

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Small Business Act to enhance the Office of Credit Risk Management, to require the Administrator of the Small Business Administration to issue rules relating to environmental obligations of certified development companies, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

---

Mr. YOUNG introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

---

**A BILL**

To amend the Small Business Act to enhance the Office of Credit Risk Management, to require the Administrator of the Small Business Administration to issue rules relating to environmental obligations of certified development companies, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “504 Credit Risk Man-  
5 agement Improvement Act of 2021”.

1 **SEC. 2. ENHANCEMENTS TO THE OFFICE OF CREDIT RISK**  
2 **MANAGEMENT.**

3 Section 47 of the Small Business Act (15 U.S.C.  
4 657t) is amended—

5 (1) by striking subsection (b) and inserting the  
6 following:

7 “(b) DUTIES.—The Office—

8 “(1) shall be responsible for—

9 “(A) supervising—

10 “(i) any lender making loans under  
11 section 7(a) (in this section referred to as  
12 a ‘7(a) lender’);

13 “(ii) any Lending Partner or Inter-  
14 mediary participant of the Administration  
15 in a lending program of the Office of Cap-  
16 ital Access of the Administration;

17 “(iii) any small business lending com-  
18 pany or a non-Federally regulated lender  
19 without regard to the requirements of sec-  
20 tion 23; and

21 “(iv) any certified development com-  
22 pany described under the program estab-  
23 lished under title V of the Small Business  
24 Investment Act of 1958 (15 U.S.C. 695 et  
25 seq.) (referred to in this section as a ‘cer-

1           tified development company’), as provided  
2           in subsection (k); and

3           “(B) conducting file reviews with respect  
4           to loan closings under the program established  
5           under title V of the Small Business Investment  
6           Act of 1958 (15 U.S.C. 695 et seq.), as pro-  
7           vided in subsection (j); and

8           “(2) may—

9           “(A) take formal and informal enforcement  
10          actions against a certified development com-  
11          pany, as provided in subsection (l); and

12          “(B) charge a certified development com-  
13          pany a fee, as provided in subsection (m).”; and  
14          (2) by adding at the end the following:

15          “(j) LOAN CLOSING FILE REVIEWS.—With respect  
16          to a loan closing under the program established under title  
17          V of the Small Business Investment Act of 1958 (15  
18          U.S.C. 695 et seq.), the Office shall be responsible for the  
19          following:

20                 “(1) Conducting a complete file review of a ran-  
21          dom selection of all loan closings, the number, fre-  
22          quency, and conduct of which shall be at the discre-  
23          tion of the Office, to ensure program integrity, in-  
24          cluding a review of the items listed on the Checklist

1 for Complete File Review contained in the appro-  
2 priate form of the Administration.

3 “(2) Not later than 60 days after the date on  
4 which each complete file review conducted under  
5 paragraph (1) is completed, preparing a written re-  
6 port documenting the results of that review, which  
7 the Office shall send to—

8 “(A) the applicable certified development  
9 company;

10 “(B) the designated attorney that closed  
11 the loan for the certified development company;  
12 and

13 “(C) the Commercial Loan Service Center.

14 “(3) If a complete file review conducted under  
15 paragraph (1) reveals a deficiency that could result  
16 in a loss to the Administration, requiring the appli-  
17 cable certified development company or the des-  
18 ignated attorney to promptly correct the deficiency.

19 “(k) SUPERVISION OF CERTIFIED DEVELOPMENT  
20 COMPANIES.—With respect to the supervision of certified  
21 development companies—

22 “(1) an employee of the Office shall—

23 “(A) be present for, and supervise, the re-  
24 view of any such company that is conducted by

1 a contractor of the Office on the premises of  
2 the company; and

3 “(B) supervise the review of any such com-  
4 pany that is conducted by a contractor of the  
5 Office that is not conducted on the premises of  
6 the company; and

7 “(2) the Administrator shall—

8 “(A) develop a timeline for the review by  
9 the Office of certified development companies  
10 and the submission of reports regarding those  
11 reviews, under which the Administrator shall—

12 “(i) submit to a certified development  
13 company a written report of any review of  
14 the company not later than 90 days after  
15 the date on which the review is concluded;  
16 or

17 “(ii) if the Administrator expects to  
18 submit the report after the end of the 90-  
19 day period described in clause (i), notify  
20 the company of the expected date of sub-  
21 mission of the report and the reason for  
22 the delay; and

23 “(B) if a response by a certified develop-  
24 ment company is requested in a report sub-  
25 mitted under subparagraph (A)(i), require the

1           company to submit responses to the Adminis-  
2           trator not later than 45 business days after the  
3           date on which the company receives the report.

4           “(1) ENFORCEMENT AUTHORITY AGAINST CER-  
5           TIFIED DEVELOPMENT COMPANIES.—

6           “(1) INFORMAL ENFORCEMENT AUTHORITY.—

7           The Director may take an informal enforcement ac-  
8           tion against a certified development company if the  
9           Director finds that the company has violated a stat-  
10          utory or regulatory requirement or any requirement  
11          in a Standard Operating Procedures Manual or Pol-  
12          icy Notice relating to a program or function of the  
13          Office of Capital Access.

14          “(2) FORMAL ENFORCEMENT AUTHORITY.—

15                 “(A) IN GENERAL.—With the approval of  
16                 the Lender Oversight Committee established  
17                 under section 48, the Director may take a for-  
18                 mal enforcement action against any certified de-  
19                 velopment company if the Director finds that  
20                 the company has violated—

21                         “(i) a statutory or regulatory require-  
22                         ment, including a requirement relating to  
23                         the necessary funds for making loans when  
24                         those funds are not made available to the

1           company from private sources on reason-  
2           able terms; or

3                   “(ii) any requirement described in a  
4           Standard Operating Procedures Manual or  
5           Policy Notice relating to a program or  
6           function of the Office of Capital Access.

7                   “(B) ENFORCEMENT ACTIONS.—The deci-  
8           sion to take an enforcement action against a  
9           certified development company under subpara-  
10          graph (A) shall be based on the severity or fre-  
11          quency of the violation and may include assess-  
12          ing a civil monetary penalty against the com-  
13          pany in an amount that is not greater than  
14          \$250,000.

15                  “(3) FAILURE TO SUBMIT ANNUAL REPORT.—  
16          With respect to a certified development company  
17          that, as of the date that is 30 days after the date  
18          on which the company is required to submit any re-  
19          port, fails to submit that report, the Director may—

20                   “(A) suspend the company from partici-  
21          pating in the program established under title V  
22          of the Small Business Investment Act of 1958  
23          (15 U.S.C. 695 et seq.) for a period that is not  
24          longer than 30 days; or

1           “(B) impose a penalty on the company in  
2           an amount to be determined by the Director,  
3           except that the amount of the penalty shall be  
4           not more than \$10,000.

5           “(m) FEE AUTHORITY REGARDING CERTIFIED DE-  
6 VELOPMENT COMPANIES.—

7           “(1) IN GENERAL.—On and after the date that  
8           is 1 year after the date of enactment of this sub-  
9           section, the Office may collect from each certified  
10          development company a fee, the amount of which—

11           “(A) shall be determined on a graduated  
12          scale according to the size of the portfolio of  
13          the certified development company with respect  
14          to the program carried out under title V of the  
15          Small Business Investment Act of 1958 (15  
16          U.S.C. 695 et seq.); and

17           “(B) shall not exceed the amount that is 1  
18          basis point with respect to the value of the  
19          portfolio described in subparagraph (A).

20           “(2) PAYMENT.—A certified development com-  
21          pany on which a fee is imposed under paragraph (1)  
22          shall pay the fee from the servicing fees collected by  
23          the development company pursuant to regulation.”.

1 **SEC. 3. RULES RELATING TO OBLIGATIONS OF CERTIFIED**  
2 **DEVELOPMENT COMPANIES UNDER THE NA-**  
3 **TIONAL ENVIRONMENTAL POLICY ACT.**

4 (a) **ELIGIBLE CERTIFIED DEVELOPMENT COMPANY**  
5 **DEFINED.**—In this section, the term “eligible certified de-  
6 velopment company” means a certified development com-  
7 pany defined under title V of the Small Business Invest-  
8 ment Act of 1958 (15 U.S.C. 695 et seq.) that receives  
9 assistance pursuant to that title.

10 (b) **REQUIREMENT TO ISSUE RULES.**—Not later than  
11 180 days after the date of enactment of this Act, the Ad-  
12 ministrator of the Small Business Administration shall  
13 issue rules to clarify the procedures necessary for an eligi-  
14 ble certified development company to comply with the ap-  
15 plicable requirements under National Environmental Pol-  
16 icy Act of 1969 (42 U.S.C. 4321 et seq.).

17 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
18 tion shall be construed to modify the requirements of the  
19 National Environmental Policy Act of 1969 (42 U.S.C.  
20 4321 et seq.).