

**Principles of Administration's Community Development
Financial Institutions Proposal**

Creation of Fund/Governance. A Fund will be created to provide assistance to community development financial institutions (CDFIs). A corporate board of directors of the Fund will establish policy and will include the Secretaries of HUD, Treasury, Commerce, Agriculture, and the Administrator of the Small Business Administration and individuals appointed by the President who collectively represent community groups and have expertise in community development lending and commercial banking. A CEO appointed by the board will manage the Fund.

Fund A Full Range of CDFIs. All types of existing and new CDFIs will be eligible for assistance, e.g., community development banks, community development credit unions, revolving loan funds, micro-loan funds, minority-owned banks, and community development corporations. No set aside of funds is allotted for any one type of CDFI.

Mission. To be eligible for assistance, a CDFI must have a primary mission of lending to and developing an underserved target area or population that is low income or disadvantaged. All CDFIs must present a strategic plan in their application which clearly states how they will meet the economic and community development needs of their targeted communities.

Require A Non-Federal Match. A minimum match for investment in insured depository CDFIs will be required. For investment in other CDFIs, a match will be required but the amount is left to the discretion of the Fund. Technical assistance to any CDFI from the Fund will not require a match.

Types of Assistance. The types of assistance provided by the Fund will include capital and technical and training assistance, with the specific allocations of the types of assistance left to the discretion of the Fund.

Community Representation. A criterion for receiving assistance from the Fund is the extent of community involvement in the CDFI.

Community Lending. A criterion for receiving assistance from the Fund is the extent of community financing and lending that will result from Federal support.

Promotion of Self-Sustaining Institutions. A criterion for receiving assistance from the Fund is the likelihood of the institution becoming self-sustaining.

Limits on Assistance. Separate limits are placed on the amount of assistance that each insured CDFI or other type of CDFI may receive from the Fund.

Private Funds. The Fund will be authorized to incorporate private entities that can receive contributions and investments from the private sector to support CDFIs. All private funds will be entirely off the Federal budget.

Safety and Soundness. All insured depository CDFIs are subject to the laws and regulations set forth by Congress and the banking regulators. No separate system of regulation or banking will be created.

Clearinghouse. The Fund will establish an information and service network in order to help CDFIs provide community and economic development assistance.

A BILL

To facilitate the establishment of community development financial institutions.

1 *Be it enacted by the Senate and House of Representatives of the United States*
2 *of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Community Development Banking and Financial
5 Institutions Act of 1993".

6 SEC. 2. FINDINGS AND PURPOSE.

7 (a) FINDINGS.—The Congress finds that—

8 (1) many of the Nation's urban and rural communities and Indian
9 reservations face critical social and economic problems arising in part from the
10 lack of economic growth, people living in poverty, and the lack of employment
11 and other opportunities;

12 (2) the restoration and maintenance of the economies of these communi-
13 ties will require coordinated development strategies, intensive supportive
14 services, and increased access to capital and credit for development activities,
15 including investment in businesses, housing, commercial real estate, human
16 development, and other activities that promote the long-term economic and
17 social viability of the community;

18 (3) in many urban and rural communities, low- and moderate-income
19 neighborhoods, and Indian reservations, there is a shortage of capital and
20 credit for business and affordable housing;

1 (4) access to capital and credit is essential to unleash the untapped
2 entrepreneurial energy of America's poorest communities and to empower
3 individuals and communities to become self-sufficient; and

4 (5) community development financial institutions have proven their
5 ability to identify and respond to community needs for capital, credit, and
6 development services in the absence of, or as a complement to, services
7 provided by other lenders.

8 (b) PURPOSE.—The purpose of this Act is to create a Community Development
9 Banking and Financial Institutions Fund that will support a program of investment in
10 and assistance to community development financial institutions. The Community
11 Development Banking and Financial Institutions Fund will provide financial and
12 technical assistance, including training, to community development financial
13 institutions, serve as a national information clearinghouse, and be an institutional
14 voice for community development. The community development financial institutions
15 that the Community Development Banking and Financial Institutions Fund supports
16 will provide capital, credit, and development services to targeted investment areas or
17 populations, and will promote economic revitalization and community development.

18 **SEC. 3. DEFINITIONS.**

19 (a) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal
20 banking agency" has the same meaning given such term in section 3(q) of the Federal
21 Deposit Insurance Act (12 U.S.C. 1813(q)).

22 (b) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term
23 "community development financial institution" means any bank, savings association,
24 depository institution holding company, credit union, micro-enterprise loan fund,
25 community development corporation, community development revolving loan fund,

1 minority-owned or other insured depository institution, or non-depository organiza-
2 tion that—

3 (1) has as its primary mission the promotion of community development
4 through the provision of capital, credit, or development services in its
5 investment areas or to targeted populations; and

6 (2) encourages, through representation on its governing board or
7 otherwise, the input of residents in the investment area or the targeted
8 populations.

9 A depository institution holding company may qualify as a community development
10 financial institution only if the holding company and its subsidiaries collectively
11 satisfy the requirements of paragraphs (1) and (2). No subsidiary of a depository
12 institution holding company may qualify as a community development financial
13 institution if the holding company and its subsidiaries collectively do not meet the
14 requirements of paragraphs (1) and (2). The term "community development financial
15 institution" does not include an agency or instrumentality of the United States or an
16 agency or instrumentality of any State or political subdivision thereof.

17 (c) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository
18 institution holding company" has the same meaning given such term in section 3(w)
19 of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)).

20 (d) DEVELOPMENT SERVICES.—The term "development services" means
21 activities conducted by a community development financial institution that promote
22 community development by developing, supporting, and strengthening the lending,
23 investment, and capacity-building activities undertaken by institutions, including, but
24 not limited to—

25 (1) business planning services;

1 (2) financial and credit counseling services;

2 (3) marketing and management assistance; and

3 (4) administrative activities associated with lending or investment.

4 (e) **INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.**—The term
5 "insured community development financial institution" means any community
6 development financial institution that is an insured depository institution. The term
7 also includes an insured credit union which has been designated as low-income by the
8 National Credit Union Administration.

9 (f) **INSURED CREDIT UNION.**—The term "insured credit union" has the same
10 meaning given such term in section 101(7) of the Federal Credit Union Act (12
11 U.S.C. 1752(7)).

12 (g) **INSURED DEPOSITORY INSTITUTION.**—The term "insured depository
13 institution" has the same meaning given such term in section 3(c) of the Federal
14 Deposit Insurance Act (12 U.S.C. 1813(c)).

15 (h) **INVESTMENT AREA.**—The term "investment area" means an identifiable
16 community that—

17 (1) meets objective criteria of distress, including the number of low-
18 income families, the extent of poverty, the extent of unemployment, the extent
19 of unmet credit needs, the degree of availability of basic financial services, the
20 degree of limited access to capital and credit provided by existing financial
21 institutions, and other factors that the Fund determines to be appropriate; or

22 (2) is located in an empowerment zone or enterprise community
23 designated under section 1391 of the Internal Revenue Code of 1986.

24 (i) **QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.**—The
25 term "qualified community development financial institution" means a community

1 development financial institution that meets the requirements of sections 5(b)(2)
2 through (8) of this Act.

3 (j) TARGETED POPULATION.—The term "targeted population" means an
4 identifiable group of low-income or disadvantaged persons that are underserved by
5 existing financial institutions.

6 **SEC. 4. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY**
7 **DEVELOPMENT BANKING.**

8 (a) IN GENERAL.—There is created and chartered a body corporate to be
9 known as the Community Development Banking and Financial Institutions Fund
10 (referred to in this Act as the "Fund") that shall have the powers and responsibilities
11 specified by this Act. The Fund shall have succession until dissolved. The charter
12 of the Fund may be revised, amended, or modified by Congress at any time. The
13 offices of the Fund shall be in Washington, D.C.

14 (b) BOARD OF DIRECTORS.—

15 (1) IN GENERAL.—The powers and management of the Fund shall be
16 vested in a Board of Directors (referred to in this Act as the "Board"), which
17 shall have nine members.

18 (2) MEMBERS.—The members of the Board shall consist of the
19 following:

20 (A) The Secretary of Agriculture.

21 (B) The Secretary of Commerce.

22 (C) The Secretary of Housing and Urban Development.

23 (D) The Secretary of the Treasury.

24 (E) The Administrator of the Small Business Administration.

25 (F) Four private citizens, appointed by the President with the

1 advice and consent of the Senate, that collectively—

2 (i) represent community groups whose constituencies
3 include low-income persons or residents of investment areas,

4 (ii) have expertise in the operations and activities of insured
5 depository institutions, and

6 (iii) have expertise in community development and lending;
7 provided that there should not be less than one member from each of the
8 three categories described in clauses (i) through (iii) of this subpara-
9 graph.

10 (3) CHAIRPERSON.—The President shall appoint from among the
11 members of the Board specified in paragraph (2)(F) a chairperson of the
12 Board, who shall serve at the pleasure of the President for a term of two years.

13 (4) VICE-CHAIRPERSON.—The President shall appoint from among the
14 members specified in paragraph (2) a vice-chairperson who will serve as
15 chairperson in the absence, disability, or recusal of the chairperson. The vice-
16 chairperson shall serve at the pleasure of the President for a term of two years.

17 (5) TERMS OF APPOINTED MEMBERS.—

18 (A) IN GENERAL.—Each member appointed pursuant to paragraph
19 (2)(F) shall serve at the pleasure of the President for a term of four
20 years, except as provided in paragraph (5)(C).

21 (B) VACANCIES.—Any member appointed to fill a vacancy
22 occurring prior to the expiration of the term for which the previous
23 member was appointed shall be appointed for the remainder of such
24 term. Appointed members may continue to serve following the
25 expiration of their terms until a successor is appointed and qualified.

1 (C) TERMS.—The terms of the initial appointed members shall be
2 for four years and shall begin on the date each member is appointed,
3 except that two of the members initially appointed pursuant to paragraph
4 (2)(F) shall be designated to serve at the pleasure of the President for
5 five years.

6 (6) ACTING OFFICIALS.—In the event of a vacancy or absence of the
7 individual in any of the offices described in paragraphs (2)(A) through (E), the
8 official acting in that office shall be a member of the Board.

9 (7) AUTHORITY TO DELEGATE.—Each member of the Board specified in
10 paragraphs (2)(A) through (E) may designate another official who has been
11 appointed by the President with the advice and consent of the Senate within the
12 same agency to serve as a member in his or her stead.

13 (8) COMPENSATION.—Members of the Board who are otherwise officers
14 or employees of the United States shall serve without additional compensation
15 for their duties as members, but shall be reimbursed by the Fund for travel,
16 per diem, and other necessary expenses incurred in the performance of their
17 duties, in accordance with sections 5702 and 5703 of title 5, United States
18 Code. The appointed members of the Board shall be entitled to receive
19 compensation at the daily equivalent of the rate for a position under Level IV
20 of the Executive Schedule under section 5315 of title 5, United States Code,
21 and shall be reimbursed by the Fund for travel, per diem, and other necessary
22 expenses incurred in the performance of their duties, in accordance with
23 sections 5702 and 5703 of title 5, United States Code.

24 (9) MEETINGS.—The Board shall hold meetings at least quarterly.
25 Special meetings of the Board may be called by the Chairperson or on the

1 written request of three members of the Board. A majority of the members of
2 the Board in office shall constitute a quorum.

3 (c) OFFICERS AND EMPLOYEES.—The Board shall appoint a Chief Executive
4 Officer who will be responsible for the management of the Fund and such other
5 duties deemed appropriate by the Board. The Board shall appoint a Chief Financial
6 Officer who shall oversee all of the financial management activities of the Fund. The
7 Board shall also appoint an Inspector General. The Board may appoint such other
8 officers and employees of the Fund as the Board determines to be necessary or
9 appropriate. The Chief Executive Officer, Chief Financial Officer, and up to 3 other
10 officers of the Fund may be appointed without regard to the provisions of title 5 of
11 the United States Code governing appointments in the Federal service and compensat-
12 ed without regard to chapter 51 and subchapter III of chapter 53 of title 5 of the
13 United States Code, except that the rate of pay for the Chief Executive Officer shall
14 not exceed the rate for a position under Level II of the Executive Schedule under
15 section 5313 of title 5 of the United States Code and the rate of pay for the remaining
16 four officers shall not exceed the rate for a position under Level IV of the Executive
17 Schedule under section 5315 of title 5 of the United States Code.

18 (d) GENERAL POWERS.—In carrying out its powers and duties, the Fund—

19 (1) shall have all necessary and proper powers to carry out its authority
20 under this Act;

21 (2) may adopt, alter, and use a corporate seal, which shall be judicially
22 noticed;

23 (3) may sue and be sued in its corporate name and complain and defend
24 in any court of competent jurisdiction;

25 (4) may adopt, amend, and repeal bylaws, rules, and regulations

1 governing the manner in which its business may be conducted and shall have
2 power to make such rules and regulations as may be necessary or appropriate
3 to implement the provisions of this Act;

4 (5) may enter into and perform such agreements, contracts, and
5 transactions as may be deemed necessary or appropriate to the conduct of
6 activities authorized under this Act;

7 (6) may determine the character of and necessity for its expenditures and
8 the manner in which they shall be incurred, allowed, and paid;

9 (7) may utilize or employ the services of personnel of any agency or
10 instrumentality of the United States with the consent of the agency or
11 instrumentality concerned on a reimbursable or non-reimbursable basis; and

12 (8) may execute all instruments necessary or appropriate in the exercise
13 of any of its functions under this Act and may delegate to members of the
14 Board, to the Chief Executive Officer, or the officers of the Fund such of its
15 powers and responsibilities as it deems necessary or appropriate for the
16 administration of the Fund.

17 (e) WHOLLY-OWNED GOVERNMENT CORPORATION.—

18 (1) The Fund shall be a wholly-owned Government corporation in the
19 Executive branch and shall be treated in all respects as an agency of the United
20 States, except to the extent this Act provides otherwise.

21 (2) Section 9101(3) of title 31, United States Code (the Government
22 Corporation Control Act), is amended—

23 (A) by redesignating paragraphs (B) through (M) as paragraphs

24 (C) through (N), respectively; and

25 (B) by inserting after paragraph (A) the following:

1 "(B) the Community Development Banking and Financial Institutions
2 Fund."; and

3 (3) Section 9107(b) of title 31, United States Code (the Government
4 Corporation Control Act), shall not apply to deposits of the Fund made
5 pursuant to section 7 of this Act.

6 (f) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund
7 and of the United States Government arising out of any investment in a community
8 development financial institution in accordance with this Act shall be limited to the
9 amount of the investment and the Fund shall be exempt from any assessments and
10 other liabilities that may be imposed on controlling or principal shareholders by any
11 Federal law or the law of any State, Territory, or the District of Columbia. A
12 community development financial institution that receives assistance pursuant to this
13 Act shall not be deemed to be an agency, department, or instrumentality of the
14 United States.

15 (g) PROHIBITION ON ISSUANCE OF SECURITIES.—The Fund may not issue stock,
16 bonds, debentures, notes, or other securities.

17 **SEC. 5. APPLICATIONS FOR ASSISTANCE.**

18 (a) FORM AND PROCEDURES.—An application for assistance under this Act
19 shall be submitted by an applicant in such form and in accordance with such
20 procedures as the Board shall establish. The Board shall publish regulations with
21 respect to application requirements and procedures not later than 210 days after
22 enactment of this Act.

23 (b) MINIMUM REQUIREMENTS.—The Board shall require that the application—

24 (1) demonstrate to the satisfaction of the Board that the applicant is, or
25 upon the receipt of a charter will be, a community development financial

1 institution as defined in section 3(a) of this Act;

2 (2) demonstrate that the applicant will serve—

3 (A) a targeted population; or

4 (B) an area which is an investment area;

5 (3) in the case of an applicant that has previously received assistance
6 under this Act, demonstrate that the applicant—

7 (A) has successfully carried out its responsibilities under this Act;

8 (B) has become or is about to become an entity that will not be
9 dependent upon assistance from the Fund for continued viability; and

10 (C) will expand its operations into a new investment area, offer
11 new services, or will increase the volume of its current business;

12 (4) in the case of a community development financial institution with
13 existing operations, demonstrate a record of success of serving investment
14 areas or targeted populations;

15 (5) include a detailed and comprehensive strategic plan for the
16 organization that contains—

17 (A) a business plan of at least five years that demonstrates the
18 applicant is properly managed and has the capacity to form and operate
19 a community development financial institution that is, or will become,
20 an entity that will not be dependent upon assistance from the Fund for
21 continued viability;

22 (B) a statement that the applicant has, or will have, in its charter
23 or other governing documents a primary commitment to community
24 development, or other evidence of a prior history and a continuing
25 affirmation of a primary commitment of community development;

1 (C) an analysis of the needs of the investment area or targeted
2 populations and a strategy for how the applicant will attempt to meet
3 those needs;

4 (D) a plan to coordinate use of assistance from the Fund with
5 existing Federal, government-sponsored enterprise, and State and local
6 assistance programs, and private sector financial services;

7 (E) a statement that the proposed activities of the applicant are
8 consistent with existing economic, community and housing development
9 plans adopted by or applicable to the investment area;

10 (F) a description of how the applicant will affiliate, network, or
11 otherwise coordinate with a full range of community organizations and
12 financial institutions which provide, or will provide, capital, credit, or
13 secondary markets in order to assure that banking, economic develop-
14 ment, investment, affordable housing, and other related services will be
15 available within the investment area or to targeted populations; and

16 (G) such other information as the Board deems appropriate for
17 inclusion in the strategic plan;

18 (6) demonstrate that the applicant will carry on its activities consistent
19 with the purposes of this Act within the investment area or with respect to a
20 targeted population;

21 (7) include a detailed and specific statement of applicant's plans and
22 likely sources of funds to match the amount of assistance from the Fund with
23 funds from private sources in accordance with the requirements of section 7(d)
24 of this Act; and

25 (8) include such other information as the Board may require.

1 (c) PRE-APPLICATION OUTREACH PROGRAM.—The Fund shall provide for an
2 outreach program to identify and provide information to potential applicants and to
3 increase the capacity of potential applicants to meet the application and other
4 requirements of this Act.

5 **SEC. 6. SELECTION OF INSTITUTIONS.**

6 (a) SELECTION CRITERIA.—The Board shall, in its discretion, select applica-
7 tions that meet the requirements of section 5 of this Act and award assistance from
8 the Fund in accordance with section 7 of this Act. In selecting applications, the
9 Board shall consider applications based on, but not limited to—

10 (1) the likelihood of success of the applicant in forming and operating
11 a community development financial institution;

12 (2) the range and comprehensiveness of the capital, credit, and
13 development services to be provided by the applicant;

14 (3) the extent of the need, as measured by objective criteria of distress,
15 within the investment areas or targeted populations for the types of activities
16 proposed by the applicant;

17 (4) the likelihood that the proposed activities will benefit a significant
18 portion of the investment areas or targeted populations or, in the case of a
19 community development financial institution with existing operations, evidence
20 of a record of success in serving investment areas or targeted populations;

21 (5) the extent to which the applicant will concentrate its activities on
22 serving low and very low-income families;

23 (6) the evidence of the extent of a broad cross-section of support from
24 the investment areas or targeted populations;

25 (7) the experience and background of the proposed management team;

1 (8) the amount of legally enforceable commitments available at the time
2 of application to meet or exceed the matching requirements under section 7(d)
3 of this Act and the strength of the plan for raising the balance of the match;

4 (9) in the case of applicants that have previously received assistance
5 pursuant to this Act, the extent to which they have met or exceeded their
6 performance goals;

7 (10) the extent to which the proposed activities will expand the employ-
8 ment base within the investment areas or the targeted populations;

9 (11) the extent to which the applicant is, or will be, community-owned
10 or community-governed;

11 (12) whether the applicant is, or will become, an insured community
12 development financial institution;

13 (13) in the case of an institution that is not an insured community
14 development financial institution, the extent to which the institution has or will
15 have the ability to increase its resources through affiliation with a secondary
16 market, insured depository institution, or other financial intermediary in order
17 to multiply the amount of capital or credit available for community develop-
18 ment;

19 (14) in the case of an insured depository institution or insured credit
20 union applicant, whether the institution—

21 (A) has or will have a substantial affiliation with an entity or
22 network of entities that are community development financial institu-
23 tions; and

24 (B) has a comprehensive plan for providing meaningful financial
25 assistance to such an entity or network of entities; and

1 (15) other factors deemed appropriate by the Board.

2 (b) GEOGRAPHIC DIVERSITY.—In addition to the above, in making its
3 selections, the Board shall seek to fund a geographically diverse group of applicants,
4 which shall include applicants from nonmetropolitan and rural areas.

5 (c) PUBLICATION REQUIREMENT.—The Board shall publish regulations with
6 respect to its selection criteria not later than 210 days after the date of enactment of
7 this Act.

8 **SEC. 7. ASSISTANCE PROVIDED BY THE FUND.**

9 (a) PURPOSE OF ASSISTANCE.—

10 (1) The Fund shall work to promote an environment hospitable to
11 business formation, economic growth, community development, and affordable
12 housing in distressed communities. The Fund shall coordinate its activities
13 with existing Federal and other community and economic development
14 programs.

15 (2) Assistance may be provided to an existing qualified community
16 development financial institution to expand its activities to serve investment
17 areas or targeted populations not currently served by another qualified
18 community development financial institution receiving assistance under this
19 section or to expand the volume of its activities consistent with the purposes
20 of this Act, or to form a new entity to undertake activities consistent with the
21 purposes of this Act, or to assist an existing entity to modify its structure or
22 activities in order to undertake activities consistent with the purposes of this
23 Act.

24 (b) TYPES OF ASSISTANCE.—

25 (1) IN GENERAL.—The Fund may provide financial assistance to

1 qualified community development financial institutions through equity
2 investments, loans, deposits, membership shares, and grants. The Fund may
3 also provide technical assistance, including training, and grants for technical
4 assistance to qualified community development financial institutions. The
5 allocation of awards of assistance between insured and uninsured community
6 development financial institutions shall be in the discretion of the Board,
7 provided that due consideration shall be given to the allocation of funds to
8 insured community development financial institutions.

9 (2) FINANCIAL ASSISTANCE.—The Fund shall structure financial assis-
10 tance to a qualified community development financial institution in such a
11 manner that it does not own more than 50 percent of the equity of such
12 institution and does not control the operations of such institution. The Fund
13 will not be deemed to control such institution for the purposes of applicable
14 laws. With respect to equity investments, the Fund shall hold only transfer-
15 able, nonvoting investments. Such equity investments may provide for
16 convertibility to voting stock upon transfer by the Fund.

17 (3) DEPOSITS.—Notwithstanding any other provision of law, deposits
18 made pursuant to this section in qualified insured community development
19 financial institutions shall not be subject to any requirement for collateral or
20 security.

21 (4) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be
22 incurred only to the extent that appropriations of budget authority to cover
23 their costs, as defined in section 502 of the Congressional Budget Act of 1974,
24 are made in advance.

25 (c) PURPOSE OF FINANCIAL ASSISTANCE.—Financial assistance made available

1 under this Act may be used by assisted institutions to develop or support—

2 (1) commercial facilities that enhance revitalization, community stability,
3 or job creation and retention efforts;

4 (2) business creation and expansion efforts that—

5 (A) create or retain jobs for low-income people;

6 (B) enhance the availability of products and services to low-
7 income people; or

8 (C) create or retain businesses owned by low-income people or
9 residents of a targeted area;

10 (3) community facilities that provide benefits to low-income people or
11 enhance community stability;

12 (4) the provision of basic financial services to low-income people or
13 residents of a targeted area;

14 (5) the provision of development services;

15 (6) home ownership opportunities that are affordable to low-income
16 households;

17 (7) rental housing that is principally affordable to low-income house-
18 holds; and

19 (8) other activities deemed appropriate by the Fund.

20 (d) AMOUNT OF ASSISTANCE.—The Fund may provide up to \$5,000,000 of
21 assistance per application to any one qualified insured community development
22 financial institution and up to \$2,000,000 per application to any other qualified
23 community development financial institution. The Fund shall have the authority to
24 set minimum amounts of assistance per institution.

25 (e) MATCHING REQUIREMENTS.—

1 (1) Assistance provided to qualified insured community development
2 financial institutions, other than deposits or membership shares of \$100,000 or
3 less, technical assistance, or grants for technical assistance, shall be matched
4 by no less than one dollar of equity, deposits or membership shares for each
5 dollar provided by the Fund. The Fund shall require a match for all other
6 assistance, the amount and form of which shall be in the discretion of the
7 Fund; provided that, the Fund shall in no event require assistance provided in
8 the form of deposits or membership shares of \$100,000 or less, technical
9 assistance, or grants for technical assistance to be matched. The Fund shall
10 provide no assistance except technical assistance or grants for technical
11 assistance until a qualified community development financial institution has
12 secured legally enforceable commitments for the entire match required.
13 Assistance may be provided in one lump sum, or over a period of time, as
14 determined by the Fund.

15 (2) Assistance shall be matched with funds from sources other than the
16 Federal Government.

17 (f) TERMS AND CONDITIONS.—

18 (1) IN GENERAL.—The Fund shall provide assistance authorized under
19 this Act in such form and subject to such restrictions as are necessary to ensure
20 that to the maximum extent practicable—

21 (A) all assistance granted is used by the qualified community
22 development financial institution in a manner consistent with the
23 purposes of this Act;

24 (B) qualified community development financial institutions
25 receiving assistance that are not otherwise regulated by the Federal

1 government or by a State government are financially and managerially
2 sound;

3 (C) assistance results in a net increase, both nationally and in the
4 local communities in which assistance is provided, in capital, credit, and
5 development services; and

6 (D) assistance is provided in a manner that encourages affiliations
7 and partnerships between insured depository institutions, secondary
8 markets or other sources of credit or leverage and local organizations
9 dedicated to community development.

10 (2) CONSULTATION WITH BANKING REGULATORS.—Prior to providing
11 assistance to a qualified insured community development financial institution,
12 the Board should consult with the appropriate Federal banking agency or, in
13 the case of an insured credit union, the National Credit Union Administration.

14 (3) ASSISTANCE AGREEMENT.—

15 (A) The Board shall impose restrictions on the use of assistance
16 through a stock purchase agreement, share purchase agreement, or
17 through a contract entered into in consideration for the provision of
18 assistance.

19 (B) Such agreement or contract shall require institutions assisted
20 under this Act to comply with performance goals. The performance
21 goals shall be negotiated between the Board and each qualified commu-
22 nity development financial institution receiving assistance based upon the
23 strategic plan submitted pursuant to section 5(b)(5) of this Act. The
24 performance goals may be renegotiated jointly as necessary or appropri-
25 ate, subject to subparagraph (C) of this section. Activity levels for

1 insured community development financial institutions should be
2 determined by the Board in consultation with the appropriate Federal
3 banking agency or, in the case of an insured credit union, with the
4 National Credit Union Administration.

5 (C) The agreement or contract shall specify sanctions available to
6 the Board, in its discretion, in the event of noncompliance with the
7 purposes of this Act or the terms of the agreement. The sanctions may
8 include revocation of approval of the application, terminating or
9 reducing future assistance, requiring repayment of assistance, and
10 requiring changes to the performance goals imposed pursuant to
11 subparagraph (B) or to the strategic plan submitted pursuant to section
12 5(b)(5) of this Act. In the case of an insured community development
13 financial institution, the Board shall consult with the appropriate Federal
14 banking agency or, in the case of an insured credit union, the National
15 Credit Union Administration, before imposing sanctions pursuant to this
16 paragraph.

17 (4) REVIEW.—At least annually, the Board shall review the performance
18 of each assisted qualified community development financial institution in
19 carrying out its strategic plan and performance goals.

20 (5) REPORTING.—The Board shall require each qualified community
21 development financial institution receiving assistance to submit an annual
22 report to the Fund on its activities, its financial condition, its success in
23 meeting performance goals, and its compliance with other requirements of this
24 Act.

25 (g) AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.—The Board shall

1 have the authority at any time to sell its investments and loans and may, in its
2 discretion, retain the power to enforce limitations on assistance entered into in
3 accordance with the requirements of this Act.

4 (h) **NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.**—Nothing in this
5 Act shall affect any authority of the appropriate Federal banking agency or, in the
6 case of an insured credit union, the National Credit Union Administration, to
7 supervise and regulate an insured community development financial institution.

8 **SEC. 8. ENCOURAGEMENT OF PRIVATE ENTITIES.**

9 The Board may cause to be incorporated, or encourage the incorporation of,
10 private non-profit and for-profit entities that will complement the activities of the
11 Fund in carrying out the purposes of this Act. The purposes of any such entities
12 shall be limited to investing in and assisting community development financial
13 institutions in a manner similar to the activities of the Fund under this Act. Any such
14 entities shall be managed exclusively by private individuals who are selected in
15 accordance with the laws of the jurisdiction of incorporation.

16 **SEC. 9. CLEARINGHOUSE FUNCTION.**

17 The Fund shall establish and maintain an information clearinghouse in
18 coordination with the Departments of Agriculture, Commerce, and Housing and
19 Urban Development, the Small Business Administration, other Federal agencies, and
20 community development financial institutions—

21 (1) to cause to be collected, compiled, and analyzed information
22 pertinent to community development financial institutions that will assist in
23 creating, developing, expanding, and preserving these institutions; and

24 (2) to cause to be established a service center for comprehensive
25 information on financial, technical, and management assistance, case studies

1 of the activities of community development financial institutions, regulations,
2 and other information that may promote the purposes of this Act.

3 **SEC. 10. RECORDKEEPING, REPORTS, AND AUDITS.**

4 (a) RECORDKEEPING.—

5 (1) A qualified community development financial institution receiving
6 assistance from the Fund shall keep such records as may be reasonably
7 necessary to disclose the disposition of any assistance under this Act and to
8 ensure compliance with the requirements of this Act.

9 (2) The Fund shall have access, for the purpose of determining
10 compliance with this Act, to any books, documents, papers, and records of a
11 qualified community development financial institution receiving assistance from
12 the Fund that are pertinent to assistance received under this Act.

13 (b) REPORTS.—

14 (1) ANNUAL REPORT.—The Fund shall conduct an annual evaluation of
15 the activities carried out pursuant to this Act and shall submit a report of its
16 findings to the President within 120 days of the end of each fiscal year of the
17 Fund. The report shall include financial statements audited in accordance with
18 subsection (c).

19 (2) INSTITUTIONAL VOICE FOR COMMUNITY DEVELOPMENT.—

20 (A) ONGOING STUDY.—The Fund shall conduct, or cause to be
21 conducted, an ongoing study to identify and evaluate the most effective
22 and financially sound policies and practices for encouraging investment
23 in distressed communities, including small business and commercial
24 lending, business formation and expansion, community and economic
25 development, commercial real estate and multi-family housing, and

1 home mortgages. In addition, the Fund may study, or cause to be
2 studied, related matters, such as identification of sources of and access
3 to capital and loans for community investment; development of
4 secondary markets for economic and community development, small
5 business and commercial loans, and home mortgage loans and invest-
6 ments; and methods to involve all segments of the financial services
7 industry in community development.

8 (B) CONSULTATION.—In the conduct of the study, the Fund shall
9 consult, or cause consultation with, the Office of the Comptroller of the
10 Currency, the Federal Deposit Insurance Corporation, the Board of
11 Governors of the Federal Reserve System, the Federal Housing Finance
12 Board, the Farm Credit Administration, the Office of Thrift Supervision,
13 the National Credit Union Administration, community reinvestment, civil
14 rights, consumer and financial organizations, and such representatives
15 of agencies or other persons as the Fund may determine.

16 (C) REPORTS.—Within 270 days after the date of enactment of this
17 Act, the Fund shall report to the President its initial findings and
18 recommendations regarding the matters set forth in subparagraph (A).
19 Thereafter, the Fund shall report its findings and recommendations to
20 the President with the annual report required by paragraph (b)(1).

21 (3) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—Six years
22 following the date of enactment of this Act, the Fund, in accordance with the
23 procedures described in paragraphs (2)(A) and (B), shall conduct a study
24 evaluating the structure, governance, and performance of the Fund. The study
25 shall be submitted to the President. Such study shall include an evaluation of

1 the overall performance of the Fund in meeting the purposes of this Act and
2 any recommendations of the Fund for restructuring the Board, altering
3 procedures under which the Fund is governed, the future role of the Fund in
4 addressing community development, and the ability of the Fund to become a
5 private, self-sustaining entity capable of fulfilling the purposes of this Act.

6 (c) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be
7 audited in accordance with section 9105 of title 31, United States Code, except that
8 audits required by section 9105(a) of that title shall be performed annually.

9 **SEC. 11. INVESTMENT OF RECEIPTS AND PROCEEDS.**

10 Any dividends on equity investments and proceeds from the disposition of
11 investments, deposits, or membership shares that are received by the Fund as a result
12 of assistance provided pursuant to section 7 of this Act shall be deposited and
13 accredited to an account of the Fund established to carry out the authorized purposes
14 of this Act. Upon request of the Chief Executive Officer, the Secretary of the
15 Treasury shall invest amounts deposited in such account in public debt securities with
16 maturities suitable to the needs of the Fund, as determined by the Chief Executive
17 Officer, and bearing interest at rates determined by the Secretary of the Treasury,
18 taking into consideration current market yields on outstanding marketable obligations
19 of the United States of comparable maturities. Amounts deposited into the account
20 and interest earned on such amounts pursuant to this section shall be available to the
21 Fund until expended.

22 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) IN GENERAL.—There are authorized to be appropriated to the Fund, to
24 remain available until expended, \$60,000,000 for fiscal year 1994, \$104,000,000 for
25 fiscal year 1995, \$107,000,000 for fiscal year 1996, and \$111,000,000 for fiscal year

1 1997, or such greater sums as may be appropriated, to carry out the purposes of the
2 Act.

3 (b) ADMINISTRATIVE EXPENSES.—The Fund may set aside up to \$10,000,000
4 each fiscal year to pay administrative costs and expenses.

5 **SEC. 13. CONFORMING AMENDMENT.**

6 Section 8E(a)(2) of the Inspector General Act of 1978 (5 U.S.C. app. 3 §
7 8E(a)(2)) is amended by inserting "the Community Development Banking and
8 Financial Institutions Fund," immediately following "the Commodity Futures Trading
9 Commission,".

**COMMUNITY DEVELOPMENT BANKING AND FINANCIAL
INSTITUTIONS ACT OF 1993**

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The Act may be cited as the "Community Development Banking and Financial Institutions Act of 1993".

Section 2. Findings and Purpose

Many of the Nation's urban areas, rural areas and Indian reservations face critical social and economic problems. The restoration and maintenance of the economies of these communities will require coordinated strategies to promote long-term economic and social viability. In many urban and rural communities, low- and moderate-income neighborhoods, and on Indian reservations, there is a shortage of capital and credit for business and affordable housing. Access to capital and credit is essential to enable individuals and communities to become self-sufficient. Community development financial institutions, such as micro-enterprise loan funds, community development credit unions, community development corporations and community development banks have proven their ability to identify and respond to community needs for capital, credit and development services in the absence of, or as a complement to, services provided by other lenders.

The purpose of the Act is to create a Community Development Banking and Financial Institutions Fund that will support a program of investment in and assistance to community development financial institutions.

Section 3. Definitions

The Act contains definitions of terms, including a definition of "community development financial institution." A community development financial institution includes any bank, savings association, depository institution holding company, credit union, micro-enterprise loan fund, community development corporation, community development revolving loan fund and any minority-owned or other depository institution that (i) has as its primary mission the provision of capital, credit or development services in investment areas or to populations that are low-income or disadvantaged and underserved by existing

financial institutions, and (ii) encourages, through representation on its governing board or otherwise, the input of residents in the investment area or the targeted population. The term "investment area" means an identifiable community that meets criteria of distress as determined by the Fund, or is designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986.

Section 4. Establishment of National Fund for Community Development Banking

This section provides for the establishment of a body corporate known as the Community Development Banking and Financial Institutions Fund (the "Fund"). The Fund will be managed by a nine-member Board of Directors (the "Board"). The Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of the Treasury and the Administrator of the Small Business Administration, or their designees will serve as members of the Board. (A designee must be an official from the same agency who has been appointed by the President with the advice and consent of the Senate.) The remaining four members will be private citizens appointed by the President and confirmed by the Senate. These individuals must collectively represent community groups, have expertise in the activities and operations of insured depository institutions, and have expertise in community development and lending. The appointed members will serve for a term of four years, except that the initial terms of two of the appointed members will be five years. The President will appoint a chairperson from among the appointed members and a vice-chairperson from among the members of the Board. Both the chairperson and the vice-chairperson will serve in those offices for terms of two years.

The members of the Board that are otherwise employees of the United States will receive no additional compensation for service on the Board, but will be reimbursed by the Fund for travel, per diem, and other necessary expenses incurred in the performance of their duties. The appointed members will be compensated at a rate equivalent to the daily rate for a position under Level IV of the Executive Schedule. The appointed members may also be reimbursed for travel, per diem, and other necessary expenses.

The Board is required to hold meetings at least quarterly. Other meetings of the Board may be held on the call of the chairperson or at the written request of at least three Board members. A majority of the members of the Board in office will constitute a quorum.

The Board must appoint a Chief Executive Officer, a Chief Financial Officer and an Inspector General. The Chief Executive

Officer will be responsible for the management of the Fund and such other duties as the Board deems appropriate. The Board may fix the compensation of the Chief Executive Officer, the Chief Financial Officer, and up to three other officers of the Fund without regard to chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, except that the compensation for the Chief Executive Officer may not exceed the rate of pay for a position under Level II of the Executive Schedule and the rate of pay for the four remaining officers may not exceed the rate for a position under Level IV of the Executive Schedule. All other employees of the Fund will be compensated pursuant to the provisions of title 5.

Section 4 enumerates the general powers of the Fund, which include the power to sue and be sued in its corporate name and to enter into and perform agreements. The Fund is also authorized to utilize the services of personnel of any other agency on a reimbursable or non-reimbursable basis with that agency's consent. The Fund may not issue stock, bonds, debentures, notes or other securities. The liability of the Fund and of the United States with respect to an investment in a community development financial institution is limited to the amount of the investment.

The Fund will be a wholly-owned Government corporation and will be treated as an agency of the United States unless provided otherwise by the Act.

Section 5. Applications for Assistance

This section requires the Board to publish regulations regarding procedures and forms for applications for assistance from the Fund not later than 210 days after enactment of the Act. In order to be eligible as a threshold matter to apply for assistance from the Fund, an applicant must: (i) demonstrate to the satisfaction of the Board that the applicant is, or will be, a community development financial institution; (ii) demonstrate that the applicant will serve what is defined in the Act as a targeted population or an investment area; (iii) demonstrate, if the applicant previously has received assistance from the Fund, that the applicant has been successful in carrying out the purposes of the Act, that the applicant is, or is about to become, an entity that is not dependent upon assistance from the Fund for continued viability, and that the applicant will expand its services; (iv) demonstrate, if the applicant is a community development financial institution with existing operations, a record of success in serving investment areas or targeted populations; (v) include with its application a comprehensive strategic plan which contains required elements that will demonstrate the applicant's commitment to serving community development needs and to becoming a community development financial institution that will not be dependent upon assistance

from the Fund for continued viability; (vi) include with its application a statement of the applicant's likely source of private funds to meet any matching requirement under section 7(d) of the Act; and (vii) include with its application any other information required by the Board.

This section also requires the Fund to conduct a pre-application outreach program that will identify and provide information to potential applicants and will increase the capacity of potential applicants to meet the application and other requirements of the Act.

Section 6. Selection of Institutions

This section requires the Board, in its discretion, to select applications submitted under section 5 and to award assistance from the Fund. In making its selections, the Board is required to evaluate applications based on selection criteria. The selection criteria are designed to ensure that applicants with the most promise for fulfilling the purposes of the Act are awarded assistance. In addition to the selection criteria, the Board is permitted to consider any other factors it deems appropriate when evaluating applications.

The Board is required to publish regulations regarding the selection criteria not later than 210 days after enactment of the Act.

Section 7. Assistance Provided by the Fund

This section permits the Fund to provide financial assistance to qualified community development financial institutions in the form of equity investments, loans, deposits, membership shares and grants. The Fund may also provide technical assistance, including training, and grants for technical assistance to qualified community development financial institutions. The allocation of awards between insured and uninsured community development financial institutions is in the discretion of the Board, provided that due consideration is given to the allocation of funds for the establishment of insured community development financial institutions.

This section also requires equity investments held by the Fund to be in the form of transferable, nonvoting investments. Such equity investments may provide for convertibility to voting stock upon disposition of the interest by the Fund. The Fund is directed to structure its investments in such a manner that it will not own more than 50 percent of the equity of an institution and will not control the operations of the institution. The Fund will be deemed not to control any institution receiving financial assistance for purposes of applicable laws.

Assisted institutions may use funds provided under the Act to develop or support commercial and community facilities that enhance revitalization and job creation, business creation and expansion efforts, the provision of basic financial services to low-income persons, the provision of development services, homeownership opportunities that are affordable to low-income persons, rental housing that is affordable to low-income persons and other activities that are deemed appropriate by the Fund.

The Fund may provide up to \$5 million of assistance per application to any one qualified insured community development financial institution and up to \$2 million per application to any other qualified community development financial institution.

This section requires all qualified insured community development financial institutions receiving assistance to match the assistance with at least one dollar from private sources for each dollar provided by the Fund, except that an insured community development financial institution will not be required to match technical assistance provided by the Fund or grants for technical assistance. In addition, applicants for assistance in the form of deposits or membership shares in an amount of \$100,000 or less will not be subject to any matching requirement. A match will be required for all types of assistance provided to other community development financial institutions, and the amount and form of the match will be in the discretion of the Board. The Board, however, may not require that technical assistance or grants for technical assistance to community development financial institutions be matched. The Fund may not provide any assistance except technical assistance until legally enforceable commitments for the entire required match have been secured.

The Fund is required to provide assistance in such forms and subject to such restrictions that will assure, among other things, that assistance from the Fund is used in a manner consistent with the purposes of the Act and that institutions not federally regulated are financially and managerially stable. Before providing assistance to an insured community development financial institution, the Board is directed to consult with the appropriate Federal banking agency. The Board is required to impose negotiated performance goals on qualified community development financial institutions receiving assistance based on the strategic plan submitted in the institution's application. Institutions receiving assistance are required to submit an annual report to the Fund and the Fund is required to review the performance of the institutions. The assistance agreement is required to include specific sanctions available to the Board in the event that an assisted institution does not comply with the purposes of the Act or the terms of the agreement. These sanctions may include revocation of approval of the application, termination or reduction of future assistance, changing

performance goals or elements of the institution's strategic plan, and requiring repayment of assistance.

This section also permits the Board to sell its investments at any time and permits the Board to retain the power to continue to enforce any limitations placed on the assistance.

This section also clarifies that the Act does not affect the authority of any Federal banking regulator to supervise and regulate an insured community development financial institution.

Section 8. Encouragement of Private Entities

The Board may cause to be incorporated, or encourage incorporation of, private non-profit and for-profit corporations that will complement the activities of the Fund in carrying out the purposes of the Act. The purposes of the private entities will be limited to investing in and assisting community development financial institutions.

Section 9. Clearinghouse Function

The Fund is required by this section to establish and maintain an information clearinghouse that will assist in creating, developing and expanding community development financial institutions.

Section 10. Recordkeeping, Reports, and Audits

This section requires qualified community development financial institutions receiving assistance to maintain all records necessary for ensuring compliance with the Act. The Fund will have access to all books and records of such institutions for the purposes of determining compliance with the Act.

The Fund is required to submit a report annually to the President evaluating the activities of the Fund. The report is to be submitted not later than 120 days after the end of the fiscal year of the Fund. In addition, the Board is required to conduct, or cause to be conducted, an ongoing study of the most effective and financially sound policies for community development. In the conduct of the ongoing study, the Board is required to consult, or cause consultation, with the Federal banking regulators and other agencies, as well as community reinvestment, civil rights, consumer and financial organizations. An initial report on the ongoing study must be submitted to the President within nine months of the date of enactment of the Act.

This section also requires the Board to conduct an

additional study separate from the annual report and the ongoing study six years after enactment of the Act. This study will evaluate the structure, governance and performance of the Fund and will contain the Board's recommendations for changes in the operations of the Fund.

The Fund will be audited annually in accordance with the provisions of the Government Corporation Control Act.

Section 11. Investment of Receipts and Proceeds

This section provides that dividends on equity investments and proceeds from the disposition of investments, deposits, or membership shares will be deposited in an account established to carry out the authorized purposes of the Act. Upon request of the Chief Executive Officer of the Fund, the funds in the account will be invested in public debt securities that bear interest at a rate determined by the Secretary of the Treasury. The account will be available for use by the Fund in carrying out the purposes of the Act until the funds are expended.

Section 12. Authorization of Appropriations

This section authorizes appropriations to the Fund, to remain available until expended, \$60 million for fiscal year 1994, \$104 million for fiscal year 1995, \$107 million for fiscal year 1996, and \$111 million for fiscal year 1997, or such greater sums as may be appropriated, to carry out the purposes of the Act.

The Fund is permitted to set aside up to \$10 million per year for administrative costs and expenses.

Section 13. Conforming Amendments

This section adds the Fund to the list of entities subject to the Inspector General Act of 1978.

Carol:
This is the
Final draft
of the Bill.
CD Bank
Power

CDFI
file

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO: NEC (Dimond)	Take necessary action	<input type="checkbox"/>
DPC (Weinstein)	Approval signature	<input type="checkbox"/>
	Comment	<input type="checkbox"/>
	Prepare reply	<input type="checkbox"/>
	Discuss with me	<input type="checkbox"/>
	For your information	<input type="checkbox"/>
	See remarks below	<input type="checkbox"/>

FROM: Doug Steiger (x3386) *DH* DATE: 6/15/93

REMARKS

CDFI - Proposed Final Draft of the Bill

Treasury's proposed final of the CDFI bill. We are double-checking the language and intend to clear the bill at the end of the day.

CC: Alan Rhinesmith
Jenni Main
Ken Kelly
Roz Rettman
Ed Chase
Barry Anderson
Jim Jukes

Draft

The Honorable Thomas S. Foley
Speaker of the House
of Representatives
Washington, D.C.

Dear Mr. Speaker:

On behalf of the Administration, I am pleased to submit to Congress the "Community Development Financial Institutions Act of 1993," the Administration's legislative initiative for creating a network of community development financial institutions that will enable individuals and communities to provide for greater economic opportunity.

This legislation would establish a Community Banking and Credit Fund that would support a program of investment in a national network of community development financial institutions. The Community Banking and Credit Fund would provide financial and technical assistance to community development financial institutions and serve as a national information clearinghouse for community development financial institutions.

In too many urban and rural communities, there is a lack of capital and credit. Lending in distressed communities, particularly to small businesses, can be complicated. It may require special expertise and knowledge--of the borrower and community, credit products, subsidies, and secondary markets. Community development financial institutions--including community development banks like South Shore Bank in Chicago, community credit unions such as Self-Help in North Carolina, community development corporations, micro-enterprise loan funds, and revolving loan funds--have demonstrated that they can provide capital, credit and development services in distressed areas and to targeted populations.

This bill reaffirms the Administration's commitment to helping communities help themselves. By ensuring greater access to capital and credit, we will tap the entrepreneurial energy of America's poorest communities and enable individuals and communities to become self-sufficient.

2

The Administration requests that this bill be referred to the appropriate committee and urges its early enactment. The Office of Management and Budget advises that enactment of this bill is in accord with the President's program.

Sincerely,

Lloyd Bentsen

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Speaker of the House
of Representatives
Washington, D.C.

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Sincerely,

Lloyd Bentsen

A BILL

To facilitate the establishment of community development financial institutions.

1 *Be it enacted by the Senate and House of Representatives of the United States*
2 *of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Community Development Financial Institutions
5 Act of 1993".

6 SEC. 2. FINDINGS AND PURPOSE.

7 (a) FINDINGS.—The Congress finds that—

8 (1) many of the Nation's urban and rural communities and Indian
9 Reservations face critical social and economic problems arising in part from
10 the lack of economic growth, growing numbers of low-income people and
11 people living in poverty, lack of employment and other opportunities;

12 (2) the restoration and maintenance of the economics of these communi-
13 ties will require coordinated development strategies, intensive supportive
14 services, and increased access to capital and credit for development activities,
15 including investment in businesses, housing, commercial real estate, human
16 development, and other activities that promote the long-term economic and
17 social viability of the community;

18 (3) in many urban and rural communities, low- and moderate-income
19 neighborhoods and Indian Reservations, there is a shortage of capital and credit
20 for business and affordable housing;

DRAFT PRINTED June 15, 1993

1 (4) access to capital and credit is essential to unleash the untapped
2 entrepreneurial energy of America's poorest communities and to empower
3 individuals and communities to become self-sufficient; and
4

4 (5) community development financial institutions have proven their
5 ability to identify and respond to community needs for capital, credit and
6 development services in the absence of, or as a complement to, services
7 provided by other lenders.

8 (b) PURPOSE.—The purpose of this Act is to create a Community Banking and
9 Credit Fund that will support a program of investment in and assistance to a national
10 network of community development financial institutions that will provide for greater
11 economic opportunity. The Community Banking and Credit Fund will provide
12 financial and technical assistance, including training, to community development
13 financial institutions, serve as a national information clearinghouse, and be an
14 institutional voice for community development. The network of community
15 development financial institutions that the Community Banking and Credit Fund
16 supports will provide capital, credit and development services to targeted investment
17 areas or populations, and will promote economic revitalization and community
18 development.

19 **SEC. 3. DEFINITIONS.**

20 (a) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term
21 "community development financial institution" means any bank, savings association,
22 credit union, micro-enterprise loan fund, community development corporation,
23 community development revolving loan fund, or other depository institution (as
24 defined in section 3 of the Federal Deposit Insurance Act) or non-depository
25 organization that—

DRAFT PRINTED

June 15, 1993

1 (1) has as its primary mission the promotion of community development
2 through the provision of capital, credit or development services in its
3 investment areas or to targeted populations; and

4 (2) encourages, through representation on its governing board or
5 otherwise, the input of residents in the investment area or the targeted
6 populations.

7 A holding company and its subsidiaries may qualify as a community development
8 financial institution if the holding company and its subsidiaries collectively satisfy the
9 requirements of paragraphs (1) and (2). The term "community development financial
10 institution" does not include an agency or instrumentality of the United States or an
11 agency or instrumentality of any State or political subdivision thereof.

12 (b) DEVELOPMENT SERVICES.—The term "development services" means
13 activities conducted by a community development financial institution that promote
14 community development by developing, supporting and strengthening the lending,
15 investment, and capacity-building activities undertaken by institutions, including, but
16 not limited to—

17 (1) business planning services;

18 (2) financial and credit counseling services;

19 (3) marketing and management assistance; and

20 (4) administrative activities associated with lending or investment.

21 (c) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term
22 "insured community development financial institution" means any community
23 development financial institution the deposits of which are insured by the Federal
24 Deposit Insurance Corporation. The term also includes a credit union which has
25 been designated as low-income by the National Credit Union Administration and the

1 deposits of which are insured by the National Credit Union Share Insurance Fund.

2 (d) INVESTMENT AREA.—The term "investment area" means an identifiable
3 community that meets criteria of distress, including the number of low-income
4 families, the extent of poverty, the extent of unemployment, the extent of unmet
5 credit needs, the degree of availability of basic financial services, the degree of
6 limited access to capital and credit provided by existing financial institutions, and
7 other factors that the Fund determines to be appropriate.

8 (e) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The
9 term "qualified community development financial institution" means a community
10 development financial institution that meets the requirements of subsections (5)(b)(2)
11 through (8) of this Act.

12 (f) TARGETED POPULATION.—The term "targeted population" means an
13 identifiable group of low-income or disadvantaged persons that are underserved by
14 existing financial institutions.

15

16 **SEC. 4. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY**
17 **DEVELOPMENT BANKING.**

18 (a) IN GENERAL.—There is created and chartered a body corporate to be
19 known as the Community Banking and Credit Fund (referred to in this Act as the
20 "Fund") that shall have the powers and responsibilities specified by this Act. The
21 Fund shall have succession until dissolved. The charter of the Fund may be revised,
22 amended or modified by Congress at any time. The offices of the Fund shall be in
23 Washington, D.C.

24 (b) BOARD OF DIRECTORS.—

25 (1) IN GENERAL.—The powers and management of the Fund shall be

5

1 vested in a Board of Directors (referred to in this Act as the "Board"), which
2 shall have nine members.

3 (2) MEMBERS.—The members of the Board shall consist of the
4 following:

5 (A) The Secretary of Agriculture.

6 (B) The Secretary of Commerce.

7 (C) The Secretary of Housing and Urban Development.

8 (D) The Secretary of the Treasury.

9 (E) The Administrator of the Small Business Administration.

10 (F) Four private citizens, appointed by the President with the
11 advice and consent of the Senate, that collectively—

12 (i) represent community groups whose constituencies
13 include low-income persons or residents of investment areas,

14 (ii) have expertise in the operations and activities of
15 depository institutions, and

16 (iii) have expertise in community development and lending;
17 provided that there should not be less than one member from each of the
18 three categories described in clauses (i) through (iii) of this subpara-
19 graph.

20 (3) CHAIRPERSON.—The President shall appoint from among the
21 members of the Board specified in paragraph (2)(F) a chairperson of the
22 Board, who shall serve at the pleasure of the President for a term of two years.

23 (4) VICE-CHAIRPERSON.—The President shall appoint from among the
24 members specified in paragraph 2 a vice-chairperson who will serve as
25 chairperson in the absence, disability or recusal of the chairperson. The vice-

1 chairperson shall serve at the pleasure of the President for a term of two years.

2 (5) TERMS OF APPOINTED MEMBERS.—

3 (A) IN GENERAL.—Each member appointed pursuant to paragraph
4 (2)(F) shall serve at the pleasure of the President for a term of four
5 years, except as provided in paragraph (5)(C).

6 (B) VACANCIES.—Any member appointed to fill a vacancy
7 occurring prior to the expiration of the term for which the previous
8 member was appointed shall be appointed for the remainder of such
9 term. Appointed members may continue to serve following the
10 expiration of their terms until a successor is appointed and qualified.

11 (C) TERMS.—The terms of the initial appointed members shall be
12 for four years and shall begin on the date each member is appointed,
13 except that two of the members initially appointed pursuant to paragraph
14 (2)(F) shall be designated to serve at the pleasure of the President for
15 five years.

16 (6) ACTING OFFICIALS.—In the event of a vacancy or absence of the
17 individual in any of the offices described in paragraphs (2)(A) through (E), the
18 official acting in that office shall be a member of the Board.

19 (7) AUTHORITY TO DELEGATE.—Each member of the Board specified
20 in paragraphs (2)(A) through (2)(E) may designate another official who has
21 been appointed by the President with the advice and consent of the Senate
22 within the same agency to serve as a member in his or her stead.

23 (8) COMPENSATION.—Members of the Board who are otherwise officers
24 or employees of the United States shall serve without additional compensation
25 for their duties as members, but shall be reimbursed by the Fund for travel,

1 per diem, and other necessary expenses incurred in the performance of their
2 duties, in accordance with sections 5702 and 5703 of title 5, United States
3 Code. The appointed members of the Board shall be entitled to receive
4 compensation at the daily equivalent of the rate for a position under Level IV
5 of the Executive Schedule under section 5315 of title 5, United States Code,
6 and shall be reimbursed by the Fund for travel, per diem, and other necessary
7 expenses incurred in the performance of their duties, in accordance with
8 sections 5702 and 5703 of title 5, United States Code.

9 (9) MEETINGS.—The Board shall hold meetings at least quarterly.
10 Special meetings of the Board may be called by the Chairperson or on the
11 written request of three members of the Board. A majority of the members of
12 the Board in office shall constitute a quorum.

13 (c) OFFICERS AND EMPLOYEES.—The Board shall appoint a Chief Executive
14 Officer who will be responsible for the management of the Fund and such other
15 duties deemed appropriate by the Board. The Board shall appoint a Chief Financial
16 Officer who shall oversee all of the financial management activities of the Fund. The
17 Board shall also appoint an Inspector General. The Board may appoint such other
18 officers and employees of the Fund as the Board determines to be necessary or
19 appropriate. The Chief Executive Officer, Chief Financial Officer, and up to 3 other
20 officers of the Fund (but not including the Inspector General) may be appointed and
21 compensated without regard to the provisions of title 5 of the United States Code
22 governing appointments in the competitive service and chapters 51 and 53 of title 5
23 of the United States Code, except that the rate of pay for the Chief Executive
24 Officer, including bonuses, benefits, and all other forms of compensation shall not
25 exceed the rate for a position under Level I of the Executive Schedule under section

1 5312 of title 5 of the United States Code and the rate of pay for the remaining four
2 officers, including bonuses, benefits and all other forms of compensation shall not
3 exceed the rate for a position under Level IV of the Executive Schedule under section
4 5315 of title 5 of the United States Code.

5 (d) GENERAL POWERS.—In carrying out its powers and duties, the Fund—

6 (1) shall have all necessary and proper powers to carry out its authority
7 under this Act;

8 (2) may adopt, alter, and use a corporate seal, which shall be judicially
9 noticed;

10 (3) may sue and be sued in its corporate name and complain and defend
11 in any court of competent jurisdiction;

12 (4) may adopt, amend, and repeal bylaws, rules, and regulations
13 governing the manner in which its business may be conducted and shall have
14 power to make such rules and regulations as may be necessary or appropriate
15 to implement the provisions of this Act;

16 (5) may enter into and perform such agreements, contracts, and
17 transactions as may be deemed necessary or appropriate to the conduct of
18 activities authorized under this Act, including those relating to administrative
19 expenses of the Fund;

20 (6) may determine the character of and necessity for its expenditures and
21 the manner in which they shall be incurred, allowed, and paid;

22 (7) may utilize or employ the services of personnel of any agency or
23 instrumentality of the United States with the consent of the agency or
24 instrumentality concerned on a reimbursable or non-reimbursable basis; and

25 (8) may execute all instruments necessary or appropriate in the exercise

1 of any of its functions under this Act and may delegate to members of the
2 Board, to the Chief Executive Officer or the officers of the Fund such of its
3 powers and responsibilities as it deems necessary or appropriate for the
4 administration of the Fund.

5 (e) WHOLLY-OWNED GOVERNMENT CORPORATION.—

6 (1) The Fund shall be a wholly-owned Government corporation in the
7 Executive branch and shall be treated in all respects as an agency of the United
8 States, except to the extent this Act provides otherwise.

9 (2) Section 9101(3) of title 31, United States Code (the Government
10 Corporation Control Act) is amended by inserting "(B) the Community
11 Banking and ^{Credit} Development Fund." after "(A) the Commodity Credit Corpora-
12 tion." and redesignating paragraphs (B) through (M) as paragraphs (C) through
13 (N), respectively.

14 (3) Section 9107(b) of title 31, United States Code (the Government
15 Corporation Control Act) shall not apply to deposits of the Fund made pursuant
16 to section 7.

17 (f) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund
18 and of the United States Government arising out of any investment in a community
19 development financial institution in accordance with this Act shall be limited to the
20 amount of the investment and the Fund shall be exempt from any assessments and
21 other liabilities that may be imposed on controlling or principal shareholders by any
22 Federal law or the law of any State, Territory or the District of Columbia. A
23 community development financial institution that receives assistance pursuant to this
24 Act shall not be deemed to be an agency, department or instrumentality of the United
25 States.

1 **SEC. 5. APPLICATIONS FOR ASSISTANCE.**

2 (a) **FORM AND PROCEDURES.**—An application for assistance under this Act
3 shall be submitted by an applicant in such form and in accordance with such
4 procedures as the Board shall establish. The Board shall publish regulations with
5 respect to application requirements and procedures not later than 180 days after
6 enactment of this Act.

7 (b) **MINIMUM REQUIREMENTS.**—The Board shall require that the application—

8 (1) demonstrate to the satisfaction of the Board that the applicant—

9 (A) is, or upon the receipt of a charter will be, a community
10 development financial institution as defined in section 3(a) of this Act;

11 or

12 (B) is a depository institution holding company (as defined in
13 section 3 of the Federal Deposit Insurance Act) that includes, or will
14 include, one or more community development financial institutions as
15 defined in section 3(a) of this Act;

16 (2) demonstrate that the applicant will serve—

17 (A) a targeted population; or

18 (B) an area which is—

19 (i) an investment area; or

20 (ii) located in an empowerment zone or an enterprise
21 community designated under the Economic Empowerment Act of
22 1993.;

23 (3) in the case of an applicant that has previously received assistance
24 under this Act, demonstrate that the applicant—

25 (A) has successfully carried out its responsibilities under this Act;

1 (B) has become or is about to become an entity that will not be
2 dependent upon assistance from the Fund for continued viability; and

3 (C) will expand its operations into a new investment area, offer
4 new services or will increase the volume of its current business;

5 (4) in the case of a community development financial institution with
6 existing operations, demonstrate a record of success of serving investment
7 areas or targeted populations;

8 (5) include a detailed and comprehensive strategic plan for the
9 organization that contains—

10 (A) a business plan of at least five years that demonstrates the
11 applicant is properly managed and has the capacity to form and operate
12 a community development financial institution that is, or will become,
13 an entity that will not be dependent upon assistance from the Fund for
14 continued viability;

15 (B) a statement that the applicant has, or will have, in its charter
16 or other governing documents a primary commitment to community
17 development;

18 (C) an analysis of the needs of the investment area or targeted
19 populations and a strategy for how the applicant will attempt to meet
20 those needs;

21 (D) a plan to coordinate use of assistance from the Fund with
22 existing Federal, government-sponsored enterprise, and state and local
23 assistance programs, and private sector financial services;

24 (E) a statement that the proposed activities of the applicant are
25 consistent with existing economic, community and housing development

1 plans adopted by or applicable to the investment area;

2 (F) a description of how the applicant will affiliate, network, or
3 otherwise coordinate with a full range of community organizations and
4 financial institutions which provide, or will provide, capital, credit, or
5 secondary markets in order to assure that banking, economic develop-
6 ment, investment, affordable housing and other related services will be
7 available within the investment area or to targeted populations; and

8 (G) such other information as the Board deems appropriate for
9 inclusion in the strategic plan;

10 (6) demonstrate that the applicant will carry on its activities consistent
11 with the purposes of this Act within the investment area or with respect to a
12 targeted population;

13 (7) include a detailed and specific statement of applicant's plans and
14 likely sources of funds to match the amount of assistance from the Fund with
15 funds from private sources in accordance with the requirements of section 7(d)
16 of this Act; and

17 (8) include such other information as the Board may require.

18 (c) PRE-APPLICATION OUTREACH PROGRAM.—The Fund shall provide for an
19 outreach program to identify and provide information to potential applicants and to
20 increase the capacity of potential applicants to meet the application and other
21 requirements of this Act.

22 SEC. 6. SELECTION OF INSTITUTIONS.

23 (a) SELECTION CRITERIA.—The Board shall, in its discretion, select applica-
24 tions that meet the requirements of section 5 and award assistance from the Fund in
25 accordance with section 7 of this Act. In selecting applications, the Board shall

1 consider applications based on, but not limited to—

2 (1) the need of the applicant for assistance from the Fund and the ability
3 of the holding company or other affiliates of the applicant to provide funds in
4 lieu of assistance from the Fund;

5 (2) the likelihood of success of the applicant in forming and operating
6 a community development financial institution that is, or will become, an entity
7 that will not be dependent upon assistance from the Fund for continued
8 viability;

9 (3) the range and comprehensiveness of the capital, credit, and
10 development services to be provided by the applicant;

11 (4) the extent of the need, as measured by objective criteria of distress,
12 within the investment areas or targeted populations for the types of activities
13 proposed by the applicant;

14 (5) the likelihood that the proposed activities will benefit a significant
15 portion of the investment areas or targeted populations or, in the case of a
16 community development financial institution with existing operations, evidence
17 of a record of success in serving investment areas or targeted populations;

18 (6) the extent to which the applicant will concentrate its activities on
19 serving low and very low-income families;

20 (7) the evidence of the extent of a broad cross-section of support from
21 the investment areas or targeted populations;

22 (8) the experience and background of the proposed management team;

23 (9) the amount of legally enforceable commitments available at the time
24 of application to meet or exceed the matching requirements under section 7(d)
25 and the strength of the plan for raising the balance of the match;

1 (10) in the case of applicants that have previously received assistance
2 pursuant to this Act, the extent to which they have met or exceeded their
3 performance goals;

4 (11) the extent to which the proposed activities will expand the employ-
5 ment base within the investment areas or the targeted populations;

6 (12) the extent to which the applicant is, or will be, community-owned
7 or community-governed;

8 (13) whether the applicant is, or will become, an insured community
9 development financial institution;

10 (14) whether the applicant is, or will be located, in an empowerment
11 zone or an enterprise community designated under the Economic Empower-
12 ment Act of 1993;

13 (15) in the case of an uninsured, nondepository institution applicant, the
14 extent to which the institution has or will have the ability to leverage its
15 resources through affiliation with a secondary market, depository institution or
16 other financial intermediary in order to multiply the amount of capital or credit
17 available for community development;

18 (16) in the case of an insured depository institution or credit union
19 applicant, whether the institution—

20 (A) has or will have a substantial affiliation with an entity or
21 network of entities that are community development financial institu-
22 tions; and

23 (B) has a comprehensive plan for providing meaningful financial
24 assistance to such an entity or network of entities; and

25 (17) other factors deemed appropriate by the Board.

1 (b) GEOGRAPHIC DIVERSITY.—In addition to the above, in making its
2 selections, the Board shall seek to fund a geographically diverse group of applicants,
3 which shall include applicants from nonmetropolitan and rural areas.

4 (c) PUBLICATION REQUIREMENT.—The Board shall publish regulations with
5 respect to its selection criteria not later than 180 days after the date of enactment of
6 this Act.

7 **SEC. 7. ASSISTANCE PROVIDED BY THE FUND.**

8 (a) PURPOSE OF ASSISTANCE.—

9 (1) The Fund shall work to promote an environment hospitable to
10 business formation, economic growth, community development, and affordable
11 housing in distressed communities. The Fund shall coordinate its activities
12 with existing Federal and other community and economic development
13 programs.

14 (2) Assistance may be provided to an existing qualified community
15 development financial institution to expand its activities to serve investment
16 areas or targeted populations not currently served by another qualified
17 community development financial institution receiving assistance under this
18 section or to expand the volume of its activities consistent with the purposes
19 of this Act, or to form a new entity to undertake activities consistent with the
20 purposes of this Act, or to assist an existing entity to modify its structure or
21 activities in order to undertake activities consistent with the purposes of this
22 Act.

23 (b) TYPES OF ASSISTANCE.—

24 (1) IN GENERAL.—The Fund may provide financial assistance to
25 qualified community development financial institutions through equity

1 investments, loans, loan guarantees, deposits, and grants. The Fund may also
2 provide technical assistance, including training, to qualified community
3 development financial institutions. The allocation of awards of assistance
4 between insured and uninsured community development financial institutions
5 shall be in the discretion of the Board, provided that due consideration shall
6 be given to the allocation of funds to insured community development financial
7 institutions.

8 (2) FINANCIAL ASSISTANCE.—The Fund shall structure financial assis-
9 tance to a qualified community development financial institution in such a
10 manner that it does not own more than 50 percent of the equity of such
11 institution and does not control the operations of such institution. The Fund
12 will not be deemed to control such institution for the purposes of applicable
13 laws. With respect to equity investments, the Fund shall hold only transfer-
14 able, nonvoting investments. Such equity investments may provide for
15 convertibility to voting stock upon transfer by the Fund.

16 (3) DEPOSITS.—Notwithstanding any other provision of law, deposits
17 made pursuant to this section in qualified insured community development
18 financial institutions shall not be subject to any requirement for collateral or
19 security.

20 (4) LIMITATIONS ON OBLIGATIONS AND COMMITMENTS.—Direct loan
21 obligations may be incurred and loan guarantee commitments may be made
22 only to the extent that appropriations of budget authority to cover their costs,
23 as defined in section 502 of the Congressional Budget Act of 1974, are made
24 in advance.

25 (c) AMOUNT OF ASSISTANCE.—The Fund may provide up to \$5,000,000 of

1 assistance per year to any one qualified insured community development financial
2 institution and up to \$2,000,000 per year to any other qualified community
3 development financial institution. The Fund shall have the authority to set minimum
4 amounts of assistance per institution. The Fund may not provide assistance to a
5 depository institution holding company (as defined in section 3(q) of the Federal
6 Deposit Insurance Act) unless the holding company and its subsidiaries collectively
7 meet the definition of a community development financial institution as defined in
8 section 3(a) of this Act.

9 (d) MATCHING REQUIREMENTS.—

10 (1) Assistance provided to qualified insured community development
11 financial institutions, other than technical assistance or grants for technical
12 assistance, shall be matched by no less than one dollar of private equity or
13 private deposits for each dollar provided by the Fund. The Board shall require
14 a match for all other assistance, the amount and form of which shall be in the
15 discretion of the Board; provided that, the Board shall in no event require
16 assistance provided in the form of technical assistance or grants for technical
17 assistance to be matched. The Fund shall provide no assistance except
18 technical assistance or grants for technical assistance until a qualified
19 community development financial institution has secured legally enforceable
20 commitments for the entire match required. Assistance may be provided in
21 one lump sum, or over a period of time, as determined by the Board.

22 (2) Assistance shall be matched with funds from sources other than the
23 Federal Government.

24 (e) TERMS AND CONDITIONS.—

25 (1) IN GENERAL.—The Fund shall provide assistance authorized under

1 this Act in such form and subject to such restrictions as are necessary to ensure
2 that to the maximum extent practicable—

3 (A) all assistance granted is used by the qualified community
4 development financial institution in a manner consistent with the
5 purposes of this Act;

6 (B) qualified community development financial institutions
7 receiving assistance that are not otherwise regulated by the Federal
8 Government or by a State government are financially and managerially
9 sound;

10 (C) assistance results in a net increase, both nationally and in the
11 local communities in which assistance is provided, in capital, credit, and
12 development services; and

13 (D) assistance is provided in a manner that encourages affiliations
14 and partnerships between insured depository institutions, secondary
15 markets or other sources of credit or leverage and local organizations
16 dedicated to community development.

17 (2) CONSULTATION WITH BANKING REGULATORS.—Prior to providing
18 assistance to a qualified insured community development financial institution,
19 the Board should consult with the appropriate Federal banking agency (as
20 defined in 12 U.S.C. 1813(q)) or, in the case of an insured credit union, the
21 National Credit Union Administration.

22 (3) PERFORMANCE GOALS.—The Board shall impose restrictions on the
23 use of assistance through a stock purchase agreement, share purchase
24 agreement, or through a contract entered into in consideration for the provision
25 of assistance. Such agreement or contract shall require institutions assisted

1 under this Act to comply with performance goals. The performance goals shall
2 be negotiated between the Board and each qualified community development
3 financial institution receiving assistance based upon the strategic plan submitted
4 pursuant to section 5(b)(5). The performance goals may be renegotiated jointly
5 as necessary or appropriate, subject to subparagraph (f) of this section.
6 Activity levels for insured community development financial institutions should
7 be determined by the Board in consultation with the appropriate Federal
8 banking agency (as defined in 12 U.S.C. 1813(q)) or with the National Credit
9 Union Administration.

10 (4) REVIEW.—At least annually, the Board shall review the performance
11 of each assisted qualified community development financial institution in
12 carrying out its strategic plan and performance goals.

13 (5) REPORTING.—The Board shall require each qualified community
14 development financial institution receiving assistance to submit an annual
15 report to the Fund on its activities, its financial condition, its success in
16 meeting performance goals, and its compliance with other requirements of this
17 Act.

18 (f) SANCTIONS.—On the basis of the review conducted pursuant to subsection
19 (e)(4) and the report required by subparagraph (e)(5), the Board may take appropriate
20 action, including revocation of approval of the application, terminating or reducing
21 future assistance, and requiring changes to the performance goals imposed pursuant
22 to subsection (e)(3) or to the strategic plan submitted pursuant to section 5(b)(5) of
23 this Act. In the case of an insured community development financial institution, the
24 Board shall consult with the appropriate Federal banking agency or, in the case of
25 an insured credit union, the National Credit Union Administration, before imposing

1 sanctions pursuant to this paragraph.

2 (g) **AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.**—The Board shall
3 have the authority at any time to sell its investments and loans and may, in its
4 discretion, retain the power to enforce limitations on assistance entered into in
5 accordance with the requirements of this Act.

6 (h) **NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.**—Nothing in this
7 Act shall affect any authority of the appropriate Federal banking agency (as defined
8 in 12 U.S.C. 1813(q)) or, in the case of a credit union, the National Credit Union
9 Administration, to supervise and regulate an insured community development
10 financial institution.

11 **SEC. 8. ENCOURAGEMENT OF PRIVATE ENTITIES.**

12 The Board may cause to be incorporated, or encourage the incorporation of,
13 private non-profit and for-profit entities that will complement the activities of the
14 Fund in carrying out the purposes of this Act. The purposes of any such entities
15 shall be limited to investing in and assisting community development financial
16 institutions in a manner similar to the activities of the Fund under this Act. Any such
17 entities shall be managed exclusively by private individuals who are selected in
18 accordance with the laws of the jurisdiction of incorporation.

19 **SEC. 9. CLEARINGHOUSE FUNCTION.**

20 The Fund shall establish and maintain an information clearinghouse in
21 coordination with the Departments of Agriculture, Commerce, and Housing and
22 Urban Development, the Small Business Administration, other Federal agencies, and
23 community development financial institutions—

24 (1) to cause to be collected, compiled, and analyzed information
25 pertinent to community development financial institutions that will assist in

1 creating, developing, expanding, and preserving these institutions; and

2 (2) to cause to be established a service center for comprehensive
3 information on financial, technical, and management assistance, case studies
4 of the activities of community development financial institutions, regulations,
5 and other information that may promote the purpose of this Act.

6 **SEC. 10. RECORDKEEPING, REPORTS, AND AUDITS.**

7 (a) **RECORDKEEPING.—**

8 (1) A qualified community development financial institution receiving
9 assistance from the Fund shall keep such records as may be reasonably
10 necessary to disclose the disposition of any assistance under this Act and to
11 ensure compliance with the requirements of this Act.

12 (2) The Fund shall have access, for the purpose of determining
13 compliance with this Act, to any books, documents, papers, and records of a
14 qualified community development financial institution receiving assistance from
15 the Fund that are pertinent to assistance received under this Act.

16 (b) **REPORTS.—**

17 (1) **ANNUAL REPORT.—**The Fund shall conduct an annual evaluation of
18 the activities carried out pursuant to this Act and shall submit a report of its
19 findings to the President within 120 days of the end of each fiscal year of the
20 Fund. The report shall include financial statements audited in accordance with
21 section 10(c) of this Act.

22 (2) **INSTITUTIONAL VOICE FOR COMMUNITY DEVELOPMENT.—**

23 (A) The Board shall conduct, or cause to be conducted, an
24 ongoing study to identify and evaluate the most effective and financially
25 sound policies and practices for assuring investment in distressed

1 communities, including small business and commercial lending, business
2 formation and expansion, community and economic development,
3 commercial real estate and multi-family housing, and home mortgages.
4 In addition, the Board may study, or cause to be studied, related
5 matters, such as identification of sources of and access to capital and
6 loans for community investment; development of secondary markets for
7 economic and community development, small business and commercial
8 loans, and home mortgage loans and investments; methods to involve all
9 segments of the financial services industry in community development;
10 and the role of community investment in any financial services reform.

11 (B) CONSULTATION.—In the conduct of the study, the Board shall
12 consult, or cause consultation with, the Office of the Comptroller of the
13 Currency, the Federal Deposit Insurance Corporation, the Board of
14 Governors of the Federal Reserve System, the Federal Housing Finance
15 Board, the Farm Credit Administration, the Office of Thrift Supervision
16 and the National Credit Union Administration and such representatives
17 of agencies or other persons as the Board may determine.

18 (C) REPORTS.—Within nine months after the date of enactment of
19 this Act, the Board shall report to the President its initial findings and
20 recommendations regarding the matters set forth in subparagraph (A).
21 Thereafter, the Board shall report its findings and recommendations to
22 the President with the annual report required by paragraph (b)(1).

23 (3) INVESTMENT, GOVERNANCE AND ROLE OF FUND.—Six years
24 following the date of enactment of this Act, the Board, in accordance with the
25 procedures described in paragraphs (2)(A) and (B), shall conduct a study

1 evaluating the structure, governance, and performance of the Fund. The study
2 shall be submitted to the President. Such study shall include an evaluation of
3 the overall performance of the Fund in meeting the purposes of this Act and
4 any recommendations of the Board for restructuring the Board, altering
5 procedures under which the Fund is governed, the future role of the Fund in
6 addressing community development, and the ability of the Fund to become a
7 private, self-sustaining entity capable of fulfilling the purposes of this Act.

8 **SEC. 11. INVESTMENT OF RECEIPTS AND PROCEEDS.**

9 Any dividends on equity investments, interest on deposits, or proceeds from
10 the disposition of investments that are received by the Fund as a result of assistance
11 provided pursuant to section 7 shall be deposited and accredited to an account of the
12 Fund established to carry out the authorized purposes of this Act. Upon request of
13 the Chief Executive Officer, the Secretary of the Treasury shall invest amounts
14 deposited in such account in public debt securities with maturities suitable to the
15 needs of the Fund, as determined by the Chief Executive Officer and bearing interest
16 at rates determined by the Secretary of the Treasury, taking into consideration current
17 market yields on outstanding marketable obligations of the United States of
18 comparable maturities. Amounts deposited into the account and interest earned on
19 such amounts pursuant to this section shall be available to the Fund until expended.

20 (c) **EXAMINATION AND AUDIT.**—The General Accounting Office shall examine
21 and audit the Fund annually. A report regarding the examination and audit shall be
22 promptly forwarded by the General Accounting Office to the President and the
23 Congress.

24 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

25 There are authorized to be appropriated to the Fund, to remain available until

1 expended, \$60,000,000 for fiscal year 1994, \$104,000,000 for fiscal year 1995,
2 \$107,000,000 for fiscal year 1996, and \$111,000,000 for fiscal year 1997 to carry
3 out the purposes of the Act.

4 **SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS FOR SAVINGS**
5 **ASSOCIATION COMMUNITY DEVELOPMENT INVESTMENT AUTHORI-**
6 **TY.**

7 (a) Section 5(c) of the Home Owners' Loan Act (12 U.S.C. § 1464(c)) is
8 amended by adding at the end of paragraph (4) the following new subparagraph:

9 "(E) Community Development Investments. Investments designed
10 primarily to promote the public welfare, subject to the same limitations
11 imposed on national banks and state member banks under section 6 of the
12 Depository Institutions Disaster Relief Act of 1992. The Office shall adopt
13 regulations implementing the subparagraph that are no less stringent than the
14 regulations adopted by the Office of Comptroller of the Currency pursuant to
15 section 6(a) of the Depository Institutions Disaster Relief Act of 1992."

16 (b) Section 8E(a)(2) of the Inspector General Act of 1978 (5 U.S.C. app. 3 §
17 8E(a)(2)) is amended by inserting "the Community Banking and Credit Fund,"
18 immediately following "the Commodity Futures Trading Commission,".

DRAFT**COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS ACT OF 1993****SECTION-BY-SECTION ANALYSIS****Section 1. Short Title**

The Act may be cited as the "Community Development Financial Institutions Act of 1993".

Section 2. Findings and Purpose

Many of the Nation's urban areas, rural areas and Indian Reservations face critical social and economic problems. The restoration and maintenance of the economies of these communities will require coordinated strategies to promote long-term economic and social viability. In many urban and rural communities, low- and moderate-income neighborhoods, and on Indian Reservations, there is a shortage of capital and credit for business and affordable housing. Access to capital and credit is essential to enable individuals and communities to become self-sufficient. Community development financial institutions, such as micro-enterprise loan funds, community development credit unions, community development corporations and community development banks have proven their ability to identify and respond to community needs for capital, credit and development services in the absence of, or as a complement to, services provided by traditional lenders.

The purpose of the Act is to create a Community Development Banking and Credit Fund that will support a program of investment in and assistance to a national network of community development financial institutions.

Section 3. Definitions

The Act contains definitions of terms, including a definition of "community development financial institution." A community development financial institution includes any bank, savings association, credit union, micro-enterprise loan fund, community development corporation, community development revolving loan fund and any other organization that (i) has as its primary mission the provision of capital, credit or development services in investment areas or to populations that are low-income or disadvantaged and underserved by existing financial institutions, and (ii) encourages, through representation on its governing board or otherwise, the input of residents in the investment area or the targeted population. The

term "investment area" means an identifiable community that meets criteria of distress as determined by the Fund.

Section 4. Establishment of National Fund for Community Development Banking

This section provides for the establishment of a body corporate known as the Community Banking and Credit Fund (the "Fund"). The Fund will be managed by a nine-member Board of Directors (the "Board"). The Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of the Treasury and the Administrator of the Small Business Administration (or their designees) will serve as members of the Board. The remaining four members will be private citizens appointed by the President and confirmed by the Senate. These individuals must collectively represent community groups, have expertise in the activities and operations of depository institutions, and have expertise in community development and lending. The appointed members will serve for a term of four years, except that the initial terms of two of the appointed members will be five years. The President will appoint a chairperson from among the appointed members and a vice-chairperson from among the members of the Board. Both the chairperson and the vice-chairperson will serve in those offices for terms of two years.

The members of the Board that are otherwise employees of the United States will receive no additional compensation for service on the Board, but will be reimbursed by the Fund for travel, per diem, and other necessary expenses incurred in the performance of their duties. The appointed members will be compensated at a rate equivalent to the daily rate for a position under Level IV of the Executive Schedule. The appointed members may also be reimbursed for travel, per diem, and other necessary expenses.

The Board is required to hold meetings at least quarterly. Other meetings of the Board may be held on the call of the chairperson or at the request of at least three Board members. A majority of the members of the Board in office will constitute a quorum.

The Board must appoint a Chief Executive Officer, a Chief Financial Officer and an Inspector General. The Chief Executive Officer will be responsible for the management of the Fund and such other duties as the Board deems appropriate. The Board may fix the compensation of the Chief Executive Officer, the Chief Financial Officer, and up to three other officers of the Fund without regard to the statutory government pay schedule, except that the compensation for the Chief Executive Officer may not exceed the rate of pay for a position under Level I of the

Executive Schedule and the rate of pay for the four remaining officers may not exceed the rate for a position under Level IV of the Executive Schedule. All other employees of the Fund will be compensated as employees of the United States.

Section 4 enumerates the general powers of the Fund, which include the power to sue and be sued in its corporate name and to enter into and perform agreements, including those related to administrative expenses of the Fund. The Fund is also authorized to utilize the services of personnel of any other agency on a reimbursable or non-reimbursable basis with that agency's consent.

The Fund will be a wholly-owned Government corporation and will be treated as an agency of the United States unless provided otherwise by the Act.

Section 5. Applications for Assistance

This section requires the Board to publish regulations regarding procedures and forms for applications for assistance from the Fund not later than 180 days after enactment of the Act. In order to be eligible as a threshold matter to apply for assistance from the Fund, an applicant must: (i) demonstrate to the satisfaction of the Board that the applicant is, or will be, a community development financial institution or is a depository institution holding company that includes or will include a community development financial institution; (ii) demonstrate that the applicant will serve what is defined in the Act as a targeted population or an investment area, or that the area to be served is located in an empowerment zone or an enterprise community designated under the Economic Empowerment Act of 1993; (iii) demonstrate, if the applicant previously has received assistance from the Fund, that the applicant has been successful in carrying out the purposes of the Act, that the applicant is, or is about to become, an entity that is not dependent upon assistance from the Fund for continued viability, and that the applicant will expand its services; (iv) demonstrate, if the applicant is a community development financial institution with existing operations, a record of success in serving investment areas or targeted populations; (v) include with its application a comprehensive strategic plan which contains required elements that will demonstrate the applicant's commitment to serving community development needs and to becoming a community development financial institution that will not be dependent upon assistance from the Fund for continued viability; (vi) include with its application a statement of the applicant's likely source of private funds to meet any matching requirement under section 7(d) of the Act; and (vii) include with its application any other information required by the Board.

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This section also requires the Fund to conduct a pre-application outreach program that will identify and provide information to potential applicants and will increase the capacity of potential applicants to meet the application and other requirements of the Act.

Section 6. Selection of Institutions

This section requires the Board, in its discretion, to select applications submitted under section 5 and to award assistance from the Fund. In making its selections, the Board is required to evaluate applications based on 16 selection criteria. The 16 selection criteria are designed to ensure that applicants with the most promise for fulfilling the purposes of the Act are awarded assistance. The criteria require the Board to consider, among other things, the need of the applicant for assistance from the Fund and the ability of the holding company or affiliates of the applicant to provide funds in lieu of assistance from the Fund. In addition to the selection criteria, the Board is permitted to consider any other factors it deems appropriate when evaluating applications.

The Board is required to publish regulations regarding the selection criteria not later than 180 days after enactment of the Act.

Section 7. Assistance Provided by the Fund

This section permits the Fund to provide financial assistance to qualified community development financial institutions in the form of equity investments, loans, loan guarantees, deposits and grants. The Fund may also provide technical assistance, including training, to qualified community development financial institutions. The allocation of awards between insured and uninsured community development financial institutions is in the discretion of the Board, provided that due consideration is given to the allocation of funds for the establishment of insured community development financial institutions.

This section also requires equity investments held by the Fund to be in the form of transferable, nonvoting investments. Such equity investments may provide for convertibility to voting stock upon disposition of the interest by the Fund. The Fund is directed to structure its investments in such a manner that it will not own more than 50 percent of the equity of an institution and will not control the operations of the institution. The Fund will be deemed not to control any institution receiving financial assistance for purposes of applicable laws.

The Fund may provide up to \$5 million of assistance per year

to any one qualified insured community development financial institution and up to \$2 million per year to any other qualified community development financial institution. This section also prohibits the Board from providing assistance to a depository institution holding company unless the holding company and its affiliates collectively meet the definition of a community development financial institution as defined in section 3 of the Act.

This section requires all qualified insured community development financial institutions receiving assistance to match the assistance with at least one dollar from private sources for each dollar provided by the Fund, except that an insured community development financial institution will not be required to match technical assistance provided by the Fund or grants for technical assistance. A match will be required for all types of assistance provided to other community development financial institutions, and the amount and form of the match will be in the discretion of the Board. The Board, however, may not require that technical assistance or grants for technical assistance to community development financial institutions be matched. The Fund may not provide any assistance except technical assistance until legally enforceable commitments for the entire required match have been secured.

The Fund is required to provide assistance in such forms and subject to such restrictions that will assure, among other things, that assistance from the Fund is used in a manner consistent with the purposes of the Act and that institutions not federally regulated are financially and managerially stable. Before providing assistance to an insured community development financial institution, the Board is directed to consult with the appropriate Federal regulator. The Board is required to impose negotiated performance goals on qualified community development financial institutions receiving assistance based on the strategic plan submitted in the institution's application. Institutions receiving assistance are required to submit an annual report to the Fund and the Fund is required to review the performance of the institutions. Based on the review, the Board may apply appropriate sanctions against an institution receiving assistance, including revocation of approval of the application, termination or reduction of future assistance or changing performance goals or elements of the institution's strategic plan.

This section also permits the Board to sell its investments at any time and permits the Board to retain the power to continue to enforce any limitations placed on the assistance.

This section also clarifies that the Act does not affect the authority of any Federal banking regulator to supervise and regulate an insured community development financial institution.

Section 8. Encouragement of Private Entities

The Board may cause to be incorporated, or encourage incorporation of, private, non-profit and for-profit corporations that will complement the activities of the Fund in carrying out the purposes of the Act. The purposes of the private entities will be limited to investing in and assisting community development financial institutions.

Section 9. Clearinghouse Function

The Fund is required by this section to establish and maintain an information clearinghouse that will assist in creating, developing and expanding community development financial institutions.

10. Recordkeeping, Reports, and Audits

This section requires qualified community development financial institutions receiving assistance to maintain all records necessary for ensuring compliance with the Act. The Fund will have access to all books and records of such institutions for the purposes of determining compliance with the Act.

The Fund is required to submit a report annually to the President evaluating the activities of the Fund. The report is to be submitted not later than 120 days after the end of the fiscal year of the Fund. In addition, the Board is required to conduct, or cause to be conducted, an ongoing study of the most effective and financially sound policies for community development and the role of community development in any financial services reform. In the conduct of the ongoing study, the Board is required to consult, or cause consultation, with the Federal banking regulators and other agencies. An initial report on the ongoing study must be submitted to the President within nine months of the date of enactment of the Act.

This section also requires the Board to conduct an additional study separate from the annual report and the ongoing study six years after enactment of the Act. This study will evaluate the structure, governance and performance of the Fund and will contain the Board's recommendations for changes in the operations of the Fund.

The Fund will be audited annually by the General Accounting Office. The results of the audit will be forwarded to the President and to Congress.

Section 11. Investment of Receipts and Proceeds

This section provides that dividends on equity investments, interest on deposits, and proceeds from the disposition of investments pursuant to section 7 will be deposited in an account established to carry out the authorized purposes of the Act. Upon request of the Chief Executive Officer of the Fund, the funds in the account will be invested in public debt securities that bear interest at a rate determined by the Secretary of the Treasury. The account will be available for use by the Fund in carrying out the purposes of the Act until the Funds are expanded.

Section 12. Authorization of Appropriations

This section authorizes appropriations to the Fund of \$60 million in fiscal year 1994, \$104 million for fiscal year 1995, \$107 million for fiscal year 1996, and \$111 million for fiscal year 1997.

Section 13. Technical and Conforming Amendments For Savings Association Community Development Investment Authority

This section amends the Home Owners' Loan Act to conform the community development investment authority of savings associations to that of national banks and state banks under section 6 of the Depository Institutions Disaster Relief Act of 1992. The amendment would authorize savings associations to invest in any of the private corporations formed in conjunction with the Fund and in other community development projects to the same extent as permissible for national banks and state banks.

THE WHITE HOUSE
WASHINGTON

DATE: 2/15/93

TO: CAROL RASCO

FROM: JOHN D. PODESTA
Assistant to the President and
Staff Secretary

The attached has been forwarded
to the President.

*John
Comm. Development
Banks*

*Need
Bruce for
update 2/15/93
(10)*

**THE WHITE HOUSE
WASHINGTON**

February 15, 1993

Mr. President,

Attached is a memo from Ron Brown on why your community development bank initiative should be located in the Commerce Department.

The NEC and Domestic Policy Council are coordinating an interagency task force on CDBs and want time to staff and make recommendations to you on the structural issues, such as which agency will take the lead. Ron and his staff understand this and are part of the task force, but wanted to let you know why they felt CDBs would find their natural home at Commerce. The first meeting of the task force is today.

Incidentally, please note that Ron's memo is dated February 4. I am not sure what happened, but it only came across my desk yesterday, never having been logged into our office in the usual manner. In any event, I talked to Ron this morning and he is comfortable with the NEC interagency process, but wanted you to be aware of his views.

John
John Podesta

cc: Mack, Rubin, Rasco



MEMORANDUM FOR THE PRESIDENT
FROM: Ronald H. Brown *Ronald H. Brown*
RE: Community Development Banks and the Commerce Department
DATE: February 4, 1993

Introduction

I share your vision that community development banks will help to revitalize urban and rural communities that now suffer from a shortage of capital. These institutions will help to create jobs, expand private enterprise and build the economic and social infrastructure of these communities. The few community development banks in existence today have strengthened the communities in which they operate. As you have indicated, the only way to ensure the expansion of these banks is through the commitment of government resources coupled with private resources and expertise. This public-private partnership would be a unique method of providing capital to under-served communities.

Discussion

The community development banks (CDBs) have the same mission as the Department of Commerce -- to use government as a tool that helps businesses and communities create jobs and achieve long-term economic growth. I believe Commerce is the right place for CDBs for several reasons:

- o Commerce knows how to provide assistance for economic revitalization of distressed communities and for expanding the number of minority entrepreneurs -- two prime objectives of the CDBs. Indeed, if CDBs were part of the Department, the current economic development activities would be made more efficient and cost-effective, resulting in Departmental savings.
- o Commerce can help community banks get going. For example, existing programs could be used to provide start-up advice to prospective bank operators who wish to start a CDB.

- o Commerce knows how to help business customers of CDBs as well. Commerce is the only cabinet agency with experience in commercial business development and with particular experience in the start up of manufacturing and high-technology enterprises. Commerce currently provides management assistance information as well as advice to exporters looking for markets abroad. But right now many of these business-people lack what community banks will deliver -- a reliable and accessible source of capital for community-based institutions.

By contrast, other possible locations would not equally well serve the mission of CDBs.

- o Commercial banks will view CDBs as unwelcome competition for existing "bankable" low income loans. But, because commercial banks are not regulated by the Department of Commerce, there can be no argument that this department is being diverted from its historical mission.
- o CDBs should have a broad mission, emphasizing small business development in central cities and rural communities. The mission of CDBs should neither be tailored to meet just housing finance needs nor adjusted to those of a social services agency; in either event slighting the need for commercial development. In the Commerce Department, on the other hand, the emphasis would be on creating the CDBs in a fashion that would serve a broad range of community-based needs.

Of course, other agencies have experience that would be very helpful in the implementation of this program. You can be sure that if we had the CDB program, I would reach out to my colleagues in the Cabinet and search out expertise from both the private and public sector in order to implement the best-designed program possible.

Conclusion

Placing CDBs at Commerce would fulfill two central purposes of your community-bank proposal. It would provide a supportive environment for the development of community development banks, and promote the efficient and effective delivery of capital in conjunction with other business development services.

Once you give the go ahead, I will pull together the necessary internal and external brain power to move rapidly to the next stage.