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COMMUNITY DEVELOPMENT BANKING STRATEGY FOR REVITALIZING OUR COMMUNITIES

Rochelle E. Lento

INTRODUCTION

The failure of local economic development—particularly from the perspective of private market investment—has had a substantial impact on the decline of our urban communities. In distressed communities, capital tends to flow away from the area, causing residual effects. People cease maintaining and upgrading their homes, landlords fail to maintain buildings, and property values fall. Store and business owners stop investing in their businesses, resulting in eventual closure or relocation. Neighborhood residents lose incentive to stay in the area and stop investing energy into education and developing work skills, resulting in escalating levels of unemployment. The revitalization of our urban communities requires a realization that disinvestment is itself a market phenomenon which drives the decline, and that the decline will be reversed only by substantially reinvigorating community markets. Permanent, self-supporting community revitalization will occur only by creating an environment in which private investors become confident enough to invest, thereby restoring community market dynamics. This reinvestment must include rebuilding the physical structures, creating business opportunities, bettering social and recreational conditions, and improving the quality of life through enhanced educational systems and decreased community crime.

The City of Detroit, with its severe economic decline, represents a microcosm of the problems faced by urban areas across the country. Consider the following statistics:

* Clinical Assistant Professor and Executive Director, Program in Legal Assistance for Urban Communities, University of Michigan Law School. B.A. 1978, State University of New York at Potsdam; J.D. 1987, University of Detroit Law School. Special thanks to law students Thomas Strong and Melissa Worden, and undergraduate student William Burns.
• Detroit's population has declined 32% in the past 20 years from 1,514,063 in 1970\(^1\) to only 1,027,974 in 1990\(^2\).

• Detroit has a population which is predominantly African American, approximately 75.7% in 1990\(^3\).

• Detroit has a median household income of $18,742\(^4\).

• Thirty-two percent of Detroit residents live below the poverty line, while 44% of all Detroit children live below the poverty line;\(^5\)

• Approximately 20% of Detroit residents are unemployed.\(^6\)

Faced with declining population and increasing numbers of families unemployed or dependent on government assistance, urban communities, such as Detroit, face a monumental challenge to spur reinvestment and redevelopment.

Financial institutions could make a substantial contribution to redevelopment of our urban communities by channeling bank deposits into community development activities. Bank customers, however, have little or no control or knowledge over the destiny of their deposits. A depositor rarely knows whether her deposits support national or international enterprises engaging in discriminatory practices, companies polluting the environment, or even dictatorial governments. In fact, a bank customer has no guarantee that she will receive any priority when asking the bank for a loan or that his surrounding community will receive a penny from his deposits.

Many factors have led to the decentralization and depersonalization of the neighborhood bank branch. The physical closure of numerous bank branches in distressed urban communities, the introduction of automation, telephone banking

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3. Id.
4. Id.
5. Id.
6. Id.
services, and interstate banking have replaced the notion of a bank branch serving a local community.

Over the past two decades, community development banking has emerged as an alternative approach to conventional banking by linking community renewal to private investment. In his testimony before the Senate Committee on Banking and Urban Affairs, the Chairman of South Shore Bank, Milton O. Davis, cited some key observations concerning the process of community renewal and investment which underlie the concept of development banking:

• Many persons in economically distressed communities desire to improve their own life conditions and, although they may lack conventional credit histories, many ordinary residents are fundamentally credit-worthy. Local residents will invest time and money to improve their community when they are confident about its future.

• Local development capacity, be it in the form of “ma-pa” rehabbers, fledgling business entrepreneurs, or community development corporations, needs to be supported in a disciplined, business-like fashion. Positive community development is a long term partnership between residents who care about their communities and financial institutions with similar motivations.

• Market forces can be restored in under-invested communities if the level of institutional capability is sufficient for the task at hand, and if redevelopment is targeted to clearly identified geographical areas with the potential for renewal.

• Targeting a specific geographic location allows an institution to develop the necessary specialized market expertise, and assures that investment will be concentrated to create the critical mass of activity which shifts residents and investors' perceptions and reestablishes healthy, functioning markets.

• By using an array of banking, real estate, venture capital, human resources, and other tools tailored to particular community needs, a development banking institution enhances its market knowledge and impact, controls risk,
and undertakes complementary activities which create a positive, safer environment for private investment.\textsuperscript{7}

Concerned investors have developed a unique breed of financial institutions—community development financial institutions—which offer depositors and investors the opportunity to contribute their savings to support the revitalization of their community. Community development banks (CDBs) rapidly are becoming an important tool of community development. These institutions come in many forms, including commercial banks, savings institutions, credit unions, business loan funds, community development loan funds, micro-enterprise loan funds, business and industrial development loan funds, small-business investment companies including minority enterprises, and venture capital funds.\textsuperscript{8}

To be successful and sustainable, development institutions must adequately manage their risks and opportunities while simultaneously serving their customers and community. While each of these institutions provides an avenue for capital, some have become more viable than others. This Article focuses on three major categories of institutions: community development banks, community development credit unions, and community development loan funds.

Community development banks are federally insured and regulated depository institutions, the primary mission of which is to provide capital and to rebuild lower income communities. CDBs traditionally have financed neighborhood redevelopment by lending to individual low- and moderate-income homebuyers, small- and medium-sized businesses, and commercial and housing development initiatives, particularly those sponsored by nonprofit developers. CDBs generally locate within the community targeted for its lending, thereby resurrecting the tradition of a hometown, neighborhood-based bank. There are three well-established, mature CDBs in the United States: South Shore Bank in Chicago, Illinois; Elk Horn Bank and Trust in Arkadelphia, Arkansas; and Community Capital Bank in Brooklyn, New York.

\textsuperscript{7} Testimony of Milton O. Davis, Chairman, South Shore Bank submitted to the Senate Committee on Banking, Housing, and Urban Affairs 1–2 (Feb. 3, 1993) (on file with the University of Michigan Journal of Law Reform).

\textsuperscript{8} JULIA A. PARZEN & MICHAEL H. KIESCHNICK, CREDIT WHERE IT'S DUE 16 (1992).
Community development credit unions (CDCUs) are non-profit financial cooperative institutions owned and controlled by their members. Typically, credit unions provide credit in poorer, largely underserved neighborhoods and prioritize lending to members. Some CDCUs provide development loans for small business start-up and expansion. Deposits are insured by the National Credit Union Administration. Credit unions are not governed by federal banking legislation such as the Community Reinvestment Act. Federal and some state-chartered credit unions can qualify as community-development credit unions if a majority of their members have low incomes and share a common neighborhood or association. Like CDBs, these CDCUs promote community reinvestment and neighborhood revitalization.

As of June 1992, there were 143 CDCUs in the United States, with total assets of roughly $255 million and average asset size of $1.8 million. The largest and most acclaimed is the Self-Help Credit Union in North Carolina, which is part of a larger holding company that owns non-depository affiliates. Self-Help presently reports over $40 million in assets. One of the newest CDCUs, the South Central People's Federal Credit Union, already has generated over $5 million in pledges and donations in South Central Los Angeles.

Community development loan funds (CDLFs) consist of both for-profit and nonprofit lending institutions the operations of which are unregulated. CDLFs aggregate capital from a wide variety of sources—including socially conscious banks, individual investors, and foundations—and distribute it to economically distressed communities. Capital is disbursed to provide equity, bridge loans, or provide below-market financing for the development of affordable housing or the revitalization of commercial or retail ventures in low- and moderate-income

9. Id. at 19.
12. Id.
14. See PARZEN & KIESCHNICK, supra note 8, at 20–21 (noting nonprofits).
15. Id. (noting all sources except socially conscious banks).
Individual and institutional investors deposit money at below-market rates which the CDLF then loans mostly to nonprofit housing and business developers in urban and rural low-income communities. As of June 1992, there were approximately forty-one CDLFs in the United States with a total of $60 million in loan commitments with 1236 borrowers.

CDCUs and CDLFs may outnumber CDBs, but their scope of lending activity pales in comparison. Despite CDBs’ relatively small number, their impact on their respective communities warrants an in-depth discussion of their structures and formulas for success. This Article will provide an overview of the CDBs in the United States. Part I first sets forth the legal structure and purpose of CDBs, and then reviews the history and current status of mature CDBs and emerging CDBs. Part II considers community development credit unions, after which Part III gives community development loan funds similar treatment. Finally, Part IV analyzes the potential impact of federal legislation on CDBs including the Community Reinvestment Act with regulations proposed in 1994, and the recently introduced Community Development Banking and Financial Institutions Act. Throughout this Article, the effectiveness of CDBs in revitalizing our urban communities will be evaluated.

I. COMMUNITY DEVELOPMENT BANKS DEFINED

A. An Overview

In his campaign for the presidency, Bill Clinton pledged to support the creation of one hundred CDBs and one thousand “micro-loan” programs that would provide impoverished cus-

16. See id. at 21.
17. See Dugas, supra note 10, at 21, 22.
18. Id. (reporting figures from the National Association of Community Development Loan Funds).
tomers with small, short-term loans. A CDB is a form of a commercial financial institution that focuses primarily on community lending. Essentially, a CDB is a commercial bank with an institutionalized social and community conscience. CDBs help economically distressed communities achieve greater economic stability and self-reliance by increasing available capital, while still operating at a profit. Like other commercial banks, CDBs are basic depository institutions providing certificates of deposit; savings, checking, money market, IRA, and multi-service accounts; consumer, mortgage, home equity, and improvement loans and lending services; venture capital for small business; microenterprise loans; and automated banking services. Unlike other commercial banks, however, CDBs support entrepreneurial and community development activity by prioritizing the extension of credit to businesses that are locally owned and operated, and by developing affordable housing for low- to moderate-income families through loans, grants, and predevelopment dollars to nonprofit housing developers.

The CDBs which have achieved the most comprehensive impact on economic development are those associated with a bank holding company. The bank holding company structure, which includes a bank and community development subsidiaries, has numerous attributes which enable it to promote the revitalization of distressed communities. As stated by Mary Houghton, President of Shorebank Corporation: “Our goal was to demonstrate that a regulated bank holding company

22. Dean Foust & David Greising, Banks That Believe in Many Towns Called Hope, BUS. WEEK, Nov. 30, 1992, at 89. As the Governor of Arkansas, Bill Clinton was instrumental in the creation of an Arkansas CDB, Southern Development Bancorporation. Kevin T. Kane, Banking on Better Neighborhoods, MORTGAGE BANKING, May 1993, at 61.


24. Weissbourd Testimony, supra note 23.
could serve as a vehicle to attract sufficient investment and talent to stabilize a community suffering from the disinvestment that follows racial change in American cities."\textsuperscript{25} Such a bank holding company is "designed to be a comprehensive community development institution, which, in addition to a bank, usually includes other development subsidiaries and affiliates that complement the investment strategies of the bank."\textsuperscript{26} The function of the bank holding company is to assess and evaluate development opportunities before the bank invests. The non-bank affiliates may facilitate equity capital investment in businesses, rehabilitation loans for commercial and residential real estate ventures, and social development programs, while establishing strong links between the community, the development bank, and public programs available to revitalize distressed communities. The development subsidiaries generally complement the investment strategy of the CDB, thereby enhancing its impact on a community.\textsuperscript{27}

A CDB is designed to be a comprehensive development institution which provides ancillary and support services to complement the investment activities of the bank.\textsuperscript{28} These services are accomplished through subsidiaries and affiliates of the development bank and may include:

- Financial planning and management for small businesses;\textsuperscript{29}
- Marketing and other advice to commercial clients;
- Accounting and money management services;
- Housing development and real estate services;\textsuperscript{30}
- Homeownership counseling, including qualifying for a loan and financial management;
- Leadership and community development training;
- Support for community-based social and human services.\textsuperscript{31}

These subsidiaries and affiliates enable a development bank to evaluate and select development activities and to balance

\textsuperscript{25} Houghton Testimony, supra note 23, at 1.
\textsuperscript{26} Kane, supra note 22, at 58.
\textsuperscript{27} Id.
\textsuperscript{28} Weissbourd Testimony, supra note 23, at 3.
\textsuperscript{29} See id. at 3–5.
\textsuperscript{30} Id.
\textsuperscript{31} Id.
other factors to lessen the burden of higher risk investments. For example, through a real estate subsidiary, a CDB can aggressively market its own mortgage and home-improvement products directly to a select group of customers. A real estate subsidiary can also provide private loans to support both nonprofit and for-profit housing developers, who then create affordable housing for low- to moderate-income people. Through these non-bank development affiliates, the CDB attempts to address the many dimensions of neighborhood renewal.

Community development banks also are distinguishable by their commitment to help revitalize and develop a targeted geographic community. To accomplish this goal, the staff and leadership of the CDB must combine an indigenous knowledge of the community with technical banking skills and a clear understanding of successful approaches for community renewal. For instance, CDBs extend credit at market rates for socially responsible investments to small-scale developers of low- and moderate-income housing, small community-based businesses, and to low- and moderate-income homebuyers. Despite this philanthropic mission, the bankers' code of "safe and sound" banking practices applies equally to CDBs.

Community development banks have existed in the United States since 1973 without any legal structure separate or distinct from mainstream commercial banks. Regulation Y of the 1970 amendments to the Bank Holding Company Act allows bank holding companies to undertake non-banking activities. In particular, Regulation Y authorizes community development banks to "promote community welfare, such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents." This amendment was inspired by the Federal Reserve Board's determination that equity investments by bank holding companies could be a useful community-development tool to directly assist low- to moderate-income communities. Most

32. Id. at 3.
33. See id. at 2.
34. Id.
35. See id. at 3.
39. Id. § 225.25(b)(6).
CDBs rely heavily on Regulation Y to legitimatize the provision of ancillary services to enhance the community economic development initiatives of bank holding companies.

Late in 1994, President Clinton signed the Community Development Banking and Financial Institutions Act (CDBFI)\textsuperscript{41} which provides federal guidelines, authority, and funding for CDBs.\textsuperscript{42} The CDBFI Act eventually may have a significant positive impact on CDBs as they continue to proliferate and expand.

Much like traditional banks, CDBs are generally chartered,\textsuperscript{43} regulated under federal banking laws, and monitored by federal regulatory agencies. The CDB founders often become the charter organizers, who decide on numerous threshold issues such as the bank’s geographic target area, its structure, initial management team, and operating procedures. The necessary applications must be submitted to a state or federal regulator, such as the Comptroller of the Currency or the Federal Deposit Insurance Corporation (FDIC). These applications are complex and must include a budget, prospectus, financial forecasts, and a financial management and comprehensive business plan. Processing for approval can be lengthy and bureaucratic, often lasting a period of years.\textsuperscript{44}

CDBs also must comply with applicable state laws governing either state-chartered banks or, if those do not exist, for-profit corporations. The state typically will regulate the establishment of a board of directors, officers, shareholders or members of the corporation, and the organizing documents which must be filed with the state.

Development banking generally results from partnerships between the public and private sectors and between community and institutional neighbors. For example, some of the initial investment for Chicago’s Shorebank Corporation came from twenty-six investors, with the largest investors being foundations.\textsuperscript{45} In addition, Shorebank established key funding partnerships with the City of Chicago, the State of Illinois, and


\textsuperscript{42} See infra Part III.

\textsuperscript{43} They are chartered by the states or by the federal government, depending on whether the sponsor state separately charters its banks.


\textsuperscript{45} Houghton Testimony, \textit{supra} note 23, at 2.
the federal government to attract resources to its target community, South Shore.\footnote{Id. at 3 tbl. II.}

The remainder of this Part closely examines the three well-established CDBs in the United States: South Shore Bank, Elk Horn Bank & Trust, and Community Capital Bank. Although they vary in size, structure, length of operation, services provided, and financial success, they all have at least one thing in common—a commitment to the communities they serve. These institutions have attempted to fill a niche in the lending or banking market which other financial institutions have either abandoned or refused to fill. This Part examines each of these institutions in turn.

\textbf{B. South Shore Bank}

The oldest and most established CDB is South Shore Bank, located in the South Shore neighborhood of Chicago. South Shore Bank was converted into a CDB in 1973 by Ronald Grzywinski, Mary Houghton, Milton Davis, and Jim Fletcher, who now comprise the management team at the bank and its holding company.\footnote{Ronald Grzywinski, \textit{The New Old-Fashioned Banking}, HARV. BUS. REV., May–June 1991, at 87, 88–89.} The four worked together doing minority lending at a Chicago-area bank by day, while involving themselves in various types of community-based volunteer work at night.\footnote{Id. at 88.} Through these volunteer efforts, the group came to realize that these organizations had noble intentions for addressing inner-city concerns, but often lacked the financial and technical resources to implement them.\footnote{Id. at 88-89.} The four struggled to find a way to provide the needed resources.

Around that time, South Shore National Bank, the only bank that remained in the South Shore neighborhood, sought permission from the Comptroller of the Currency to move its South Shore office to downtown Chicago.\footnote{Id.} The neighborhood had changed dramatically in a short period of time from middle class and 100% white in 1960 to poor and 70% black in 1970.\footnote{Id. at 88–89.}
To support its decision to move, the bank argued that it could not remain profitable in South Shore. South Shore residents, determined to retain a bank in their community, lobbied members of Congress and the Comptroller to prevent the bank's proposed relocation. Responding to the political pressure and the community's concern, the Comptroller blocked the move.

Sensing a perfect opportunity, Ronald Grzywinski inquired about purchasing South Shore National. The original sales price was $6.4 million, which the Comptroller subsequently agreed to drop to $3.2 million. Recognizing a good opportunity, the team began to raise the necessary capital, finally amassing a total of $800,000, with contributions from two individuals, several foundations, and the United Church of Christ Board of Homeland Ministries. The remainder was leveraged.

South Shore Bank was organized as a holding company under the Bank Holding Company Act, which was amended in 1970 to let banks engage in a wider variety of activities, including community development. The bank's founders saw their mission as restoring confidence in the South Shore neighborhood through the provision of capital. The South Shore area had suffered greatly from disinvestment, having been consistently redlined by Chicago-area financial institutions. Even South Shore National Bank, the institution chartered to serve the area, had refused to lend in the South Shore neighborhood, approving only two loans in the area during the entire year preceding the bank's sale. Upon purchase of South Shore National, Shorebank made a concerted effort to show South Shore residents that it was dedicated to working with the community to revitalize the area through such activities as attending community meetings, inviting local

52. Grzywinski, supra note 47, at 89.
53. Id.
54. See id.; Kane, supra note 22, at 61.
55. Grzywinski, supra note 47, at 89.
56. Id.
57. Id.
60. Id.; Kane, supra note 22, at 60.
61. Grzywinski, supra note 47, at 89.
residents to help assess the community's needs, attracting public subsidies for development, and raising investment capital for community organizations. The bank tried to increase neighborhood deposits by appealing to those with limited savings. It extended hours, cut the minimum balance for accounts to one dollar, reduced service fees, and created a drive-through teller in an effort to attract more small deposits. South Shore Bank soon realized, however, that these small deposits were not providing the capital necessary to fund area redevelopment. As a result, it decided to solicit market rate deposits from outside the South Shore service area. In 1991, these deposits, known as "Development Deposits," comprised more than fifty-five percent of South Shore Bank's total deposits. These development depositors understand that their money will be converted into development loans to finance the restoration of abandoned buildings, to start up small businesses, and to support nonprofit companies. Customers can deposit their funds in savings or checking accounts, certificates of deposit, money markets, or IRAs, and will receive market-rate returns.

Shorebank was committed to providing capital for redevelopment in the South Shore neighborhood. For several years, South Shore Bank had tried to lend to small businesses in the area, but soon realized that these businesses were difficult to sustain. As residents went outside the community to purchase goods, local businesses often failed, causing many of the banks' loans to be written off as losses. Some of the most successful early loans had been to "'Ma and Pa' Rehabbers"—residents willing to purchase and renovate small apartment buildings that they would eventually occupy. This type of development

62. Id. at 91–92.
63. Id. at 91.
64. Id.
65. Id.
66. Id.
67. Id. at 92.
69. SOUTH SHORE BANK DEVELOPMENT DEPOSITS (n.d.) (advertising brochure) (on file with the University of Michigan Journal of Law Reform).
70. Id.
71. Grzywinski, supra note 47, at 92–93.
72. Id. at 93.
certainly was needed in South Shore, a bedroom community with a high concentration of apartment buildings and townhouses, most of which were dilapidated. South Shore Bank recognized this development need and began concentrating its energies and resources to meet it.

Today, South Shore Bank continues to focus on lending to small-scale housing developers. By 1992, South Shore Bank "had financed or leveraged capital for the renovation of 12,053 housing units." South Shore Bank makes seventy-five percent of all the multi-family loans in the South Shore neighborhood. In 1992 alone, the bank made 558 development loans worth over $29 million, most of which helped finance housing development.

Since the early 1970s, Shorebank Corporation, the holding company for South Shore Bank, has expanded its operations substantially. It now contains five affiliates serving the immediate area: South Shore Bank; City Lands Corporation, a for-profit real estate development company; The Neighborhood Institute, a 501(c)(3) corporation which provides economic and social development programs to area residents; The Neighborhood Fund, a Small Business Investment Company; and Shorebank Advisory Services, which provides broad community development consulting services to clients worldwide.

City Lands Corporation (CLC) was organized to engage in neighborhood development initiatives that South Shore Bank could not, due to banking regulations which limit bank activities to accepting deposits and providing lending assistance. CLC develops and manages residential real estate for the benefit of low- and moderate-income residents. Since its inception, CLC has undertaken the rehabilitation and development of over 1300 housing units. It has financed these

74. Cf. McDermott, supra note 59, at 17 (describing poor conditions of South Shore neighborhood).
75. Grzywinski, supra note 47, at 93.
76. Leech, supra note 73, at 33.
77. Grzywinski, supra note 47, at 96.
78. SHOREBANK CORPORATION, 1992 ANNUAL REPORT 16 (reporting loans to South Shore and other Chicago neighborhoods) [hereinafter SHOREBANK 1992 ANNUAL REPORT] (on file with the University of Michigan Journal of Law Reform).
79. Kane, supra note 23, at 61.
81. Grzywinski, supra note 47, at 94.
projects with grants, conventional loans, subsidized and market-rate rent, federal subsidies such as Section 8, state agency assistance, and through joint ventures and limited partnerships with area developers and businesses.\textsuperscript{83} One project undertaken by CLC involved the O'Keeffe Apartments, a thirteen-unit abandoned building with severe fire damage.\textsuperscript{84} CLC acquired the building primarily to protect its investment in apartments located across the street.\textsuperscript{85} The company received commitments for Section 8 rental assistance, mortgage insurance from the Federal Housing Authority, and a forty-year, 7.5\% permanent mortgage.\textsuperscript{86} To raise the remaining capital necessary to complete the project, CLC entered into a limited partnership with a local developer.\textsuperscript{87} The project was completed in 1983, and today enjoys full occupancy.\textsuperscript{88} CLC has continued its housing development efforts. In 1992, for instance, CLC built twelve housing units and rehabilitated another forty-two, with a total value of $4.71 million.\textsuperscript{89}

The Neighborhood Institute (TNI), another Shorebank affiliate, addresses social and technical concerns associated with the economic well-being of South Shore residents. For example, TNI provides various programs to directly assist area residents with job training and educational and entrepreneurial development.\textsuperscript{90} Through these programs, TNI has affected many lives. It has placed more than 2200 of its job trainees in private sector employment;\textsuperscript{91} certified at least 86 pre-apprentice carpenters and 73 wordprocessing specialists;\textsuperscript{92} counseled more than 1000 entrepreneurs,\textsuperscript{93} and provided space and resources for many small businesses at its business incubators.\textsuperscript{94}

\begin{itemize}
\item \textsuperscript{83} SHOREBANK BRIEFING MATERIALS, supra note 80, at 17.
\item \textsuperscript{84} Id. at 19.
\item \textsuperscript{85} Id.
\item \textsuperscript{86} Id.
\item \textsuperscript{87} Id. The limited partnership interest was later syndicated to local investors.
\item \textsuperscript{88} Id.
\item \textsuperscript{89} SHOREBANK 1992 ANNUAL REPORT, supra note 78, at 7.
\item \textsuperscript{90} SHOREBANK BRIEFING MATERIALS, supra note 80, at 8.
\item \textsuperscript{91} Id.
\item \textsuperscript{92} Id.
\item \textsuperscript{93} David Osborne, \textit{A Poverty Program That Works}, NEW REPUBLIC, May 8, 1989, at 22, 24.
\item \textsuperscript{94} Id.; SHOREBANK BRIEFING MATERIALS, supra note 80, at 9. Small business incubators lease office space to entrepreneurs starting up a small business. Tenants are provided certain resources as part of their lease, such as a receptionist, use of a conference room, secretarial services, business plan development, and a business resource library. See id. at 14.
\end{itemize}
TNI also created a for-profit housing rehabilitation firm called TNI Development Corporation (TNIDC).95 This corporation actually rehabilitates local housing, then provides tenants with important management tools so that they can become managers at those sites.96 The tenants learn about financial management, physical maintenance, board responsibilities, conflict management, budgeting, legal documentation, and cooperative economics, all of which enhance their understanding of the issues involved in property management.97

South Shore Bank, CLC, and TNIDC often build upon each other's efforts to provide comprehensive development projects.98 A typical cooperative development project might proceed as follows: CLC will rehabilitate a few buildings in a particular area. Once the new development attracts community interest, residents inquire at South Shore Bank about loans for further rehabilitation in the area. South Shore Bank then lends to a few "mom and pop" rehabbers who rehabilitate more buildings in the vicinity. Once the buildings are rehabilitated and occupied, TNIDC advises tenants on issues such as how to form tenant associations and how to apply cooperative management techniques.

A conscious goal of Shorebank was to rely on each component of the holding company to play a role in the comprehensive development of the area. As Ronald Grzywinski, Shorebank founder and Chairman of the Board, explained: "[W]e understood that we had to target development in such a way that individual loans and projects would support one another. There is a synergy in neighborhoods. Each building that gets improved improves the general economic environment and the quality of all the loans in the area."99 The Neighborhood Fund (TNF) was established by Shorebank Corporation in 1979 to provide investments and loans to businesses owned and operated by socially or economically disadvantaged persons.100 TNF is a qualified Small Business Investment Company which

96. Id.
97. SHOREBANK BRIEFING MATERIALS, supra note 80, at 16.
98. Leech, supra note 73, at 36.
99. Grzywinski, supra note 47, at 94.
100. SHOREBANK BRIEFING MATERIALS, supra note 80, at 21.
makes loans backed by the Small Business Administration.\textsuperscript{101} In 1992, it made fifteen investments totaling $1.76 million, which included $130,000 to a Hispanic-owned radio station located in the area.\textsuperscript{102}

In 1987, Shorebank formed Shorebank Advisory Services (SAS) to provide broad community development consulting services. "SAS provides training, researches new development interventions, undertakes feasibility studies, and offers business and program planning for development banks, community development corporations, foundations, and other community economic development enterprises."\textsuperscript{103}

As the first and most successful community development bank in the country, Shorebank often is asked for assistance in setting up other community-based development banks. Shorebank was instrumental in the creation of Southern Development Bancorporation, which was modeled after Shorebank.\textsuperscript{104} Shorebank was also the impetus behind the creation of the Upper Peninsula Economic Initiative, a joint venture between Shorebank and Northern Michigan University intended to encourage the development of small businesses in the area through the provision of capital and credit.\textsuperscript{105} SAS also has provided feasibility studies, training, and management advisory services to banks and other community development organizations in Arkansas, Oregon, California, Missouri, Michigan, and even Poland.\textsuperscript{106} In Poland, SAS helped to establish a business loan project called the Enterprise Credit Corporation, which loaned $28 million to Polish entrepreneurs in its first two years of operation.\textsuperscript{107}

Shorebank recently has expanded its target area to include Austin, an area on the west side of Chicago that is quite similar to South Shore in terms of its economic condition.\textsuperscript{108} It has opened a South Shore Bank branch there, and initial indications are promising: in the three-and-a-half years it has been in operation, the bank has loaned over $20 million

\textsuperscript{101} Id.
\textsuperscript{102} SHOREBANK 1992 ANNUAL REPORT, supra note 78, at 11–13.
\textsuperscript{103} Id. at 11.
\textsuperscript{104} SHOREBANK BRIEFING MATERIALS, supra note 80, at 23.
\textsuperscript{105} See SHOREBANK 1992 ANNUAL REPORT, supra note 78, at 13.
\textsuperscript{106} See id. at 11–17.
\textsuperscript{107} Id. at 17.
without one default. The bank, CLC, and TNI have been working together to develop housing, job training programs, and entrepreneurial development programs for the Austin area.

Shorebank presents a success story in the community development banking world. As of May 1991, its total loan portfolio was $125 million, with a delinquency rate of 1–2%, a bit lower than the national average of 3–5%. In 1992, it had $244 million in assets and a net income of $1.60 million. Shorebank demonstrates that deliberate investment in disinvested communities can revive a local economy, rekindle the imagination of its people, and restore market forces to health and interdependency.

C. Elk Horn Bank & Trust Company

Elk Horn Bank & Trust Company (Elk Horn), located in Arkadelphia, Arkansas, is a subsidiary of Southern Development Bancorporation (Southern), a bank holding company that was established in 1986 and began operating in 1988. As Governor of Arkansas, Bill Clinton was instrumental in establishing the bank, and Hillary Clinton served on its board until December 1992. Governor Clinton sought alternatives to the strategy of “smokestack chasing,” in which southern states lure manufacturers by offering low wages and public subsidies. Smokestack chasing worked until international competition forced southern industries to relocate their

110. See SHOREBANK BRIEFING MATERIALS, supra note 80, at 11–17 (summarizing activities of CLC and TNI).
111. Grzywinski, supra note 47, at 96.
112. Id.
115. Foust & Greising, supra note 22, at 89.
operations to lower-cost manufacturing sites, usually on the Pacific Rim.\footnote{118. SHOREBANK BRIEFING MATERIALS, supra note 80, at 23.}

One alternative to the South's reliance on large manufacturers was to promote local business and self-employment. Governor Clinton was impressed with Shorebank's development efforts and encouraged it to apply its community development banking initiatives to a thirty-six county region in rural southwestern Arkansas.\footnote{119. SHOREBANK 1992 ANNUAL REPORT, supra note 78, at 14; Steele, supra note 117, at 10.} Shorebank Advisory Services was eager to help, and to this day Shorebank still plays a management role in the Southern Development Bancorporation.\footnote{120. The companies have interlocking directorates. Compare SDB 1992 ANNUAL REVIEW, supra note 116, with SHOREBANK 1992 ANNUAL REPORT, supra note 78, at IV.}

Having the support of the Arkansas governor made it much easier for Southern to raise the capital necessary to establish the corporation. It raised $12 million in start-up capital from private donors such as the Winthrop Rockefeller Foundation.\footnote{121. Foust & Greising, supra note 22, at 89.} In 1992, Southern had twenty-six shareholders and earned $301,612 in net income in 1992, even after giving more than $175,000 to its nonprofit affiliates.\footnote{122. SDB 1992 ANNUAL REVIEW, supra note 116.}

Southern's structure is similar to that of Shorebank.\footnote{123. Compare id. (listing organizational chart at inside front cover with SHOREBANK 1992 ANNUAL REPORT, supra note 78 (listing organizational chart at inside back cover).} It is a holding company with various components, including two for-profit divisions, Elk Horn and Opportunity Lands Corporation, and a nonprofit arm, Arkansas Enterprise Group.

Elk Horn is a traditional commercial bank that was organized in 1984 and purchased by Southern in 1988 for $60 million.\footnote{124. Trammell, supra note 114, at 31.} It provides the same service that most independent community banks do,\footnote{125. Id.} but also provides "development loans"—loans that are for "business purposes," that "contribute[] to local economic development," and that Elk Horn believes would not be made by other banks on similar terms.\footnote{126. SDB 1992 ANNUAL REVIEW, supra note 116.} Elk Horn makes a number of development loans to local borrowers, such as Small Business Administration guaranteed

\footnote{118. SHOREBANK BRIEFING MATERIALS, supra note 80, at 23.}
\footnote{119. SHOREBANK 1992 ANNUAL REPORT, supra note 78, at 14; Steele, supra note 117, at 10.}
\footnote{120. The companies have interlocking directorates. Compare SDB 1992 ANNUAL REVIEW, supra note 116, with SHOREBANK 1992 ANNUAL REPORT, supra note 78, at IV.}
\footnote{121. Foust & Greising, supra note 22, at 89.}
\footnote{122. SDB 1992 ANNUAL REVIEW, supra note 116.}
\footnote{123. Compare id. (listing organizational chart at inside front cover with SHOREBANK 1992 ANNUAL REPORT, supra note 78 (listing organizational chart at inside back cover).}
\footnote{124. Trammell, supra note 114, at 31.}
\footnote{Id.}
\footnote{SDB 1992 ANNUAL REVIEW, supra note 116.}
loans, agricultural loans, and working capital loans.\textsuperscript{127} In 1992, Elk Horn had nearly $90 million in assets and $886,980 in net income.\textsuperscript{128}

Opportunity Lands Corporation (OLC), the other for-profit component of Southern, is a real estate development corporation which was initially capitalized at $750,000.\textsuperscript{129} According to Southern president George P. Surgeon, OLC was the "development star of [Southern]."\textsuperscript{130} One of its success stories is the Chestnut Street Development in Pine Bluff, Arkansas. OLC bought this dilapidated group of twenty housing units from The Resolution Trust Company for $125,000,\textsuperscript{131} negotiated $250,000 worth of mortgages and, with a $143,000 grant from the city of Pine Bluff and assistance from HUD's rental rehabilitation program, rehabilitated the units.\textsuperscript{132} The Chestnut Street Development is notable because OLC employed five of the men living in the units to assist in the rehabilitation, all of whom subsequently obtained jobs with subcontractors.\textsuperscript{133} OLC also has developed three enterprise centers which provide high-quality office space and shared equipment and services to small, non-retail businesses.\textsuperscript{134}

Arkansas Enterprise Group, the nonprofit arm of Southern, operates local development projects through three components: Good Faith Fund, Southern Ventures, Inc., and AEG Manufacturing Services.\textsuperscript{135} The Good Faith Fund, inspired by the Grameen Bank in Bangladesh,\textsuperscript{136} makes small loans\textsuperscript{137} to low-
income individuals interested in starting small businesses.\textsuperscript{139} The Good Faith Fund requires approved applicants to participate in a series of six training sessions.\textsuperscript{140} Participants then form groups of four to six members.\textsuperscript{141} The Good Faith Fund grants each group a pool of money amounting to about $1200 per member.\textsuperscript{142} Each group, or "borrowing circle," acts as its own loan committee by deciding which loans to grant to their members.\textsuperscript{143} They must meet bimonthly to take care of the circle’s business.\textsuperscript{144} These circles act as peer pressure groups to insure that the borrower understands her obligation to repay the loan.\textsuperscript{145} If any member of the circle is behind on her payments, none of the other members may borrow more money.\textsuperscript{146} After the initial loan, the circle decides whether to grant subsequent loans to its members,\textsuperscript{147} the funds for which come from the circle’s savings account, to which all members must contribute.\textsuperscript{148} As of November 1992, the Good Faith Fund had 147 members\textsuperscript{149} and had made $170,000 in loans.\textsuperscript{150} Default rates on these loans are very low—approximately three percent.\textsuperscript{151}

Southern Ventures, Inc. (SVI) is a Small Business Investment Company which finances “equity investment for the creation of small manufacturing and technical service-type companies in rural Arkansas.”\textsuperscript{152} These for-profit investments usually range from $50,000 to $250,000.\textsuperscript{153} To provide some oversight of the recipient company’s operation once the in-

\textsuperscript{139} Id.; SDB 1992 \textit{ANNUAL REVIEW}, \textit{supra} note 116.
\textsuperscript{140} Trammell, \textit{supra} note 114, at 32.
\textsuperscript{142} \textit{Id.}
\textsuperscript{143} \textit{Id.}
\textsuperscript{144} Trammell, \textit{supra} note 114, at 32 (members meet “to discuss their progress, make deposits to their savings account . . . and make their loan payments”).
\textsuperscript{145} SDB 1992 \textit{ANNUAL REVIEW}, \textit{supra} note 116, at 10; Foust & Greising, \textit{supra} note 22, at 90.
\textsuperscript{146} Trammell, \textit{supra} note 114, at 32.
\textsuperscript{147} \textit{Id.}
\textsuperscript{148} \textit{Id.}
\textsuperscript{149} SDB 1992 \textit{ANNUAL REVIEW}, \textit{supra} note 116.
\textsuperscript{150} Foust & Greising, \textit{supra} note 22, at 90.
\textsuperscript{151} \textit{Id.} Although losses during the first year were as high as 30%, the program cut losses to 3% by reducing the opportunity for fraud. \textit{Id.} The bank reduced the initial amount it would lend from $5000 to $1200, and started to require potential borrowers to attend 21 hours of classes in basic business skills. \textit{Id.} As the reduction in losses shows, the changes have worked dramatically.
\textsuperscript{152} Trammell, \textit{supra} note 114, at 32.
\textsuperscript{153} \textit{Id.}
vestment is made, SVI is represented on the company’s board of directors.\textsuperscript{154} To date, SVI has assisted twelve companies in starting small businesses, including a waste-water treatment plant, an aluminum casting manufacturer, and a petroleum refinery.\textsuperscript{155}

AEG Manufacturing Services (AEG) provides development financing, management consulting, and marketing assistance to locally owned small businesses.\textsuperscript{156} AEG also provides working capital and equipment leases to these businesses.\textsuperscript{157}

Although Southern’s affiliates are quite numerous, they collaborate effectively to support the development of small businesses. In one instance, Southern’s non-profit venture-capital firm, SVI, invested $375,000 in a small business that makes wear-resistant ceramic coatings for machinery in return for one-third of the company’s preferred stock.\textsuperscript{158} The initial investment allowed the company to begin purchasing equipment.\textsuperscript{159} Southern’s banking arm then assisted with a loan of $225,000 for machines and working capital.\textsuperscript{160} Once the business expanded, Southern’s real estate development company, OLC, offered a $325,000 loan to build a new plant and hire five new employees.\textsuperscript{161}

Southern, a relatively new community development bank,\textsuperscript{162} appears to have a bright future. With increasing interest in the CDB concept—brought about in part by the election of President Clinton\textsuperscript{163} and his signing of the Community Development Banking and Financial Institutions Act\textsuperscript{164}—Southern should provide another good example of a successful CDB.

\textbf{D. Community Capital Bank}

A community development bank which opened its doors more recently is Community Capital Bank (CCB) of Brooklyn, New

\begin{itemize}
\item 154. SDB 1992 Annual Review, supra note 116.
\item 155. Trammell, supra note 114, at 32.
\item 156. Id.
\item 157. Id.
\item 158. Foust & Greising, supra note 22, at 89–90.
\item 159. Id. at 90.
\item 160. Id.
\item 161. Id.
\item 162. Southern started operations in 1988. Trammell, supra note 114, at 31.
\item 163. Foust & Greising, supra note 22, at 89.
\end{itemize}
York, which officially began operation in January 1991. Rather than purchase an existing bank and transform it into a community development institution—the path taken by the founders of Chicago's South Shore Bank and Arkansas's Elk Horn Bank and Trust—CCB's founders created a new institution. As a new bank, CCB has the advantage of not having to cope with a predecessor's existing loan portfolio or potentially uncooperative loan officers. On the other hand, raising the $6 million in capital necessary to open the bank took CCB's founder, and now chairman, Lyndon Comstock, five years. If President Clinton's goal of 100 community development banks is to be met, the time needed to form a community development bank needs to be greatly reduced.

CCB's initial capital came from a purchase offer of $6 million of stock. Initial investors included socially conscious individuals, as well as large corporations such as Time-Warner, American Express, and J.P. Morgan.

Unlike South Shore Bank and Elkhorn, Community Capital is not a subsidiary of a bank holding company, but rather is an independent institution. This independence reduces the bank's financial flexibility by limiting the amount of loans CCB legally may make. Such loan limits would make financing a multi-family housing project extremely difficult. The bank now has over $22 million in assets, over $4 million in loans, and $18 million in deposits. Although in 1992 CCB was losing money, and ranked near the bottom of New York banks in return on assets, it had improved substantially between 1991 and 1992.

165. Kane, supra note 22, at 65.
166. Id.
167. See id. at 66.
169. Id.
171. Kane, supra note 22, at 65.
172. Id. at 65.
173. See id.
Approximately seventy-five percent of CCB's loans are for commercial and industrial purposes, while the other twenty-five percent are for real estate mortgages and construction. The bank specializes in lending to develop affordable housing and small businesses.

Representative of the kind of loans which community development banks are willing to make was CCB's $100,000 construction loan to a new Ben & Jerry's ice cream parlor, which is located in Harlem and owned in part by HarkHomes, a nonprofit homeless shelter. Not only was a new business opened, but jobs were created for a group of unemployed men who were unlikely to find jobs elsewhere: most of the employees working in the ice cream shop are men who live in the homeless shelter. Other borrowers include a nursing home for AIDS patients in West Harlem, a minority-owned construction company, and a knitwear company in Brooklyn.

Although it is completely independent of CCB, Lending Assistance Education Program (LEAP) has strong ties to CCB because CCB founder and chairman Lyndon Comstock serves on LEAP's board of directors. LEAP is a nonprofit organization that provides technical assistance to businesses in the process of formation. LEAP was created as an organization separate from CCB because as a commercial bank CCB is not allowed to deliver the technical services which LEAP may perform. A typical client of LEAP is a group of former employees of a defunct bakery who want to open an employee-owned commercial bakery.

Finally, CCB is now administering a $500,000 revolving loan fund called "Lending Initiative for Tenants," funding for

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176. COMMUNITY CAPITAL BANK, supra note 175, at 15 (percentages calculated by the author).
177. Steele, supra note 168, at 1.
181. See Kane, supra note 22, at 67.
182. Id.
183. Id.
185. A revolving loan fund utilizes the capital obtained from payments for new loans.
which came from a grant made by the United States Department of Housing and Urban Development. By furnishing loans ranging from $500 to $20,000, the fund helps residents of public housing start or expand their own businesses.

E. Community Development Banks in Formation

The success of South Shore Bank in Chicago and Elk Horn in Arkansas stirred many cities to begin investigating the formation of community development banks as a community development strategy. A president friendly to the idea of community development banking has broadened and strengthened the general movement in many cities toward forming community development banks.

For example, Shorebank Corporation recently announced plans to open a Cleveland Community Development Bank. Shorebank chose to expand in Cleveland because of the city's relatively inexpensive housing stock and its well-organized civic community. Shorebank currently is attempting to raise the $18.5 million necessary to open the bank, although the company has not yet decided whether to purchase an existing bank or to form a new one. Initially, the bank will target projects that will have a significant and visual impact on a community, such as improving blocks of housing or renovating all the buildings at a well-travelled intersection.

Neighborhood Bancorp in San Diego has incorporated and has financial support from Wells Fargo and First Independence Bank. The bank's goal will be to "improve and expand the stock of affordable housing in San Diego County and to establish retail banking services in an underserved area of metropolitan San Diego." The bank plans to serve the Mount

187. Id.
188. Id.
189. See supra notes 115–117 and accompanying text.
190. Miriam Hill, Banking on Revival: Chicago Lender Bringing Expertise to Cleveland, PLAIN DEALER (Cleveland), Oct. 24, 1993, at 1E.
191. Id.
193. Hill, supra note 190, at 1E.
Hope area of San Diego with the help of affiliates that will raise capital for the purchase, rehabilitation, and construction of affordable housing; offer consulting services; and finally, provide residential mortgages for those with low to moderate incomes.196

Southside Bank, in Grand Rapids, Michigan, is currently forming. First of America Bank, a Michigan-based commercial bank, has invested through a purchase of stock, while another Michigan commercial bank, Old Kent, has donated a branch office to Southside.197 The President of Southside, Steven Lopez, has voiced concern over the disparity between the amount of deposits banks garner in the inner city and the amount banks lend to the inner city.198 In Southside's service community, Grand Rapids, banks received $508 million in deposits from the inner city while making only $5 million in loans to the same area.199

Wayne County, Michigan has proposed a community development bank for the east side of Detroit.200 Like other newly forming CDBs, this institution is being modeled after South Shore and is receiving direct technical assistance from Shorebank Advisory Services.201 Initially, the concept of a CDB in Wayne County was met with mixed reactions from area lenders and community leaders.202 In late January 1994, however, First of America made the first formal financial commitment when it agreed to invest $1 million.203 Bank organizers estimate an additional $12–$14 million will be necessary to capitalize the bank.204 In July 1994, the City of Detroit announced that it had joined Detroit Renaissance and Wayne County as full partners in forming a community de-

199. Id.
201. Interview with Janney Carpenter, Managing Associate, Shorebank Advisory Services, in Detroit, Mich. (Aug. 8, 1994).
202. See Dickerson, supra note 200, at E2.
204. Id.
development bank to focus on the revitalization of Detroit’s east side community. Wayne County acknowledged that it had been working to establish the development bank for the past three years by consulting with Shorebank Advisory Services, a Founders Committee comprised of thirteen local business and community leaders, and holding discussions with over 200 Detroit community groups and individuals. Wayne County relies heavily on one of its partners, Detroit Renaissance, for corporate leadership and its ability to raise private funds to capitalize the institution. The City of Detroit committed to coordinate its Empowerment Zone and the development bank, as well as to make available city-owned surplus land and buildings within the targeted development zone while it simultaneously improves that area’s infrastructure and public services. The consultation with Shorebank Advisory Services and the similarity of Detroit’s targeted east side to Chicago’s Austin community, suggests that the Shorebank model will most likely mold the Detroit Development Bank. Moreover, Detroit Development Bank has goals similar to those of South Shore Bank, such as requiring mortgagors to rehabilitate their property, running subsidiaries to develop and rehabilitate homes, and making a profit to allow the bank to run free from government financing.

II. COMMUNITY DEVELOPMENT CREDIT UNIONS

A. An Overview

There are over 140 community development credit unions (CDCUs) in the United States today, with combined assets of

207. Waldsmith, supra note 205, at E3.
208. Id.
209. Id.
210. Id.
$255 million and a total of 154,000 members. The vast majority are small institutions offering limited services. The National Credit Union Administration has prevented many of the community development credit unions from making home and business loans, which obviously prevents many of the smaller CDCUs from becoming comprehensive sources of community development financing. As demonstrated by Self-Help Credit Union (SHCU), however, a credit union can be as important to community development as a bank.

B. Self-Help Credit Union

SHCU was founded in 1983 in Durham, North Carolina, with branches in Asheville, Charlotte, and Greenville. It is the largest community development credit union in the United States, with over $40 million in assets and over $33 million in deposits, most of which come from within North Carolina. Self-Help is a subsidiary of the Center for Community Self-Help, an organization modeled on a network of worker cooperatives in Mondragon, Spain. Martin Eakes, president and a founder of Self-Help, saw a central bank as the key to developing worker cooperative businesses.

211. Dugas, supra note 10, at 22 (reporting figures from National Credit Union Administration).
212. See id.
213. The National Credit Union Administration is the federal agency which regulates credit unions.
214. Dugas, supra note 10, at 23.
216. Center for Community Self-Help to Establish Non-Profit Office Center in Former First Union Building, P.R. NEWSWIRE, Apr. 27, 1993, available in LEXIS, Nexis Library, P.R. Newswire File.
217. Community Development: Republicans Fight to Allow Banks in Clinton Community Credit Program, supra note 11, at 12.
219. Betty J. Nash, The Loan Rangers: Who Are These Do-Gooders Lending a Helping Hand Out on the Financial Frontier?, BUS. N.C., Dec. 1993, at 49, 49. SHCU is not the only lending institution affiliated with The Center for Community Self-Help. The Self-Help Ventures Fund is a $14.3 million revolving loan fund which provides innovative business loans and charges off only 3% of total loans on average. Id.
220. Sinzinger, supra note 216, at A3. The worker cooperatives in Spain are linked together through a central organization which provides general business guidance and funding for new business activities. Id.
221. Id. Eakes, a graduate of Yale Law School, receives for his duties as president an annual salary of $31,000. Nash, supra note 219, at 50, 52.
The SHCU does not concentrate on a small geographic area, but rather loans money throughout North Carolina. Since opening, it has made over $40 million in loans to small businesses and home buyers, and has had to charge off less than .5% of its loans. Some claim that SHCU's success has "helped shame bigger banks and S&Ls into doing more lending to minorities and women." In 1992, SHCU made 138 commercial loans, two-thirds of which went to rural areas, almost half to minority-owned businesses, and one-third to businesses owned by women. SHCU is an approved non-bank lender under the Small Business Administration's guaranteed loan program, which decreases some of the risk involved in making loans to small businesses. In addition, SHCU now administers the Small Business Administration's micro-loan program, and offers a program initially funded by the North Carolina legislature to make mortgages available to those unable to meet the standard down payment and other requirements. SHCU also assists real estate developers with projects in downtown areas, often including space for small-business incubators.

In addition to the larger scale loans, SHCU also loans to small groups of "rookie entrepreneurs." Initially, group members may borrow $500 each. After all members have repaid their initial loans, each group member is eligible to borrow up to $10,000 more. The first series of loans, called

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223. Center for Community Self-Help to Establish Non-Profit Office Center in Former First Union Building, supra note 216.
224. See Nash, supra note 219, at 50–51.
225. Id. at 49. This is better than most commercial banks. Guy Gugliotta, Banking on Community Development, WASH. POST, Dec. 20, 1992, at A1, A19.
226. Nash, supra note 219, at 49.
229. Id. at 146–47.
230. See Sinzinger, supra note 215, at A3. The North Carolina legislature appropriated $2 million, which would help to bring in an addition $50 million from other sources. Id.
231. Id.
232. Nash, supra note 219, at 52.
233. Id.
234. Id.
"microenterprise loans," went to women in low-income housing.235

One example of SHCU's success is its loan to the Worker Owned Sewing Company (WOSCO). A few entrepreneurs bought Bertie Industries, a bankrupt cut-and-sew company.236 SHCU was the only lending institution willing to give WOSCO the credit and technical assistance it needed to succeed.237 WOSCO has now grown from 10-15 employees to 60-75 employees, the majority of whom are African-American women,238 and now has contracts with K-Mart.239

C. Other Community Development Credit Unions

While there are no other credit unions of the size and breadth of SHCU,240 many smaller CDCUs do provide valuable services to their communities.241 Many are small and unable to provide a broad range of services, yet meet the basic banking needs of communities where no other financial institution exists.242

One example is the Lower East Side People's Federal Credit Union in Manhattan, which was formed after Manufacturers Hanover decided to close an unprofitable branch at Avenue B and East Third Street, the last depository institution in a 100-square block area.243 This credit union currently has 2500 members and $1.6 million in assets.244

CEDC Federal Credit Union in Hempstead, Long Island, New York, was founded in 1973 by the Economic Opportunity Commission of Nassau County, because "there was no responsive financial institution to give low-cost credit to low-income people."245 Since its inception, CEDC Federal has loaned over $7 million.246

236. Nash, supra note 219, at 50–51.
237. See id.; Sinzinger, supra note 215, at A3.
238. Sinzinger, supra note 215, at A3.
239. Id.
240. Community Development: Republicans Will Fight to Allow Banks in Clinton Community Credit Program, supra note 11, at 10, 12.
241. Id. at 11.
242. See id. at 11–12.
244. Id.
245. Id. (quoting Leo Baum, president of CEDC Federal-Hempstead).
246. Id.
The Central Brooklyn Federal Credit Union opened in 1993 and is affiliated with a community development loan fund because credit unions may not make risky small business loans.\(^{247}\) Central Brooklyn has received financial support from, among others, Chase Manhattan Bank, Chemical Bank, and Bankers Trust Company,\(^{248}\) banks which for every dollar of deposits they received from the area, would make to the area only one penny in home loans.\(^{249}\)

Finally, the Los Angeles South Central People's Federal Credit Union, which opened in September 1993 at the offices of the Black Employees' Credit Association in Los Angeles's Crenshaw district,\(^{250}\) will be available to provide credit services to 600,000 people living and working in that district.\(^{251}\) The credit union is able to loan more than $5 million, all derived from pledges and donations made by private foundations, corporations, and individuals.\(^{252}\)

### III. Community Development Loan Funds

Community development loan funds (CDLFs) serve a much narrower function than do community development banks or credit unions, yet they serve the important function of lending in situations in which commercial financial institutions are unwilling to do so. In 1992, the United States had forty-one CDLFs with a total of over $60 million in outstanding loans.\(^{253}\)

Two Michigan CDLFs illustrate their potential role in community economic development. The Inner City Christian Federation (ICCF) of Grand Rapids, Michigan, runs the Housing Capital Revolving Fund, which finances programs to rehabilitate dilapidated housing. Once a house is rehabilitated,
the fund leases it, with the rent applied towards its purchase by low- and moderate-income families.\textsuperscript{254} ICCF also provides financial counseling to the families who purchase homes from them.\textsuperscript{255} In fifteen years, ICCF has built, renovated, or repaired over 250 homes.\textsuperscript{256} ICCF finances the Housing Capital Revolving Fund, in part through the sale of investment notes to socially conscious investors.\textsuperscript{257} Through this fund, restricted grants and gifts are combined with loans to produce affordable housing financing for the pre-development and construction stages of the ICCF's housing initiatives.\textsuperscript{258}

In Marquette, Michigan, the North Coast Business and Industrial Development Corporation, a wholly-owned subsidiary of Shorebank Corporation, was established to help diversify the Upper Peninsula's rural economy by providing credit, equity, and technical assistance to companies the growth of which could lead to new employment.\textsuperscript{259} Shorebank's expansion into the Upper Peninsula results from two partnerships.\textsuperscript{260} The first is with a department of Northern Michigan University which offers innovative marketing services to area producers affiliated with Shorebank.\textsuperscript{261} Second, the State of Michigan has offered incentives to create a subordinated debt-equity financing company, known as a "Business and Industrial Development Company," to provide loans to small businesses and entrepreneurs.\textsuperscript{262}

IV. THE IMPACT OF FEDERAL LEGISLATION

President Clinton's support for community development banking, coupled with a rising awareness of the unmet credit needs of low-income communities, has prompted recent debate over the federal government's role in supporting the work of

\textsuperscript{254} INNER CITY CHRISTIAN FEDERATION, PROMOTIONAL BROCHURES (n.d.) (on file with the University of Michigan Journal of Law Reform).
\textsuperscript{255} Id.
\textsuperscript{256} INNER CITY CHRISTIAN FEDERATION, 1993 ANNUAL REPORT 6.
\textsuperscript{257} Id.
\textsuperscript{258} Id.
\textsuperscript{259} See Houghton Testimony, supra note 23, at 2 tbl. I, 10.
\textsuperscript{260} Id.
\textsuperscript{261} See id.
\textsuperscript{262} Id.
CDBs: In addition to passing the Community Development Banking and Financial Institutions Act, the Clinton Administration and bank regulating agencies have endorsed extensive revisions to the Community Reinvestment Act (CRA) with the goal of dramatically increasing the amount and flow of credit to low-income communities, and recognizing the value of community development lending as one benchmark for evaluating the performance of lending institutions.

A. The Community Reinvestment Act

The Community Reinvestment Act provides that “regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which [those institutions] are chartered to do business.” To this end, the CRA requires the appropriate bank regulator “to encourage [financial] institutions to help meet the credit needs of [their] local communities . . . consistent with the safe and sound operation of such institutions.” A key term in this section, “consistent with safe and sound [banking] operations,” has not been defined clearly by Congress. Thus, Congress has allowed the federal regulators much discretion in creating standards, and allowed the finan-

265. Id. § 2901(a)(1) (emphasis added).
266. Four federal banking regulators are responsible for enforcing the CRA. The Comptroller of Currency has enforcement jurisdiction over national banks. 12 U.S.C. § 2902(1)(A) (1988). The Board of Governors of the Federal Reserve System has enforcement jurisdiction over “[s]tate chartered banks which are members of the Federal Reserve System and bank holding companies.” Id. § 2902(1)(B). The Federal Deposit Insurance Corporation oversees “[s]tate chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the [FDIC].” Id. § 2902(1)(C). The Federal Home Loan Bank Board has enforcement jurisdiction over “institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation[,] and [over] savings and loan holding companies.” Id. § 2902(1)(D).
267. Id. § 2901(b) (1988 & Supp V 1993) (emphasis added); see also Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act, 54 Fed. Reg. 13,742-43 (1989) [hereinafter Joint Statement] (interpreting Congress’s intent as to place on “every financial institution a continuing and affirmative obligation consistent with its safe and sound operation to help meet the credit needs of its entire community”) (emphasis added).
cial institutions some discretion as to how they may fulfill their responsibilities.\textsuperscript{268}

President Clinton requested that bank regulators issue new CRA regulations that would base performance on actual lending, services, and investment practices in low- and moderate-income neighborhoods. The regulations, which were proposed in October 1994 and which are presently under consideration,\textsuperscript{269} are a revision of the originally proposed rules.\textsuperscript{270}

Overall, the proposed rules place greater emphasis on the actual performance of financial institutions, rather than the process that the lender utilizes to achieve its record of performance.\textsuperscript{271} The impact of CRA reform on community development banks will be direct because CDBs are federally regulated institutions. The type of charter which a community development bank has will determine which federal banking regulator has jurisdiction and responsibility for the bank's CRA evaluation.\textsuperscript{272}

Under the revised proposal, the most important method that federal examiners may utilize to rate the large retail banks\textsuperscript{273} is based on performance measured by three tests: lending, investment, and service.\textsuperscript{274} Those three tests are more specifically defined as:

\textit{Lending Test}—The bank's direct and indirect lending including home mortgage, small business and farm, community development, and (optional) consumer loans;\textsuperscript{275}

\textit{Investment Test}—The bank's "qualified investments," which include investments in credit unions or grants that principally benefit or address affordable housing or other


\textsuperscript{270} Id. at 51,233–34 (discussing original rules proposed at 58 Fed. Reg. 67,466 (1993)).

\textsuperscript{271} Id. at 51,234 (comparing new and original proposed regulations).

\textsuperscript{272} See supra note 266.

\textsuperscript{273} What I call "a large retail bank" is referred to by the agencies as an "independent retail institution[] with at least $250 million in assets [or an] affiliate[] of [a] holding company[] with at least $250 million in bank and thrift assets." 59 Fed. Reg. 51,234 (1994) (summarizing regulations proposed on Oct. 4, 1994).

\textsuperscript{274} Id.

\textsuperscript{275} See id. at 51,236–38, and especially 51,236 n.1 (summarizing lending test).
community economic development needs not being met by the private market; 276

Service Test—The bank's systems for delivery of retail banking and community economic development services. 277

Every large retail institution also would have the option of being evaluated pursuant to a preapproved strategic plan. 278

The revised proposal's lending tests demonstrate that the regulators find community development lending to be of considerable importance. "[T]he revised proposal would treat [community development] lending as a principal component of an institution's lending performance, not merely [as] an adjustment factor." 279 The revised proposal also defines community development loans 280 and provides examples of such loans, 281 many of which are the types of loans commonly made by community development banks. The examples include, inter alia, loans to

borrowers in support of affordable housing rehabilitation and construction, including construction and permanent financing of multifamily rental property serving low- and moderate-income persons; not-for-profit organizations serving primarily low- and moderate-income housing or other community economic development needs . . . and [to] financial intermediaries including, but not limited to Community Development Financial Institutions. 282

276. See id. at 51,238–39, and especially 51,238 n.2 (summarizing investment test).
277. See id. at 51,239 & n.3 (summarizing service test).
278. Id. at 51,242–43. Under the revised proposal, an institution could submit to its supervisory agency for approval a strategic plan detailing how the institution proposed to meet its CRA obligation. Id. at 51,242. The plan would be required to address "measurable goals . . . through lending, investment, and the provision of services," id. at 51, 273 and would require the institution to solicit public comment on the plan for 30 days. Id.
279. Id. at 51,236 (summarizing lending test).
280. "Community development loan means a loan (including a line of credit, commitment, or letter of credit) that addresses affordable housing . . . or other community economic development needs not being met by the private market, provided the loan (1) [p]rimarily benefits low- or moderate-income individuals [or] businesses . . . ." Id. 51,269 (to be codified at 12 C.F.R. § 228.12(f)) (proposed Oct. 7, 1994) (emphasis added).
281. Id. at 51,236 n.1.
282. Id.
The specificity of these examples provides direction to lenders by identifying generic community development loans and loans to CDFIs as those likely to be considered favorably during CRA evaluation. These are loans that often fill a void left by the regular operation of the private market. In some respects, the proposed CRA regulations are encouraging lending institutions to follow the model set by community development banks.

The investment test in the revised proposal focuses on three criteria: (1) "the dollar amount of the institution's qualified investments,"\(^\text{283}\) independent of the institution's capital; (2) the innovativeness and complexity of the investments and their connection to credit needs;\(^\text{284}\) and (3) the institution's "responsiveness to credit and community economic development needs."\(^\text{285}\) The definition of "qualified investments" is similar to community development loans.\(^\text{286}\) Again, the philosophy of community development banks nationwide has been to develop innovative, complex, and flexible strategies to facilitate lending in low- to moderate-income communities on seemingly higher risk projects. The CRA reform appears to endorse these strategies and to promote their use by large retail banks.

Finally, the service test specifies criteria to assist the regulators in completing a CRA evaluation. One factor is community development services that primarily benefit, inter alia, low- or moderate-income individuals,\(^\text{287}\) or that promote affordable housing (including multi-family rental housing) or other community economic development needs that are not being met by the private market.\(^\text{288}\) Even the service test, which primarily focuses on the institution's delivery of retail banking services, emphasizes community development lending.\(^\text{289}\)

Despite its shortcomings, the proposed CRA reforms have the potential to achieve a goal consistent with the goals of CDBs—to increase access to credit for underserved communities and individuals.

\(^\text{283}\) Id. at 51,271–72 (to be codified at 12 C.F.R. § 228.23(c)(1)).
\(^\text{284}\) See id. (to be codified at 12 C.F.R. § 228.23(c)(2)).
\(^\text{285}\) Id. at 51,272 (to be codified at 12 C.F.R. § 228.23(c)(3)).
\(^\text{286}\) Compare id. at 51,238 n.2 (examples of qualified investments) with id. at 51,236 n.1 (examples of community development loans).
\(^\text{287}\) Id. at 51,272 (to be codified at 12 C.F.R. § 228.24(c)(i)).
\(^\text{288}\) Id. (to be codified at 12 C.F.R. § 228.24(c)(ii)).
\(^\text{289}\) See id. at 51,239 & n.3 (summarizing service test).
B. Community Development Banking and the Financial Institutions Act

To safeguard the administration's commitment to community development banking, President Clinton has signed the Community Development Banking and Financial Institutions Act of 1994—legislation that will provide financial assistance and technical services to community development financial institutions. The Act will create a Community Development Financial Institutions Fund which should spur economic revitalization and development in communities through investment and assistance to community development financial institutions. A key goal of the Act is to restore and maintain economically distressed communities. The Act outlines the administrative structure and procedural implementation guidelines for the Fund. The Fund will be a wholly-owned government corporation managed by an administrator appointed by the president, who shall appoint a chief financial officer. In addition to this administrative staff, the Fund will receive policy advice from a Community Development Advisory Board. In addition to requirements of diversity, the citizen members of the Advisory Board must be representative of CDFIs, regular banks, and national consumer or public interest groups, and must have expertise

291. § 104(a), 108 Stat. at 2166.
292. § 102(b), 108 Stat. at 2163.
293. See § 102(a)(2), 108 Stat. at 2163.

[T]he restoration and maintenance of the economies of these communities will require coordinated development strategies, intensive supportive services, and increased access to equity investments and loans for development activities, including investment in businesses, housing, commercial real estate, human development, and other activities that promote the long-term economic and social viability of the community.

Id.

296. § 104(d)(1), (4), 108 Stat. at 2167–68. The Community Development Advisory Board will include the Secretaries of Agriculture, Commerce, Housing and Urban Development, Interior, and Treasury (or their designees), the Administrator of the Small Business Administration, and nine private citizens appointed by the President. § 104(d)(2)(A)–(G), 108 Stat. at 2167–68.
The Act gives enormous discretion to the private management entity, so that its success will be determined largely by who is selected to administer it.

The Act's application procedure for financial assistance demonstrates the importance placed on the need for a comprehensive strategic plan drawn up by the applicant. Such a plan must include a five-year business plan, a needs analysis of the investment area or targeted population, a plan to coordinate Fund dollars with government and private dollars, a demonstration of consistency with existing economic development plans, and a description of the contemplated coordination with community organizations and area lenders.

The criteria to be considered in awarding funds include fourteen factors. These factors attempt to establish some measurable goals by which CDFIs can demonstrate their stability and track record in order to access the Fund. One factor is the extent to which the applicant is, or will be, community owned or community controlled. Considering that this has not been a standard criterion for most of the existing CDBs, this factor may limit the expansion activities of existing CDBs or the formation of new ones.

The forms of assistance available from the Fund include financial assistance deposits, loans, grants, equity investments, and support for technical assistance. There are caps on both the amount of financial assistance and the duration of assistance that a CDFI may receive. Although technical assistance is a form of support designated in the Act, the Act sets aside no specified amount of money for technical assistance. Moreover, the Act is vague as to which types of assistance are allowable. The Act requires that every assistance

297. § 104(d)(2)(G)(i)-(iv), 108 Stat. at 2168. In addition, one individual must have personal experience with lending and community issues faced by Native American tribes or reservations. § 104(d)(2)(G)(v), 108 Stat. at 2168.


299. § 107(a)(1)-(14), 108 Stat. at 2172.

300. § 107(a)(11), 108 Stat. at 2172.

301. § 108(a), 108 Stat. at 2172–73.

302. In general, the Fund may provide not more than $5 million of assistance during any three-year period to any one CDFI and its subsidiaries and affiliates. § 108(d)(1), 108 Stat. at 2174. The one exception to this amount is for any affiliates or subsidiaries proposed for an investment area or targeted population outside of the state of an existing CDFI, which may receive up to $3.75 million during the same three-year period. § 108(d)(2), 108 Stat. at 2174.

303. See § 108(a)(1)(B), 108 Stat. at 2172–73, and § 108(c)(1), 108 Stat. at 2179, the latter of which merely states that "[t]echnical assistance may be used for
dollar received by a CDFI from the Fund be matched with non-federal funds.\textsuperscript{304} A hardship exception to this requirement offers more flexible criteria,\textsuperscript{305} with some limitations.\textsuperscript{306}

The uses of financial assistance made available under the Act are comparable to those being provided by such institutions as South Shore Bank, Southern, and Community Capital Bank.\textsuperscript{307} Such uses include community revitalization, job creation or retention, support for businesses that provide jobs to low-income people, and the development of affordable housing for low-income people.\textsuperscript{308}

The one shortcoming of the CDBFI Act may be its definition of a Community Development Financial Institution, which it limits to an institution that “provides development services in conjunction with equity investments or loans.”\textsuperscript{309} “Development services,” in turn, are defined too narrowly as including “business planning, . . . financial and credit counseling[,] and . . . marketing and management assistance.”\textsuperscript{310} Given the scope of development services provided through the bank holding company structure of CDBs such as Shorebank Corporation, this definition may limit the activities that are needed to promote community development and which are integral to comprehensive community economic development strategies in our urban communities.

CONCLUSION

The challenges which face our urban communities include rapid social and economic changes. These challenges can be viewed as obstacles to development, or, for a development bank, as opportunities for redevelopment. The unique comprehensive approach of a community development bank

activities that enhance the capacity of a community development financial institution, such as training of management and other personnel and development of programs and investment or loan products.”

\textsuperscript{304} § 108(e)(1), 108 Stat. at 2174–75.

\textsuperscript{305} § 108(e)(2)(A), (B), 108 Stat. at 2175.

\textsuperscript{306} § 108(e)(2)(c), 108 Stat. at 2175.

\textsuperscript{307} Compare § 108(b)(1)(A)–(E), 108 Stat. at 2173 with supra Parts I.B–D.

\textsuperscript{308} See § 108(b)(1)(A)–(E), 108 Stat. at 2173.

\textsuperscript{309} § 103(5)(A)(iii), 108 Stat. 2164. Other limitations are found in § 103(5)(A)(i), (ii), (iv), (v), 108 Stat. at 2164.

\textsuperscript{310} § 103(9)(A), 108 Stat. at 2165.
attempts to meet these challenges by providing credit services of a subsidiary bank to a neighborhood, while its sister real estate investment and development arms are actively promoting reinvestment and new construction. Ultimately, to be successful, the development bank must strive to stimulate the private market into reinvesting in its target area. A complete assessment of a community, from its demographic data to the condition of its housing stock, real estate activity, and area amenities, is crucial for targeting an area which has the potential to spur reinvestment.

The lack of adequate investment in development projects, particularly housing development, has been a major barrier to city renewal. Clearly, a development bank, even with its development subsidies, is not a panacea for urban deterioration—it is merely one tool which can facilitate and promote urban revitalization. An assessment of market opportunities to determine the ripeness of a community is equally important as a preliminary step to assuring that the development bank’s efforts will have a positive impact.

The endorsement and support of the Clinton administration should, at a minimum, provide more exposure and increased access to federal dollars for new development bank endeavors. The only development bank which has a history and track record is South Shore Bank, which has existed since 1973. The other institutions are younger, making their success and impact more difficult to gauge. The proposed development bank for the City of Detroit may provide a crucial institution, which will enable us to study the impact of a CDB on one urban community with a diverse set of challenges. As the legislators and banking regulators have learned from South Shore Bank’s and others’ past successes, so we hope that they will continue to learn from new community development institutions.