

Subsec. (a)(4)(L) to (O). Pub. L. 103-325, §114(c)(2)(B), added subpars. (L) to (O).

Subsec. (a)(5). Pub. L. 103-325, §114(c)(3), substituted "paragraph (3)(A)" for "paragraph (3)".

Subsec. (a)(6). Pub. L. 103-325, §114(c)(4), substituted "Loans, financial assistance, and equity investments made by any insured depository institution" for "Investments by any insured depository institution in loans and securities".

Subsec. (a)(7). Pub. L. 103-325, §114(c)(5), added par. (7).

Subsec. (g). Pub. L. 103-325, §114(c)(6), added subsec. (g) and redesignated former subsec. (g) as (j).

Subsecs. (h), (i). Pub. L. 103-325, §114(c)(7), added subsecs. (h) and (i).

Subsec. (j). Pub. L. 103-325, §114(c)(6)(A), redesignated subsec. (g) as (j).

Subsec. (j)(4), (5). Pub. L. 103-325, §114(a)(8), added pars. (4) and (5).

1992—Subsec. (a)(1)(A). Pub. L. 102-558, §303(b)(9)(A), substituted "section 1817(b)(7)" for "section 1817(d)(4)". Pub. L. 102-550, §1605(a)(7)(A), which contained an identical amendment, was repealed, effective Oct. 28, 1992, by Pub. L. 102-558, §305, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

Subsec. (a)(2). Pub. L. 102-550, §931(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

"(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

"(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community."

Subsec. (a)(3). Pub. L. 102-558, §303(b)(9)(B), substituted "section 1817(b)(7)" for "section 1817(d)(4)". Pub. L. 102-550, §1605(a)(7)(B), which contained an identical amendment, was repealed, effective Oct. 28, 1992, by Pub. L. 102-558, §305, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

Pub. L. 102-558, §303(b)(2), which directed technical amendment to reference to section 1834b of this title to correct reference to corresponding section of original act, could not be executed because of prior general amendment by Pub. L. 102-550, §931(d). See below. Pub. L. 102-550, §1604(b)(2), which contained an identical amendment, was repealed, effective Oct. 28, 1992, by Pub. L. 102-558, §305, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

Pub. L. 102-550, §931(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The amount of any community enterprise assessment credit available under section 1817(d)(4) of this title for any insured depository institution, or a qualified portion thereof, for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 1834b of this title, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements (or any percentage designated under paragraph (5)) of the sum of—

"(A) the amounts of assets described in paragraph (2)(A); and

"(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B)."

Subsec. (a)(5). Pub. L. 102-558, §303(b)(2), made technical amendment to reference to section 1834b of this title to correct reference to corresponding section of original act. Pub. L. 102-550, §1604(b)(2), which made identical amendment, was repealed, effective Oct. 28, 1992, by Pub. L. 102-558, §305, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

Subsec. (b)(4). Pub. L. 102-550, §931(e), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

"(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

"(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

"(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures)."

Subsec. (e)(2). Pub. L. 102-558, §303(b)(9)(C), substituted "of the semiannual assessment to which such credit is applicable" for "made for purposes of the notification required under section 1817(d)(1)(B) of this title". Pub. L. 102-550, §1605(a)(7)(C), which contained an identical amendment, was repealed, effective Oct. 28, 1992, by Pub. L. 102-558, §305, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 303(b)(2) of Pub. L. 102-558 deemed to have become effective Mar. 1, 1992, see section 304 of Pub. L. 102-558, set out as a note under section 2062 of Title 50, Appendix, War and National Defense.

Section 303(b)(9) of Pub. L. 102-558 provided that the amendment made by that section is effective on the effective date of the amendment made by section 302(e)(4) of Pub. L. 102-242 [see section 302(g) of Pub. L. 102-242, set out as a note under section 1817 of this title].

Section 1605(a)(7) of Pub. L. 102-550, which provided effective date provisions for the amendment made by that section, was repealed, effective Oct. 28, 1992, by section 305 of Pub. L. 102-558, set out as a Repeal of Duplicative Provisions note under section 1815 of this title.

§ 1834b. Community development organizations

(a) Community development organizations described

For purposes of this subtitle, any insured depository institution, or a qualified portion thereof, shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b) of this section;

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c) of this section;

(C) invests in accounts in any community development credit union designated as a low-income credit union, subject to restrictions established for such credit unions by

the National Credit Union Administration Board; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) $\frac{1}{2}$ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 1602(i)¹ of title 15), to low- and moderate-income persons, non-profit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) Community development bank requirements

A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the “Community Investment Board” and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, $\frac{1}{3}$ shall be appointed for a term of 8 months, $\frac{1}{3}$ shall be appointed for a term of 16 months, and $\frac{1}{3}$ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) $\frac{1}{3}$ of the members of the community development bank’s board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) Community development corporation requirements

Any community development corporation, or community development unit within any in-

sured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) of this section if such corporation or unit were a community development bank.

(d) Adequate dispersal requirement

The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) Definitions

For purposes of this section—

(1) Community development bank

The term “community development bank” means any depository institution (as defined in section 1813(c)(1) of this title).

(2) Community development organization

The term “community development organization” means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) Low- and moderate-income persons

The term “low- and moderate-income persons” has the meaning given such term in section 5302(a)(20) of title 42.

(4) Nonprofit organization; small business

The terms “nonprofit organization” and “small business” have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) Qualified distressed community

The term “qualified distressed community” has the meaning given to such term in section 1834a(b) of this title.

(Pub. L. 102-242, title II, § 234, Dec. 19, 1991, 105 Stat. 2315.)

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (a) and (d), is subtitle C (§§ 231-234) of title II of Pub. L. 102-242, Dec. 19, 1991, 105 Stat. 2308, known as the Bank Enterprise Act of 1991, which enacted this section and sections 1834 and 1834a of this title, amended section 1817 of this title, and enacted provisions set out as a note under section 1811 of this title. For complete classification of subtitle C to the Code, see section 231 of Pub. L. 102-242, set out as a Short Title of 1991 Amendment note under section 1811 of this title and Tables.

Section 1602(i) of title 15, referred to in subsec. (a)(3), was redesignated section 1602(j) of title 15 by Pub. L. 111-203, title X, § 1100A(1)(A), July 21, 2010, 124 Stat. 2107.

CODIFICATION

Section was enacted as part of the Bank Enterprise Act of 1991, and also as part of the Foreign Bank Supervision Enhancement Act of 1991 and as part of the Federal Deposit Insurance Corporation Improvement Act of 1991, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

¹ See References in Text note below.

§ 1835. Insured depository institution capital requirements for transfers of small business obligations

(a) Accounting principles

The accounting principles applicable to the transfer of a small business loan or a lease of personal property with recourse contained in reports or statements required to be filed with Federal banking agencies by a qualified insured depository institution shall be consistent with generally accepted accounting principles.

(b) Capital and reserve requirements

With respect to the transfer of a small business loan or lease of personal property with recourse that is a sale under generally accepted accounting principles, each qualified insured depository institution shall—

- (1) establish and maintain a reserve equal to an amount sufficient to meet the reasonable estimated liability of the institution under the recourse arrangement; and
- (2) include, for purposes of applicable capital standards and other capital measures, only the amount of the retained recourse in the risk-weighted assets of the institution.

(c) Qualified institutions criteria

An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b) of this section, the institution is—

- (1) well capitalized; or
- (2) with the approval, by regulation or order, of the appropriate Federal banking agency, adequately capitalized.

(d) Aggregate amount of recourse

The total outstanding amount of recourse retained by a qualified insured depository institution with respect to transfers of small business loans and leases of personal property under subsections (a) and (b) of this section shall not exceed—

- (1) 15 percent of the risk-based capital of the institution; or
- (2) such greater amount, as established by the appropriate Federal banking agency by regulation or order.

(e) Institutions that cease to be qualified or exceed aggregate limits

If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d) of this section, this section shall remain applicable to any transfers of small business loans or leases of personal property that occurred during the time that the institution was qualified and did not exceed such limit.

(f) Prompt corrective action not affected

The capital of an insured depository institution shall be computed without regard to this section in determining whether the institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under section 1831o of this title.

(g) Regulations required

Not later than 180 days after September 23, 1994, each appropriate Federal banking agency

shall promulgate final regulations implementing this section.

(h) Alternative system permitted

(1) In general

At the discretion of the appropriate Federal banking agency, this section shall not apply if the regulations of the agency provide that the aggregate amount of capital and reserves required with respect to the transfer of small business loans and leases of personal property with recourse does not exceed the aggregate amount of capital and reserves that would be required under subsection (b) of this section.

(2) Existing transactions not affected

Notwithstanding paragraph (1), this section shall remain in effect with respect to transfers of small business loans and leases of personal property with recourse by qualified insured depository institutions occurring before the effective date of regulations referred to in paragraph (1).

(i) Definitions

For purposes of this section—

(1) the term “adequately capitalized” has the same meaning as in section 1831o(b) of this title;

(2) the term “appropriate Federal banking agency” has the same meaning as in section 1813 of this title;

(3) the term “capital standards” has the same meaning as in section 1831o(c) of this title;

(4) the term “Federal banking agencies” has the same meaning as in section 1813 of this title;

(5) the term “insured depository institution” has the same meaning as in section 1813 of this title;

(6) the term “other capital measures” has the meaning as in section 1831o(c) of this title;

(7) the term “recourse” has the meaning given to such term under generally accepted accounting principles;

(8) the term “small business” means a business that meets the criteria for a small business concern established by the Small Business Administration under section 632(a) of title 15; and

(9) the term “well capitalized” has the same meaning as in section 1831o(b) of this title.

(Pub. L. 103-325, title II, §208, Sept. 23, 1994, 108 Stat. 2201.)

CODIFICATION

Section was enacted as part of the Small Business Loan Securitization and Secondary Market Enhancement Act of 1994 and as part of the Riegle Community Development and Regulatory Improvement Act of 1994, and not as part of the Federal Deposit Insurance Act which comprises this chapter.

§ 1835a. Prohibition against deposit production offices

(a) Regulations

The appropriate Federal banking agencies shall prescribe uniform regulations effective June 1, 1997, which prohibit any out-of-State bank from using any authority to engage in