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[Legislation To Establish a Neighborhood Reinvestment Corporation]. January 26, 1978. 1 pp. + enclosure (6 pp.).

Letter to Sen. William Proxmire, Chairman, Senate Committee on Banking, Housing and Urban Affairs; by Robert F. Keller, Deputy Comptroller General.

Contact: Community and Economic Development Div.

Organization Concerned: Department of Housing and Urban Development; Federal Home Loan Bank Board; Federal Reserve System; Board of Governors; Federal Reserve Banks; Federal Deposit Insurance Corp.

Congressional Relevance: Senate Committee on Banking, Housing and Urban Affairs. See William Proxmire.

Authority: Government Corporation Control Act. 41 U.S.C. 5. 41 U.S.C. 260. 41 U.S.C. 252. S. 1724 (95th Cong.).



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

Central File

CE7-730

JAN 26 1978

The Honorable William Proxmire
Chairman, Committee on Banking,
Housing, and Urban Affairs

Dear Mr. Chairman:

Attached for your information is a copy of our letter to the Chairman, House Committee on Banking, Finance and Urban Affairs, regarding S.1724, a bill proposing to establish a neighborhood reinvestment corporation. You will note that we have reservations regarding certain provisions of this bill.

Although this bill passed the Senate on September 9, 1977, if the House of Representatives should enact a bill incorporating our suggestions and recommendations, you or other members of your Committee who may be appointed as conferees should be aware of our comments.

Sincerely yours,

[Handwritten Signature]
Deputy
Comptroller General
of the United States

Enclosure



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-190176
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JAN 26 1978

The Honorable Henry S. Reuss
Chairman, Committee on Banking,
Finance and Urban Affairs
House of Representatives

Dear Mr. Chairman:

S. 1724 was passed by the Senate on September 9, 1977, and was referred to your Committee on September 12, 1977. We have reservations regarding certain provisions of this bill and, therefore, offer the following comments for consideration by your Committee.

Section 2(b) states that the purpose of the bill is to establish a public corporation which will continue the joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in older neighborhoods by local financial institutions working cooperatively with community people and local government, and which will continue the nonbureaucratic approach of the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs. Section 3(a) provides for the establishment of a National Neighborhood Reinvestment Corporation and section 5(e) states, in part, that the Corporation shall not be considered a department, agency, or instrumentality of the Federal Government.

Whether the Federal Government should undertake these functions and whether it is necessary to establish a corporation to carry out such functions are matters of policy for determination by the Congress. In view of the provisions of the bill, however, the program involved may well be considered as a Federal program. The Corporation's board of directors would be comprised of the heads of six Federal agencies, and the Corporation's activities apparently would be financed principally from Federal appropriations.

Our Office has consistently taken the position that the public interest is best served when congressional control over activities is exercised through annual reviews and affirmative

action on planned programs and financing requirements which attend the appropriation processes, and through the application of statutes and regulations which usually govern the operations of Government agencies. We believe that departures from the standard should be permitted only on a clear showing that an activity which is susceptible of operation through a new regular Government agency or through an expansion of similar programs in existing Government agencies cannot be successfully operated in the public interest within that framework.

If a corporation is considered best suited as the mechanism for achieving the purposes of the bill, we suggest that the corporation be made subject to the provisions of the Government Corporation Control Act.

Section 6(b)(5) of the bill would authorize the Corporation to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid; and appoint, employ, and fix and provide for the compensation of consultants, without regard to any other law, except as provided in section 8(d) which relates to the submission of annual business-type budgets. Thus, the Corporation might be exempt from the competitive bidding requirements of section 3709 of the Revised Statutes, as amended (41 U.S.C.5), and to the advertising requirements of 41 U.S.C.252(c) and 253. See 41 U.S.C.260.

In making purchases for Government use, it long has been a policy--with very infrequent exceptions made by the Congress--to require open competitive bidding with purchases at the best price. This is designed not only to secure the best financial results for the United States and minimize opportunities for fraud, but to permit all citizens equal opportunity to bid for Government business. No cogent reason for the proposed exemption has come to our attention, and we therefore suggest the deletion of this provision. Also, the Committee may wish to consider establishing a maximum on the rate of compensation the Corporation may pay to its consultants.

Section 6(c)(3) would authorize provision of services and facilities to the Corporation, with or without reimbursement, by the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal Home Loan banks, the Board of Governors of the Federal Reserve System and the Federal Reserve banks, the Federal Deposit Insurance Corporation,

the Comptroller of the Currency, the National Credit-Union Administration, and any other department, agency, or other instrumentality of the Federal Government. Because congressional control over the operations of the Corporation would be weakened if significant amounts of services and facilities were provided to the Corporation without reimbursement, we suggest that this provision either be deleted or a limitation be placed on the value of services and facilities that the Corporation may obtain without reimbursement.

We noted that, although section 7(a) would require the Corporation to publish an annual report and send copies to the President and the Congress, the bill does not specifically provide for evaluations of the program. It is our view that program evaluation is a fundamental part of effective program administration and that the responsibility for evaluations should rest initially upon the responsible agencies. In line with this concept, we believe the Congress should attempt to specify the kinds of information and tests which will enable it to better assess how well programs are working and whether alternative approaches may offer greater promise. We will be happy to work with the Committee in developing specific language if you wish.

Section 7(b) provides that the accounts of the Corporation should be audited annually, in accordance with generally accepted auditing standards, by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

It seems to us that the language of section 7(b) might be interpreted as precluding audits by nationally recognized public accounting firms who are not certified by the regulatory authority of the jurisdiction in which the audit is to be undertaken or by other capable independent public accountants licensed to practice by regulatory authorities. Our office has adopted the following language regarding the qualifications of those who may be selected to audit federally-chartered, financed, or regulated private organizations, and we suggest that this language be substituted for the sentence beginning on line 15 of page 10 with the words "such audits shall be conducted in accordance with."

"Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States: Except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Corporation's Executive Director, standards of education and experience representative of the highest prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits. Provided, that if the Executive Director deems it necessary in the public interest, he may prescribe by regulation higher standards than those required for the practice of public accountancy by the regulatory authorities of the States."

Section 7(c) provides that, in addition to the annual audits by independent public accountants, the General Accounting Office may audit the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations. If, as we have suggested, the Corporation is made subject to the Government Corporation Control Act, there would be no need for a provision authorizing audits by our Office, because we would have ample audit authority under provisions of that act. If the Corporation is not made subject to the Government Corporation Control Act, we believe that the language of section 7(c) should be revised to broaden the scope of our audit authority to include matters other than the Corporation's financial transactions, and to insure that our Office will have access to the Corporation's records. We therefore recommend that section 7(c) be revised to read substantially as follows:

"In addition to the annual audit, the Comptroller General may audit the programs, activities, and financial operations of the Corporation for any period during which Federal funds are available to finance any portion of its operations and shall report to the Congress at such times and to such extent as he deems necessary to keep the Congress informed on the status of such programs, activities, and operations, and to make recommendations for achieving greater economy, efficiency, and effectiveness. The audit shall be made under such rules and regulations as he may prescribe.

For the purpose of such audits, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation."

Section 7(d), provides that the General Accounting Office may audit the grantees or contractors of the Corporation for any fiscal year during which Federal funds are available to finance any portion of the Corporation's grants or contracts. To help insure the maintenance of adequate records and to avoid possible access-to-records problems, we recommend that section 7(d) be revised to read substantially as follows.

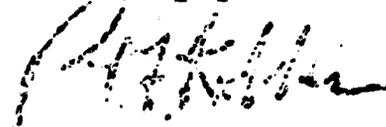
"(1) Each recipient of Federal assistance under this act, pursuant to grants, subgrants, contracts, subcontracts, or other arrangements, entered into under other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Executive Director of the Corporation shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit."

"(2) The Executive Director of the Corporation and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (1) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Executive Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to in section (1)."

Section 8(b) provides that funds appropriated to the Corporation should remain available until expended. Appropriations for the regular operations of Federal departments and agencies, other than for construction and other capital needs, have traditionally been authorized on an annual basis, and we call the Committee's attention to section 253 of the Legislative Reorganization Act of 1970, which provides that each standing committee in its consideration of bills shall endeavor to insure that all continuing programs and activities of the Federal Government are carried out with annual appropriations to the extent consistent with the objectives of these programs and activities.

We are sending a copy of this letter to the Chairman, Senate Committee on Banking, Housing, and Urban Affairs.

Sincerely yours,



Deputy Comptroller General
of the United States