

title V, (5), Nov. 21, 1989, 103 Stat. 1028; Pub. L. 102-366, title IV, § 404, Sept. 4, 1992, 106 Stat. 1013; renumbered § 319 and amended Pub. L. 104-208, div. D, title II, §§ 205(b), 208(h)(1)(E), (F), Sept. 30, 1996, 110 Stat. 3009-738, 3009-747.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (f)(2), see References in Text note set out under section 661 of this title.

PRIOR PROVISIONS

A prior section 319 of Pub. L. 85-699, which amended section 80a-18 of this title, was renumbered section 317.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-208, § 208(h)(1)(F)(i), struck out “, including companies operating under the authority of section 681(d) of this title,” after “investment companies”.

Subsec. (f)(1). Pub. L. 104-208, § 205(b)(1), struck out at end “Such central registration shall include with respect to each sale—

“(A) identification of each small business investment company;

“(B) the interest rate or prioritized payment rate paid by the small business investment company;

“(C) commissions, fees, or discounts paid to brokers and dealers in trust certificates;

“(D) identification of each purchaser of the trust certificate;

“(E) the price paid by the purchaser for the trust certificate;

“(F) the interest rate on the trust certificate;

“(G) the fee of any agent for carrying out the functions described in paragraph (2); and

“(H) such other information as the Administration deems appropriate.”

Subsec. (f)(2). Pub. L. 104-208, § 208(h)(1)(F)(ii), inserted “or investments in obligations of the United States” after “accounts”.

Subsec. (f)(5). Pub. L. 104-208, § 205(b)(2), added par. (5).

1992—Pub. L. 102-366 amended section generally, in subsec. (a) authorizing issuance of trust certificates representing ownership of participating securities, in subsec. (b) inserting provisions authorizing Administration to guarantee payment of redemption price of and priority payments on participating securities, in subsec. (e)(2) including participating securities within prohibition against preclusion or limitation of Administration's ownership rights, and in subsec. (f) in par. (1) substituting provisions relating to small business investment company for provisions relating to development company and requiring prioritized payment rate to be included in central registration requirements, and in par. (2) inserting provisions relating to participating securities, contracts to carry out pooling, and maintenance of commercial bank accounts.

1989—Subsec. (a). Pub. L. 101-162 inserted “, including companies operating under the authority of section 681(d) of this title,” after “investment companies”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 205 of Pub. L. 104-208 effective Oct. 1, 1996, see section 3 of Pub. L. 104-208, set out as a note under section 633 of this title.

Amendment by section 208 of Pub. L. 104-208 effective Sept. 30, 1996, see section 208(j) of Pub. L. 104-208, set out as a note under section 634 of this title.

REGULATIONS

Pub. L. 99-272, title XVIII, § 18005(b), Apr. 7, 1986, 100 Stat. 365, provided that:

“(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act [Apr. 7, 1986], the Small Business Administration shall develop and promulgate final rules and regula-

tions to implement the central registration provisions provided for in section 321(f)(1) of the Small Business Investment Act [15 U.S.C. 687(f)(1)], and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in sections 321(f)(2) and 321(f)(3) of such Act.

“(2) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act [Apr. 7, 1986], the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement sections 504 and 505 [section 321; 15 U.S.C. 687] of the Small Business Investment Act.”

EFFECT OF SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992 ON SECURITIES LAWS

Nothing in amendment by Pub. L. 102-366 to be construed to affect applicability of securities laws or to otherwise supersede or limit jurisdiction of Securities and Exchange Commission, see section 418 of Pub. L. 102-366, set out as a note under section 661 of this title.

§ 687m. Periodic issuance of guarantees and trust certificates

The Administration shall issue guarantees under section 683 of this title and trust certificates under section 687l of this title at periodic intervals of not less than every 12 months and shall do so at such shorter intervals as its¹ deems appropriate, taking into consideration the amount and number of such guarantees or trust certificates.

(Pub. L. 85-699, title III, § 320, formerly § 322, as added Pub. L. 100-590, title I, § 106(a), Nov. 3, 1988, 102 Stat. 2993; renumbered § 320 and amended Pub. L. 104-208, div. D, title II, § 208(h)(1)(E), (G), Sept. 30, 1996, 110 Stat. 3009-747; Pub. L. 105-135, title II, § 215(e), Dec. 2, 1997, 111 Stat. 2603; Pub. L. 106-9, § 2(d)(2), Apr. 5, 1999, 113 Stat. 18.)

PRIOR PROVISIONS

A prior section 320 of Pub. L. 85-699 was renumbered section 318 and is classified to section 687k of this title.

AMENDMENTS

1999—Pub. L. 106-9 substituted “12 months” for “6 months”.

1997—Pub. L. 105-135 substituted “6 months” for “three months”.

1996—Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 687l of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-135 effective Oct. 1, 1997, see section 3 of Pub. L. 105-135, set out as a note under section 631 of this title.

§ 688. Repealed. Pub. L. 87-341, § 11(e), Oct. 3, 1961, 75 Stat. 756

Section, Pub. L. 85-699, title III, § 309, Aug. 21, 1958, 72 Stat. 696, related to approval of State chartered investment companies. See subsec. (a) of section 681 of this title.

PART B—NEW MARKETS VENTURE CAPITAL PROGRAM

§ 689. Definitions

In this part, the following definitions apply:

¹ So in original. Probably should be “it”.

(1) Developmental venture capital

The term “developmental venture capital” means capital in the form of equity capital investments in businesses made with a primary objective of fostering economic development in low-income geographic areas. For the purposes of this paragraph, the term “equity capital” has the same meaning given such term in section 683(g)(4) of this title.

(2) Low-income individual

The term “low-income individual” means an individual whose income (adjusted for family size) does not exceed—

- (A) for metropolitan areas, 80 percent of the area median income; and
- (B) for nonmetropolitan areas, the greater of—
 - (i) 80 percent of the area median income; or
 - (ii) 80 percent of the statewide nonmetropolitan area median income.

(3) Low-income geographic area

the¹ term “low-income geographic area” means—

- (A) any population census tract (or in the case of an area that is not tracted for population census tracts, the equivalent county division, as defined by the Bureau of the Census of the Department of Commerce for purposes of defining poverty areas), if—

- (i) the poverty rate for that census tract is not less than 20 percent;
- (ii) in the case of a tract—

- (I) that is located within a metropolitan area, 50 percent or more of the households in that census tract have an income equal to less than 60 percent of the area median gross income; or
- (II) that is not located within a metropolitan area, the median household income for such tract does not exceed 80 percent of the statewide median household income; or

- (iii) as determined by the Administrator based on objective criteria, a substantial population of low-income individuals reside, an inadequate access to investment capital exists, or other indications of economic distress exist in that census tract; or

- (B) any area located within—

- (i) a HUBZone (as defined in section 632(p) of this title and the implementing regulations issued under that section);
- (ii) an urban empowerment zone or urban enterprise community (as designated by the Secretary of Housing and Urban Development); or
- (iii) a rural empowerment zone or rural enterprise community (as designated by the Secretary of Agriculture).

(4) New Markets Venture Capital company

The term “New Markets Venture Capital company” means a company that—

- (A) has been granted final approval by the Administrator under section 689c(e) of this title; and

- (B) has entered into a participation agreement with the Administrator.

(5) Operational assistance

The term “operational assistance” means management, marketing, and other technical assistance that assists a small business concern with business development.

(6) Participation agreement

The term “participation agreement” means an agreement, between the Administrator and a company granted final approval under section 689c(e) of this title, 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-income geographic areas.

(7) 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;
- (B) is organized or chartered under State business or nonprofit corporations statutes, or formed as a limited partnership; and
- (C) was licensed under section 681(d) of this title, as in effect before September 30, 1996.

(8) State

The term “State” means such² of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(Pub. L. 85-699, title III, §351, as added Pub. L. 106-554, §1(a)(8) [§1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-653.)

§ 689a. 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-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

- (2) to establish a developmental venture capital program, with the mission of addressing the unmet equity investment needs of small enterprises located in low-income geographic areas, to be administered by the Administrator—

- (A) to enter into participation agreements with New Markets Venture Capital companies;

¹ So in original. Probably should be capitalized.

² So in original. Probably should be “each”.