

ing provision for Administration exercise of reasonable investment prudence and for consideration of financial soundness of the company), provided for maximum term of fifteen years, substituted rate of interest taking into consideration current average market yield on outstanding marketable Treasury obligations with remaining periods to maturity comparable to average maturities on such debentures, as adjusted plus charge toward cost of programs, for rate of interest not lower than average investment yield on marketable Treasury obligations outstanding at time of loan involved, and added pars. (1) to (3) and definition of venture capital, former par. (1) limiting Administration purchases of company obligations to 50 per centum of paid-in capital and surplus or \$4,000,000, whichever is less, and par. (2) requiring loans to be of such sound value as reasonably to assure repayment.

1964—Subsec. (b). Pub. L. 88-273 provided for participation loans by Administration with lending institutions on an immediate or deferred basis and for a minimum interest rate measured by the average investment yield on marketable obligations of the United States outstanding at the time of the loan involved, and designated existing provisions as clauses (1) and (2).

1961—Subsec. (b). Pub. L. 87-341 limited the Administration's authorization to lend funds to the extent that the funds are not available to the company involved from private sources on reasonable terms, and the total amount of obligations, including commitments to purchase such obligations, which can be purchased in any one company to not more than 50 percent of the paid-in capital and surplus or \$4,000,000, whichever is less, and inserted "All loans made by the Administration under this subsection shall be of such sound value as reasonably to assure repayment."

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

##### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-100, §2(b), Dec. 21, 2001, 115 Stat. 966, provided that: "The amendments made by this section [amending this section] shall become effective on October 1, 2001."

##### 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.

##### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-574, title II, §215(a)(2), Nov. 15, 1990, 104 Stat. 2822, as amended by Pub. L. 102-140, title VI, §609(c), Oct. 28, 1991, 105 Stat. 825, provided that: "The amendments made by paragraph (1) [amending this section] shall become effective on July 1, 1992."

##### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-104 effective 90 days after Oct. 11, 1967, see section 211 of Pub. L. 90-104, set out as a note under section 681 of this title.

#### REGULATIONS

Pub. L. 104-208, div. D, title II, §208(d)(4)(B), Sept. 30, 1996, 110 Stat. 3009-744, provided that:

"(i) **UNIFORM APPLICABILITY.**—Any regulation issued by the Administration to implement section 303(e) of the Small Business Investment Act of 1958 [15 U.S.C. 683(e)] that applies to any licensee with outstanding leverage obtained before the effective date of that regulation, shall apply uniformly to all licensees with outstanding leverage obtained before that effective date.

"(ii) **DEFINITIONS.**—For purposes of this subparagraph, the terms 'Administration', 'leverage' and 'licensee'

have the same meanings as in section 103 of the Small Business Investment Act of 1958 [15 U.S.C. 662]."

#### 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.

### § 684. Equity capital for small-business concerns

#### (a) Function of investment companies

It shall be a function of each small business investment company to provide a source of equity capital for incorporated and unincorporated small-business concerns, in such manner and under such terms as the small business investment company may fix in accordance with the regulations of the Administration.

#### (b) Conditions

Before any capital is provided to a small-business concern under this section—

(1) the company may require such concern to refinance any or all of its outstanding indebtedness so that the company is the only holder of any evidence of indebtedness of such concern; and

(2) except as provided in regulations issued by the Administration, such concern shall agree that it will not thereafter incur any indebtedness without first securing the approval of the company and giving the company the first opportunity to finance such indebtedness.

#### (c) Repealed. Pub. L. 90-104, title II, §206, Oct. 11, 1967, 81 Stat. 271

#### (d) Direct or cooperative provision of capital

Equity capital provided to incorporated small business concerns under this section may be provided directly or in cooperation with other investors, incorporated or unincorporated, through agreements to participate on an immediate basis.

(Pub. L. 85-699, title III, §304, Aug. 21, 1958, 72 Stat. 693; Pub. L. 86-502, §6, June 11, 1960, 74 Stat. 196; Pub. L. 87-341, §5, Oct. 3, 1961, 75 Stat. 752; Pub. L. 90-104, title II, §206, Oct. 11, 1967, 81 Stat. 271; Pub. L. 92-595, §2(e), Oct. 27, 1972, 86 Stat. 1316.)

#### Editorial Notes

##### AMENDMENTS

1972—Subsec. (a). Pub. L. 92-595 extended the function of small business investment companies to provide a source of equity capital to unincorporated business concerns.

1967—Subsec. (c). Pub. L. 90-104 repealed subsec. (c) which authorized purchase of stock of investment companies by small-business concerns in an amount equal to 5 per centum of capital provided.

1961—Subsec. (d). Pub. L. 87-341 struck subsec. (d).

1960—Subsec. (a). Pub. L. 86-502 added subsec. (a) before "function", and substituted "a source of equity capital for incorporated small-business concerns, in such manner and under such terms as the small business investment company may fix in accordance with the regulations of the Administration" for "a source of needed equity capital for small-business concerns in the manner and subject to the conditions described in this section".

Subsec. (b). Pub. L. 86-502 redesignated subsec. (c) as (b), and repealed former subsec. (b) which required capital to be secured only through the purchase of debenture bonds.

Subsecs. (c), (d). Pub. L. 86-502 redesignated subsec. (d) as (c), and substituted "such concern shall have the right, exercisable in whole or in such part as such concern may elect, to become a stockholder-proprietor by investing in the capital stock of the company 5 per centum" for "such concern shall be required to become a stockholder-proprietor of the company by investing in the capital stock of the company, in an amount equal to not less than 2 percent nor more than 5 percent". Former subsec. (c) redesignated (b).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-104 effective 90 days after Oct. 11, 1967, see section 211 of Pub. L. 90-104, set out as a note under section 681 of this title.

### § 685. Long-term loans to small-business concerns

#### (a) Authorization

Each company is authorized to make loans, in the manner and subject to the conditions described in this section, to incorporated and unincorporated small-business concerns in order to provide such concerns with funds needed for sound financing, growth, modernization, and expansion.

#### (b) Direct loans; loans on participation basis

Loans made under this section may be made directly or in cooperation with other lenders, incorporated or unincorporated, through agreements to participate on an immediate or deferred basis.

#### (c) Maximum rate of interest

The maximum rate of interest for the company's share of any loan made under this section shall be determined by the Administration: *Provided*, That the Administration also shall permit those companies which have issued debentures pursuant to this chapter to charge a maximum rate of interest based upon the coupon rate of interest on the outstanding debentures, determined on an annual basis, plus such other expenses of the company as may be approved by the Administration.

#### (d) Maturity

Any loan made under this section shall have a maturity not exceeding twenty years.

#### (e) Soundness of loan; security

Any loan made under this section shall be of such sound value, or so secured, as reasonably to assure repayment.

#### (f) Extension or renewal

Any company which has made a loan to a small-business concern under this section is authorized to extend the maturity of or renew such loan for additional periods, not exceeding ten years, if the company finds that such extension or renewal will aid in the orderly liquidation of such loan.

(Pub. L. 85-699, title III, §305, Aug. 21, 1958, 72 Stat. 693; Pub. L. 87-341, §6, Oct. 3, 1961, 75 Stat. 753; Pub. L. 94-305, title I, §105, June 4, 1976, 90 Stat. 666; Pub. L. 102-366, title IV, §411, Sept. 4, 1992, 106 Stat. 1018.)

#### Editorial Notes

##### REFERENCES IN TEXT

For definition of "this chapter", referred to in subsec. (c), see References in Text note set out under section 661 of this title.

##### AMENDMENTS

1992—Subsec. (c). Pub. L. 102-366 inserted before period at end "": *Provided*, That the Administration also shall permit those companies which have issued debentures pursuant to this chapter to charge a maximum rate of interest based upon the coupon rate of interest on the outstanding debentures, determined on an annual basis, plus such other expenses of the company as may be approved by the Administration".

1976—Subsec. (b). Pub. L. 94-305 struck out provision that in agreements to participate in loans on a deferred basis, the participation by the company shall not be in excess of 90 percentum of the balance of the loan outstanding at the time of disbursement.

1961—Subsec. (b). Pub. L. 87-341 substituted "other lenders, incorporated or unincorporated" for "other lending institutions".

#### Statutory Notes and Related Subsidiaries

##### 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.

### § 686. Aggregate limitations on amount of assistance to any single enterprise

#### (a) Percentage limitation on private capital

If any small business investment company has obtained financing from the Administrator and such financing remains outstanding, the aggregate amount of securities acquired and for which commitments may be issued by such company under the provisions of this subchapter for any single enterprise shall not, without the approval of the Administrator, exceed 10 percent of the sum of—

- (1) the private capital of such company; and
- (2) the total amount of leverage projected by the company in the company's business plan that was approved by the Administrator at the time of the grant of the company's license.

#### (b) Repealed. Pub. L. 92-595, §2(f), Oct. 27, 1972, 86 Stat. 1316

#### (c) Application of provisions to commitments incurred prior to effective date of section

With respect to obligations or securities acquired prior to the effective date of the Small Business Investment Act Amendments of 1967, and with respect to legally binding commitments issued prior to such date, the provisions of this section as in effect immediately prior to such effective date shall continue to apply.

(Pub. L. 85-699, title III, §306, Aug. 21, 1958, 72 Stat. 694; Pub. L. 87-341, §7(a), Oct. 3, 1961, 75 Stat. 753; Pub. L. 88-273, §4, Feb. 28, 1964, 78 Stat. 146; Pub. L. 90-104, title II, §207, Oct. 11, 1967, 81 Stat. 271; Pub. L. 92-595, §2(f), Oct. 27, 1972, 86 Stat. 1316; Pub. L. 102-366, title IV, §408(a), Sept. 4, 1992, 106 Stat. 1016; Pub. L. 111-5, div. A, title V, §505(b), Feb. 17, 2009, 123 Stat. 156.)