

Public Law 87-341

AN ACT

October 3, 1961
[S. 902]

To amend the Small Business Investment Act of 1958, and for other purposes.

Small Business
Investment Act
Amendments of
1961.

72 Stat. 690.
15 USC 662.

Definitions.

1951 Stat. 61

15 USC 681.

Debentures.

15 USC 682.

Borrowing power.

15 USC 683.

74 Stat. 196.
15 USC 684.

Equity capital.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Investment Act Amendments of 1961".

SEC. 2. Section 103 of the Small Business Investment Act of 1958 is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the terms 'small business investment company', 'company', and 'licensee' mean a company approved by the Administration to operate under the provisions of this Act and issued a license as provided in section 301(c);"; and

(2) by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding after paragraph (6) the following new paragraph:

"(7) the term 'license' means a license issued by the Administration as provided in section 301(c)."

SEC. 3. (a) Section 302(a) of the Small Business Investment Act of 1958 is amended by striking out the second sentence and inserting in lieu thereof the following: "In order to facilitate the formation and growth of small business investment companies, the Administration is hereby authorized, notwithstanding any other provisions of law (but only to the extent that the necessary funds are not available to the company involved from private sources on reasonable terms), to purchase the debentures of any such company in an amount not to exceed the lesser of \$400,000 or the amount of the paid-in capital and surplus of the company from other sources; but debentures of a small business investment company may be purchased by the Administration under this subsection only during such period (in no case ending more than three years after the date of the issuance of its license under section 301(c) or the date of the enactment of the Small Business Investment Act Amendments of 1961, whichever is later) as may be fixed by the Administration."

(b) Section 302(b) of such Act is amended by striking out "1 percent of its capital and surplus" and inserting in lieu thereof "2 percent of its capital and surplus".

SEC. 4. (a) The first sentence of section 303(b) of the Small Business Investment Act of 1958 is amended by inserting after "is authorized" the following: "(but only to the extent that the necessary funds are not available to the company involved from private sources on reasonable terms)".

(b) The second sentence of section 303(b) of such Act is amended to read as follows: "The total amount of obligations of any one company which may be purchased and outstanding at any one time by the Administration under this subsection (including commitments to purchase such obligations) shall not exceed 50 percent of the paid-in capital and surplus of such company or \$4,000,000, whichever is less."

(c) Section 303(b) of such Act is further amended by adding at the end thereof the following new sentence: "All loans made by the Administration under this subsection shall be of such sound value as reasonably to assure repayment."

SEC. 5. Section 304 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new subsection:

"(d) 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.”

SEC. 6. Section 305(b) of the Small Business Investment Act of 1958 is amended by striking out “other lending institutions” and inserting in lieu thereof “other lenders, incorporated or unincorporated.”

72 Stat. 693.
15 USC 685.

SEC. 7. (a) Section 306 of the Small Business Investment Act of 1958 is amended by striking out the matter following “exceed” and inserting in lieu thereof the following: “(1) 20 per centum of the combined capital and surplus of such small business investment company authorized by this Act, or (2) \$500,000, whichever is the lesser.”

Limitation.
15 USC 686.

(b) The amendment made by subsection (a) shall apply only with respect to obligations and securities acquired by a small business investment company on or after the date of the enactment of this Act; except that such amendment shall not apply with respect to any obligations or securities so acquired pursuant to a commitment issued before such date.

SEC. 8. Section 308(a) of the Small Business Investment Act of 1958 is amended to read as follows:

15 USC 687.

“(a) Wherever practicable the operations of a small business investment company, including the generation of business, may be undertaken in cooperation with banks or other investors or lenders, incorporated or unincorporated, and any servicing or initial investigation required for loans or acquisitions of securities by the company under the provisions of this Act may be handled through such banks or other investors or lenders on a fee basis. Any small business investment company may receive fees for services rendered to such banks and other investors and lenders.”

Cooperation with
banks or other in-
vestors.

SEC. 9. Title III of the Small Business Investment Act of 1958 is amended by adding after section 308 the following new sections:

15 USC 687.

SUSPENSION OF LICENSES; CEASE AND DESIST ORDERS

“SEC. 309. (a) A license may be suspended by the Administration—

“(1) for false statements knowingly made in any written statement required under this title, or under any regulation issued under this title by the Administration, for the purpose of obtaining the license;

“(2) if any written statement required under this title, or under any regulation issued under this title by the Administrator, for the purpose of obtaining the license, fails to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

“(3) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this Act;

“(4) for willful or repeated violation of, or willful or repeated failure to observe, any rule or regulation of the Administration authorized by this Act; or

“(5) for violation of, or failure to observe, any cease and desist order issued by the Administration under this section.

“(b) Where a licensee has not complied with any provision of this Act, or of any regulation issued under this Act by the Administration, the Administration may order such licensee to cease and desist from such action or failure to act; and the Administration may further order such licensee to take such action or to refrain from such action as the Administration deems necessary to ensure compliance with the Act and the regulations. The Administration may also suspend

the license of such licensee until the licensee has complied with such order.

“(c) Before suspending a license pursuant to subsection (a), or issuing a cease and desist order pursuant to subsection (b), the Administration shall serve upon the licensee involved an order to show cause why an order suspending the license or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters of fact and law asserted by the Administration and the legal authority and jurisdiction under which a hearing is to be held, and shall inform the licensee that a hearing will be held before the Administration at a time and place stated in the order. If after hearing, or a waiver thereof, the Administration determines on the record that an order suspending the license or a cease and desist order should issue, it shall promptly issue such order, which shall include a statement of the findings of the Administration and the grounds and reasons therefor and specify the effective date of the order, and shall cause the order to be served on the licensee.

Subpena.

“(d) The Administration may require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to the hearing from any place in the United States. Witnesses summoned before the Administration shall be paid by the party at whose instance they were called the same fees and mileage that are paid witnesses in the courts of the United States. In case of disobedience to a subpoena, the Administration, or any party to a proceeding before the Administration, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

Petition.

“(e) An order issued by the Administration under this section shall be final and conclusive unless within thirty days after the service thereof the licensee appeals to the United States court of appeals for the circuit in which such licensee has its principal place of business by filing with the clerk of such court a petition praying that the Administration's order be set aside or modified in the manner stated in the petition. After the expiration of such thirty days, a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition theretofore. The clerk of the court shall immediately cause a copy of the petition to be delivered to the Administration, and the Administration shall thereupon certify and file in the court a transcript of the record upon which the order complained of was entered. If before such record is filed the Administration amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Administration. The filing of a petition for review shall not of itself stay or suspend the operation of the order of the Administration, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way. The court may affirm, modify, or set aside the order of the Administration. If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Administration to reopen the hearing for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Administration may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file its modified or new findings and the amendments, if any, of its order, with the record of such additional evidence. No objection to an order of the Administration shall be con-

sidered by the court unless such objection was urged before the Administration or, if it was not so urged, unless there were reasonable grounds for failure to do so. The judgment and decree of the court affirming, modifying, or setting aside any such order of the Administration shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code.

“(f) If any licensee against which an order is issued under this section fails to obey the order, the Administration may apply to the United States court of appeals, within the circuit where the licensee has its principal place of business, for the enforcement of the order, and shall file a transcript of the record upon which the order complained of was entered. Upon the filing of the application the court shall cause notice thereof to be served on the licensee. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in subsection (e) for applications to set aside or modify orders. The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.

28 USC 1254.
Enforcement.

“INVESTIGATIONS

“SEC. 310. The Administration may make such investigations as it deems necessary to determine whether a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or of any rule or regulation under this Act, or of any order issued under this Act. The Administration shall permit any person to file with it a statement in writing, under oath or otherwise as the Administration shall determine, as to all the facts and circumstances concerning the matter to be investigated. For the purpose of any investigation, the Administration is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, including a licensee, the Administration may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Administration, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

“INJUNCTIONS AND OTHER ORDERS

“SEC. 311. (a) Whenever, in the judgment of the Administration, a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act, or of any rule or regulation under this Act, or of any order issued under this Act, the Administration may make application to the proper district court of the United States or a United States court of any place subject to the jurisdiction of the United States for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or

order, and such courts shall have jurisdiction of such actions and, upon a showing by the Administration that such licensee or other person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order, shall be granted without bond. The proceedings in such a case shall be made a preferred cause and shall be expedited in every way.

“(b) In any such proceeding the court as a court of equity may, to such extent as it deems necessary, take exclusive jurisdiction of the licensee or licensees and the assets thereof, wherever located; and the court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.”

15 USC 696.

SEC. 10. Section 502 of the Small Business Investment Act of 1958 is amended—

(1) by striking out “\$250,000” in paragraph (3) and inserting in lieu thereof “\$350,000”; and

(2) by striking out “ten” where it first appears in paragraph (5) and inserting in lieu thereof “twenty-five”.

15 USC 681.

SEC. 11. (a) Section 301(a) of the Small Business Investment Act of 1958 is amended to read as follows:

“(a) A small business investment company shall be an incorporated body, organized and chartered under State law solely for the purpose of performing the functions and conducting the activities contemplated under this title, which has succession for a period of not less than thirty years unless sooner dissolved by its shareholders 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 of incorporation), shall be subject to the approval of the Administration.”

(b)(1) The second sentence of section 301(c) of such Act is amended by striking out “In determining whether to approve the establishment of such a company and its proposed articles of incorporation” and inserting in lieu thereof “In determining whether to approve such a company’s articles of incorporation and permit it to operate under the provisions of this Act”.

(2) The last sentence of section 301(c) of such Act is amended to read as follows: “After consideration of all relevant factors, if it approves the company’s articles of incorporation, the Administration may in its discretion approve the company to operate under the provisions of this Act and issue the company a license for such operation”.

(3) Section 301 of such Act is further amended by striking out subsections (d) and (e).

15 USC 687.

(c) The second sentence of section 308(b) of such Act is amended by striking out “organized under this Act” and inserting in lieu thereof “operating under the provisions of this Act”.

(d) Section 308 of such Act is amended by striking out subsections (e) and (f) and redesignating subsection (g) as subsection (e), and by striking out “organized under this Act” in the subsection so redesignated and inserting in lieu thereof “operating under the provisions of this Act”.

15 USC 688.

(e) Section 309 of such Act (relating to approval of State chartered companies for operations under this Act) is repealed.

15 USC 691.

(f) Title IV of such Act is repealed.

(g)(1) The table of contents of such Act is amended by striking out .

“Sec. 309. Approving State chartered companies for operations under this Act.” and inserting in lieu thereof

"Sec. 309. Suspension of licenses; cease and desist orders.

"Sec. 310. Investigations.

"Sec. 311. Injunctions and other orders."

(2) The table of contents of such Act is further amended by striking out

"TITLE IV—CONVERSION OF STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES".

(h) (1) Section 202 of such Act is amended by striking out "(a)" where it appears immediately after "SEC. 202.", and by striking out subsection (b).

15 USC 633.

15 USC 672.

15 USC 631 note.

(2) Section 20 of the Small Business Act is amended by inserting before the period at the end thereof the following: "other than those for which appropriations to the revolving fund are authorized by section 4(c)".

Ante, pp. 167, 666.

Ante, p. 666.

(3) So much of the first sentence of section 4(c) of the Small Business Act (as amended by section 3 of the Small Business Act Amendments of 1961) as precedes "not to exceed" is amended to read as follows: "The Administration is authorized to obtain money from the Treasury of the United States for use in the exercise of its functions under sections 7(a), 7(b), and 8(a) and under the Small Business Investment Act of 1958 (including the payment of administrative expenses in connection with such functions)."

Ante, p. 167.
15 USC 636, 637.
72 Stat. 689.
15 USC 661 note.

(4) Section 4(c) of such Act (as so amended) is further amended by striking out the fourth sentence.

SEC. 12. Section 4(c) of the Small Business Act (as amended by section 3 of the Small Business Act Amendments of 1961) is further amended—

(1) by striking out "\$1,125,000,000" each place it appears and inserting in lieu thereof "\$1,200,000,000"; and

(2) by striking out "\$250,000,000" and inserting in lieu thereof "\$325,000,000".

Approved October 3, 1961.

Public Law 87-342

AN ACT

To strengthen the Federal Firearms Act.

October 3, 1961
[S. 1750]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Federal Firearms Act, as amended (52 Stat. 1250; 15 U.S.C. 901-909), is further amended by repealing paragraph (6), by deleting the words "crime of violence" in paragraph (7) and inserting in lieu thereof the words "crime punishable by imprisonment for a term exceeding one year", and by renumbering paragraphs (7) and (8) as paragraphs (6) and (7).

Transportation
of firearms.

SEC. 2. Section 2 of such Act is amended by deleting the words "crime of violence" in subsections (d), (e), and (f) and inserting in lieu thereof the words "crime punishable by imprisonment for a term exceeding one year".

Approved October 3, 1961.