

§ 672. Repealed. Pub. L. 87-341, § 11(h)(1), Oct. 3, 1961, 75 Stat. 757

Section, Pub. L. 85-699, title II, § 202(b), Aug. 21, 1958, 72 Stat. 691, authorized appropriations for business expenses.

SUBCHAPTER III—INVESTMENT DIVISION
PROGRAMS

PART A—SMALL BUSINESS INVESTMENT
COMPANIES

§ 681. Organization

(a) Incorporation and charter under State law, period of succession; area of operations

A small business investment company shall be an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities contemplated under this subchapter, which, if incorporated, has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than ten years, and possesses the powers reasonably necessary to perform such functions and conduct such activities. The area in which the company is to conduct its operations, and the establishment of branch offices or agencies (if authorized by the articles), shall be subject to the approval of the Administration.

(b) Articles of incorporation; approval

The articles of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this chapter that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

(c) Issuance of license

(1) Submission of application

Each applicant for a license to operate as a small business investment company under this chapter shall submit to the Administrator an application, in a form and including such documentation as may be prescribed by the Administrator.

(2) Procedures

(A) Status

Not later than 90 days after the initial receipt by the Administrator of an application under this subsection, the Administrator shall provide the applicant with a written report detailing the status of the application and any requirements remaining for completion of the application.

(B) Approval or disapproval

Within a reasonable time after receiving a completed application submitted in accord-

ance with this subsection and in accordance with such requirements as the Administrator may prescribe by regulation, the Administrator shall—

(i) approve the application and issue a license for such operation to the applicant if the requirements of this section are satisfied; or

(ii) disapprove the application and notify the applicant in writing of the disapproval.

(3) Matters considered

In reviewing and processing any application under this subsection, the Administrator—

(A) shall determine whether—

(i) the applicant meets the requirements of subsections (a) and (c) of section 682 of this title; and

(ii) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this chapter;

(B) shall take into consideration—

(i) the need for and availability of financing for small business concerns in the geographic area in which the applicant is to commence business;

(ii) the general business reputation of the owners and management of the applicant; and

(iii) the probability of successful operations of the applicant, including adequate profitability and financial soundness;

(C) shall not take into consideration any projected shortage or unavailability of leverage; and

(D) shall give first priority to an applicant that is located in an underlicensed State with below median financing, as determined by the Administrator.

(4) Exception

(A) In general

Notwithstanding any other provision of this chapter, the Administrator may, in the discretion of the Administrator and based on a showing of special circumstances and good cause, approve an application and issue a license under this subsection with respect to any applicant that—

(i) has private capital of not less than \$3,000,000;

(ii) would otherwise be issued a license under this subsection, except that the applicant does not satisfy the requirements of section 682(a) of this title; and

(iii) has a viable business plan reasonably projecting profitable operations and a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 682(a) of this title.

(B) Leverage

An applicant licensed pursuant to the exception provided in this paragraph shall not be eligible to receive leverage as a licensee until the applicant satisfies the requirements of section 682(a) of this title, unless the applicant—

(i) is located in a State that—

(I) is not served by a licensee; or