWAL COMMUNITIES; EXTENSION OF TERMINATION DATE FOR RENEWAL COMMUNITIES AND EMPOWERMENT ZONES.**

(a) EXTENSION-

(1) IN GENERAL- Subparagraph (A) of section 198(c)(2) (defining targeted area) is amended by striking `and' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting `, and', and by adding at the end the following new clause:

`(v) any renewal community (as defined in section 1400E).'

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply to expenditures paid or incurred after June 30, 2001.

(b) EXTENSION OF TERMINATION DATE- Subsection (h) of section 198 is amended by inserting before the period `(December 31, 2009, in the case of an empowerment zone or renewal community)'

**SEC. 103. WORK OPPORTUNITY CREDIT FOR HIRING YOUTH RESIDING IN RENEWAL COMMUNITIES.**

(a) HIGH-RISK YOUTH- Subparagraphs (A)(ii) and (B) of section 51(d)(5) are each amended by striking `empowerment zone or enterprise community' and inserting `empowerment zone, enterprise community, or renewal community'.

(b) QUALIFIED SUMMER YOUTH EMPLOYEE- Clause (iv) of section 51(d)(7)(A) is amended by striking `empowerment zone or enterprise community' and inserting `empowerment zone, enterprise community, or renewal community'.

(c) HEADINGS- Paragraphs (5)(B) and (7)(C) of section 51(d) are each amended by inserting `OR COMMUNITY' in the heading after `ZONE'.

(d) EFFECTIVE DATE- The amendments made by this section shall apply to individuals who begin work for the employer after June 30, 2001.

**TITLE II--EXTENSION AND EXPANSION OF EMPOWERMENT ZONE INCENTIVES**

**SEC. 201. AUTHORITY TO DESIGNATE NINE ADDITIONAL EMPOWERMENT ZONES.**

Section 1391 is amended by adding at the end the following new subsection:

`(h) ADDITIONAL DESIGNATIONS PERMITTED-

`(1) IN GENERAL- In addition to the areas designated under subsections (a) and (g), the appropriate Secretaries may designate in the aggregate an additional nine nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than seven may be designated in urban areas and not more than two may be designated in rural areas.

`(2) PERIOD DESIGNATIONS MAY BE MADE AND TAKE EFFECT- A designation may be made under this subsection after the date of the enactment of this subsection and before January 1, 2002. Subject to subparagraphs (B) and (C) of subsection (d)(1), such designations shall remain in effect during the period beginning on January 1, 2002, and ending on December 31, 2009.

`(3) MODIFICATIONS TO ELIGIBILITY CRITERIA, ETC- The rules of subsection (g)(3) shall apply to designations under this subsection.'

**SEC. 202. EXTENSION OF ENTERPRISE ZONE TREATMENT THROUGH 2009.**

Subparagraph (A) of section 1391(d)(1) (relating to period for which designation is in effect) is amended to read as follows:

`(A) December 31, 2009,'.

**SEC. 203. 20 PERCENT EMPLOYMENT CREDIT FOR ALL EMPOWERMENT ZONES**

(a) 20 PERCENT CREDIT- Subsection (b) of section 1396 (relating to empowerment zone employment credit) is amended to read as follows:

`(b) APPLICABLE PERCENTAGE- For purposes of this section, the applicable percentage is 20 percent.'

(b) ALL EMPOWERMENT ZONES ELIGIBLE FOR CREDIT- Section 1396 is amended by striking subsection (e).

(c) CONFORMING AMENDMENT- Subsection (d) of section 1400 is amended to read as follows:

`(d) SPECIAL RULE FOR APPLICATION OF EMPLOYMENT CREDIT- With respect to the DC Zone, section 1396(d)(1)(B) (relating to empowerment zone employment credit) shall be applied by substituting `the District of Columbia' for `such empowerment zone'.'

(d) EFFECTIVE DATE- The amendments made by this section shall apply to wages paid or incurred after December 31, 2001.

**SEC. 204. INCREASED EXPENSING UNDER SECTION 179.**

(a) IN GENERAL- Subparagraph (A) of section 1397A(a)(1) is amended by striking '\$20,000' and inserting '\$35,000'.

(b) EXPENSING FOR PROPERTY USED IN DEVELOPABLE SITES- Section 1397A is amended by striking subsection (c).

(c) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

**SEC. 205. HIGHER LIMITS ON TAX-EXEMPT EMPOWERMENT ZONE FACILITY BONDS.**

(a) IN GENERAL- Paragraph (3) of section 1394(f) (relating to bonds for empowerment zones designated under section 1391(g)) is amended to read as follows:

“(3) EMPOWERMENT ZONE FACILITY BOND- For purposes of this subsection, the term ‘empowerment zone facility bond’ means any bond which would be described in subsection (a) if--

“(A) in the case of obligations issued before January 1, 2002, only empowerment zones designated under section 1391(g) were taken into account under sections 1397C and 1397D, and

“(B) in the case of obligations issued after December 31, 2001, all empowerment zones (other than the District of Columbia) were taken into account under sections 1397C and 1397D.’.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to obligations issued after December 31, 2001.

**SEC. 206. NONRECOGNITION OF GAIN ON ROLLOVER OF EMPOWERMENT ZONE INVESTMENTS.**

(a) IN GENERAL- Part III of subchapter U of chapter 1 is amended--

(1) by redesignating subpart C as subpart D;

(2) by redesignating sections 1397B and 1397C as sections 1397C and 1397D, respectively; and

(3) by inserting after subpart B the following new subpart:

## ***`Subpart C--Nonrecognition of Gain on Rollover of Empowerment Zone Investments***

`Sec. 1397B. Nonrecognition of Gain on Rollover of Empowerment Zone Investments.

### **`SEC. 1397B. NONRECOGNITION OF GAIN ON ROLLOVER OF EMPOWERMENT ZONE INVESTMENTS.**

`(a) NONRECOGNITION OF GAIN- In the case of any sale of a qualified empowerment zone asset held by the taxpayer for more than 1 year and with respect to which such taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds--

`(1) the cost of any qualified empowerment zone asset (with respect to the same zone as the asset sold) purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

`(2) any portion of such cost previously taken into account under this section.

`(b) DEFINITIONS AND SPECIAL RULES- For purposes of this section--

`(1) QUALIFIED EMPOWERMENT ZONE ASSET-

`(A) IN GENERAL- The term `qualified empowerment zone asset' means any property which would be a qualified community asset (as defined in section 1400F) if in section 1400F--

`(i) references to empowerment zones were substituted for references to renewal communities,

`(ii) references to enterprise zone businesses (as defined in section 1397C) were substituted for references to renewal community businesses, and

`(iii) the date of the enactment of this paragraph were substituted for `December 31, 2001' each place it appears.

`(B) TREATMENT OF DC ZONE- The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this section.

`(2) CERTAIN GAIN NOT ELIGIBLE FOR ROLLOVER- This section shall not apply to--

`(A) any gain which is treated as ordinary income for purposes of this subtitle, and

`(B) any gain which is attributable to real property, or an intangible asset, which is not an integral part of an enterprise zone business.

`(3) PURCHASE- A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

`(4) BASIS ADJUSTMENTS- If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified empowerment zone asset which is purchased by the taxpayer during the 60-day period described in subsection (a). This paragraph shall not apply for purposes of section 1202.

`(5) HOLDING PERIOD- For purposes of determining whether the nonrecognition of gain under subsection (a) applies to any qualified empowerment zone asset which is sold--

`(A) the taxpayer's holding period for such asset and the asset referred to in subsection (a)(1) shall be determined without regard to section 1223, and

`(B) only the first year of the taxpayer's holding period for the asset referred to in subsection (a)(1) shall be taken into account for purposes of paragraphs (2)(A)(iii), (3)(C), and (4)(A)(iii) of section 1400F(b).'

(b) CONFORMING AMENDMENTS-

(1) Paragraph (23) of section 1016(a) is amended--

(A) by striking `or 1045' and inserting `1045, or 1397B'; and

(B) by striking `or 1045(b)(4)' and inserting `1045(b)(4), or 1397B(b)(4)'.

(2) Paragraph (15) of section 1223 is amended to read as follows:

`(15) Except for purposes of sections 1202(a)(2), 1202(c)(2)(A), 1400B(b), and 1400F(b), in determining the period for which the taxpayer has held property the acquisition of which resulted under section 1045 or 1397B in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property has been held as of the date of such sale.'

(3) Paragraph (2) of section 1394(b) is amended--

(A) by striking `section 1397C' and inserting `section 1397D'; and

(B) by striking `section 1397C(a)(2)' and inserting `section 1397D(a)(2)'.

(4) Paragraph (3) of section 1394(b) is amended--

(A) by striking `section 1397B' each place it appears and inserting `section 1397C'; and

(B) by striking `section 1397B(d)' and inserting `section 1397C(d)'.

(5) Sections 1400(e) and 1400B(c) are each amended by striking `section 1397B' each place it appears and inserting `section 1397C'.

(6) The table of subparts for part III of subchapter U of chapter 1 is amended by striking the last item and inserting the following new items:

`Subpart C. Nonrecognition of gain on rollover of empowerment zone investments.

`Subpart D. General provisions.'

(7) The table of sections for subpart D of such part III is amended to read as follows:

`Sec. 1397C. Enterprise zone business defined.

`Sec. 1397D. Qualified zone property defined.'

(c) EFFECTIVE DATE- The amendments made by this section shall apply to qualified empowerment zone assets acquired after the date of the enactment of this Act.

## **SEC. 207. INCREASED EXCLUSION OF GAIN ON SALE OF EMPOWERMENT ZONE STOCK.**

(a) IN GENERAL- Subsection (a) of section 1202 is amended to read as follows:

`(a) EXCLUSION-

`(1) IN GENERAL- In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

`(2) EMPOWERMENT ZONE BUSINESSES-

`(A) IN GENERAL- In the case of qualified small business stock acquired after the date of the enactment of this paragraph in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer's holding period for such stock, paragraph (1) shall be applied by substituting `60 percent' for `50 percent'.

`(B) CERTAIN RULES TO APPLY- Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

`(C) GAIN AFTER 2014 NOT QUALIFIED- Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

`(D) TREATMENT OF DC ZONE- The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.'

(b) CONFORMING AMENDMENT- Paragraph (8) of section 1(h) is amended by striking

`means' and all that follows and inserting `means the excess of--

`(A) the gain which would be excluded from gross income under section 1202 but for the percentage limitation in section 1202(a), over

`(B) the gain excluded from gross income under section 1202.'

(c) EFFECTIVE DATE- The amendments made by this section shall apply to stock acquired after the date of the enactment of this Act.

### **TITLE III--NEW MARKETS TAX CREDIT**

#### **SEC. 301. NEW MARKETS TAX CREDIT.**

(a) IN GENERAL- Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

#### **`SEC. 45D. NEW MARKETS TAX CREDIT.**

`(a) ALLOWANCE OF CREDIT-

`(1) IN GENERAL- For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the qualified community development entity for such investment at its original issue.

`(2) APPLICABLE PERCENTAGE- For purposes of paragraph (1), the applicable percentage is--

`(A) 5 percent with respect to the first three credit allowance dates, and

`(B) 6 percent with respect to the remainder of the credit allowance dates.

`(3) CREDIT ALLOWANCE DATE- For purposes of paragraph (1), the term `credit allowance date' means, with respect to any qualified equity investment--

`(A) the date on which such investment is initially made, and

`(B) each of the six anniversary dates of such date thereafter.

`(b) QUALIFIED EQUITY INVESTMENT- For purposes of this section--

`(1) IN GENERAL- The term `qualified equity investment' means any equity investment in a qualified community development entity if--

`(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

`(B) substantially all of such cash is used by the qualified community development entity to make qualified low-income community investments, and

`(C) such investment is designated for purposes of this section by the qualified community development entity.

Such term shall not include any equity investment issued by a qualified community development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

`(2) LIMITATION- The maximum amount of equity investments issued by a qualified community development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

`(3) SAFE HARBOR FOR DETERMINING USE OF CASH- The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the qualified community development entity are invested in qualified low-income community investments.

`(4) TREATMENT OF SUBSEQUENT PURCHASERS- The term `qualified equity investment' includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

`(5) REDEMPTIONS- A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

`(6) EQUITY INVESTMENT- The term `equity investment' means--

`(A) any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity which is a corporation, and

`(B) any capital interest in an entity which is a partnership.

`(c) QUALIFIED COMMUNITY DEVELOPMENT ENTITY- For purposes of this section--

`(1) IN GENERAL- The term `qualified community development entity' means any domestic corporation or partnership if--

`(A) the primary mission of the entity is serving, or providing investment capital for, low-income communities or low-income persons,

`(B) the entity maintains accountability to residents of low-income communities through representation on governing or advisory boards or otherwise, and

`(C) the entity is certified by the Secretary for purposes of this section as being a

qualified community development entity.

`(2) SPECIAL RULES FOR CERTAIN ORGANIZATIONS- The requirements of paragraph (1) shall be treated as met by--

`(A) any specialized small business investment company (as defined in section 1044(c)(3)), and

`(B) any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)).

`(d) QUALIFIED LOW-INCOME COMMUNITY INVESTMENTS- For purposes of this section--

`(1) IN GENERAL- The term `qualified low-income community investment' means--

`(A) any equity investment in, or loan to, any qualified active low-income community business,

`(B) the purchase from another community development entity of any loan made by such entity which is a qualified low-income community investment,

`(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities, and

`(D) any equity investment in, or loan to, any qualified community development entity.

`(2) QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS-

`(A) IN GENERAL- For purposes of paragraph (1), the term `qualified active low-income community business' means, with respect to any taxable year, any corporation or partnership if for such year--

`(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community,

`(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income community,

`(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income community,

`(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

`(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

`(B) PROPRIETORSHIP- Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

`(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS- The term `qualified active low-income community business' includes any trades or businesses which would qualify as a qualified active low-income community business if such trades or businesses were separately incorporated.

`(3) QUALIFIED BUSINESS- For purposes of this subsection, the term `qualified business' has the meaning given to such term by section 1397C(d); except that--

`(A) in lieu of applying paragraph (2)(B) thereof, the rental to others of real property located in any low-income community shall be treated as a qualified business if there are substantial improvements located on such property,

`(B) paragraph (3) thereof shall not apply, and

`(C) such term shall not include any business if a significant portion of the equity interests in such business are held by any person who holds a significant portion of the equity investments in the community development entity.

`(e) LOW-INCOME COMMUNITY- For purposes of this section--

`(1) IN GENERAL- The term `low-income community' means any population census tract if--

`(A) the poverty rate for such tract is at least 20 percent, or

`(B)(i) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

`(ii) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

`(2) AREAS NOT WITHIN CENSUS TRACTS- In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates and median family income.

`(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED-

`(1) IN GENERAL- There is a new markets tax credit limitation for each calendar year. Such limitation is--

`(A) \$1,000,000,000 for 2001,

`(B) \$1,500,000,000 for 2002 and 2003,

`(C) \$2,000,000,000 for 2004 and 2005, and

`(D) \$3,500,000,000 for 2006 and 2007.

`(2) ALLOCATION OF LIMITATION- The limitation under paragraph (1) shall be allocated by the Secretary among qualified community development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to entities with records of having successfully provided capital or technical assistance to disadvantaged businesses or communities.

`(3) CARRYOVER OF UNUSED LIMITATION- If the new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2014.

`(g) RECAPTURE OF CREDIT IN CERTAIN CASES-

`(1) IN GENERAL- If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a qualified community development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

`(2) CREDIT RECAPTURE AMOUNT- For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of--

`(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

`(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

`(3) RECAPTURE EVENT- For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a qualified community development entity if--

`(A) such entity ceases to be a qualified community development entity,

`(B) the proceeds of the investment cease to be used as required of subsection (b) (1)(B), or

`(C) such investment is redeemed by such entity.

`(4) SPECIAL RULES-

`(A) TAX BENEFIT RULE- The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

`(B) NO CREDITS AGAINST TAX- Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

`(h) BASIS REDUCTION- The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment. This subsection shall not apply for purposes of sections 1202, 1400B, and 1400F.

`(i) REGULATIONS- The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations--

`(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal tax benefits (including the credit under section 42 and the exclusion from gross income under section 103),

`(2) which prevent the abuse of the purposes of this section,

`(3) which provide rules for determining whether the requirement of subsection (b)(1)(B) is treated as met,

`(4) which impose appropriate reporting requirements, and

`(5) which apply the provisions of this section to newly formed entities.'

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT-

(1) IN GENERAL- Subsection (b) of section 38 is amended by striking 'plus' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ', plus', and by adding at the end the following new paragraph:

`(13) the new markets tax credit determined under section 45D(a).'

(2) LIMITATION ON CARRYBACK- Subsection (d) of section 39 is amended by

adding at the end the following new paragraph:

`(9) NO CARRYBACK OF NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2001- No portion of the unused business credit for any taxable year which is attributable to the credit under section 45D may be carried back to a taxable year ending before January 1, 2001.'

(c) DEDUCTION FOR UNUSED CREDIT- Subsection (c) of section 196 is amended by striking `and' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting `, and', and by adding at the end the following new paragraph:

`(9) the new markets tax credit determined under section 45D(a).'

(d) CLERICAL AMENDMENT- The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

`Sec. 45D. New markets tax credit.'

(e) EFFECTIVE DATE- The amendments made by this section shall apply to investments made after December 31, 2000.

(f) REGULATIONS ON ALLOCATION OF NATIONAL LIMITATION- Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall prescribe regulations which specify--

(1) how entities shall apply for an allocation under section 45D(f)(2) of the Internal Revenue Code of 1986, as added by this section;

(2) the competitive procedure through which such allocations are made; and

(3) the actions that such Secretary or delegate shall take to ensure that such allocations are properly made to appropriate entities.

#### **TITLE IV--IMPROVEMENTS IN LOW-INCOME HOUSING CREDIT**

### **SEC. 401. MODIFICATION OF STATE CEILING ON LOW-INCOME HOUSING CREDIT.**

(a) IN GENERAL- Clauses (i) and (ii) of section 42(h)(3)(C) (relating to State housing credit ceiling) are amended to read as follows:

`(i) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

`(ii) the greater of--

`(I) the applicable amount under subparagraph (H) multiplied by the State population, or

`(II) \$2,000,000,.'

(b) APPLICABLE AMOUNT- Paragraph (3) of section 42(h) (relating to housing credit dollar amount for agencies) is amended by adding at the end the following new subparagraph:

`(H) APPLICABLE AMOUNT OF STATE CEILING- For purposes of subparagraph (C)(ii), the applicable amount shall be determined under the following table:

**`For calendar year:**

**--The applicable amount is:**

	2001
--\$1.35	
	2002
-- 1.45	
	2003
-- 1.55	
	2004
-- 1.65	
	2005
-- 1.70	
	2006 and thereafter
-- 1.75.'	

(c) ADJUSTMENT OF STATE CEILING FOR INCREASES IN COST-OF-LIVING- Paragraph (3) of section 42(h) (relating to housing credit dollar amount for agencies), as amended by subsection (c), is amended by adding at the end the following new subparagraph:

`(I) COST-OF-LIVING ADJUSTMENT-

`(i) IN GENERAL- In the case of a calendar year after 2006, the \$2,000,000 in subparagraph (C) and the \$1.75 amount in subparagraph (H) shall each be increased by an amount equal to--

`(I) such dollar amount, multiplied by

`(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting `calendar year 2005' for `calendar year 1992' in subparagraph (B) thereof.

`(ii) ROUNDING-

`(I) In the case of the amount in subparagraph (C), any increase under clause (i) which is not a multiple of \$5,000 shall be rounded to the next lowest multiple of \$5,000.

`(II) In the case of the amount in subparagraph (H), any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.'

(d) CONFORMING AMENDMENTS-

(1) Section 42(h)(3)(C), as amended by subsection (a), is amended--

(A) by striking `clause (ii)' in the matter following clause (iv) and inserting `clause (i)'; and

(B) by striking `clauses (i)' in the matter following clause (iv) and inserting `clauses (ii)'.

(2) Section 42(h)(3)(D)(ii) is amended--

(A) by striking `subparagraph (C)(ii)' and inserting `subparagraph (C)(i)'; and

(B) by striking `clauses (i)' in subclause (II) and inserting `clauses (ii)'.

(e) EFFECTIVE DATE- The amendments made by this section shall apply to calendar years after 2000.

**SEC. 402. MODIFICATION OF CRITERIA FOR ALLOCATING HOUSING CREDITS AMONG PROJECTS.**

(a) SELECTION CRITERIA- Subparagraph (C) of section 42(m)(1) (relating to certain selection criteria must be used) is amended--

(1) by inserting `, including whether the project includes the use of existing housing as part of a community revitalization plan' before the comma at the end of clause (iii); and

(2) by striking clauses (v), (vi), and (vii) and inserting the following new clauses:

`(v) tenant populations with special housing needs,

`(vi) public housing waiting lists,

`(vii) tenant populations of individuals with children, and

`(viii) projects intended for eventual tenant ownership.'.

(b) PREFERENCE FOR COMMUNITY REVITALIZATION PROJECTS LOCATED IN QUALIFIED CENSUS TRACTS- Clause (ii) of section 42(m)(1)(B) is amended by striking `and' at the end of subclause (I), by adding `and' at the end of subclause (II), and by inserting after subclause (II) the following new subclause:

`(III) projects which are located in qualified census tracts (as defined in subsection (d)(5)(C)) and the development of which contributes to a concerted community revitalization plan,'.

### **SEC. 403. ADDITIONAL RESPONSIBILITIES OF HOUSING CREDIT AGENCIES.**

(a) MARKET STUDY; PUBLIC DISCLOSURE OF RATIONALE FOR NOT FOLLOWING CREDIT ALLOCATION PRIORITIES- Subparagraph (A) of section 42(m)(1) (relating to responsibilities of housing credit agencies) is amended by striking `and' at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by adding at the end the following new clauses:

`(iii) a comprehensive market study of the housing needs of low-income individuals in the area to be served by the project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

`(iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.'.

(b) SITE VISITS- Clause (iii) of section 42(m)(1)(B) (relating to qualified allocation plan) is amended by inserting before the period `and in monitoring for noncompliance with habitability standards through regular site visits'.

### **SEC. 404. MODIFICATIONS TO RULES RELATING TO BASIS OF BUILDING WHICH IS ELIGIBLE FOR CREDIT.**

(a) ADJUSTED BASIS TO INCLUDE PORTION OF CERTAIN BUILDINGS USED BY LOW-INCOME INDIVIDUALS WHO ARE NOT TENANTS AND BY PROJECT EMPLOYEES- Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended--

(1) by striking `subparagraph (B)' in subparagraph (A) and inserting `subparagraphs (B) and (C)';

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

**“(C) INCLUSION OF BASIS OF PROPERTY USED TO PROVIDE SERVICES FOR CERTAIN NONTENANTS-**

“(i) IN GENERAL- The adjusted basis of any building located in a qualified census tract (as defined in paragraph (5)(C)) shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation and not otherwise taken into account) used throughout the taxable year in providing any community service facility.

“(ii) LIMITATION- The increase in the adjusted basis of any building which is taken into account by reason of clause (i) shall not exceed 10 percent of the eligible basis of the qualified low-income housing project of which it is a part. For purposes of the preceding sentence, all community service facilities which are part of the same qualified low-income housing project shall be treated as one facility.

“(iii) COMMUNITY SERVICE FACILITY- For purposes of this subparagraph, the term ‘community service facility’ means any facility designed to serve primarily individuals whose income is 60 percent or less of area median income (within the meaning of subsection (g)(1)(B)).’.

**(b) CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-INCOME HOUSING CREDIT-** Subparagraph (E) of section 42(i)(2) (relating to determination of whether building is federally subsidized) is amended--

(1) in clause (i), by inserting ‘or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (as in effect on October 1, 1997)’ after ‘this subparagraph’; and

(2) in the subparagraph heading, by inserting ‘OR NATIVE AMERICAN HOUSING ASSISTANCE’ after ‘HOME ASSISTANCE’.

**SEC. 405. OTHER MODIFICATIONS.**

**(a) ALLOCATION OF CREDIT LIMIT TO CERTAIN BUILDINGS-**

(1) The first sentence of section 42(h)(1)(E)(ii) is amended by striking ‘(as of’ the first place it appears and inserting ‘(as of the later of the date which is 6 months after the date that the allocation was made or’.

(2) The last sentence of section 42(h)(3)(C) is amended by striking ‘project which’ and inserting ‘project which fails to meet the 10 percent test under paragraph (1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which’.

**(b) DETERMINATION OF WHETHER BUILDINGS ARE LOCATED IN HIGH COST**

AREAS- The first sentence of section 42(d)(5)(C)(ii)(I) is amended--

- (1) by inserting `either' before `in which 50 percent'; and
- (2) by inserting before the period `or which has a poverty rate of at least 25 percent'.

#### **SEC. 406. CARRYFORWARD RULES.**

(a) IN GENERAL- Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking `the excess' and all that follows and inserting `the excess (if any) of--

`(I) the unused State housing credit ceiling for the year preceding such year, over

`(II) the aggregate housing credit dollar amount allocated for such year.'.

(b) CONFORMING AMENDMENT- The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking `clauses (i) and (iii)' and inserting `clauses (i) through (iv)'.

#### **SEC. 407. EFFECTIVE DATE.**

Except as otherwise provided in this title, the amendments made by this title shall apply to--

- (1) housing credit dollar amounts allocated after December 31, 2000; and
- (2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

### **TITLE V--PRIVATE ACTIVITY BOND VOLUME CAP**

#### **SEC. 501. ACCELERATION OF PHASE-IN OF INCREASE IN VOLUME CAP ON PRIVATE ACTIVITY BONDS.**

(a) IN GENERAL- The table contained in section 146(d)(2) (relating to per capita limit; aggregate limit) is amended to read as follows:

	Per Capita Limit	Aggregate Limit
2001	\$55.00	\$165,000,000
2002	60.00	180,000,000

2003	65.00	195,000,000
2004, 2005, and 2006	70.00	210,000,000
2007 and thereafter	75.00	225,000,000.' .

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(b) EFFECTIVE DATE- The amendment made by this section shall apply to calendar years beginning after 2000.

## **TITLE VI--AMERICA'S PRIVATE INVESTMENT COMPANIES**

### **SEC. 601. SHORT TITLE.**

This title may be cited as the `America's Private Investment Companies Act'.

### **SEC. 602. FINDINGS AND PURPOSES.**

(a) FINDINGS- The Congress finds that--

levels of joblessness, poverty, and low incomes have not benefited adequately from the economic expansion experienced by the Nation as a whole;

joblessness and poverty to our Nation very high; and

(3) there are significant untapped markets in our Nation, and many of these are in areas

(b) PURPOSES- The purposes of this title are to--

(1) license private for profit community development entities that will focus on making income communities;

(2) provide credit enhancement for those entities for use in low-income communities; and

investments made pursuant to this title may be available both to the investors in these entities and to the residents of the low-income communities.

As used in this title:

(1) ADMINISTRATOR- The term `Administrator' means the Administrator of the Small

Business Administration.

(2) AGENCY- The term `agency' has the meaning given such term in section 551(1) of title 5, United States Code.

(3) APIC- The term `APIC' means a business entity that has been licensed under the terms of this title as an America's Private Investment Company, and the license of which has not been revoked.

(4) COMMUNITY DEVELOPMENT ENTITY- The term `community development entity' means an entity the primary mission of which is serving or providing investment capital for low-income communities or low-income persons and which maintains accountability to residents of low-income communities.

(5) HUD- The term `HUD' means the Secretary of Housing and Urban Development or the Department of Housing and Urban Development, as the context requires.

(6) LICENSE- The term `license' means a license issued by HUD as provided in section 604.

(7) LOW-INCOME COMMUNITY- The term `low-income community' means--

(A) a census tract or tracts that have--

(i) a poverty rate of 20 percent or greater, based on the most recent census data; or

(ii) a median family income that does not exceed 80 percent of the greater of: (I) the median family income for the metropolitan area in which such census tract or tracts are located; or (II) the median family income for the State in which such census tract or tracts are located; or

(B) a property that was located on a military installation that was closed or realigned pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), section 2687 of title 10, United States Code, or any other similar law enacted after the date of the enactment of this Act that provides for closure or realignment of military installations.

(8) LOW-INCOME PERSON- The term `low-income person' means a person who is a member of a low-income family, as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704).

(9) PRIVATE EQUITY CAPITAL-

(A) IN GENERAL- The term `private equity capital'--

(i) in the case of a corporate entity, the paid-in capital and paid-in surplus of

the corporate entity;

of the partnership entity;

(iii) in the case of a limited liability company entity, the equity investment of

(iv) earnings from investments of the entity that are not distributed to investors and are available for reinvestment by the entity.

(i) funds borrowed by an entity from any source or obtained through the issuance of leverage; except that this clause may not be construed to exclude

commitment in the entity, or the use by an entity of a pledge of such investment commitment to obtain bridge financing from a private lender to fund the entity's activities on an interim basis; or

government or any government agency, except for--

(I) funds invested by an employee welfare benefit plan or pension plan; and

(II) credits against any Federal, State, or local taxes.

business or trade--

(A) that, at the time that an investment is made in the business or trade, is deriving at least 50 percent of its gross income from the conduct of trade or business

(B) a substantial portion of the use of the tangible property of which is used within low-income communities;

performed in low-income communities; and

(D) less than 5 percent of the aggregate unadjusted bases of the property of which is attributable to certain financial property, as the Secretary shall set forth in

customers.

(11) QUALIFIED DEBENTURE- The term `qualified debenture' means a debt instrument having terms that meet the requirements established pursuant to section 606(c) (1).

(12) **QUALIFIED LOW-INCOME COMMUNITY INVESTMENT**- The term 'qualified low-income community investment' mean an equity investment in, or a loan to, a qualified active business.

(13) **SECRETARY**- The term 'Secretary' means the Secretary of Housing and Urban Development, unless otherwise specified in this title.

## **SEC. 604. AUTHORIZATION.**

(a) **LICENSES**- The Secretary is authorized to license community development entities as America's Private Investment Companies, in accordance with the terms of this title.

and other purposes as required or authorized by this title, or determined by the Secretary. The Secretary shall issue such regulations as are necessary to carry out the licensing and regulatory and other duties under this title, and may issue notices and other guidance or directives as the

(c) **USE OF CREDIT SUBSIDY FOR LICENSES**-

(1) **NUMBER OF LICENSES**- The number of APICs licensed at any one time may not

(A) the number that may be supported by the amount of budget authority appropriated in accordance with section 504(b) of the Federal Credit Reform Act Act) of the subsidy and the investment strategies of such APICs; or

(B) to the extent the limitation under section 605(e)(1) applies, the number

(2) **USE OF ADDITIONAL CREDIT SUBSIDY**- Subject to the limitation under paragraph (1), the Secretary may use any budget authority available after credit subsidy has been allocated for the APICs initially licensed pursuant to section 605 as follows:

(A) **ADDITIONAL LICENSES**- To license additional APICs.

an APIC as an award for high performance under this title, except that such increases may be made only in accordance with the following requirements and

(i) **TIMING**- An increase may only be provided for an APIC that has been licensed for a period of not less than 2 years.

pursuant to a competition for such fiscal year among APICs eligible for, and

requesting, such an increase. The competition shall be based upon criteria that the Secretary shall establish, which shall include the financial soundness and performance of the APICs, as measured by achievement of the public performance goals included in the APICs statements required under section 605(a)(6) and audits conducted under section 609(b)(2). Among the criteria established by the Secretary to determine priority for selection under this section, the Secretary shall include making investments in and loans to qualified active businesses in urban or rural areas that have been designated empowerment zones or enterprise communities.

(d) COOPERATION AND COORDINATION-

through memoranda of understanding, an APIC liaison committee, or otherwise, with the Administrator, the Secretary of the Treasury, and other agencies in the discretion of the monitoring of APICs under this title.

(2) FINANCIAL SOUNDNESS REQUIREMENTS- The Secretary shall consult with the of agencies as the Secretary may consider appropriate, in establishing any regulations, requirements, guidelines, or standards for financial soundness or management practices of compliance with any such regulations, requirements, guidelines, and standards, the Secretary shall enter into such agreements and memoranda of understanding with the such officials to provide any assistance that may be agreed to.

(3) OPERATIONS- The Secretary may carry out this title--

title 31, United States Code, or otherwise; or

(B) indirectly, under contracts or agreements, as the Secretary shall determine.

appropriations Acts, the Secretary is authorized to impose fees and charges for application, review, licensing, and regulation, or other actions under this title, and to pay for the costs of

(f) GUARANTEE FEES- The Secretary is authorized to set and collect fees for loan guarantee commitments and loan guarantees that the Secretary makes under this title.

(1) AUTHORIZATION OF APPROPRIATIONS FOR LOAN GUARANTEE COMMITMENTS- For each of fiscal years 2000, 2001, 2002, 2003, and 2004, there is

section 502(5) of the Federal Credit Reform Act of 1990) of annual loan guarantee commitments under this title. Amounts appropriated under this paragraph shall remain available until expended.

(2) **AGGREGATE LOAN GUARANTEE COMMITMENT LIMITATION-** The Secretary may make commitments to guarantee loans only to the extent that the total loan principal, any part of which is guaranteed, will not exceed \$1,000,000,000, unless another such amount is specified in appropriation Acts for any fiscal year.

(3) **AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES-** For each of the fiscal years 2000, 2001, 2002, 2003, and 2004, there is authorized to be appropriated \$1,000,000 for administrative expenses for carrying out this title. The Secretary may transfer amounts appropriated under this paragraph to any appropriation account of HUD or another agency, to carry out the program under this title. Any agency to which the Secretary may transfer amounts under this title is authorized to accept such transferred amounts in any appropriation account of such agency.

## **SEC. 605. SELECTION OF APICS.**

(a) **ELIGIBLE APPLICANTS-** An entity shall be eligible to be selected for licensing under section 604 as an APIC only if the entity submits an application in compliance with the requirements established pursuant to subsection (b) and the entity meets or complies with the following requirements:

(1) **ORGANIZATION-** The entity shall be a private, for-profit entity that qualifies as a community development entity for the purposes of the New Markets Tax Credits, to the extent such credits are established under Federal law.

(2) **MINIMUM PRIVATE EQUITY CAPITAL-** The amount of private equity capital reasonably available to the entity, as determined by the Secretary, at the time that a license is approved may not be less than \$25,000,000.

(3) **QUALIFIED MANAGEMENT-** The management of the entity shall, in the determination of the Secretary, meet such standards as the Secretary shall establish to ensure that the management of the APIC is qualified, and has the financial expertise, knowledge, experience, and capability necessary, to make investments for community and economic development in low-income communities.

(4) **CONFLICT OF INTEREST-** The entity shall demonstrate that, in accordance with sound financial management practices, the entity is structured to preclude financial conflict of interest between the APIC and a manager or investor.

(5) **INVESTMENT STRATEGY-** The entity shall prepare and submit to the Secretary an investment strategy that includes benchmarks for evaluation of its progress, that includes an analysis of existing locally owned businesses in the communities in which the investments under the strategy will be made, that prioritizes such businesses for investment opportunities, and that fulfills the specific public purpose goals of the entity.

(6) **STATEMENT OF PUBLIC PURPOSE GOALS-** The entity shall prepare and submit to the Secretary a statement of the public purpose goals of the entity, which shall--

(A) set forth goals that shall promote community and economic development, which shall include--

(i) making investments in low-income communities that further economic development objectives by targeting such investments in businesses or trades that comply with the requirements under subparagraphs (A) through (C) of section 603(10) relating to low-income communities in a manner that benefits low-income persons;

(ii) creating jobs in low-income communities for residents of such communities;

(iii) involving community-based organizations and residents in community development activities;

(iv) such other goals as the Secretary shall specify; and

(v) such elements as the entity may set forth to achieve specific public purpose goals;

(B) include such other elements as the Secretary shall specify; and

(C) include proposed measurements and strategies for meeting the goals.

(7) **COMPLIANCE WITH LAWS-** The entity shall agree to comply with applicable laws, including Federal Executive orders, Office of Management and Budget circulars, and requirements of the Department of the Treasury, and such operating and regulatory requirements as the Secretary may impose from time-to-time.

(8) **OTHER-** The entity shall satisfy any other application requirements that the Secretary may impose by regulation or Federal Register notice.

(b) **COMPETITIONS-** The Secretary shall select eligible entities under subsection (a) to be licensed under section 604 as APICs on the basis of competitions. The Secretary shall announce each such competition by causing a notice to be published in the Federal Register that invites applications for licenses and sets forth the requirements for application and such other terms of the competition not otherwise provided for, as determined by the Secretary.

(c) **SELECTION-** In competitions under subsection (b), the Secretary shall select eligible entities under subsection (a) for licensing as APICs on the basis of--

(1) the extent to which the entity is expected to achieve the goals of this title by meeting or exceeding criteria established under subsection (d); and

(2) to the extent practicable and subject to the existence of approvable applications,

ensuring geographical diversity among the applicants selected and diversity of APICs investment strategies, so that urban and rural communities are both served, in the determination of the Secretary, by the program under this title.

(d) SELECTION CRITERIA- The Secretary shall establish selection criteria for competitions under subsection (b), which shall include the following criteria:

(1) CAPACITY-

(A) MANAGEMENT- The extent to which the entity's management has the quality, experience, and expertise to make and manage successful investments for community and economic development in low-income communities.

(B) STATE AND LOCAL COOPERATION- The extent to which the entity demonstrates a capacity to cooperate with States or units of general local government and with community-based organizations and residents of low-income communities.

(2) INVESTMENT STRATEGY- The quality of the entity's investment strategy submitted in accordance with subsection (a)(5) and the extent to which the investment strategy furthers the goals of this title pursuant to paragraph (3) of this subsection.

(3) PUBLIC PURPOSE GOALS- With respect to the statement of public purpose goals of the entity submitted in accordance with subsection (a)(6), and the strategy and measurements included therein--

(A) the extent to which such goals promote community and economic development;

(B) the extent to which such goals provide for making qualified investments in low-income communities that further economic development objectives, such as--

(i) creating, within 2 years of the completion of the initial such investment, job opportunities, opportunities for ownership, and other economic opportunities within a low-income community, both short-term and of a longer duration;

(ii) improving the economic vitality of a low-income community, including stimulating other business development;

(iii) bringing new income into a low-income community and assisting in the revitalization of such community;

(iv) converting real property for the purpose of creating a site for business incubation and location, or business district revitalization;

(v) enhancing economic competition, including the advancement of technology;

(vi) rural development;

(vii) mitigating, rehabilitating, and reusing real property considered subject to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.; commonly referred to as the Resource Conservation and Recovery Act) or restoring coal mine-scarred land;

(viii) creation of local wealth through investments in employee stock ownership companies or resident-owned ventures; and

(ix) any other objective that the Secretary may establish to further the purposes of this title;

(C) the quality of jobs to be created for residents of low-income communities, taking into consideration such factors as the payment of higher wages, job security, employment benefits, opportunity for advancement, and personal asset building;

(D) the extent to which achievement of such goals will involve community-based organizations and residents in community development activities; and

(E) the extent to which the investments referred to in subparagraph (B) are likely to benefit existing small business in low-income communities or will encourage the growth of small business in such communities.

(4) OTHER- Any other criteria that the Secretary may establish to carry out the purposes of this title.

(e) FIRST YEAR REQUIREMENTS-

(1) NUMERICAL LIMITATION- The number of APICs may not, at any time during the 1-year period that begins upon the Secretary awarding the first license for an APIC under this title, exceed 15.

(2) LIMITATION ON ALLOCATION OF AVAILABLE CREDIT SUBSIDY- Of the amount of budget authority initially made available for allocation under this title for APICs, the amount allocated for any single APIC may not exceed 20 percent.

(3) NATIVE AMERICAN PRIVATE INVESTMENT COMPANY- Subject only to the absence of an approvable application from an entity, during the 1-year period referred to in paragraph (1), of the entities selected and licensed by the Secretary as APICs, at least one shall be an entity that has as its primary purpose the making of qualified low-income community investments in areas that are within Indian country (as such term is defined in section 1151 of title 18, United States Code) or within lands that have status as Hawaiian home land under section 204 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108) or are acquired pursuant to such Act. The Secretary may establish specific selection criteria for applicants under this paragraph.

(f) COMMUNICATIONS BETWEEN HUD AND APPLICANTS-

(1) IN GENERAL- The Secretary shall set forth in regulations the procedures under which HUD and applicants for APIC licenses, and others, may communicate. Such regulations shall--

(A) specify by position the HUD officers and employees who may communicate with such applicants and others;

(B) permit HUD officers and employees to request and discuss with the applicant and others (such as banks or other credit or business references, or potential investors, that the applicant specifies in writing) any more detailed information that may be desirable to facilitate HUD's review of the applicant's application;

(C) restrict HUD officers and employees from revealing to any applicant--

(i) the fact or chances of award of a license to such applicant, unless there has been a public announcement of the results of the competition; and

(ii) any information with respect to any other applicant; and

(D) set forth requirements for making and keeping records of any communications conducted under this subsection, including requirements for making such records available to the public after the award of licenses under an initial or subsequent notice, as appropriate, under subsection (a).

(2) TIMING- Regulations under this subsection may be issued as interim rules for effect on or before the date of publication of the first notice under subsection (a), and shall apply only with respect to applications under such notice. Regulations to implement this subsection with respect to any notice after the first such notice shall be subject to notice and comment rulemaking.

(3) INAPPLICABILITY OF DEPARTMENT OF HUD ACT PROVISION- Section 12 (e)(2) of the Department of Housing and Urban Development Act (42 U.S.C. 3537a(e) (2)) is amended by inserting before the period at the end the following: `or any license provided under the America's Private Investment Companies Act'.

## **SEC. 606. OPERATIONS OF APICS.**

(a) POWERS AND AUTHORITIES-

(1) IN GENERAL- An APIC shall have any powers or authorities that--

(A) the APIC derives from the jurisdiction in which it is organized, or that the APIC otherwise has;

(B) may be conferred by a license under this title; and

(C) the Secretary may prescribe by regulation.

(2) NEW MARKET ASSISTANCE- Nothing in this title shall preclude an APIC or its investors from receiving an allocation of New Market Tax Credits (to the extent such credits are established under Federal law) if the APIC satisfies any applicable terms and conditions under the Internal Revenue Code of 1986.

(b) INVESTMENT LIMITATIONS-

(1) QUALIFIED LOW-INCOME COMMUNITY INVESTMENTS- Substantially all investments that an APIC makes shall be qualified low-income community investments if the investments are financed with--

(A) amounts available from the proceeds of the issuance of an APIC's qualified debenture guaranteed under this title;

(B) proceeds of the sale of obligations described under subsection (c)(3)(C)(iii); or

(C) the use of private equity capital, as determined by the Secretary, in an amount specified in the APIC's license.

(2) SINGLE BUSINESS INVESTMENTS- An APIC shall not, as a matter of sound financial practice, invest in any one business an amount that exceeds an amount equal to 35 percent of the sum of--

(A) the APIC's private equity capital; plus

(B) an amount equal to the percentage limit that the Secretary determines that an APIC may have outstanding at any one time, under subsection (c)(2)(A).

(c) BORROWING POWERS; QUALIFIED DEBENTURES-

(1) ISSUANCE- An APIC may issue qualified debentures. The Secretary shall, by regulation, specify the terms and requirements for debentures to be considered qualified debentures for purposes of this title, except that the term to maturity of any qualified debenture may not exceed 21 years and each qualified debenture shall bear interest during all or any part of that time period at a rate or rates approved by the Secretary.

(2) LEVERAGE LIMITS- In general, as a matter of sound financial management practices--

(A) the total amount of qualified debentures that an APIC issues under this title that an APIC may have outstanding at any one time shall not exceed an amount equal to 200 percent of the private equity capital of the APIC, as determined by the Secretary; and

(B) an APIC shall not have more than \$300,000,000 in face value of qualified debentures issued under this title outstanding at any one time.

(3) REPAYMENT-

(A) **CONDITION OF BUSINESS WIND-UP-** An APIC shall have repaid, or have otherwise been relieved of indebtedness, with respect to any interest or principal amounts of borrowings under this subsection no less than 2 years before the APIC may dissolve or otherwise complete the wind-up of its business.

(B) **TIMING-** An APIC may repay any interest or principal amounts of borrowings under this subsection at any time: *Provided*, That the repayment of such amounts shall not relieve an APIC of any duty otherwise applicable to the APIC under this title, unless the Secretary orders such relief.

(C) **USE OF INVESTMENT PROCEEDS BEFORE REPAYMENT-** Until an APIC has repaid all interest and principal amounts on APIC borrowings under this subsection, an APIC may use the proceeds of investments, in accordance with regulations issued by the Secretary, only to--

(i) pay for proper costs and expenses the APIC incurs in connection with such investments;

(ii) pay for the reasonable administrative expenses of the APIC;

(iii) purchase Treasury securities;

(iv) repay interest and principal amounts on APIC borrowings under this subsection;

(v) make interest, dividend, or other distributions to or on behalf of an investor; or

(vi) undertake such other purposes as the Secretary may approve.

(D) **USE OF INVESTMENT PROCEEDS AFTER REPAYMENT-** After an APIC has repaid all interest and principal amounts on APIC borrowings under this subsection, and subject to continuing compliance with subsection (a), the APIC may use the proceeds from investments to make interest, dividend, or other distributions to or on behalf of investors in the nature of returns on capital, or the withdrawal of private equity capital, without regard to subparagraph (C) but in conformity with the APIC's investment strategy and statement of public purpose goals.

(d) **REUSE OF QUALIFIED DEBENTURE PROCEEDS-** An APIC may use the proceeds of sale of Treasury securities purchased under subsection (c)(3)(C)(iii) to make qualified low-income community investments, subject to the Secretary's approval. In making the request for the Secretary's approval, the APIC shall follow the procedures applicable to an APIC's request for HUD guarantee action, as the Secretary may modify such procedures for implementation of this subsection. Such procedures shall include the description and certifications that an APIC must include in all requests for guarantee action, and the environmental certification applicable to initial expenditures for a project or activity.

(e) ANTIPIRATING- Notwithstanding any other provision of law, an APIC may not use any private equity capital required to be contributed under this title, or the proceeds from the sale of any qualified debenture under this title, to make an investment, as determined by the Secretary, to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from one area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.

(f) EXCLUSION OF APIC FROM DEFINITION OF DEBTOR UNDER BANKRUPTCY PROVISIONS- Section 109(b)(2) of title 11, United States Code, is amended by inserting before `credit union' the following: `America's Private Investment Company licensed under the America's Private Investment Companies Act,'.

## **SEC. 607. CREDIT ENHANCEMENT BY THE FEDERAL GOVERNMENT.**

### (a) ISSUANCE AND GUARANTEE OF QUALIFIED DEBENTURES-

(1) AUTHORITY- To the extent consistent with the Federal Credit Reform Act of 1990, the Secretary is authorized to make commitments to guarantee and guarantee the timely payment of all principal and interest as scheduled on qualified debentures issued by APICs. Such commitments and guarantees may only be made in accordance with the terms and conditions established under paragraph (2).

(2) TERMS AND CONDITIONS- The Secretary shall establish such terms and conditions as the Secretary determines to be appropriate for commitments and guarantees under this subsection, including terms and conditions relating to amounts, expiration, number, priorities of repayment, security, collateral, amortization, payment of interest (including the timing thereof), and fees and charges. The terms and conditions applicable to any particular commitment or guarantee may be established in documents that the Secretary approves for such commitment or guarantee.

(3) SENIORITY- Notwithstanding any other provision of Federal law or any law or the constitution of any State, qualified debentures guaranteed under this subsection by the Secretary shall be senior to any other debt obligation, equity contribution or earnings, or the distribution of dividends, interest, or other amounts, of an APIC.

(b) ISSUANCE OF TRUST CERTIFICATES- The Secretary, or an agent or entity selected by the Secretary, is authorized to issue trust certificates representing ownership of all or a fractional part of guaranteed qualified debentures issued by APICs and held in trust.

### (c) GUARANTEE OF TRUST CERTIFICATES-

(1) IN GENERAL- The Secretary is authorized, upon such terms and conditions as the Secretary determines to be appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Secretary, or an agent or other entity, for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed qualified debentures which compose the trust.

(2) SUBSTITUTION OPTION- The Secretary shall have the option to replace in the

corpus of the trust any prepaid or defaulted qualified debenture with a debenture, another reasonably substitute for such prepaid or defaulted qualified debenture.

(3) **PROPORTIONATE REDUCTION OPTION-** In the event that the Secretary elects prepaid, or in the event of default of a qualified debenture, the guarantee of timely payment of principal and interest on the trust certificate shall be reduced in proportion to trust. Interest on prepaid or defaulted qualified debentures shall accrue and be guaranteed by the Secretary only through the date of payment of the guarantee. During the term of a trust certificate, it may be called for redemption due to prepayment or default of all qualified debentures that are in the corpus of the trust.

(d) **FULL FAITH AND CREDIT BACKING OF GUARANTEES-** The full faith and credit of the United States is pledged to the timely payment of all amounts which may be required to be paid under any guarantee by the Secretary pursuant to this section.

(e) **SUBROGATION AND LIENS-**

(1) **SUBROGATION-** In the event the Secretary pays a claim under a guarantee issued under this section, the Secretary shall be subrogated fully to the rights satisfied by such payment.

(2) **PRIORITY OF LIENS-** No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of its ownership rights in the debentures in the corpus of a trust under this section.

(f) **REGISTRATION-**

(1) **IN GENERAL-** The Secretary shall provide for a central registration of all trust certificates issued pursuant to this section.

(2) **AGENTS-** The Secretary may contract with an agent or agents to carry out on behalf of the Secretary the pooling and the central registration functions of this section notwithstanding any other provision of law, including maintenance on behalf of and under the direction of the Secretary, such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate trusts backed by qualified debentures guaranteed under this title and the issuance of trust certificates to facilitate formation of the corpus of the trusts. The Secretary may require such agent or agents to provide a fidelity bond or insurance in such amounts as the Secretary determines to be necessary to protect the interests of the Government.

(3) **FORM-** Book-entry or other electronic forms of registration for trust certificates under this title are authorized.

(g) **TIMING OF ISSUANCE OF GUARANTEES OF QUALIFIED DEBENTURES AND TRUST CERTIFICATES-** The Secretary may, from time to time in the Secretary's discretion, exercise the authority to issue guarantees of qualified debentures under this title or trust

certificates under this title.

(a) IN GENERAL- The Secretary may issue a guarantee under this title for a qualified debenture that an APIC intends to issue only pursuant to a request to the Secretary by the APIC

procedures for such requests, that the Secretary shall prescribe. Such regulations shall provide that each such request shall include--

qualified debenture;

(2) a certification by the APIC that the APIC is in substantial compliance with--

under this title by the Secretary;

(B) all terms and conditions of its license, any cease-and-desist order issued under

or monitoring by the Secretary or otherwise, including the satisfaction of any financial audit exception that may have been outstanding; and

to the extent such credits are established under Federal law; and

(3) any other information or certification that the Secretary considers appropriate.

**FUNDING FOR INITIAL EXPENDITURE FOR A PROJECT OR ACTIVITY-** In addition to the description and certification that an APIC is required to supply in all requests for guarantee

qualified debenture, the proceeds of which the APIC expects to be used as its initial expenditure for a project or activity in which the APIC intends to invest, and the expenditure for which

1969 and other related laws that further the purposes of such Act, such request for guarantee action shall include evidence satisfactory to the Secretary of the certification of the completion

government under subsection (c). If the environmental review responsibility for the project or activity has not been assumed by a State or local government under subsection (c), then the

Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act that relate to the project or activity, and the Secretary shall execute such responsibilities

(c) **RESPONSIBILITY FOR ENVIRONMENTAL REVIEWS-**

(1) **EXECUTION OF RESPONSIBILITY BY THE SECRETARY-** This subsection shall

of which would be used in connection with qualified low-income community investments of APICs under this title.

(2) ASSUMPTION OF RESPONSIBILITY BY COGNIZANT UNIT OF GENERAL GOVERNMENT-

(A) GUARANTEE OF QUALIFIED DEBENTURES- In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the

particular qualified low-income community investments of APICs under this title, if a State or unit of general local government, as designated by the Secretary in

responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969 and such other provisions of law that further such Act as the regulations of the Secretary specify, that would

such investments as a Federal action.

(B) IMPLEMENTATION- The Secretary shall issue regulations to carry out this

(i) specify any other provisions of law which further the purposes of the National Environmental Policy Act of 1969 and to which the assumption of

(ii) provide eligibility criteria and procedures for the designation of a State or unit of general local government to assume all of the responsibilities in this

(iii) specify the purposes for which funds may be committed without regard to the procedure established under paragraph (3);

under this subsection;

(v) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

termination by the Secretary of the assumption under subparagraph (A).

(C) RESPONSIBILITIES OF STATES AND UNITS OF GENERAL LOCAL

construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular request for guarantee under subparagraph (A), or the use of funds for a qualified investment.

(3) PROCEDURE- Subject to compliance by the APIC with the requirements of this title, the Secretary shall approve the request for guarantee of a qualified debenture, any part of the proceeds of which is to fund particular qualified low-income community investments of an APIC under this title, that is subject to the procedures authorized by this subsection only if, not less than 15 days prior to such approval and prior to any commitment of funds

paragraph (2)(B)), the APIC submits to the Secretary a request for guarantee of a qualified debenture that is accompanied by evidence of a certification of the State or unit

by the Secretary of any such certification shall be deemed to satisfy the Secretary's responsibilities pursuant to paragraph (1) under the National Environmental Policy Act of

as those responsibilities relate to the guarantees of qualified debentures, any parts of the proceeds of which are to fund such investments, which are covered by such certification.

(4) CERTIFICATION- A certification under the procedures authorized by this subsection

(A) be in a form acceptable to the Secretary;

(B) be executed by the chief executive officer or other officer of the State or unit of

(C) specify that the State or unit of general local government under this subsection has fully carried out its responsibilities as described under paragraph (2); and

(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law

such Act or other such provision of law apply pursuant to paragraph (2); and

(ii) is authorized and consents on behalf of the State or unit of general local

courts for the purpose of enforcement of the responsibilities as such an official.

(a) IN GENERAL- The Secretary shall, under regulations, through audits, performance agreements, license conditions, or otherwise, examine and monitor the operations and activities of APICs for compliance with sound financial management practices, and for satisfaction of the program and procedural goals of this title and other related Acts. The Secretary may undertake

agency that is a member of such a committee, or other agency.

(b) MONITORING, UPDATING, AND PROGRAM REVIEW-

(1) REPORTING AND UPDATING- The Secretary shall establish such annual or more frequent reporting requirements for APICs, and such requirements for the updating of the statement of public purpose goals, investment strategy (including the benchmarks in such strategy), and other documents that may have been used in the license application process under this title, as the Secretary determines necessary to assist the Secretary in monitoring the compliance and performance of APICs.

audit conducted annually of the operations of the APIC. The Secretary, in consultation with the Administrator and the Secretary of the Treasury, shall establish requirements and accordance with generally accepted accounting principles, that the APIC submit the results of the audit to Secretary, and that specify the information to be submitted.

examine the operations and portfolio of each APIC licensed under this title for compliance with sound financial management practices, and for compliance with this title.

(A) SOUND FINANCIAL MANAGEMENT PRACTICES- The Secretary shall examine each APIC to ensure, as a matter of sound financial management practices,

executive orders, Department of Treasury and Office of Management and Budget guidance, circulars, and application and licensing requirements on a continuing

sound financial management practices, including standards that address solvency and financial exposure.

monitor each APIC's progress in meeting the goals in the APIC's statement of public purpose goals, executing the APIC's investment strategy, and other matters.

responsibilities under this title and for purposes of ensuring that the program under this title is operated in accordance with sound financial management practices, the Inspector General of the Department of Housing and Urban Development shall consult with the Inspector General of the Department of the Treasury and the Inspector General of the Small Business Administration, as

necessary to obtain the cooperation of the Inspectors General of the Department of the Treasury and the Small Business Administration in carrying out such function.

Congress annually regarding the operations, activities, financial health, and achievements of the APIC program under this title. The report shall list each investment made by an APIC and

include a summary of the examinations conducted under subsection (b)(3), the guarantee actions of HUD, and any regulatory or policy actions taken by HUD. The report shall distinguish recently licensed APICs from APICs that have held licenses for a longer period for purposes of indicating program activities and performance.

(e) GAO REPORT-

(1) REQUIREMENT- Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the operation of the program under this title for licensing and guarantees for APICs.

(2) CONTENTS- The report shall include--

(A) an analysis of the operations and monitoring by HUD of the APIC program under this title;

(B) the administrative and capacity needs of HUD required to ensure the integrity of the program;

(C) the extent and adequacy of any credit subsidy appropriated for the program; and

(D) the management of financial risk and liability of the Federal Government under the program.

## **SEC. 610. PENALTIES.**

(a) VIOLATIONS SUBJECT TO PENALTY- The Secretary may impose a penalty under this subsection on any APIC or manager of an APIC that, by any act, practice, or failure to act, engages in fraud, mismanagement, or noncompliance with this title, the regulations under this title, or a condition of the APIC's license under this title. The Secretary shall, by regulation, identify, by generic description of a role or responsibilities, any manager of an APIC that is subject to a penalty under this section.

(b) PENALTIES REQUIRING NOTICE AND AN OPPORTUNITY TO RESPOND- If, after notice in writing to an APIC or the manager of an APIC that the APIC or manager has engaged in any action, practice, or failure to act that, under subsection (a), is subject to a penalty, and after an opportunity for the APIC or manager to respond to the notice, the Secretary determines that the APIC or manager engaged in such action or failure to act, the Secretary may, in addition to other penalties imposed--

(1) assess a civil money penalty, except that any civil money penalty under this subsection shall be in an amount not exceeding \$10,000;

(2) issue an order to cease and desist with respect to such action, practice, or failure to act of the APIC or manager;

(3) suspend, or condition the use of, the APIC's license, including deferring, for the

the APIC, except that any suspension or condition under this paragraph may not exceed 90 days; and

APIC than a penalty under subsection (c).

(c) PENALTIES REQUIRING NOTICE AND HEARING- If, after notice in writing to an or failure to act that, under subsection (a), is subject to a penalty, and after an opportunity for administrative hearing, the Secretary determines that the APIC or manager engaged in such

(1) assess a civil money penalty against the APIC or a manager in any amount;

(2) require the APIC to divest any interest in an investment, on such terms and conditions as the Secretary may impose; or

(3) revoke the APIC's license.

(d) EFFECTIVE DATE OF PENALTIES-

(1) PRIOR NOTICE REQUIREMENT- Except as provided in paragraph (2) of this subsection, a penalty under subsection (b) or (c) shall not be due and payable and shall not otherwise take effect or be subject to enforcement by an order of a court, before notice of the penalty is published in the Federal Register.

(2) CEASE-AND-DESIST ORDERS AND SUSPENSION OR CONDITIONING OF LICENSE- In the case of a cease-and-desist order under subsection (b)(2) or the suspension or conditioning of an APIC's license under subsection (b)(3), the following procedures shall apply:

(A) ACTION WITHOUT PUBLISHED NOTICE- The Secretary may order an APIC or manager to cease and desist from an action, practice, or failure to act or may suspend or condition an APIC's license, for not more than 45 days without prior publication of notice in the Federal Register, but such cease-and-desist order or suspension or conditioning shall take effect only after the Secretary has issued a written notice (which may include a writing in electronic form) of such action to the APIC. Notwithstanding subsection (b), such written notice shall be effective without regard to whether the APIC has been accorded an opportunity to respond. Upon such notice, such cease-and-desist order or suspension or conditioning shall be subject to enforcement by an order of a court.

(B) PUBLICATION OF NOTICE OF SUSPENSION OR CONDITIONING OF LICENSE- Upon a suspension or conditioning of a license taking effect pursuant to subparagraph (A), the Secretary shall promptly cause a notice of suspension or conditioning of such license for a period of not more than 90 days to be published in the Federal Register. The Secretary shall provide the APIC an opportunity to respond to such notice. For purposes of the determining the duration of the period

of any suspension or conditioning under this subparagraph, the first day of such suspension or conditioning.

(C) REVOCATION OF LICENSE- During the period of the suspension or

(c)(3) to revoke the license of the APIC, in accordance with the procedures applicable to such subsection. Notwithstanding any other provision of this section,

conditioning of the APIC's license, for one or more periods of not more than 90 days each, by causing notice of such action to be published in the Federal Register--

subparagraph (B); and

(ii) for any subsequent extension, before the expiration of the preceding

(D) TERM OF EFFECTIVENESS- A cease-and-desist order or the suspension or conditioning of an APIC's license by the Secretary under this paragraph shall remain in

adjudication in any action undertaken to challenge the order, or the suspension or conditioning, or the revocation, of an APIC's license.

(a) IN GENERAL- Except as provided in subsection (b), this title shall take effect upon the expiration of the 6-month period beginning on the date of the enactment of this Act.

the Secretary, the Administrator, and the Secretary of the Treasury to issue regulations, standards, guidelines, or licensing requirements, and any authority of such officials to consult or

on the date of the enactment of this Act.

## **SEC. 612. SUNSET.**

first license for an APIC under this title--

(1) the Secretary may not license any APIC; and

the Federal Credit Reform Act of 1990 (2 U.S.C. 661c)) of any guarantee under this title for any debenture issued by an APIC.

any budget authority for the costs of such guarantees that is appropriated before the expiration of such period.

**TITLE VII--OTHER COMMUNITY RENEWAL AND NEW MARKETS ASSISTANCE**

**SEC. 701. TRANSFER OF UNOCCUPIED AND SUBSTANDARD HUD-HELD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT CORPORATIONS.**

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z-11a) is amended--

(1) by striking `FLEXIBLE AUTHORITY- ' and inserting `DISPOSITION OF HUD-OWNED PROPERTIES. (a) FLEXIBLE AUTHORITY FOR MULTIFAMILY PROJECTS- '; and

(2) by adding at the end the following new subsection:

`(b) TRANSFER OF UNOCCUPIED AND SUBSTANDARD HOUSING TO LOCAL GOVERNMENTS AND COMMUNITY DEVELOPMENT CORPORATIONS-

`(1) TRANSFER AUTHORITY- Notwithstanding the authority under subsection (a) and the last sentence of section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), the Secretary of Housing and Urban Development shall transfer ownership of any qualified HUD property, subject to the requirements of this section, to a unit of general local government having jurisdiction for the area in which the property is located or to a community development corporation which operates within such a unit of general local government in accordance with this subsection, but only to the extent that units of general local government and community development corporations consent to transfer and the Secretary determines that such transfer is practicable.

`(2) QUALIFIED HUD PROPERTIES- For purposes of this subsection, the term `qualified HUD property' means any property for which, as of the date that notification of the property is first made under paragraph (3)(B), not less than 6 months have elapsed since the later of the date that the property was acquired by the Secretary or the date that the property was determined to be unoccupied or substandard, that is owned by the Secretary and is--

    `(A) an unoccupied multifamily housing project;

    `(B) a substandard multifamily housing project; or

    `(C) an unoccupied single family property that--

        `(i) has been determined by the Secretary not to be an eligible asset under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)); or

        `(ii) is an eligible asset under such section 204(h), but--

            `(I) is not subject to a specific sale agreement under such section; and

continued inclusion in the program under such section 204(h) pursuant to paragraph (10) of such section.

`(A) time deadlines for transfers under this subsection;

`(B) notification to units of general local government and community development

`(C) such units and corporations to express interest in the transfer under this subsection of such properties;

general local government and community development corporations, under which--

`(i) the Secretary shall establish a period during which the Secretary may not transfer such properties except to such units and corporations;

`(ii) the Secretary shall offer qualified HUD properties that are single family properties for purchase by units of general local government at a cost of \$1 for each property, but only to the extent that the costs to the Federal Government of disposal at such price do not exceed the costs to the Federal Government of disposing of property subject to the procedures for single family property established by the Secretary pursuant to the authority under the last sentence of section 204(g) of the National Housing Act (12 U.S.C. 1710(g));

`(iii) the Secretary may accept an offer to purchase a property made by a community development corporation only if the offer provides for purchase on a cost recovery basis; and

`(iv) the Secretary shall accept an offer to purchase such a property that is made during such period by such a unit or corporation and that complies with the requirements of this paragraph;

`(E) a written explanation, to any unit of general local government or community development corporation making an offer to purchase a qualified HUD property under this subsection that is not accepted, of the reason that such offer was not acceptable.

`(4) OTHER DISPOSITION- With respect to any qualified HUD property, if the Secretary does not receive an acceptable offer to purchase the property pursuant to the procedure established under paragraph (3), the Secretary shall dispose of the property to the unit of general local government in which property is located or to community development corporations located in such unit of general local government on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems

appropriate.

qualified HUD property pursuant to this subsection, the Secretary shall satisfy any indebtedness incurred in connection with the property to be transferred, by canceling the

“(6) DETERMINATION OF STATUS OF PROPERTIES- To ensure compliance with the requirements of this subsection, the Secretary shall take the following actions:

shall promptly assess each residential property owned by the Secretary to determine whether such property is a qualified HUD property.

Secretary shall promptly determine whether the property is a qualified HUD property.

“(C) UPDATES- The Secretary shall periodically reassess the residential properties owned by the Secretary to determine whether any such properties have become

“(7) TENANT LEASES- This subsection shall not affect the terms or the enforceability of any contract or lease entered into with respect to any residential property before the date that such property becomes a qualified HUD property.

“(8) USE OF PROPERTY- Property transferred under this subsection shall be used only for appropriate neighborhood revitalization efforts, including homeownership, rental units, commercial space, and parks, consistent with local zoning regulations, local building codes, and subdivision regulations and restrictions of record.

Notwithstanding any other provision of this subsection, this subsection shall not apply to any properties that the Secretary determines are to be made available for use by the homeless pursuant to subpart E of part 291 of title 24, Code of Federal Regulations,

“(10) PROTECTION OF EXISTING CONTRACTS- This subsection may not be construed to alter, affect, or annul any legally binding obligations entered into with respect to a qualified HUD property before the property becomes a qualified HUD

“(11) DEFINITIONS- For purposes of this subsection, the following definitions shall apply:

development corporation' means a nonprofit organization whose primary purpose is to promote community development by providing housing opportunities for low-income families.

`(B) COST RECOVERY BASIS- The term `cost recovery basis' means, with respect to any sale of a residential property by the Secretary, that the purchase price paid by the purchaser is equal to or greater than the sum of: (i) the appraised value of the property, as determined in accordance with such requirements as the Secretary shall establish; and (ii) the costs incurred by the Secretary in connection with such property during the period beginning on the date on which the Secretary acquires title to the property and ending on the date on which the sale is consummated.

`(C) MULTIFAMILY HOUSING PROJECT- The term `multifamily housing project' has the meaning given the term in section 203 of the Housing and Community Development Amendments of 1978.

`(D) RESIDENTIAL PROPERTY- The term `residential property' means a property that is a multifamily housing project or a single family property.

`(E) SECRETARY- The term `Secretary' means the Secretary of Housing and Urban Development.

`(F) SEVERE PHYSICAL PROBLEMS- The term `severe physical problems' means, with respect to a dwelling unit, that the unit--

`(i) lacks hot or cold piped water, a flush toilet, or both a bathtub and a shower in the unit, for the exclusive use of that unit;

`(ii) on not less than three separate occasions during the preceding winter months, was uncomfortably cold for a period of more than 6 consecutive hours due to a malfunction of the heating system for the unit;

`(iii) has no functioning electrical service, exposed wiring, any room in which there is not a functioning electrical outlet, or has experienced three or more blown fuses or tripped circuit breakers during the preceding 90-day period;

`(iv) is accessible through a public hallway in which there are no working light fixtures, loose or missing steps or railings, and no elevator; or

`(v) has severe maintenance problems, including water leaks involving the roof, windows, doors, basement, or pipes or plumbing fixtures, holes or open cracks in walls or ceilings, severe paint peeling or broken plaster, and signs of rodent infestation.

`(G) SINGLE FAMILY PROPERTY- The term `single family property' means a 1- to 4-family residence.

`(H) SUBSTANDARD- The term `substandard' means, with respect to a multifamily housing project, that 25 percent or more of the dwelling units in the project have severe physical problems.

`(I) UNIT OF GENERAL LOCAL GOVERNMENT- The term `unit of general and Community Development Act of 1974.

`(J) UNOCCUPIED- The term `unoccupied' means, with respect to a residential in which the project is located has certified in writing that the property is not inhabited.

`(A) INTERIM- Not later than 30 days after the date of the enactment of this subsection, the Secretary shall issue such interim regulations as are necessary to

`(B) FINAL- Not later than 60 days after the date of the enactment of this subsection, the Secretary shall issue such final regulations as are necessary to carry

## **SEC. 702. TRANSFER OF HUD ASSETS IN REVITALIZATION AREAS.**

In carrying out the program under section 204(h) of the National Housing Act (12 U.S.C. 1710 (h)), upon the request of the chief executive officer of a county or the government of

Housing and Urban Development shall designate as a revitalization area all portions of such county that meet the criteria for such designation under paragraph (3) of such section.

## **SEC. 703. RISK-SHARING DEMONSTRATION.**

Section 249 of the National Housing Act (12 U.S.C. 1715z-14) is amended--

### **`RISK-SHARING DEMONSTRATION';**

(2) by striking `reinsurance' each place such term appears and insert `risk-sharing';

(3) in subsection (a)--

(A) in the first sentence, by inserting `and insured community development financial institutions' after `private mortgage insurers';

(i) by striking `two' and inserting `4'; and

(ii) by striking `March 15, 1988' and inserting `the expiration of the 5-year

period beginning on the date of the enactment of the Community Renewal and New Market Act of 2000'; and

(C) in the last sentence, by striking `10 percent' and inserting `20 percent';

(4) in subsection (b)--

(A) in the first sentence, by inserting `and with insured community development financial institutions' before the period at the end;

(B) in the first sentence, by striking `which have been determined to be qualified insurers under section 302(b)(2)(C)';

(C) in the second sentence, by inserting `and insured community development financial institutions' after `private mortgage insurance companies';

(D) by striking paragraph (1) and inserting the following new paragraph:

`(1) assume the first loss on any mortgage insured pursuant to section 203(b), 234, or 245 that covers a one- to four-family dwelling and is included in the program under this section, up to the percentage of loss that is set forth in the risk-sharing contract;'; and

(E) in paragraph (2)--

(i) by striking `carry out (under appropriate delegation) such' and inserting `delegate underwriting,'; and

(ii) by striking `function' and inserting `functions';

(5) in subsection (c)--

(A) in the first sentence--

(i) by striking `of' the first place it appears and insert `for';

(ii) by striking `insurance reserves' and inserting `loss reserves'; and

(iii) by striking `such insurance' and inserting `such reserves'; and

(B) in the second sentence, by inserting `or insured community development financial institution' after `private mortgage insurance company';

(6) in subsection (d), by inserting `or insured community development financial institution' after `private mortgage insurance company'; and

(7) by adding at the end the following new subsection:

`(e) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS- For purposes of this section, the term `insured community development financial institution' means a

community development financial institution, as such term is defined in section 103 of Reigle

insured depository institution (as such term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or an insured credit union (as such term is defined in section

**SEC. 704. PREVENTION AND TREATMENT OF SUBSTANCE ABUSE;  
SERVICES PROVIDED THROUGH RELIGIOUS ORGANIZATIONS.**

end the following part:

**`Part G--Services Provided Through Religious Organizations**

`(a) DESIGNATED PROGRAMS- Subject to subsection (b), this part applies to discretionary and formula grant programs administered by the Substance Abuse and Mental Health Services Administration that make awards of financial assistance to public or private entities for the

a `designated program'). Designated programs include the program under subpart II of part B of title XIX (relating to formula grants to the States).

designated program for a purpose other than the purpose specified in subsection (a).

`(c) DEFINITIONS- For purposes of this part (and subject to subsection (b)):

`(2) The term `financial assistance' means a grant, cooperative agreement, or contract.

`(3) The term `program beneficiary' means an individual who receives program services.

financial assistance under a designated program.

`(5) The term `program services' means treatment for substance abuse, or preventive under a designated program.

`(6) The term `religious organization' means a nonprofit religious organization.

`(a) IN GENERAL- Notwithstanding any other provision of law, a religious organization, on the same basis as any other nonprofit private provider--

`(1) may receive financial assistance under a designated program; and

`(2) may be a provider of services under a designated program.

`(b) RELIGIOUS ORGANIZATIONS- The purpose of this section is to allow religious organizations to be program participants on the same basis as any other nonprofit private provider without impairing the religious character of such organizations, and without diminishing the religious freedom of program beneficiaries.

`(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS-

`(1) ELIGIBILITY AS PROGRAM PARTICIPANTS- Religious organizations are eligible to be program participants on the same basis as any other nonprofit private

Clause and Free Exercise Clause of the First Amendment to the United States Constitution. Nothing in this Act shall be construed to restrict the ability of the Federal Government, or a State or local government receiving funds under such programs, to are applied to any other nonprofit private organization.

`(2) NONDISCRIMINATION- Neither the Federal Government nor a State or local government receiving funds under designated programs shall discriminate against an organization has a religious character.

`(d) RELIGIOUS CHARACTER AND FREEDOM-

organization that is a program participant shall retain its independence from Federal, State, and local government, including such organization's control over the definition,

`(2) ADDITIONAL SAFEGUARDS- Neither the Federal Government nor a State shall require a religious organization to--

`(B) remove religious art, icons, scripture, or other symbols,

in order to be a program participant.

affect the provisions of any other Federal or State law or regulation that relates to discrimination in employment. A religious organization's exemption provided under section 702

`(f) RIGHTS OF PROGRAM BENEFICIARIES-

`(1) IN GENERAL- If an individual who is a program beneficiary or a prospective program beneficiary objects to the religious character of a program participant, within a reasonable period of time after the date of such objection such program participant shall refer such individual to, and the appropriate Federal, State, or local government that administers a designated program or is a program participant shall provide to such individual (if otherwise eligible for such services), program services that--

`(A) are from an alternative provider that is accessible to, and has the capacity to provide such services to, such individual; and

`(B) have a value that is not less than the value of the services that the individual would have received from the program participant to which the individual had such objection.

`(2) NOTICES- Appropriate Federal, State, or local governments that administer designated programs or are program participants shall ensure that notice is provided to program beneficiaries or prospective program beneficiaries of their rights under this subsection.

`(3) ADDITIONAL REQUIREMENTS- A program participant making a referral pursuant to paragraph (1) shall--

`(A) prior to making such referral, consider any list that the State or local government makes available of entities in the geographic area that provide program services; and

`(B) ensure that the individual makes contact with the alternative provider to which the individual is referred.

`(4) NONDISCRIMINATION- A religious organization that is a program participant shall not in providing program services or engaging in outreach activities under designated programs discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

`(g) FISCAL ACCOUNTABILITY-

`(1) IN GENERAL- Except as provided in paragraph (2), any religious organization that is a program participant shall be subject to the same regulations as other recipients of awards of Federal financial assistance to account, in accordance with generally accepted auditing principles, for the use of the funds provided under such awards.

`(2) LIMITED AUDIT- With respect to the award involved, if a religious organization that is a program participant maintains the Federal funds in a separate account from non-Federal funds, then only the Federal funds shall be subject to audit.

`(h) COMPLIANCE- With respect to compliance with this section by an agency, a religious organization may obtain judicial review of agency action in accordance with chapter 7 of title 5, United States Code.

**`SEC. 583. LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.**

instruction, or proselytization.

**`SEC. 584. EDUCATIONAL REQUIREMENTS FOR PERSONNEL IN DRUG**

`(a) FINDINGS- The Congress finds that--

`(1) establishing unduly rigid or uniform educational qualification for counselors and other  
and

`(2) such educational requirements for counselors and other personnel may hinder or

`(b) NONDISCRIMINATION- In determining whether personnel of a program participant that has a record of successful drug treatment for the preceding three years have satisfied State or

against education and training provided to such personnel by a religious organization, so long as such education and training includes basic content substantially equivalent to the content provided by nonreligious organizations that the State or local government would credit for purposes of determining whether the relevant requirements have been satisfied.'

(a) SHORT TITLE- This section may be cited as the `New Markets Venture Capital Program Act of 2000'.

(b) NEW MARKETS VENTURE CAPITAL PROGRAM- Title III of the Small Business

(1) in the heading for the title, by striking `SMALL BUSINESS INVESTMENT COMPANIES' and inserting `INVESTMENT DIVISION PROGRAMS';

**`Part A--Small Business Investment Companies';**

and

**`Part B--New Markets Venture Capital Program**

**`SEC. 351. DEFINITIONS.**

`In this part, the following definitions apply:

`(1) DEVELOPMENTAL VENTURE CAPITAL- The term `developmental venture capital' means capital in the form of equity investments in businesses made with a primary objective of fostering economic development in low- or moderate-income geographic areas.

`(2) LOW- OR MODERATE-INCOME GEOGRAPHIC AREA- The term `low- or moderate-income geographic area' means--

`(A) a census tract, or the equivalent county division as defined by the Bureau of the Census for purposes of defining poverty areas, in which--

`(ii) in the case of a census tract or division located within a metropolitan area, the median family income for such tract or division does not exceed the metropolitan area median family income; or

`(iii) in the case of a census tract or division not located within a metropolitan area, the median family income for such tract or division does not exceed 80 percent of the statewide median family income; or

`(B) any area located within--

section 3(p) of the Small Business Act (15 U.S.C. 632(p));

`(ii) an urban empowerment zone or an urban enterprise community, as defined in section 3(p) of the Small Business Act; or

`(iii) a rural empowerment zone or a rural enterprise community, as defined in section 3(p) of the Small Business Act.

`(3) NEW MARKETS VENTURE CAPITAL COMPANY- The term `New Markets Venture Capital company' means a company that--

and

`(B) has entered into a participation agreement with the Administration.

management, marketing, and other technical assistance that assists a small business concern with business development.

`(5) PARTICIPATION AGREEMENT- The term `participation agreement' means an agreement, between the Administration and a company granted final approval under section 354(e), that--

`(A) details the company's operating plan and investment criteria; and

`(B) requires the company to make investments in smaller enterprises at least 80 percent of which are located in low- or moderate-income geographic areas.

`(6) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY- The term `specialized small business investment company' means any small business investment company that--

`(A) invests solely in small business concerns that 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;

statutes, or formed as a limited partnership; and

`(C) was licensed under section 301(d), as in effect before September 30, 1996.

## **`SEC. 352. PURPOSES.**

`The purposes of the New Markets Venture Capital Program established under this part are--

`(1) to promote economic development and the creation of wealth and job opportunities in low- or moderate-income geographic areas and among individuals living in such areas by encouraging developmental venture capital investments in smaller enterprises primarily located in such areas; and

the unmet equity investment needs of small enterprises located in low- and moderate-income geographic areas, to be administered by the Administration--

`(A) to enter into participation agreements with New Markets Venture Capital

`(B) to guarantee debentures of New Markets Venture Capital companies to enable each such company to make developmental venture capital investments in smaller enterprises in low- or moderate-income geographic areas; and

`(C) to make grants to New Markets Venture Capital companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by such companies.

`In accordance with this part, the Administration shall establish a New Markets Venture Capital Program, under which the Administration may--

`(1) enter into participation agreements with companies granted final approval under section 354(e) for the purposes set forth in section 352;

`(2) guarantee the debentures issued by New Markets Venture Capital companies as provided in section 355; and

`(3) make grants to New Markets Venture Capital companies, and to other entities, under section 358.

### **`SEC. 354. SELECTION OF NEW MARKETS VENTURE CAPITAL COMPANIES.**

`(a) ELIGIBILITY- A company shall be eligible to apply to participate, as a New Markets Venture Capital company, in the program established under this part if--

`(1) the company is a newly formed for-profit entity or a newly formed for-profit subsidiary of an existing entity;

`(2) the company has a management team with experience in community development financing or relevant venture capital financing; and

`(3) the company has a primary objective of economic development of low- or moderate-income geographic areas.

`(b) APPLICATION- To participate, as a New Markets Venture Capital company, in the program established under this part a company meeting the eligibility requirements set forth in subsection (a) shall submit an application to the Administration that includes--

`(1) a business plan describing how the company intends to make successful developmental venture capital investments in identified low- or moderate-income geographic areas;

`(2) information regarding the community development finance or relevant venture capital qualifications and general reputation of the company's management;

`(3) a description of how the company intends to work with community organizations and to seek to address the unmet capital needs of the communities served;

`(4) a proposal describing how the company will use the grant funds provided under this part to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company will use licensed professionals, where applicable, on the company's staff or from an outside entity;

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

`(6) a description of the criteria to be used to evaluate whether and to what extent the

`(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the company's business plan;

`(8) such other information as the Administration may require.

`(c) **CONDITIONAL APPROVAL-**

(b), the Administration shall, in accordance with this subsection, conditionally approve companies to participate in the New Markets Venture Capital Program.

Administration shall consider the following:

`(A) The likelihood that the company will meet the goals of its business plan.

areas in which the company intends to invest.

`(D) The extent to which the company will concentrate its activities on serving the geographic areas in which it intends to invest.

subsection (d).

`(F) The extent to which the activities proposed by the company will expand economic opportunities in the geographic areas in which the company intends to invest.

under this part as the proposal relates to the ability of the applicant to meet applicable cash requirements and properly utilize in-kind contributions, including persons on the company's staff or by persons outside of the company.

`(H) Any other factors deemed appropriate by the Administration.

paragraph (1) in such a way that promotes investment nationwide.

`(d) **REQUIREMENTS TO BE MET FOR FINAL APPROVAL-** The Administration shall grant each conditionally approved company a period of time, not to exceed 2 years, to satisfy

the following requirements:

`(1) CAPITAL REQUIREMENT- Each conditionally approved company must raise not less than \$5,000,000 of private capital or binding capital commitments from one or more investors (other than agencies or departments of the Federal Government) who meet criteria established by the Administration.

`(2) NONADMINISTRATION RESOURCES FOR OPERATIONAL ASSISTANCE- In order to provide operational assistance to smaller enterprises expected to be financed by the company, each conditionally approved company--

`(A) must have binding commitments (for contribution in cash or in kind)--

`(i) from any sources other than the Administration that meet criteria

`(ii) payable or available over a multiyear period acceptable to the Administration (not to exceed 10 years); and

commitments raised under paragraph (1);

`(B) must have purchased an annuity--

`(ii) using funds (other than the funds raised under paragraph (1)) from any source other than the Administration; and

`(iii) that yields cash payments over a multiyear period acceptable to the Administration (not to exceed 10 years) in an amount not less than 30 percent of the total amount of capital and commitments raised under paragraph (1); or

type described in subparagraph (A) and must have purchased an annuity of the type described in subparagraph (B), which in the aggregate make available, over a multiyear period acceptable to the Administration (not to exceed 10 years), an amount not less than 30 percent of the total amount of capital and commitments raised under paragraph (1).

under subsection (c) final approval to participate in the program established under this part after the company has met the requirements set forth in subsection (d).

### **`SEC. 355. DEBENTURES.**

`(a) IN GENERAL- The Administration may guarantee the timely payment of principal and

`(b) TERMS AND CONDITIONS- The Administration may make guarantees under this section on such terms and conditions as it deems appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

`(c) FULL FAITH AND CREDIT OF THE UNITED STATES- The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee under this part.

`(d) MAXIMUM GUARANTEE-

`(1) IN GENERAL- Under this section, the Administration may guarantee the debentures issued by a New Markets Venture Capital company only to the extent that the total face amount of outstanding guaranteed debentures of such company does not exceed 150 percent of the private capital of the company, as determined by the Administration.

`(2) TREATMENT OF CERTAIN FEDERAL FUNDS- For the purposes of paragraph (1), private capital shall include capital that is considered to be Federal funds, if such capital is contributed by an investor other than an agency or department of the Federal Government.

## **`SEC. 356. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.**

`(a) ISSUANCE- The Administration may issue trust certificates representing ownership of all or a fractional part of debentures issued by a New Markets Venture Capital company and guaranteed by the Administration under this part, if such certificates are based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

`(b) GUARANTEE-

`(1) IN GENERAL- The Administration may, under such terms and conditions as it deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agents for purposes of this section.

`(2) LIMITATION- Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

`(3) PREPAYMENT OR DEFAULT- In the event that a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment of the guarantee. At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

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

`(d) FEES- The Administration shall not collect a fee for any guarantee of a trust certificate Administration for the functions described in subsection (f)(2).

`(e) SUBROGATION AND OWNERSHIP RIGHTS-

issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

exercise by the Administration of its ownership rights in the debentures residing in a trust or pool against which trust certificates are issued under this section.

`(1) REGISTRATION-

`(A) IN GENERAL- The Administration may provide for a central registration of all trust certificates issued under this section.

`(B) FORMS OF REGISTRATION- Nothing in this subsection shall prohibit the use of a book entry or other electronic form of registration for trust certificates.

`(2) CONTRACTING OF FUNCTIONS-

`(A) IN GENERAL- The Administration may contract with an agent or agents to carry out on behalf of the Administration the pooling and the central registration functions provided for in this section including, notwithstanding any other provision of law--

`(i) maintenance, on behalf of and under the direction of the Administration, of such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this part; and

`(ii) the issuance of trust certificates to facilitate the creation of such trusts or pools.

`(B) FIDELITY BOND OR INSURANCE REQUIREMENT- Any agent performing functions on behalf of the Administration under this paragraph shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the United States.

`(3) APPLICABILITY OF THE SECURITIES EXCHANGE ACT OF 1934-

Notwithstanding section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)), trust certificates issued under this section shall not be treated as government securities for the purposes of that Act.

**SEC. 357. FEES.**

appropriate with respect to any guarantee or grant issued under this part.

**SEC. 358. OPERATIONAL ASSISTANCE GRANTS.**

(1) **AUTHORITY-** In accordance with this section, the Administration may make grants to New Markets Venture Capital companies and to other entities, as authorized by this financed, by such companies or other entities.

(2) **TERMS-** Grants made under this subsection shall be made over a multiyear period

**(3) GRANTS TO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES-**

(A) **AUTHORITY-** In accordance with this section, the Administration may make assistance to smaller enterprises financed, or expected to be financed, by such companies after the effective date of the New Markets Venture Capital Program Act of 2000.

(B) **USE OF FUNDS-**

be used by the company receiving such grant only to provide operational assistance in connection with an equity investment (made with capital raised after the effective date of the New Markets Venture Capital Program Act of

(ii) **ADDITIONAL LIMITATION-** Operational assistance referred to in clause (i) may not be provided in connection with more than one equity investment.

(C) **SUBMISSION OF PLANS-** A specialized small business investment company shall be eligible for a grant under this section only if the company submits to the Administrator, in such form and manner as the Administrator may require, a plan for use of the grant.

(A) **NEW MARKETS VENTURE CAPITAL COMPANIES-** The amount of a grant made under this subsection to a New Markets Venture Capital company shall be equal to the resources (in cash or in kind) raised by the company under with

`(B) OTHER ENTITIES- The amount of a grant made under this subsection to any entity other than a New Markets Venture capital company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to New Markets Venture Capital companies set forth in section 354(d)(2).

`(5) PRO RATA REDUCTIONS- If the amount made available to carry out this section is insufficient for the Administration to provide grants in the amounts provided for in paragraph (4), the Administration shall make pro rata reductions in the amounts otherwise payable to each company and entity under such paragraph.

`(b) SUPPLEMENTAL GRANTS-

`(1) IN GENERAL- The Administration may make supplemental grants to New Markets Venture Capital companies and to other entities, as authorized by this part, under such terms as the Administration may require, to provide additional operational assistance to smaller enterprises financed, or expected to be financed, by the companies.

`(2) MATCHING REQUIREMENT- The Administration may require, as a condition of any supplemental grant made under this subsection, that the company or entity receiving the grant provide from resources (in cash or in kind), other than those provided by the Administration, a matching contribution equal to the amount of the supplemental grant.

`(c) LIMITATION- None of the assistance made available under this section may be used for any operating expense of a New Markets Venture Capital company or a specialized small business investment company.

**`SEC. 359. BANK PARTICIPATION.**

`(a) IN GENERAL- Except as provided in subsection (b), any national bank, any member bank of the Federal Reserve System, and (to the extent permitted under applicable State law) any insured bank that is not a member of such system, may invest in any New Markets Venture Capital company, or in any entity established to invest solely in New Markets Venture Capital companies.

`(b) LIMITATION- No bank described in subsection (a) may make investments described in such subsection that are greater than 5 percent of the capital and surplus of the bank.

**`SEC. 360. FEDERAL FINANCING BANK.**

`Section 318 shall not apply to any debenture issued by a New Markets Venture Capital company under this part.

**`SEC. 361. REPORTING REQUIREMENTS.**

`Each New Markets Venture Capital company that participates in the program established under this part shall provide to the Administration such information as the Administration may require, including--

`(1) information related to the measurement criteria that the company proposed in its

`(2) in each case in which the company under this part makes an investment in, or a loan or grant to, a business that is not located in a low- or moderate-income geographic area, a areas.

## **`SEC. 362. EXAMINATIONS.**

program established under this part shall be subject to examinations made at the direction of the Investment Division of the Administration in accordance with this section.

be conducted with the assistance of a private sector entity that has both the qualifications and the expertise necessary to conduct such examinations.

`(c) COSTS-

`(A) IN GENERAL- The Administration may assess the cost of examinations under this section, including compensation of the examiners, against the company

`(B) PAYMENT- Any company against which the Administration assesses costs under this paragraph shall pay such costs.

account for salaries and expenses of the Administration.

## **`SEC. 363. INJUNCTIONS AND OTHER ORDERS.**

Capital company or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or of any rule or

application to the proper district court of the United States or a United States court of any place subject to the jurisdiction of the United States for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that

in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

may, to such extent as it deems necessary, take exclusive jurisdiction of the New Market

Venture Capital company and the assets thereof, wherever located, and the court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

**`(c) ADMINISTRATION AS TRUSTEE OR RECEIVER-**

**`(1) AUTHORITY-** The Administration may act as trustee or receiver of a New Markets Venture Capital company.

**`(2) APPOINTMENT-** Upon request of the Administration, the court may appoint the Administration to act as a trustee or receiver of a New Markets Venture Capital company unless the court deems such appointment inequitable or otherwise inappropriate by reason of the special circumstances involved.

**`SEC. 364. ADDITIONAL PENALTIES FOR NONCOMPLIANCE.**

**`(a) IN GENERAL-** With respect to any New Markets Venture Capital company that violates or fails to comply with any of the provisions of this Act, of any regulation issued under this Act, or of any participation agreement entered into under this Act, the Administration may in accordance with this section--

**`(1)** void the participation agreement between the Administration and the company; and

**`(2)** cause the company to forfeit all of the rights and privileges derived by the company from this Act.

**`(b) ADJUDICATION OF NONCOMPLIANCE-**

**`(1) IN GENERAL-** Before the Administration may cause a New Markets Venture Capital company to forfeit rights or privileges under subsection (a), a court of the United States of competent jurisdiction must find that the company committed a violation, or failed to comply, in a cause of action brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of the company is located.

**`(2) PARTIES AUTHORIZED TO FILE CAUSES OF ACTION-** Each cause of action brought by the United States under this subsection shall be brought by the Administration or by the Attorney General.

**`SEC. 365. UNLAWFUL ACTS AND OMISSIONS; BREACH OF FIDUCIARY DUTY.**

**`(a) PARTIES DEEMED TO COMMIT A VIOLATION-** Whenever any New Markets Venture Capital company violates any provision of this Act, of a regulation issued under this Act, or of a participation agreement entered into under this Act, by reason of its failure to comply with its terms or by reason of its engaging in any act or practice that constitutes or will constitute a violation thereof, such violation shall also be deemed to be a violation and an unlawful act committed by any person who, directly or indirectly, authorizes, orders, participates in, causes, brings about, counsels, aids, or abets in the commission of any acts,

practices, or transactions that constitute or will constitute, in whole or in part, such violation.

other participant in the management or conduct of the affairs of a New Markets Venture Capital company to engage in any act or practice, or to omit any act or practice, in breach of the

thereof, the company suffers or is in imminent danger of suffering financial loss or other damage.

unlawful--

`(1) for any person to take office as an officer, director, or employee of any New Markets affairs or management of such a company, if the person--

`(A) has been convicted of a felony, or any other criminal offense involving

`(B) has been found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud, or breach of trust; and

if--

`(A) the person is convicted of a felony, or any other criminal offense involving dishonesty or breach of trust, or

enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

in section 313 (to the extent such procedures are not inconsistent with the requirements of this part), the Administration may remove or suspend any director or officer of any New Markets Venture Capital company.

`The Administration may issue such regulations as it deems necessary to carry out the provisions of this part in accordance with its purposes.

## **`SEC. 368. AUTHORIZATIONS OF APPROPRIATIONS.**

appropriated, to remain available until expended--

`(1) such subsidy budget authority as may be necessary to guarantee \$150,000,000 of debentures under this part; and

`(2) \$30,000,000 to make grants under this part.

`(b) FUNDS COLLECTED FOR EXAMINATIONS- Funds deposited under section 362(c)(2) are authorized to be appropriated only for the costs of examinations under section 362 and for the costs of other oversight activities with respect to the program established under this part.'

(c) CONFORMING AMENDMENT- Section 20(e)(1)(C) of the Small Business Act (15 U.S.C 631 note) is amended by inserting `part A of' before `title III'.

(d) CALCULATION OF MAXIMUM AMOUNT OF SBIC LEVERAGE-

(1) MAXIMUM LEVERAGE- Section 303(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 683(b)(2)) is amended to read as follows:

`(2) MAXIMUM LEVERAGE-

`(A) IN GENERAL- After March 31, 1993, the maximum amount of outstanding leverage made available to a company licensed under section 301(c) of this Act shall be determined by the amount of such company's private capital--

`(i) if the company has private capital of not more than \$15,000,000, the total amount of leverage shall not exceed 300 percent of private capital;

`(ii) if the company has private capital of more than \$15,000,000 but not more than \$30,000,000, the total amount of leverage shall not exceed \$45,000,000 plus 200 percent of the amount of private capital over \$15,000,000; and

`(iii) if the company has private capital of more than \$30,000,000, the total amount of leverage shall not exceed \$75,000,000 plus 100 percent of the amount of private capital over \$30,000,000 but not to exceed an additional \$15,000,000.

`(B) ADJUSTMENTS-

`(i) IN GENERAL- The dollar amounts in clauses (i), (ii), and (iii) of subparagraph (A) shall be adjusted annually to reflect increases in the Consumer Price Index established by the Bureau of Labor Statistics of the Department of Labor.

(ii) INITIAL ADJUSTMENTS- The initial adjustments made under this subparagraph after the date of the enactment of the Small Business Reauthorization Act of 1997 shall reflect only increases from March 31, 1993.

“(C) INVESTMENTS IN LOW- OR MODERATE INCOME AREAS- In

(A), the Administrator shall not include the amount of the cost basis of any equity investment made by the company in a smaller enterprise located in a low- or

total of such amounts does not exceed 50 percent of the company's private capital.’.

(2) MAXIMUM AGGREGATE LEVERAGE- Section 303(b)(4) of the Small Business following new subparagraph:

“(D) INVESTMENTS IN LOW- OR MODERATE INCOME AREAS- In

subparagraph (A), the Administrator shall not include the amount of the cost basis of any equity investment made by the company in a smaller enterprise located in a low- or moderate-income geographic area (as defined in section 351), to the extent

(e) BANKRUPTCY EXEMPTION FOR NEW MARKETS VENTURE CAPITAL COMPANIES- Section 109(b)(2) of title 11, United States Code, is amended by inserting ‘a New Markets Venture Capital company as defined in section 351 of the Small Business Investment Act of 1958,’ after ‘homestead association,’.

(12 U.S.C. 1464(c)(4)) is amended by adding at the end the following:

“(F) NEW MARKETS VENTURE CAPITAL COMPANIES- A Federal savings

investment Act of 1958, except that a Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment

savings association.’.

## **SEC. 706. BUSINESSLINC GRANTS AND COOPERATIVE AGREEMENTS.**

“(m) BUSINESSLINC GRANTS AND COOPERATIVE AGREEMENTS-

“(1) IN GENERAL- In accordance with this subsection, the Administrator may make

“(A) to expand business-to-business relationships between large and small businesses; and

`(B) to provide businesses, directly or indirectly, with online information and a database of companies that are interested in mentor-protege programs or community-based, state-wide, or local business development programs.

`(2) MATCHING REQUIREMENT- Subject to subparagraph (B), the Administrator may make a grant to a coalition under paragraph (1) only if the coalition provides for activities described in paragraph (1)(A) or (1)(B) an amount, either in kind or in cash, equal to the grant amount.

`(3) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this subsection \$6,600,000, to remain available until expended, for each of fiscal years 2001 through 2003.'

Attest:

Clerk.