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NEWTEK BUSINESS SERVICES INC

Form S-3/A

January 16, 2004

As filed with the Securities and Exchange Commission on January 16, 2004

Registration No. 333-81610

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Amendment No. 6

NEWTEK BUSINESS SERVICES, INC.
(Exact name of registrant as specified in its charter)

NEW YORK
(State or other jurisdiction of
incorporation or organization)

11-3504638
(I.R.S. Employer
Identification No.)

100 QUENTIN ROOSEVELT BLVD.
SUITE 408
GARDEN CITY, NEW YORK 11530
(516) 390-2260
(Address, including zip code, and telephone number, including area code,
of Registrant's principal executive offices)

BARRY SLOANE
CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER
NEWTEK BUSINESS SERVICES, INC.
462 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NEW YORK 10018
(212) 356-9500
(Name, address, including zip code, and telephone number,
including area code, of agent for service of process)

Copies To:
MATTHEW G. ASH, ESQ.
COZEN O'CONNOR
1667 K STREET, NW
WASHINGTON, DC 2006
(202) 912-4800 (PHONE)
(202) 912-4830 (FAX)

APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE OF SECURITIES TO THE PUBLIC:
As soon as practicable after the effective date of this Registration Statement.

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If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. |_ |

If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. |X |

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. |_ |

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. |_ |

If the delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. |_ |

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The registrant hereby amends this registration statement on such date or dates as maybe necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall there after become effective in accordance with section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said section 8(a), may determine.

1,517,168 SHARES

NEWTEK BUSINESS SERVICES, INC.

COMMON STOCK

This prospectus relates to the offering of 1,517,168 shares of our common stock, par value \$0.02 per share. These shares may be sold from time to time by our current stockholders, who acquired these shares from us through private transactions.

The selling stockholders may sell the shares at prices determined by the prevailing market price for the shares or in negotiated transactions. We will not receive any proceeds from the sale of these shares.

Our common stock is traded on The Nasdaq Stock Market under the symbol "NKBS". On January __, 2004, the last reported sale price of our common stock was \$ _____ per share.

BEFORE BUYING ANY SHARES YOU SHOULD READ THE DISCUSSION OF MATERIAL RISKS OF INVESTING IN OUR COMMON STOCK IN "RISK FACTORS" BEGINNING ON PAGE 4.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES

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COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES, OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The date of this prospectus is January __, 2004.

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PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus. It is not complete and does not contain all of the information that you should consider before investing in the shares. You should read the entire prospectus carefully and you should consider the information set forth under "Risk Factors".

Newtek Business Services, Inc., which changed its name from that of Newtek Capital, Inc. in November 2002 in order to emphasize its current business objectives, is engaged in the business of

- o owning, operating or coordinating 8 businesses lines which serve small businesses and
- o organizing certified capital companies ("capcos") and investing funds made available under the capco programs in small businesses including, those in which it holds an equity position.

During 2002, direct business operations of its businesses resulted in revenue of approximately \$4 Million or 12% of total revenue and the operation of the capcos resulted in non-cash revenues related to the capco tax credits of approximately \$30 Million, or 88% of total revenue. The chart on the following page depicts how these revenues are generated. During the same period, Newtek realized net income (exclusive of extraordinary gains) of approximately \$4.5 Million, substantially all of which is attributable to the non-cash income related to the capco programs.

Business & Business Strategy. Newtek's strategy is to operate the capcos

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and utilize the funding resources available under the programs principally to develop businesses that emphasize serving other small businesses. The long term value to Newtek and its stockholders will ultimately be the degree to which management has been able to run these businesses in a profitable manner. During 2002 and 2003 Newtek has reduced the number of business lines that it is investing in and operating and currently Newtek is placing primary emphasis on 8 such lines.

Newtek Small Business Finance -- small business loans available under programs of the United States Small Business Administration
Newtek Merchant Solutions -- small business electronic payment processing
Newtek Financial Information Services -- small business financial and management reporting and planning
Newtek Business Exchange -- small business brokerage and M & A services
Newtek Tax Services -- small business tax preparation services

Secondary emphasis has been placed on the following:

Newtek IT Services -- software development and systems integration for small business
Newtek Securities -- small business capital formation assistance of a broker-dealer
Newtek Strategies -- small business strategic marketing planning and advise

Capco programs are enacted by states wishing to stimulate investment in small and new businesses in the state. Typically, a state will provide a 100 percent tax credit (in Louisiana, 110%) in exchange for a debt or equity investment by an insurance company into a capco. The capco is then obligated to invest the funds pursuant to the statutory requirements (i.e., size of business, location, number of employees, certain businesses are to be avoided, etc.) The states typically provide that the tax credits are, for a period of 3-5 years, subject to cancellation or recapture if the capco fails to meet the minimum investments required, typically 50 percent within 5 years. Thereafter, the investment obligations remain, but the tax credits are beyond loss to the investors. Newtek now owns and manages ten capcos (aggregate funds raised totaling approximately \$169 million) and, to the extent consistent with the specific state statutory requirements, is able to use the funds available in the programs for debt and/or equity investments in small businesses which fit its investment criteria. Newtek has structured the capco obligations to the insurance company investors so as to provide interest payments largely through use of the tax credits by the insurance companies and arranged for principal repayment by either National Union Fire Insurance Company of Pittsburgh, Inc. or American International Specialty Lines Insurance Company, Inc., both triple-A rated insurance companies and subsidiaries of The American International Group, Inc. Typically, the cost of this insurance and the extinguishment of the repayment obligations is approximately 56% of the respective capco's initial cash. See "Business - Capco Insurance." On a cumulative basis, Newtek's capcos have received insurance company funds of \$169.1 Million (representing an equal amount of tax credits), received other initial cash receipts of \$33.8 Million from initial capital investments by Newtek and cash market price adjustments on the capco notes, paid \$113.3 Million for capco insurance, had \$69.9 Million in cash to begin operations in order to meet aggregate minimum investment requirements of \$74.7 Million (without consideration of reinvestment of funds), and as of December 31, 2003 had yet to invest approximately \$9.2 Million in order to satisfy all minimum investment requirements.

Because of the costs of organization and of the capco insurance, all of our capcos have begun operations with cash equal to approximately 45% of the amount of the minimum investment requirements. Newtek has supplemented this cash available for capco investments through borrowings from AI Credit, Inc., an affiliate of the capco insurer. In addition however, the capcos are able to receive returns of and on their debt and equity investments and then reinvest the funds with credit toward the minimum investment requirements. As of December 31, 2003, 7 of Newtek's 10 capcos have used this procedure to meet all minimum required investment benchmarks.

In 2002 all of the consolidated companies that we invested in generated a net loss of \$3.4 Million on revenues of \$3.7 Million. In addition, Newtek recorded approximately \$729,000 in equity in losses of affiliates and determined that another than temporary impairment in value of \$1.57 Million had been incurred for all other investments. See "Business" below and also the section of Newtek's Annual Report on Form 10-KSB "Principal Business Activities - Partner Companies" for a full description of the primary investments made by Newtek and its capcos and the results of their operations.

Newtek and its capcos do not generate any revenue for goods or services from the companies in which it invests. The partner companies and others in which the capcos invest do provide services, and to a much lesser degree goods, to each other. However, the effect of such inter-company revenues and expenses are eliminated in consolidation of the financial results. The parent company, Newtek itself, generates most of its cash from statutorily fixed, annual management fees of 2.5% of certified capital. The services provided range from advice and assistance with strategic relationships to direct and daily involvement in policy making and management consulting with the companies.

On August 7, 2003, Newtek's Florida capco completed an investment in Automated Merchant Services, Inc., a company engaged in the business of soliciting merchants and others for credit card processing services. The acquisition brings to Newtek's credit card processing business an additional 2,100 existing clients as well as 10 customer service representatives covering the Southern Florida market. In addition to gaining a significant foothold in the Florida small to medium -sized business market, Newtek will utilize this acquisition to cross-market other Newtek products and services including its small business lending service, outsourced bookkeeping service and tax and insurance services. Newtek plans on growing AMS beyond the Florida market and expanding its product base to include everything that Newtek's existing processing marketer, Newtek Merchant Solutions, offers.

RESALE REGISTRATION

Newtek is registering these securities for resale by the selling stockholders and will receive no proceeds from their disposition. A substantial portion of the registered securities are subject to contractual restrictions on transfer for up to three years. See "Selling Stockholders."

HOW TO CONTACT US

Our principal executive offices are located at 100 Quentin Roosevelt Boulevard, Garden City, New York and our telephone number is (516) 794-0100. We were incorporated in 1999 in New York.

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NEWTEK GENERATES REVENUE THROUGH THE OPERATION OF CAPCO'S AND THROUGH EARNINGS AND RETURNS ON THE INVESTMENTS IT MAKES

STATES ADOPT CAPCO PROGRAMS TO FOSTER JOB & SMALL BUSINESSES GROWTH; INSURANCE COMPANIES GET TAX CREDITS FOR FUNDING	FUNDS REMAINING AFTER PAYMENT FOR CREDIT ENHANCEMENT PLUS OTHER FUNDS
 V	-> RAISED OUTSIDE CAPCO PROGRAMS ARE INVESTED: \$63.6 MILLION IN BUSINESSES THRU DECEMBER 31, 2002 V
NEWTEK HAS ORGANIZED AND INVESTED \$3,778,000 IN SEED CAPITAL FOR TEN CAPCOS	\$43.7 MILLION INVESTED IN COMPANIES WHERE NEWTEK TAKES A VERY ACTIVE PARTICIPATION IN OWNERSHIP AND MANAGEMENT INCLUDING COST-FREE LICENSING OF NEWTEK BRAND NAME
 V	 V
NEWTEK'S CAPCOS HAVE BORROWED ABOUT \$165 MILLION FROM INSURANCE COMPANIES THROUGH 2002; INSURANCE COMPANIES TREAT RECEIPT OF STATE TAX CREDITS AS INTEREST INCOME	^ INVESTMENTS ARE PRINCIPALLY DIRECTED AT PROVIDING SERVICES NEEDED BY OTHER SMALL BUSINESSES AND WHICH CAN BENEFIT FROM CROSS MARKETING
 V	 V
ABOUT HALF OF AVAILABLE CASH USED TO PURCHASE CREDIT EXTINGUISHMENT (REPAYMENT OF PRINCIPAL) AND	 V