THE URBAN COALITION ACTION COUNCIL

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Community Self-Determination Act of 1968

Senate Democratic Version
S. 3875

Senate Republican Version
S. 3876

House Democratic Version
H. R. 18976

House Republican Version
H. R. 18460

Title I (All Title references are to S. 3875)

Title I creates a National Community Corporation Certification Board (NCCCB) and outlines the procedure and purpose of individual Community Development Corporations (CDC's). The NCCCB acts much like the National Labor Relations Board in its union certification procedure. It will be composed of five members, and its primary functions will be the issuance of corporation charters, conducting and supervising referenda, service as counsel to the CDC's and as an information center for parties interested in forming CDC's. A National Advisory Commission advises the NCCCB but does not have direct impact on the latter's specific activities.

Section B of Title I states the structural outline of a local CDC. This is the heart of the Act. It would have a broad social improvement purpose as well as the promotion of business activity. CDC's operate in areas in which the 16-year and up population ranges from 5,000 to 300,000. The geographic area within which a CDC would operate is designated by the applicants for a CDC charter. Any resident within the designated area may be a shareholder of the corporation, but the Act requires that a minimum of 10 per cent of the 16-year-old and up population residing within the area hold stock in the CDC. The shares would have a par value of $5, and each shareholder would have one vote in corporate matters, notwithstanding the number of shares the shareholder actually holds.

The functions of a CDC fall into six categories. First, neighborhood services and community improvement, including but not limited to public welfare programs, day care centers,

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consumer education, job placement, legal aid, etc. Second, it would own stock in businesses in the CDC area. Third, it would sponsor, own, or manage housing facilities within the CDC area. Fourth, it would be an advocate planner for neighborhood and community renewal projects. Fifth, it would serve as a representative of various community interests in other areas of public policy and concern. Sixth, it would encourage various other elements of the community such as business, labor, religion, and so forth, to become active in voluntary community self-help efforts.

A CDC would be financed by earnings from affiliated businesses, grants from community development funds, foundations, trusts, etc., and from contracts with privately owned businesses, government agencies, and other entities for specified services or products.

The CDC would have nine directors and two additional directors for each 10,000 shareholders of the corporation in excess of 25,000. The directors of the corporation would select the executive officers as well as the Business Management Board. The latter's primary function is to provide overall management expertise and assistance to those affiliated businesses owned by the CDC. The full area of responsibility of the members of the BMB would be spelled out in the CDC charter but would be phrased primarily to afford the BMB maximum latitude to manage CDC owned businesses and allow for the purchase of other enterprises.

CDC's can be organized by any five or more residents of a specific area covering a population range from 5,000 to 300,000, 16 years and older. For any designated area to be eligible for a CDC, however, the rate of unemployment must be higher than the national average or the median family income be proportionately lower than the national average. After application is made for a CDC charter, a 60-day period must elapse so as to allow any other interested group within the same area, or an overlapping area, the opportunity to organize its own CDC. Before the NCCCB will grant a final charter to a group of applicants, the applicants must have received pledge cards for the purchase of stock from a minimum of 5 per cent of those eligible to purchase stock within the designated area of operation. This insures a minimum level of community support. If the applicants cannot obtain pledge cards from the minimum 5 per cent, the charter application is rejected. Once the pledge cards are received from 5 per cent of the population, a conditional charter is issued. At that point, the CDC has 45 days in which to obtain additional pledge cards covering 10 per cent of the area's population. Five hundred people must have paid in at least $5,000 for CDC stock. During the

45-day period the pledge money is kept in escrow pending further action toward issuance of a final charter.

During the period in which a CDC attempts to raise the minimum level of funds, an additional determination is being made which indicates the relative economic need of the area in question. A Development Index is figured for the area. The Index is the lesser of two ratios: First, the ratio of the national rate of unemployment to the area's unemployment rate x 100, or second, the ratio of the nation's median family income to the area's median family income x 100. If the Development Index of a conditional chartered CDC is found to be 90 or above, the charter is dissolved because the CDC is considered too close to the national average of 100. A special bonus is afforded those rural areas from which outmigration is contributing directly to specific urban tensions. If only one conditional CDC is left within a given area, a vote is then held in which a majority of those voting must approve the applicants. If a majority of those voting do approve, the final charter is granted; if a majority disapprove, the charter is dissolved.

In the case of competing CDC's within a given area, referenda are held for each competitor, starting with those representing the geographic area encompassing the highest level of population. If none of the competitors within the largest given area are accepted, a vote is held for those CDC's competing in the next smallest geographic area, etc., until such time as one CDC is approved by the requisite majority of those voting. At least 10 per cent of the eligible voters must actually cast a ballot for any referendum to be valid.

Once a CDC is established, a one-time seed money grant is made to the corporation in an amount equal to its current paid-in capital.

Title II

Title II provides for the establishment of Community Development Banks (CDB's), which are organized by CDC's. CDB's operate in an area of 25,000 or more people, 16 years and up, and concentrate on financial services to the area in question. They provide both business financing and consumer credit to individual CDC shareholders.

Equity capital is obtained through the sale of stock to

1) the Secretary of the Treasury (Class A),

2) any groups or individuals other than the Federal Government and CDC's (Class B), and

3) stock sold only to CDC's (Class C).

Class A stock would be nonvoting and repaid by a franchise tax on the CDB's net earnings. Class B stock would be non-voting but receive dividends. Class C stock would not receive dividends. The latter point is made so that the CDB becomes a necessary financial mechanism for the establishment and proliferation of CDC activities but does not become a source of income.

Income bonds would be issued to the public to provide additional equity and debt capitalization.

CDB net earnings would be first applied to make up any bad debts and restore any impaired capital. The payment of stock dividends is a lessor priority.

Loans are made to the following individuals and businesses:

1) CDC shareholders for normal consumer credit;

2) a small business, 75 per cent of which is owned by resident CDC shareholders;

3) a small business, less than 75 per cent of which is owned by CDC shareholders, so long as the CDC in whose area the business is located is given the right of first refusal when the business is sold;

4) a subsidiary of a CDC, 51 per cent of which is owned by CDC shareholders;

5) outside corporations with turnkey contracts with a CDC;

6) cooperatives, 75 per cent of whose members are CDC shareholders; and

7) nonprofit housing sponsors operating within the community serviced by the CDB.

An applicant for a business loan must have a minimum level of business experience and expertise, or have contracted with a company or service to obtain the necessary business training. Loans of up to 90 per cent of the required capital may be made on terms of up to 20 years for repayment. Housing sponsors can receive money for "front-money" or construction loans. Unorthodox and high risk ventures are encouraged as long as they would yield significant community benefits. Participation loans are encouraged.

The primary purpose of a CDB is to channel capital to business ventures. Its secondary purpose is to provide normal banking services to people in impoverished areas.

Title III

Title III creates a United States Community Development Bank, which would serve as a secondary financial institution and as a source of technical, financial, and managerial expertise to CDB's. It would serve also to promote economic development in those poverty-stricken areas where no CDB's exist. The USCDB would have the same relationship to CDB's as a federal intermediate credit bank has to local commercial banks. The USCDB would have the same relationship to those areas not serviced by CDB's as the World Bank has to underdeveloped countries. Although not an instrumentaility of the Federal Government, the President would initially appoint the incorporators and first directors of the USCDB. Eventually CDB's holding stock in the USCDB would name some of the directors.

Capitalization would be provided through stock sales. The Secretary of the Treasury would hold nonvoting, nonpaying, Class A stock purchased through funds provided by a Congressional appropriation. Class B stock would be held by anyone other than the Federal Government, CDB's being eligible to purchase such stock. The USCDB is authorized to issue bonds, debentures, and other certificates of debt up to 5 times its paid-in capital and surplus. Its primary functions are to provide secondary banking services to CDB's through discounts, loans, notes, advances, and so forth, and to make loans for business and community facilities or public development facilities in low-income "investment areas," designated by the Secretary of Labor. It provides interim construction financing for facilities which it may also plan, initiate, own, and manage until such time as the facilities are purchased. It provides management assistance to CDB's as well as other borrowers and generally creates new investment opportunities by bringing together facilities, capital, and management.

A CDB may establish branches.

USCDB earnings are to be applied in the following order:

1) restoration of any capital impairment,

2) creation and maintenance of a surplus account,

3) payment of a franchise tax with reference to the amount of Class A stock held by the Secretary of the Treasury,

4) establishment of contingency reserves,

5) dividends on Class B stock up to 6 per cent of earnings, and

6) retirement of Class A stock held by the Treasury.

Title IV

Title IV authorizes certain Federal tax advantages for CDC and turnkey corporations. All tax advantages granted to CDC's are applicable until the Development Index for the designated CDC area reaches the national average for five years. Title IV would amend the Internal Revenue Code to permit each corporation in a group of CDC subsidiary corporations to retain its individual surtax exemption and pay its regular corporate tax on anything over the $25,000 at a 22 per cent rate rather than 28 per cent. Tax rates and surtax exemptions are liberalized depending upon the area's Development Index, with provisions for greater tax advantages to those CDC's operating in areas with the lowest Development Index.

In addition, the Internal Revenue Code is amended to attract turnkey companies into the CDC area. Turnkey companies can take advantage of rapid amortization schedules for its facilities. Again, the rate of amortization depends on the rate of the Development Index with the shorter periods of amortization being made available to those companies which invest in the poorest areas. A 10 per cent tax credit on wages and salaries of CDC shareholders employed in the turnkey facility is granted to the turnkey company. This is called a human investment tax credit. The 10 per cent figure compares with the 7 per cent investment credit on machinery investment, though is higher because of the impermanence of the investment in human skills. It is argued that the credit must be higher to induce the turnkey corporation to involve itself in impoverished areas.

The turnkey company is not required to pay capital gains tax on the sale of a turnkey facility if the sale profits are reinvested in another turnkey operation or in Class B stock of a CDB. A turnkey corporation would be entitled to a sustained profitability tax credit equal to 15 per cent of the profits generated from turnkey operations for five years after the sale of a facility to a CDC. This latter provision presumably guarantees the development of the strongest financial operation the turnkey company can encourage.

Title V

If a CDC is not a dividend-paying corporation, it can be treated as a CAP agency under the Economic Opportunity Act.

The Small Business Administration is authorized to make grants to CDC's of up to 90 per cent of the cost of technical and management assistance and training programs. The grants may be made for a number of programs, some of which are as follows:

1) the identification and development of new business opportunities, joint ventures, and turnkey agreements;

2) marketing surveys;

3) planning and research for business development;

4) plant design, layout, and operation;

5) marketing and promotional assistance;

6) business counseling, management training, and legal and other related services with specific emphasis on management training, using the resources of private business;

7) encouragement of subcontracting to CDC's for establishing business and cooperative efforts to train and upgrade CDC personnel.

A P P E N D I X

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Although there are at least three versions of the Community Self-Determination Act, the differences are in form only. Whatever structural differences are found in the bills are primarily because of political reasons. In short, familiarity with the concepts and proposals of any one bill will be equivalent to an examination of all of the bills.