

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS
FUND AMENDMENTS ACT OF 1999

—————
JUNE 14, 1999.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

—————

Mr. LEACH, from the Committee on Banking and Financial
Services, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 629]

[Including cost estimate of the Congressional Budget Office]

The Committee on Banking and Financial Services, to whom was referred the bill (H.R. 629) to amend the Community Development Banking and Financial Institutions Act of 1994 to reauthorize the Community Development Financial Institutions Fund and to more efficiently and effectively promote economic revitalization, community development, and community development financial institutions, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

The purpose of H.R. 629, the “Community Development Financial Institutions Fund Amendments Act of 1999” (the “Act”) as reported out of the Committee on Banking and Financial Services, is to reauthorize the Community Development Financial Institutions (“CDFI”) Fund for four years and to provide additional management controls for administration of the Fund. The central purpose of the CDFI Fund is to promote economic revitalization and community development. The CDFI Fund has two main programs: the CDFI awards program, which is designed to assist specialized community development financial institutions, and the Bank Enter-

prise Act (“BEA”) award program, which rewards financial institutions that are increasing services provided to and loans made in distressed communities.

The CDFI Fund was first authorized in 1994 by the “Riegle Community Development and Regulatory Improvement Act of 1994” for fiscal years 1995–1998. Funding for the program was extended for fiscal year 1999 in the amount of \$95 million. Since its creation, the CDFI Fund has made over \$180 million in awards to community development organizations and financial institutions. Of the awards granted, \$122.8 million was in investments to CDFIs, including community development banks, loan funds, credit unions, venture capital funds, and microenterprise loan funds. These organizations serve both rural and urban areas in local, regional, state-wide, and multi-state markets in 46 states and the District of Columbia.

The remaining \$58 million was awarded to banks and thrifts as part of the BEA program. The BEA program provides incentives for banks and thrifts to invest in CDFIs and to increase their lending and provision of financial services in distressed communities. According to May 26, 1999 testimony provided by CDFI Director Ellen Lazar, this \$58 million has been leveraged by awardees to provide investments in underserved communities of \$983 million. Ms. Lazar stated that the awardees have invested \$712 million in direct loans, investments and services to the community, and \$271 million into CDFIs.

The preliminary results of the CDFI Fund’s review of the first round of grants awarded in 1996 indicate that the recipients generated significant development during the past three years. According to the Fund, these recipients have made \$565 million in community development loans and investments. These loans and investments have helped to create or expand 1,895 microenterprises and 1,148 other businesses; create or retain 12,412 jobs; and develop 8,617 units of affordable housing, 98 childcare centers serving 7,168 children, 17 health care facilities serving 32,723 clients and 170 additional community, cultural, human services and educational facilities. The recipient also provided business training, credit counseling, homebuyer training and other development services to 10,641 individuals.

During the 105th Congress, the General Oversight and Investigations Subcommittee of the House Banking Committee (“Oversight Subcommittee”) reviewed the CDFI Fund’s awardee selection process due to complaints that arose after the Fund’s first round of awards in 1996. The Oversight Subcommittee’s review revealed that the first round was marked by inadequate procedures and documentation. Accepted federal grant procedures were not followed; documentation failed to accurately reflect the factors used in selecting applicants; the evaluation process lacked consistency; the conflicts of interest policy was inadequate; and technical assistance contracts were awarded with little scrutiny. In addition, the Fund relied upon outside contractors hand-picked by CDFI Fund officials who were paid excessive rates and the CDFI status of certain applicants was not determined until after the decision had been made to grant funding.

The Oversight Committee noted some improvements in the second round, but deficiencies remained. As noted in the Fund's 1997 audit by KPMG Peat Marwick, a formal Federal Manager's Financial Integrity Act program had not been established to identify and design corrective actions for material weaknesses; a structured system of documenting awards files had not been established; several necessary positions had not been filled; formal post-award monitoring procedures had not been developed; monthly financial statements, accounting records, budgetary reports, and supporting reconciliations were not subject to formal review; organizational responsibilities had not been adequately delineated, and policies and procedures had not been documented. Additionally, cursory review of the documentation indicated that second round memoranda did not reflect a comprehensive commitment to an objective scoring system; the conflict of interest policy remained incomplete; and a decline in the quality of applications suggested industry saturation.

As a result of the questionable management practices revealed by the Oversight Subcommittee's review, the Director and the Deputy Director of the Fund resigned in August 1997. Changes at the CDFI Fund began with the appointment of a new Director, Ellen Lazar, who began her tenure in January 1998.

Ms. Lazar testified before the Subcommittee on Financial Institutions and Consumer Credit on June 17, 1998 and assured the Subcommittee that the Oversight Subcommittee's concerns had been or were in the process of being addressed by the new management team. Improvements in the administration of the Fund were reflected further in Ms. Lazar's May 26, 1999 testimony before the full Committee. Ms. Lazar testified that the Fund's FY98 audit verified that the Fund had successfully corrected all material weaknesses identified in last year's audit and no new material weaknesses were reported.

The enacting legislation for the CDFI Fund provided an authorization period from FY95–FY98. Representatives Bruce Vento and Marge Roukema introduced H.R. 629, the "CDFI Fund Amendments Act of 1999," which reauthorizes the CDFI Fund for four years and provides additional management controls for administration of the Fund. H.R. 629 as introduced and reported by the Committee represents essentially the same product that the Subcommittee on Financial Institutions and Consumer Credit passed by voice vote last Congress. Specifically, H.R. 629:

- Reauthorizes funding for the Fund for FY2000–FY2003, at annual levels of \$95 million, \$100 million, \$105 million, and \$110 million;

- Allows the Fund to enter into cooperative agreements for training and technical assistance;

- Enhances the usability of BEA in rural communities by allowing alternate eligibility for qualified distressed communities;

- Allows the Fund to participate in the Small Business Capital Enhancement Program;

- Requires the Fund to use a scoring system as one of the tools to evaluate the merits of applicants, which would be applied by multi-person review panels;

Requires the Fund to report annually to Congress on actions taken by the Fund to rectify problems disclosed by its external auditors and the Oversight Subcommittee;

Requires the Fund to notify Congress when it hires a contractor under the Small Business Act Section 8(a) minority contracting program to ensure compliance with the law; and

Requests the General Accounting Office to submit a report to Congress evaluating the structure, governance, and performance of the Fund.

HEARINGS

On February 8, 1999, Representatives Bruce Vento and Marge Roukema introduced H.R. 629, the "Community Development Financial Institutions Fund Amendments Act of 1999." The Committee held a hearing on the legislation on May 26, 1999. Testifying at the hearing were: the Honorable Edward M. Kennedy; the Honorable Bobby L. Rush; Gary Gensler, Undersecretary for Domestic Finance, Department of the Treasury; Ellen W. Lazar, Director, Community Development Financial Institutions Fund; Jason J. Friedman, Vice President, Institute for Social and Economic Development; Marguerite Sisson, Owner, River City Cleaning; Joan Dallis, Vice President, Rural Opportunities Enterprise, Inc.; Karla Melvin, Director, Employment Services, Women Venture; Peggy Clark, Executive Director, Economic Opportunities Program, The Aspen Institute; Ellen Golden, Chair, Association for Enterprise Opportunities; and Mark Pinsky, Chairman, Coalition of Community Development Financial Institutions.

COMMITTEE CONSIDERATION AND VOTES

On May 26, 1999, the full Committee met in open session to mark up H.R. 629, the "Community Development Financial Institutions Fund Amendments Act of 1999." The Committee called up H.R. 629 as original text for purposes of amendment. No amendments were offered. On the question of final passage, the Committee, by voice vote, favorably reported H.R. 629 to the full House of Representatives for consideration. Also, the Committee passed by voice vote a motion to authorize the Chairman to offer such motions as may be necessary in the House of Representatives to go to conference with the Senate on a similar bill.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM

No findings and recommendations of the Committee on Government Reform were received as referred to in clause 3(c)(4) of rule XIII of the Rules of the House of Representatives.

CONSTITUTIONAL AUTHORITY

In compliance with clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the constitutional authority for Congress to enact this legislation is derived from both the power to regulate interstate commerce (Clause 3, Section 8, Article I) and “to coin money” and “regulate the value thereof” (Clause 5, Section 8, Article I). The latter Constitutional power has been broadly construed to allow for the Federal regulation of the provision of credit and other forms of economic assistance via the financial services industry and to regulate every phase of the subject of currency. In addition, Congress is granted the authority to make laws (Clause 18, Section 8, Article I) that are necessary and proper to carry out the foregoing powers as well as other powers vested by the Constitution.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, please see the attached Congressional Budget Office cost estimate.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONGRESSIONAL ACCOUNTABILITY ACT

The reporting requirement under section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1) is inapplicable because this legislation does not relate to terms and conditions of employment or access to public services or accommodations.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE AND UNFUNDED MANDATES ANALYSIS

The cost estimate pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974 is attached herewith:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 1999.

Hon. JAMES A. LEACH,
*Chairman, Committee on Banking and Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 629, the Community Development Financial Institutions Fund Amendments Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 629—Community Development Financial Institutions Fund Amendments Act of 1999

Summary: H.R. 629 would authorize annual appropriations for the Community Development Financial Institutions (CDFI) Fund for the next four fiscal years. Specifically, the bill would authorize \$95 million for 2000, \$100 million for 2001, \$105 million for 2002, and \$110 million for 2003. The fund would use these amounts to provide financial and other assistance to financial institutions that serve distressed communities under the CDFI program and to reimburse eligible states for loan guarantees they make under the Small Business Capital Enhancement (SBCE) Program.

The bill also would amend the Community Development Banking and Financial Institutions Act of 1994 and the Bank Enterprise Act of 1991 to:

Clarify that the purposes of the CDFI fund can be met not only by investing in community development financial institutions but also by enhancing the liquidity of these institutions and by providing them with appropriate incentives;

Codify the fund, a wholly owned government corporation, under the jurisdiction of the Department of the Treasury;

Remove technical barriers that block the fund from administering the SBCE Program, which was established in the 1994 act but has not received any funding thus far; and

Provide for new management controls on the fund, including a scoring system and an independent panel to evaluate applications for assistance as well as new reporting requirements.

The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized for each year, CBO estimates that the Department of the Treasury would spend about \$290 million through fiscal year 2004 to carry out the CDFI and SBCE programs. (The balance of \$120 million would be spent over the following four or five years.) The estimated budgetary impact of H.R. 629 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
CDFI spending under current law:						
Budget authority ¹	95	0	0	0	0	0
Estimated outlays	54	56	44	34	16	8
Proposed changes:						
Authorization level	0	95	100	105	110	0
Estimated outlays	0	15	37	63	90	85
CDFI and SBCE spending under H.R. 629:						
Authorization level ¹	95	95	100	105	110	0
Estimated outlays	54	71	81	97	106	93

¹ The 1999 level is the amount appropriated for that year for the CDFI program.

Basis of estimate: For purposes of this estimate, CBO assumes that the full amounts authorized will be appropriated for each fis-

cal year and that outlays will occur at the recent spending rates for the CDFI program. Other provisions of the bill, including those creating new management controls, would have no impact on the federal budget.

Amounts in the table include any appropriations of subsidy costs (as defined in section 502 of the Congressional Budget Act) that may be made for direct loans authorized by the Community Development Banking and Financial Institutions Act of 1994. CBO cannot specify how much of the bill's annual authorization levels would be used for such purposes because we cannot predict how the Department of the Treasury would choose to allocate annual CDFI funding among grants, direct loans, and other financial and technical assistance. This allocation could affect future outlay rates, but CBO estimates that any difference from past spending patterns would not be significant.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 629 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on the budgets of state, local, or tribal governments.

Estimate prepared by: Deborah Reis.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section designates the bill as the "Community Development Financial Institutions Fund Amendments Act of 1999."

Section 2. Technical corrections to reflect status of the fund within Treasury Department; miscellaneous technical corrections

Subsection (a) amends the purpose of the Community Development Banking and Financial Institutions Act of 1994 ("the Act") to add language that clarifies that the purpose of the Act is to promote economic revitalization and community development not only through investment in community development financial institutions ("CDFIs"), but also through enhancing the liquidity of CDFIs, and through incentives to insured depository institutions that increase lending and other assistance and investment in economically distressed communities under the Bank Enterprise Act of 1991.

Subsections (b) and (c) amends the Act to reflect the intent of subsequent appropriations provisions that made the Community Development Financial Institutions Fund ("the Fund") a wholly owned government corporation within the Treasury Department. Technical amendments to the Act eliminate the concept of a presidentially appointed Administrator of the Fund, and vest all of the duties and responsibilities of the Fund in the Secretary of the Treasury (subject to existing statutory delegation authority). The Secretary may appoint all officers and employees of the Fund, including the Director.

Subsection (c) also makes technical changes to clarify that the Inspector General of the Treasury Department is the Inspector General of the Fund.

Section 3. Amendments to programs administered by the fund

Subsection (a) provides that, for the training and technical assistance programs already authorized by the Act, the Fund may enter into cooperative agreements in addition to the other methods described. With respect to the Fund's training and technical assistance programs, the Committee encourages the Fund to conduct outreach programs in those communities and states not already served by a community development financial institution which are now seeking to create such an entity. Encouraging the development of new community development institutions in places not already served by one would also help to ensure the equitable distribution of the monies awarded by the CDFI Fund across the nation and within states.

Subsection (b) contains amendments to the Bank Enterprise Act ("BEA") Awards Program for insured depository institutions. The subsection provides technical amendments and clarifies that the Fund may provide assessment credits to insured depository institutions for increases in loans and other assistance provided to CDFIs. The provisions clarify the manner in which the Fund may take account of forms of assistance provided by insured depository institutions. In addition, the provisions permit the Fund to use alternative eligibility requirements to determine the definition of a "qualified distressed community." Current criteria are difficult to interpret and may exclude some insured depository institutions, particularly those serving rural areas, from participation in the BEA Program.

Section 4. Extension of authorization

This section authorizes appropriations for fiscal years 2000, 2001, 2002, and 2003 for \$95 million, \$100 million, \$105 million and \$110 million, respectively.

Section 5. Amendments to the Small Business Capital Enhancement Program

Subtitle B of Title II of the Act currently provides the Fund with authority to administer a program to encourage states to implement small business "capital access programs" with participation of certain depository institutions. These "capital access programs" expand access to small business loans by creating a loan loss reserve, funded by the depository institution, the borrower, and the state. This reserve fund allows banks to make more difficult small business loans. The Fund, under the Small Business Capital Enhancement (SBCE) Program, could reimburse participating states for a portion of funds contributed to these loan loss reserve accounts.

The amendments made by section 5 remove statutory barriers that currently block the Fund from administering the SBCE Program. Subsection (a) allows CDFIs to participate in the SBCE Program. Subsection (b) removes the requirement that the SBCE Program receive a threshold appropriation before beginning operations. Finally, this section will allow the Fund to reimburse participating states according to criteria established by the Fund in an amount up to fifty percent of the amount of contributions by the states, until funds made available for this purpose are expended. This permits the Fund to target reimbursements to states that

have not yet established these programs or that have insufficient funds for effective programs.

Section 6. Additional safeguards

This section adds the requirement that the Fund use a scoring system as one of the tools to evaluate the merits of applications. It also requires the use of multi-person review panels consisting of at least three persons each, to apply the scoring system in order to reduce discretion and provide a mix of perspectives in the application review process. At least one-third of the members of the panel shall not be officers or employees of any government.

This section adds reporting requirements by the Fund to the Congress in their annual report. First, the Fund must annually report its use of outside consultants, including the services provided by the consultants and the fees paid for those services. Second, the report must detail the Fund's compliance with the Federal Manager's Financial Integrity Act ("FMFIA"), which requires Federal programs to have controls in place to ensure that assets are safeguards from waste, fraud, and abuse. Third, the Fund must report any material internal control weaknesses disclosed in its most recent external audit along with corrective action that will be taken to address such weaknesses. Fourth, the Fund must report on the implementation of the above mentioned scoring system in the first annual report after this legislation is enacted. In addition, this section requires the Fund to notify Congress in advance of hiring a contractor under the Small Business Act Section 8(a) program.

Finally, this section requires the General Accounting Office to submit to Congress within eighteen months of enactment, a study evaluating the structure, governance and performance of the Fund.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT OF 1994

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SEC. 102. FINDINGS AND PURPOSES.

(a) * * *

[(b) **PURPOSE.**—The purpose of this subtitle is to create a Community Development Financial Institutions Fund to promote economic revitalization and community development through investment in and assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.]

(b) *PURPOSE.*—*The purpose of this subtitle is to create a Community Development Financial Institutions Fund to promote economic revitalization and community development through investment in and assistance to community development financial institutions, including enhancing the liquidity of community development financial*

institutions, and through incentives to insured depository institutions that increase lending and other assistance and investment in both economically distressed communities and community development financial institutions.

SEC. 103. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

[(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Fund appointed under section 104(b).]

[(2)] (1) APPROPRIATE FEDERAL BANKING AGENCY.—The term “appropriate Federal banking agency” has the same meaning as in section 3 of the Federal Deposit Insurance Act, and also includes the National Credit Union Administration Board with respect to insured credit unions.

[(3)] (2) AFFILIATE.—The term “affiliate” has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

[(4)] (3) BOARD.—The term “Board” means the Community Development Advisory Board established under section 104(d).

[(5)] (4) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—

(A) * * *

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[(6)] (5) COMMUNITY PARTNER.—The term “community partner” means a person (other than an individual) that provides loans, equity investments, or development services, including a depository institution holding company, an insured depository institution, an insured credit union, a nonprofit organization, a State or local government agency, a quasi-governmental entity, and an investment company authorized to operate pursuant to the Small Business Investment Act of 1958.

[(7)] (6) COMMUNITY PARTNERSHIP.—The term “community partnership” means an agreement between a community development financial institution and a community partner to provide development services, loans, or equity investments, to an investment area or targeted population.

[(8)] (7) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term “depository institution holding company” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

[(9)] (8) DEVELOPMENT SERVICES.—The term “development services” means activities that promote community development and are integral to lending or investment activities, including—

- (A) business planning;
- (B) financial and credit counseling; and
- (C) marketing and management assistance.

[(10)] (9) FUND.—The term “Fund” means the Community Development Financial Institutions Fund established under section 104(a).

[(11)] (10) INDIAN RESERVATION.—The term “Indian reservation” has the same meaning as in section 4(10) of the Indian Child Welfare Act of 1978, and shall include land held by incorporated Native groups, regional corporations, and village

corporations, as defined in or established pursuant to the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

[(12)] (11) INDIAN TRIBE.—The term “Indian tribe” means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[(13)] (12) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term “insured community development financial institution” means any community development financial institution that is an insured depository institution or an insured credit union.

[(14)] (13) INSURED CREDIT UNION.—The term “insured credit union” has the same meaning as in section 101(7) of the Federal Credit Union Act.

[(15)] (14) INSURED DEPOSITORY INSTITUTION.—The term “insured depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

[(16)] (15) INVESTMENT AREA.—The term “investment area” means a geographic area (or areas) including an Indian reservation that—

(A) * * *

* * * * *

[(17)] (16) LOW-INCOME.—The term “low-income” means having an income, adjusted for family size, of not more than—

(A) * * *

* * * * *

(17) SECRETARY.—*Except in the case of section 104(d)(2), the term “Secretary” means the Secretary of the Treasury.*

* * * * *

SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY DEVELOPMENT BANKING.

[(a)] ESTABLISHMENT.—

[(1)] IN GENERAL.—There is established a corporation to be known as the Community Development Financial Institutions Fund that shall have the duties and responsibilities specified by this subtitle and subtitle B of title II. The Fund shall have succession until dissolved. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with or be within any other agency or department of the Federal Government.

[(2)] WHOLLY OWNED GOVERNMENT CORPORATION.—The Fund shall be a wholly owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subtitle.

[(b)] MANAGEMENT OF FUND.—

[(1) APPOINTMENT OF ADMINISTRATOR.—The management of the Fund shall be vested in an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator.

[(2) CHIEF FINANCIAL OFFICER.—The Administrator shall appoint a chief financial officer, who shall have the authority and functions of an agency Chief Financial Officer under section 902 of title 31, United States Code. In the event of a vacancy in the position of the Administrator or during the absence or disability of the Administrator, the chief financial officer shall perform the duties of the position of Administrator.

[(3) OTHER OFFICERS AND EMPLOYEES.—The Administrator may appoint such other officers and employees of the Fund as the Administrator determines to be necessary or appropriate.

[(4) EXPEDITED HIRING.—During the 2-year period beginning on the date of enactment of this Act, the Administrator may—

[(A) appoint and terminate the individuals referred to in paragraphs (2) and (3) without regard to the civil service laws and regulations; and

[(B) fix the compensation of the individuals referred to in paragraph (3) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.]

(a) *ESTABLISHMENT.*—

(1) *IN GENERAL.*—*There is established in the Department of the Treasury a Community Development Financial Institutions Fund that shall have the functions specified by this subtitle and subtitle B of Title II. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with any other agency or department of the Federal Government.*

(2) *WHOLLY OWNED GOVERNMENT CORPORATION.*—*The Fund shall be a wholly owned government corporation within the Department of the Treasury and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subtitle.*

(b) *MANAGEMENT OF FUND.*—

(1) *AUTHORITY OF SECRETARY OF THE TREASURY.*—*All functions of the Fund shall be performed by or under the supervision of the Secretary.*

(2) *APPOINTMENT OF OFFICERS AND EMPLOYEES.*—*The Secretary may appoint such officers and employees of the Fund, including a Director, as the Secretary deems necessary or appropriate.*

* * * * *

SEC. 107. SELECTION OF INSTITUTIONS.

[(a) SELECTION CRITERIA.—Except as provided in section 113, the Fund shall, in its sole discretion, select community development fi-

nancial institution applicants meeting the requirements of section 105 for assistance based on—

(a) *SELECTION CRITERIA.*—*Except as provided in section 113, the Fund shall, after considering the results of the scoring system developed under subsection (c) and the recommendations of the multiperson review panels under subsection (d), select community development financial institution applicants meeting the requirements of section 105 for assistance based on—*

(1) * * *

* * * * *

(c) *OBJECTIVE SCORING SYSTEM.*—

(1) *IN GENERAL.*—*For purposes of making any evaluation under subsection (a) of any application, the Fund shall develop a scoring system which assigns a relative point value to each factor required to be considered under paragraphs (1) through (14) of subsection (a) in connection with the selection of applicants.*

(2) *NOTICE OF SCORING SYSTEM.*—*A description of the scoring system shall be included in any notice of funding availability issued by the Fund.*

(d) *NEUTRAL MULTIPERSON REVIEW PANEL.*—

(1) *IN GENERAL.*—*The Fund shall convene multiperson review panels to—*

(A) *review all applications for selection, under subsection (a), on the basis of the factors required to be considered under paragraphs (1) through (14) of subsection (a) using the objective scoring system developed pursuant to subsection (c) before any selection is made by the Fund under subsection (a) with respect to such applications; and*

(B) *make recommendations with regard to such selections to the Fund on the basis of such review.*

(2) *COMPOSITION.*—*The multiperson review panels shall each consist of such number of members as the Fund determines to be appropriate, but not less than 3, who shall be appointed from among individuals who, by virtue of their education, training, or experience, are specially qualified to carry out the responsibilities of the panel and at least 1/3 of the members of each panel shall be appointed from among individuals with diverse experiences who are not officers or employees of any government.*

SEC. 108. ASSISTANCE PROVIDED BY THE FUND.

(a) *FORMS OF ASSISTANCE.*—

(1) *IN GENERAL.*—*The Fund may provide—*

(A) * * *

(B) *technical assistance—*

(i) * * *

* * * * *

(iii) *through cooperative agreements or by contracting with organizations that possess expertise in community development finance, without regard to*

whether the organizations receive or are eligible to receive assistance under this subtitle.

* * * * *

SEC. 109. TRAINING.

(a) * * *

* * * * *

[(d) CONTRACTING.—The Fund may offer the training program described in this section directly or through a contract with other organizations. The Fund may contract to provide the training program through organizations that possess special expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.]

(d) FORM OF TRAINING.—The Fund may offer the training program described in this section—

- (1) directly; or
- (2) through grants, contracts, or cooperative agreements with other organizations that possess special expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

* * * * *

SEC. 114. INCENTIVES FOR DEPOSITORY INSTITUTION PARTICIPATION.

(a) * * *

(b) PROVISIONS RELATING TO ADMINISTRATION OF THIS SECTION.—

- (1) * * *
- (2) DETERMINATION OF ASSESSMENT CREDIT.—For the purpose of this subtitle, section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(3)) shall be applied by substituting the following text:

“(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of an assessment credit which may be awarded to an insured depository institution to carry out the qualified activities of the institution or of the subsidiaries of the institution pursuant to this section for any semiannual period shall be equal to the sum of—

“(A) with respect to qualifying activities described in paragraph (2)(A) or (2)(B), the amount which is equal to—

“(i) 5 percent of the sum of the amounts determined under each such subparagraph, in the case of an institution which is not a community development financial institution; or

“(ii) 15 percent of the sum of the amounts determined under each such subparagraph, in the case of an institution which is a community development financial institution; and

“(B) with respect to qualifying activities described in paragraph (2)(C), 15 percent of the amounts determined under such subparagraph.”

* * * * *

SEC. 117. STUDIES AND REPORTS; EXAMINATION AND AUDIT.

(a) * * *

* * * * *

(g) *CONTRACT AND COMPLIANCE INFORMATION.*—The annual report submitted to the Congress by the Fund pursuant to subsection (a) shall contain the following information:

(1) *SERVICES OF CONTRACTORS.*—Information on the use of contractors to carry out any function of the Fund under this subtitle, including—

(A) a description of the services provided by contractors under this subtitle during the period covered by the report;

(B) a description of the procurement process utilized to obtain such services;

(C) the basis of the authority of the Fund to contract for the services so obtained; and

(D) the total amount obligated by the Fund for such contracts.

(2) *COMPLIANCE WITH OTHER REQUIREMENTS.*—An evaluation of the extent to which the Fund is maintaining compliance, in connection with the activities of the Fund under this subtitle and subtitle B of title II, with the requirements of, and regulations prescribed pursuant to subsections (b) and (d) of section 3512 of title 31, United States Code.

(3) *PLAN FOR ADDRESSING WEAKNESSES OF INTERNAL CONTROLS.*—A plan for addressing any material weakness in internal controls identified in the most recent external audit pursuant to subsection (f).

[SEC. 118. INSPECTOR GENERAL.

[(a) * * *

[(b) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendments made by subsection (a).]

SEC. 118. INSPECTOR GENERAL.

The Inspector General of the Department of the Treasury shall be the Inspector General of the Fund.

SEC. 119. ENFORCEMENT.

(a) *REGULATIONS.*—

[(1) *IN GENERAL.*—Not later than 180 days after the appointment and qualification of the Administrator, the Fund shall promulgate such regulations as may be necessary to carry out this subtitle.]

(1) *IN GENERAL.*—The Secretary may prescribe such regulations and procedures as may be necessary to carry out this subtitle.

* * * * *

SEC. 121. AUTHORIZATION OF APPROPRIATIONS.

(a) *FUND AUTHORIZATION.*—

[(1) *IN GENERAL.*—To carry out this subtitle, there are authorized to be appropriated to the Fund, to remain available until expended—

[(A) \$60,000,000 for fiscal year 1995;
[(B) \$104,000,000 for fiscal year 1996;
[(C) \$107,000,000 for fiscal year 1997; and
[(D) \$111,000,000 for fiscal year 1998;
or such greater sums as may be necessary to carry out this
subtitle.]

(1) *IN GENERAL.*—*To carry out this subtitle and subtitle B of
title II, there are authorized to be appropriated to the Fund, to
remain available until expended—*

- (A) \$95,000,000 for fiscal year 2000;
- (B) \$100,000,000 for fiscal year 2001;
- (C) \$105,000,000 for fiscal year 2002; and
- (D) \$110,000,000 for fiscal year 2003.

* * * * *

SECTION 11 OF THE INSPECTOR GENERAL ACT OF 1978

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term “head of the establishment” means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, or Small Business, or Veterans’ Affairs; the Director of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; and the chief executive officer of the Resolution Trust Corporation; and the Chairperson of the Federal Deposit Insurance Corporation; or the Commissioner of Social Security, Social Security Administration; as the case may be;

(2) the term “establishment” means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, [the Community Development Financial Institutions Fund,] the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, or

the Veterans' Administration, or the Social Security Administration; as the case may be;

* * * * *

SECTION 233 OF THE BANK ENTERPRISE ACT OF 1991

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) * * *

(2) QUALIFYING ACTIVITIES.—An insured depository institution may apply for [for] any community enterprise assessment credit for any semiannual period for—

(A) the amount, during such period, of new originations of qualified loans and other assistance provided [for low- and moderate-income persons] to community development financial institutions, 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;

(B) the amount of the increase, during such period, 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 new originations of any loans and other [financial] assistance made within that community, except that in no case shall the credit for deposits at any institution or branch exceed the credit for loans and other [financial] assistance by the bank or branch in the distressed community; and

* * * * *

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) and (2)(B) for purposes of the community enterprise assessment credit, may include the following:

(A) * * *

* * * * *

(P) Other forms of assistance that the Board determines to be appropriate.

* * * * *

(7) QUANTITATIVE ANALYSIS OF TECHNICAL ASSISTANCE.—The Board may establish guidelines for analyzing the technical and other assistance described in subparagraphs (M), (N), [and (O)] (O), and (P) of paragraph (4) for the purpose of quantifying the results of such assistance in determining the amount of any community assessment credit under this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) * * *

* * * * *

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if the following criteria are met:

(A) * * *

* * * * *

(C) Such additional eligibility requirements *or alternative* as the Board may, in its discretion, deem necessary to carry out the provisions of this subtitle.

* * * * *

RIEGLE COMMUNITY DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994

* * * * *

TITLE II—SMALL BUSINESS CAPITAL FORMATION

* * * * *

Subtitle B—Small Business Capital Enhancement

* * * * *

SEC. 252. DEFINITIONS.

For purposes of this subtitle—

(1) * * *

* * * * *

(5) the term “financial institution” means *any community development financial institution (as defined in section 103(5) of this Act) and, any federally chartered or State-chartered commercial bank, savings association, savings bank, or credit union;*

* * * * *

SEC. 253. APPROVING STATES FOR PARTICIPATION.

(a) * * *

* * * * *

[(d) PRIOR APPROPRIATIONS REQUIREMENT.—The Fund shall not approve a State for participation in the Program until at least \$50,000,000 has been appropriated to the Fund (subject to an appropriations Act), without fiscal year limitation, for the purpose of making reimbursements pursuant to section 257 and otherwise carrying out this subtitle.]

[(e) (d) AMENDMENTS TO AGREEMENTS.—If a State that has been approved to be a participating State wishes to amend its form of participation agreement and continue to be a participating State,

such State shall submit such amendment for review by the Fund in accordance with subsection (b)(4). Any such amendment shall become effective only after it has been approved by the Fund.

SEC. 254. PARTICIPATION AGREEMENTS.

(a) *IN GENERAL.*—A participating State may enter into a participation agreement with any financial institution determined by the participating State, after consultation with the appropriate Federal banking agency (*if any*), to have sufficient commercial lending experience and financial and managerial capacity to participate in the Program. The determination by the State shall not be reviewable by the Fund.

* * * * *

SEC. 257. REIMBURSEMENT BY THE FUND.

[(a) *REIMBURSEMENTS.*—Not later than 30 calendar days after receiving a report filed in compliance with section 256, the Fund shall reimburse the participating State in an amount equal to 50 percent of the amount of contributions by the participating State to the reserve funds that are subject to reimbursement by the Fund pursuant to section 256 and this section. The Fund shall reimburse participating States, as it receives reports pursuant to section 256(a), until available funds are expended.]

(a) *REIMBURSEMENTS.*—

(1) *IN GENERAL.*—*The Fund shall reimburse participating States according to criteria established by the Fund.*

(2) *EXAMPLES OF CRITERIA.*—*Criteria established under paragraph (1) may include whether a participating State is creating a new program, is expanding in scope or scale an existing State program, the need for Fund reimbursement, the availability of Fund resources, and other criteria established by the Fund.*

(3) *TIMING AND AMOUNT OF REIMBURSEMENT.*—*Not later than 30 calendar days after receiving a report filed in compliance with section 256, the Fund shall reimburse a participating State meeting such criteria in an amount equal to up to 50 percent of the amount of contributions by the participating State to the reserve funds that are subject to reimbursement by the Fund pursuant to section 256 and this section, until such sums made available by the Fund for this purpose are expended.*

* * * * *

[SEC. 260. AUTHORIZATION OF APPROPRIATIONS.

[(a) *AMOUNT.*—There are authorized to be appropriated to the Fund \$50,000,000 to carry out this subtitle.

[(b) *BUDGETARY TREATMENT.*—The amount authorized to be appropriated under subsection (a) shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.]

* * * * *

DISSENTING VIEWS

The CDFI fund is one of the best examples of what is wrong with the way our government functions. As explained in a Washington Post article (“The High Road to Scandal,” by Michael Kelly, June 10, 1998), then-candidate Clinton proposed in 1992 to take the example of Chicago’s South Shore Bank funding renovations in an impoverished neighborhood and make it a national program but “instead created something more traditional, a new pot of money for insiders.” The article went on to explain how the funds were disbursed to friends of a few, close, political associates who “salt[ed] files with ex post facto documents” in a belated effort to show compliance with mandated oversight requirements.

Last June, the Subcommittee on General Oversight and Investigations, House Committee on Banking and Financial Services, produced an excellent report on the wanton abuse of the CDFI program: “Review of Management Practices at the Treasury Department’s Community Development Financial Institutions Fund.” Says the Washington Post, “Its 105 pages of dry, spare prose comprise a perfect little parable of how corruption works in government.”

The Heritage Foundation explains well the problems and expenses of ignoring local solutions and not abiding by the limited government, federal principles of our constitution, “Because the money is routed first to Washington and then back to the states, a significant amount is siphoned off to support the HUD bureaucracy. If states and localities were to raise the money for necessary projects themselves, this administrative expense would not be lost, and more funds would be available for actual development.”

Despite widely-reported problems with oversight, conflicts of interest, politicization of awarding funds, and doctoring of files so blatant that the director and her deputy had to resign, Congress stiffened its spine enough only to increase the funding for the program.

Since the program started rewarding political cronies with \$50 million of taxpayers’ money in 1995, funding is set to increase to \$95 million this year with \$5 million increases each of the next four years. These rates of growth belie the oft-heard claims of fiscal responsibility espoused by many Washington politicians. This program should never have been initiated at the federal level, has proved to be wasteful and corrupt, should be abolished and the money returned to the taxpayers to decide for themselves the best use of their own money.

“The Community Development Financial Institutions Fund is still in business, but it is now a deeply suspect agency. And what was once a fine example of the promise that government still can do things that are big and bold and good is now a fine example of the way corruption does its corroding work, bit by bit, until all that is left of what was something shining is a tarnished little thing, not much good to anyone at all,” concluded Michael Kelly in the Washington Post article just a year ago. How quickly we forget.

RON PAUL.

