

(Pub. L. 93-618, title II, §249, Jan. 3, 1975, 88 Stat. 2029.)

TERMINATION DATE

No trade adjustment assistance, vouchers, allowances, or other payments or benefits may be provided under this part after Dec. 31, 2007, except as otherwise provided, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2322. Repealed. Pub. L. 107-210, div. A, title I, § 123(b)(2), Aug. 6, 2002, 116 Stat. 944

Section, Pub. L. 93-618, title II, §249A, as added Pub. L. 103-182, title V, §503(c), Dec. 8, 1993, 107 Stat. 2151, prohibited assistance relating to a separation pursuant to certifications under both subparts A and D of this part.

PRIOR PROVISIONS

A prior section 2322, Pub. L. 93-618, title II, §250, Jan. 3, 1975, 88 Stat. 2029, provided for judicial review for workers or groups aggrieved by a final determination by the Secretary under section 2273 of this title, prior to repeal by Pub. L. 96-417, title VI, §612, title VII, §701(a), Oct. 10, 1980, 94 Stat. 1746, 1747, effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date. See section 2395 of this title.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to petitions filed under this part on or after the date that is 90 days after Aug. 6, 2002, except with respect to certain workers, see section 123(c) of Pub. L. 107-210, set out as a note under section 2331 of this title.

SUBPART D—NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM

§ 2331. Repealed. Pub. L. 107-210, div. A, title I, § 123(a), Aug. 6, 2002, 116 Stat. 944

Section, Pub. L. 93-618, title II, §250, as added Pub. L. 103-182, title V, §502, Dec. 8, 1993, 107 Stat. 2149; amended Pub. L. 105-277, div. J, title I, §1012(b), Oct. 21, 1998, 112 Stat. 2681-901; Pub. L. 106-113, div. B, §1000(a)(5) [title VII, §702(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-319, established a NAFTA transitional adjustment assistance program.

PRIOR PROVISIONS

A prior section 250 of Pub. L. 93-618, title II, Jan. 3, 1975, 88 Stat. 2029, provided for judicial review for workers or groups aggrieved by a final determination by the Secretary under section 2273 of this title, and was classified to section 2322 of this title, prior to repeal by Pub. L. 96-417.

EFFECTIVE DATE OF REPEAL

Pub. L. 107-210, div. A, title I, §123(c), Aug. 6, 2002, 116 Stat. 944, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending sections 2275 and 2395 of this title and repealing this subpart and section 2322 of this title] shall apply with respect to petitions filed under chapter 2 of title II of the Trade Act of 1974 [this part], on or after the date that is 90 days after the date of enactment of this Act [Aug. 6, 2002].

“(2) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker receiving benefits under chapter 2 of title II of the Trade Act of 1974 shall continue to receive (or be eligible to receive) benefits and services under chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the amendments made by this section take effect under subsection (a), for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date.”

PART 3—ADJUSTMENT ASSISTANCE FOR FIRMS

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2341. Petitions and determinations

(a) Filing of petition; receipt of petition; initiation of investigation

A petition for a certification of eligibility to apply for adjustment assistance under this part may be filed with the Secretary of Commerce (hereinafter in this part referred to as the “Secretary”) by a firm (including any agricultural firm) or its representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(b) Public hearing

If the petitioner, or any other person, organization, or group found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) of this section a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

(c) Certification

(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this part if the Secretary determines—

(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

(B) that—

(i) sales or production, or both, of such firm have decreased absolutely, or

(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

(C) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

(2) For purposes of paragraph (1)(C)—

(A) The term “contributed importantly” means a cause which is important but not necessarily more important than any other cause.

(B)(i) Any firm which engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(ii) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

(d) Allowable period for determination

A determination shall be made by the Secretary as soon as possible after the date on which the petition is filed under this section, but in any event not later than 60 days after that date.

(Pub. L. 93-618, title II, §251, Jan. 3, 1975, 88 Stat. 2030; Pub. L. 99-272, title XIII, §13002(b), Apr. 7, 1986, 100 Stat. 300; Pub. L. 100-418, title I, §1421(a)(2), (b)(2), Aug. 23, 1988, 102 Stat. 1243, 1244.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100-418, §1421(a)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this part if he determines—

“(1) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated.

“(2) that—

“(A) sales or production, or both, of the firm have decreased absolutely, or

“(B) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

“(3) that increases of imports of articles like or directly competitive with articles produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term ‘contributed importantly’ means a cause which is important but not necessarily more important than any other cause.”

Subsec. (c)(1)(C). Pub. L. 100-418, §1421(b)(2), directed the general amendment of subpar. (C) adding provisions relating to provision of essential goods or services by such firm, which amendment did not become effective pursuant to section 1430(d) of Pub. L. 100-418, as amended, set out as an Effective Date note under section 2397 of this title.

1986—Subsecs. (a), (c). Pub. L. 99-272, §13002(b)(1), inserted “(including any agricultural firm)” after “firm”.

Subsec. (c)(2). Pub. L. 99-272, §13002(b)(2), amended par. (2) generally, designating existing provisions as subpar. (A), substituting “of the firm have decreased absolutely, or” for “of such firm have decreased absolutely, and”, and adding subpar. (B).

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2342. Approval of adjustment proposals**(a) Application for adjustment assistance**

A firm certified under section 2341 of this title as eligible to apply for adjustment assistance may, at any time within 2 years after the date of such certification, file an application with the Secretary for adjustment assistance under this part. Such application shall include a proposal for the economic adjustment of such firm.

(b) Technical assistance

(1) Adjustment assistance under this part consists of technical assistance. The Secretary shall approve a firm’s application for adjustment as-

sistance only if the Secretary determines that the firm’s adjustment proposal—

(A) is reasonably calculated to materially contribute to the economic adjustment of the firm,

(B) gives adequate consideration to the interests of the workers of such firm, and

(C) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.

(2) The Secretary shall make a determination as soon as possible after the date on which an application is filed under this section, but in no event later than 60 days after such date.

(c) Termination of certification of eligibility

Whenever the Secretary determines that any firm no longer requires assistance under this part, he shall terminate the certification of eligibility of such firm and promptly have notice of such termination published in the Federal Register. Such termination shall take effect on the termination date specified by the Secretary.

(Pub. L. 93-618, title II, §252, Jan. 3, 1975, 88 Stat. 2030; Pub. L. 99-272, title XIII, §13006(a)(1), (2), Apr. 7, 1986, 100 Stat. 304.)

AMENDMENTS

1986—Subsec. (b)(1). Pub. L. 99-272, §13006(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Adjustment assistance under this part consists of technical assistance and financial assistance, which may be furnished singly or in combination. The Secretary shall approve a firm’s application for adjustment assistance only if he determines—

“(A) that the firm has no reasonable access to financing through the private capital market, and

“(B) that the firm’s adjustment proposal—

“(i) is reasonably calculated materially to contribute to the economic adjustment of the firm,

“(ii) gives adequate consideration to the interests of the workers of such firm, and

“(iii) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.”

Subsecs. (c), (d). Pub. L. 99-272, §13006(a)(2), redesignated subsec. (d) as (c) and struck out former subsec. (c) which authorized the Secretary to assist an eligible firm in the preparation of a viable adjustment proposal.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2343. Technical assistance**(a) Discretion of Secretary; types of assistance**

The Secretary may provide a firm, on terms and conditions as the Secretary determines to be appropriate, with such technical assistance as in his judgment will carry out the purposes of this part with respect to the firm. The technical assistance furnished under this part may consist of one or more of the following:

(1) Assistance to a firm in preparing its petition for certification of eligibility under section 2341 of this title.

(2) Assistance to a certified firm in developing a proposal for its economic adjustment.

(3) Assistance to a certified firm in the implementation of such a proposal.

(b) Utilization of existing agencies, private individuals, etc., in furnishing assistance; grants to intermediary organizations

(1) The Secretary shall furnish technical assistance under this part through existing agencies and through private individuals, firms, or institutions (including private consulting services), or by grants to intermediary organizations (including Trade Adjustment Assistance Centers).

(2) In the case of assistance furnished through private individuals, firms, or institutions (including private consulting services), the Secretary may share the cost thereof (but not more than 75 percent of such cost for assistance described in paragraph (2) or (3) of subsection (a) of this section may be borne by the United States).

(3) The Secretary may make grants to intermediary organizations in order to defray up to 100 percent of administrative expenses incurred in providing such technical assistance to a firm.

(Pub. L. 93-618, title II, §253, Jan. 3, 1975, 88 Stat. 2031; Pub. L. 97-35, title XXV, §2521, Aug. 13, 1981, 95 Stat. 890; Pub. L. 99-272, title XIII, §13006(a)(3), Apr. 7, 1986, 100 Stat. 304.)

AMENDMENTS

1986—Subsec. (b)(2). Pub. L. 99-272 substituted “such cost for assistance described in paragraph (2) or (3) of subsection (a) of this section” for “such cost”.

1981—Subsec. (a). Pub. L. 97-35 amended subsec. (a) generally, incorporating provisions formerly contained in subsec. (b) and, in those provisions, substituted discretionary language for non-discretionary language relating to the assistance furnished and allowed the giving of assistance to firms in the preparation of their petitions for certification of eligibility under section 2341 of this title.

Subsec. (b). Pub. L. 97-35 amended subsec. (b) generally, incorporating in pars. (1) and (2) provisions formerly contained in subsec. (c), inserted reference to grants to intermediary organizations (including Trade Adjustment Assistance Centers) in par. (1), and added par. (3). Provisions formerly contained in subsec. (b) were transferred to subsec. (a).

Subsec. (c). Pub. L. 97-35 struck out subsec. (c) and transferred the provisions to subsec. (b)(1) and (2).

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2529 of Pub. L. 97-35 provided that:

“(a) Subject to subsection (b), the amendments made by this subtitle [subtitle B (§§2521-2529) of title XXV of Pub. L. 97-35, enacting section 2355 of this title, amending this section and sections 2344 to 2347 of this title, and repealing section 2353 of this title] shall take effect on the date of the enactment of this Act [Aug. 13, 1981].

“(b) Applications for adjustment assistance under chapter 3 of title II of the Trade Act of 1974 [this part] which the Secretary of Commerce accepted for processing before the date of the enactment of this Act [Aug. 13, 1981] shall continue to be processed in accordance with the requirements of such chapter as in effect before such date of enactment.”

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2344. Financial assistance

(a) Direct loans and guarantees of loans

The Secretary may provide to a firm, on such terms and conditions as he determines to be ap-

propriate, such financial assistance in the form of direct loans or guarantees of loans as in his judgment will materially contribute to the economic adjustment of the firm. The assumption of an outstanding indebtedness of the firm, with or without recourse, shall be considered to be the making of a loan for purposes of this section.

(b) Allowable purposes

Loans or guarantees of loans shall be made under this part only for the purpose of making funds available to the firm—

(1) for acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery, or

(2) to supply such working capital as may be necessary to enable the firm to implement its adjustment proposal.

(c) Limitation on direct loans

No direct loan may be provided to a firm under this part if the firm can obtain loan funds from private sources (with or without a guarantee) at a rate no higher than the maximum interest per annum that a participating financial institution may establish on guaranteed loans made pursuant to section 636(a) of title 15.

(d) Limitations on loans and guarantees

Notwithstanding any other provision of this part, no direct loans or guarantees of loans may be made under this part after April 7, 1986.

(Pub. L. 93-618, title II, §254, Jan. 3, 1975, 88 Stat. 2031; Pub. L. 97-35, title XXV, §2522, Aug. 13, 1981, 95 Stat. 891; Pub. L. 99-272, title XIII, §13006(b), Apr. 7, 1986, 100 Stat. 304.)

AMENDMENTS

1986—Subsec. (d). Pub. L. 99-272 added subsec. (d).

1981—Subsec. (c). Pub. L. 97-35 substituted provisions relating to limitation on direct loans on the basis of interest rates on loans under section 636(a) of title 15 for provisions relating to limitation on direct loans on the basis of interest rates under section 2345(b) of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, except as otherwise provided with respect to applications for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as a note under section 2343 of this title.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2345. Conditions for financial assistance

(a) Unavailability of firm's resources; reasonable assurance of repayment

No financial assistance shall be provided under this part unless the Secretary determines—

(1) that the funds required are not available from the firm's own resources; and

(2) that there is reasonable assurance of repayment of the loan.

(b) Interest rates

(1) The rate of interest on direct loans made under this part shall be—

(A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity that are comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 percent, plus

(B) an amount adequate in the judgment of the Secretary of Commerce to cover administrative costs and probable losses under the program.

(2) The Secretary may not guarantee any loan under this part if—

(A) the rate of interest on either the portion to be guaranteed, or the portion not to be guaranteed, is determined by the Secretary to be excessive when compared with other loans bearing Federal guarantees and subject to similar terms and conditions, and

(B) the interest on the loan is exempt from Federal income taxation under section 103 of title 26.

(c) Maturity of loans

The Secretary shall make no loan or guarantee of a loan under section 2344(b)(1) of this title having a maturity in excess of 25 years or the useful life of the fixed assets (whichever period is shorter), including renewals and extensions; and shall make no loan or guarantee of a loan under section 2344(b)(2) of this title having a maturity in excess of 10 years, including extensions and renewals. Such limitations on maturities shall not, however, apply—

(1) to securities or obligations received by the Secretary as claimant in bankruptcy or equitable reorganization, or as creditor in other proceedings attendant upon insolvency of the obligor, or

(2) to an extension or renewal for an additional period not exceeding 10 years, if the Secretary determines that such extension or renewal is reasonably necessary for the orderly liquidation or servicing of the loan.

(d) Priority for small firms; servicing of loans

(1) In making guarantees of loans, and in making direct loans, the Secretary shall give priority to firms which are small within the meaning of the Small Business Act [15 U.S.C. 631 et seq.] (and regulations promulgated thereunder).

(2) For any direct loan made, or any loan guaranteed, under the authority of this part, the Secretary may enter into arrangements for the servicing, including foreclosure, of such loans or evidences of indebtedness on terms which are reasonable and which protect the financial interests of the United States.

(e) Loan guarantee conditions

The following conditions apply with respect to any loan guaranteed under this part:

(1) No guarantee may be made for an amount which exceeds 90 percent of the outstanding balance of the unpaid principal and interest on the loan.

(2) The loan may be evidenced by multiple obligations for the guaranteed and nonguaranteed portions of the loan.

(3) The guarantee agreement shall be conclusive evidence of the eligibility of any obliga-

tion guaranteed thereunder for such guarantee, and the validity of any guarantee agreement shall be incontestable, except for fraud or misrepresentation by the holder.

(f) Operating reserves

The Secretary shall maintain operating reserves with respect to anticipated claims under guarantees made under this part. Such reserves shall be considered to constitute obligations for purposes of sections 1108(c) and (d), 1501, and 1502(a) of title 31.

(g) Fees to lenders which make loan guarantees

The Secretary may charge a fee to a lender which makes a loan guaranteed under this part in such amount as is necessary to cover the cost of administration of such guarantee.

(h) Maximum aggregate amount of outstanding guaranteed or direct loans

(1) The aggregate amount of loans made to any firm which are guaranteed under this part and which are outstanding at any time shall not exceed \$3,000,000.

(2) The aggregate amount of direct loans made to any firm under this part which are outstanding at any time shall not exceed \$1,000,000.

(i) Preference for firms having employee stock ownership plans

(1) When considering whether to grant a direct loan or to guarantee a loan to a corporation which is otherwise certified under section 2341 of this title, the Secretary shall give preference to a corporation which agrees with respect to such loan to fulfill the following requirements—

(A) 25 percent of the principal amount of the loan is paid by the lender to a qualified trust established under an employee stock ownership plan established and maintained by the recipient corporation, by a parent or subsidiary of such corporation, or by several corporations including the recipient corporation,

(B) the employee stock ownership plan meets the requirements of this subsection, and

(C) the agreement among the recipient corporation, the lender, and the qualified trust relating to the loan meets the requirements of this section.

(2) An employee stock ownership plan does not meet the requirements of this subsection unless the governing instrument of the plan provides that—

(A) the amount of the loan paid under paragraph (1)(A) to the qualified trust will be used to purchase qualified employer securities,

(B) the qualified trust will repay to the lender the amount of such loan, together with the interest thereon, out of amounts contributed to the trust by the recipient corporation, and

(C) from time to time, as the qualified trust repays such amount, the trust will allocate qualified employer securities among the individual accounts of participants and their beneficiaries in accordance with the provisions of paragraph (4).

(3) The agreement among the recipient corporation, the lender, and the qualified trust does not meet the requirements of this subsection unless—

(A) it is unconditionally enforceable by any party against the others, jointly and severally,

(B) it provides that the liability of the qualified trust to repay loan amounts paid to the qualified trust may not, at any time, exceed an amount equal to the amount of contributions required under paragraph (2)(B) which are actually received by such trust,

(C) it provides that amounts received by the recipient corporation from the qualified trust for qualified employer securities purchased for the purpose of this subsection will be used exclusively by the recipient corporation for those purposes for which it may use that portion of the loan paid directly to it by the lender,

(D) it provides that the recipient corporation may not reduce the amount of its equity capital during the one year period beginning on the date on which the qualified trust purchases qualified employer securities for purposes of this subsection, and

(E) it provides that the recipient corporation will make contributions to the qualified trust of not less than such amounts as are necessary for such trust to meet its obligation to make repayments of principal and interest on the amount of the loan received by the trust without regard to whether such contributions are deductible by the corporation under section 404 of title 26 and without regard to any other amounts the recipient corporation is obligated under law to contribute to or under the employee stock ownership plan.

(4) At the close of each plan year, an employee stock ownership plan shall allocate to the accounts of participating employees that portion of the qualified employer securities the cost of which bears substantially the same ratio to the cost of all the qualified employer securities purchased under paragraph (2)(A) of this subsection as the amount of the loan principal and interest repaid by the qualified trust during that year bears to the total amount of the loan principal and interest payable by such trust during the term of such loan. Qualified employer securities allocated to the individual account of a participant during one plan year must bear substantially the same proportion to the amount of all such securities allocated to all participants in the plan as the amount of compensation paid to such participant bears to the total amount of compensation paid to all such participants during that year.

(5) For purposes of this subsection, the term—

(A) “employee stock ownership plan” means a plan described in section 4975(e)(7) of title 26,

(B) “qualified trust” means a trust established under an employee stock ownership plan and meeting the requirements of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] and section 401 of title 26,

(C) “qualified employer securities” means common stock issued by the recipient corporation or by a parent or subsidiary of such corporation with voting power and dividend rights no less favorable than the voting power and dividend rights on other common stock issued by the issuing corporation and with voting power being exercised by the participants

in the employee stock ownership plan after it is allocated to their plan accounts, and

(D) “equity capital” means, with respect to the recipient corporation, the sum of its money and other property (in an amount equal to the adjusted basis of such property but disregarding adjustments made on account of depreciation or amortization made during the period described in paragraph (3)(D)), less the amount of its indebtedness.

(Pub. L. 93-618, title II, § 255, Jan. 3, 1975, 88 Stat. 2031; Pub. L. 97-35, title XXV, § 2523, Aug. 13, 1981, 95 Stat. 891; Pub. L. 98-120, § 4(a), Oct. 12, 1983, 97 Stat. 809; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (d)(1), is Pub. L. 85-536, § 2 (1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (i)(5)(B), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended. Title I of the Employee Retirement Income Security Act of 1974 is classified generally to subchapter I (§ 1001 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

CODIFICATION

In subsec. (f), “sections 1108(c) and (d), 1501, and 1502(a) of title 31” substituted for “section 1311 of the Supplemental Appropriation Act, 1955 (31 U.S.C. 200)” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1986—Subsecs. (b)(2)(B), (i)(3)(E), (5)(A), (B). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1983—Subsec. (i). Pub. L. 98-120 added subsec. (i).

1981—Subsec. (b). Pub. L. 97-35, § 2523(1), amended subsec. (b) generally, substituting provisions limiting the maximum rate of interest on loans guaranteed under this part on the basis of comparison with other Federally guarantee loans for provisions limiting the maximum interest rate on the basis of 15 U.S.C. 636(a) and inserting provisions prohibiting the guarantee of loans if the interest is tax exempt.

Subsec. (c). Pub. L. 97-35, § 2523(2), inserted references to section 2344 of this title, alternative limitation of useful life of asset, and prohibition of guarantees in excess of 10 years in provisions preceding par. (1) and inserted “or servicing” in par. (2).

Subsec. (d). Pub. L. 97-35, § 2523(3), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 97-35, § 2523(4), substituted provisions respecting conditions applicable to loan guarantees for provisions relating to percentage maximum on loan guarantees which are covered in par. (1).

EFFECTIVE DATE OF 1983 AMENDMENT

Section 4(b) of Pub. L. 98-120 provided that: “The amendment made by subsection (a) [amending this section] shall become effective on the date of the enactment of this Act [Oct. 12, 1983].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, except as otherwise provided with respect to applica-

tions for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as a note under section 2343 of this title.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2346. Delegation of functions to Small Business Administration

(a) Delegation of functions as to eligibility certification

In the case of any firm which is small (within the meaning of the Small Business Act [15 U.S.C. 631 et seq.] and regulations promulgated thereunder), the Secretary may delegate all of his functions under this part (other than the functions under sections 2341 and 2342(d)¹ of this title with respect to the certification of eligibility and section 2354 of this title) to the Administrator of the Small Business Administration.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary \$16,000,000 for each of fiscal years 2003 through 2007, and \$4,000,000 for the 3-month period beginning on October 1, 2007, to carry out the Secretary's functions under this part in connection with furnishing adjustment assistance to firms. Amounts appropriated under this subsection shall remain available until expended.

(c) Transfer of unexpended appropriations

The unexpended balances of appropriations authorized by section 1912(d)¹ of this title are transferred to the Secretary to carry out his functions under this part.

(Pub. L. 93-618, title II, § 256, Jan. 3, 1975, 88 Stat. 2032; Pub. L. 97-35, title XXV, § 2524, Aug. 13, 1981, 95 Stat. 892; Pub. L. 99-272, title XIII, § 13008(b), Apr. 7, 1986, 100 Stat. 305; Pub. L. 100-418, title I, § 1426(b)(2), Aug. 23, 1988, 102 Stat. 1251; Pub. L. 103-66, title XIII, § 13803(a)(2), Aug. 10, 1993, 107 Stat. 668; Pub. L. 105-277, div. J, title I, § 1012(c), Oct. 21, 1998, 112 Stat. 2681-901; Pub. L. 106-113, div. B, § 1000(a)(5) [title VII, § 702(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A-319; Pub. L. 107-210, div. A, title I, §§ 111(b), 131, Aug. 6, 2002, 116 Stat. 936, 946; Pub. L. 108-429, title II, § 2004(a)(3), Dec. 3, 2004, 118 Stat. 2589; Pub. L. 110-89, § 1(b), Sept. 28, 2007, 121 Stat. 982.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (a), is Pub. L. 85-536, § 2 (1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

Section 2342(d) of this title, referred to in subsec. (a), was redesignated section 2342(c) of this title by Pub. L. 99-272, title XIII, § 13006(a)(2), Apr. 7, 1986, 100 Stat. 304.

Section 1912 of this title, referred to in subsec. (c), was repealed by section 602(e) of Pub. L. 93-618. See section 2341 et seq. of this title for successor provisions.

AMENDMENTS

2007—Subsec. (b). Pub. L. 110-89 inserted “and \$4,000,000 for the 3-month period beginning on October 1, 2007,” after “2007.”

¹ See References in Text note below.

2004—Subsec. (b). Pub. L. 108-429 deemed amendment by Pub. L. 107-210, § 111(b), never to have been enacted. See 2002 Amendment note below.

2002—Subsec. (b). Pub. L. 107-210, § 131, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are hereby authorized to be appropriated to the Secretary for the period beginning October 1, 1998, and ending September 30, 2001, such sums as may be necessary to carry out his functions under this part in connection with furnishing adjustment assistance to firms (including, but not limited to, the payment of principal, interest, and reasonable costs incident to default on loans guaranteed by the Secretary under the authority of this part), which sums are authorized to be appropriated to remain available until expended.”

Pub. L. 107-210, § 111(b), substituted “October 1, 2001, and ending September 30, 2007,” for “October 1, 1998, and ending September 30, 2001”. Pub. L. 108-429, title II, § 2004(a)(3), provided that the amendment by Pub. L. 107-210, § 111(b), shall be deemed never to have been enacted.

1999—Subsec. (b). Pub. L. 106-113 substituted “September 30, 2001” for “June 30, 1999”.

1998—Subsec. (b). Pub. L. 105-277 substituted “for the period beginning October 1, 1998, and ending June 30, 1999” for “for fiscal years 1993, 1994, 1995, 1996, 1997, and 1998”.

1993—Subsec. (b). Pub. L. 103-66 substituted “1993, 1994, 1995, 1996, 1997, and 1998” for “1988, 1989, 1990, 1991, 1992, and 1993”.

1988—Subsec. (b). Pub. L. 100-418 substituted “1988, 1989, 1990, 1991, 1992, and 1993” for “1986, 1987, 1988, 1989, 1990, and 1991”.

1986—Subsec. (b). Pub. L. 99-272 inserted “for fiscal years 1986, 1987, 1988, 1989, 1990, and 1991” after “Secretary”, struck out “from time to time” after “as may be necessary”, and struck out “Direct loans and commitments to guarantee loans may be made under this part during any fiscal year only to such extent and in such amounts as are provided in advance in appropriations Acts.” after “available until expended.”

1981—Subsec. (b). Pub. L. 97-35 inserted provisions relating to payment of principal, interest, and reasonable costs, incident to defaults on guaranteed loans and provisions relating to direct loans and commitments to guarantee loans.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-89 effective Oct. 1, 2007, see section 1(e) of Pub. L. 110-89, set out as a note under section 2317 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-210 applicable to petitions for certification filed under this part or part 2 of this subchapter on or after the date that is 90 days after Aug. 6, 2002, except as otherwise provided, see section 151 of Pub. L. 107-210, set out as a note preceding section 2271 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective as of July 1, 1999, see section 1000(a)(5) [title VII, § 702(e)] of Pub. L. 106-113, set out as a note under section 2317 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Parts 2 and 3 of this subchapter applicable as if the amendment of this section by Pub. L. 99-272 had taken effect Dec. 18, 1985, see section 13009(c) of Pub. L. 99-272, set out as a note under section 2291 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, except as otherwise provided with respect to applications for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as a note under section 2343 of this title.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2347. Administration of financial assistance**(a) Powers of Secretary**

In making and administering guarantees and loans under section 2344 of this title, the Secretary may—

(1) require security for any such guarantee or loan, and enforce, waive, or subordinate such security;

(2) assign or sell at public or private sale, or otherwise dispose of, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with such guarantees or loans, and collect, compromise, and obtain deficiency judgments with respect to all obligations assigned to or held by him in connection with such guarantees or loans until such time as such obligations may be referred to the Attorney General for suit or collection;

(3) renovate, improve, modernize, complete, insure, rent, sell, or otherwise deal with, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him in connection with such guarantees or loans;

(4) acquire, hold, transfer, release, or convey any real or personal property or any interest therein whenever deemed necessary or appropriate, and execute all legal documents for such purposes; and

(5) exercise all such other powers and take all such other acts as may be necessary or incidental to the carrying out of functions pursuant to section 2344 of this title.

(b) Recordation of mortgages

Any mortgage acquired as security under subsection (a) of this section shall be recorded under applicable State law.

(c) Availability of receipts for financing functions

All repayments of loans, payments of interest, and other receipts arising out of transactions entered into by the Secretary pursuant to this part, shall be available for financing functions performed under this part, including administrative expenses in connection with such functions.

(d) Privileged or confidential information

To the extent the Secretary deems it appropriate, and consistent with the provisions of section 552(b)(4) and section 552b(c)(4) of title 5, that portion of any record, material or data received by the Secretary in connection with any application for financial assistance under this part which contains trade secrets or commercial or financial information regarding the operation or competitive position of any business shall be deemed to be privileged or confidential within the meaning of those provisions.

(e) Capital assets secured by first lien; exceptions

Direct loans made, or loans guaranteed, under this part for the acquisition or development of real property or other capital assets shall ordinarily be secured by a first lien on the assets to be financed and shall be fully amortized. To the extent that the Secretary finds that exceptions to these standards are necessary to achieve the objectives of this part, he shall develop appropriate criteria for the protection of the interests of the United States.

(Pub. L. 93-618, title II, § 257, Jan. 3, 1975, 88 Stat. 2033; Pub. L. 97-35, title XXV, § 2525, Aug. 13, 1981, 95 Stat. 892.)

AMENDMENTS

1981—Subsecs. (d), (e). Pub. L. 97-35 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, except as otherwise provided with respect to applications for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as a note under section 2343 of this title.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

DEPOSIT OF RECEIPTS FROM TRANSACTIONS UNDER THIS PART INTO ECONOMIC DEVELOPMENT REVOLVING FUND

Pub. L. 100-202, § 101(a) [title I, § 106], Dec. 22, 1987, 101 Stat. 1329, 1329-7, provided that: "Notwithstanding any other provision of law, including section 257(c) of the Trade Act of 1974, as amended [19 U.S.C. 2347(c)], and section 203 of the Public Works and Economic Development Act of 1965, as amended [42 U.S.C. 3143], principal and interest repayments from loans, proceeds from the sale of loan assets or collateral, and other receipts arising out of transactions entered into pursuant to title II, chapter 3 of the Trade Act of 1974 [19 U.S.C. 2341 et seq.] shall be deposited into the economic development revolving fund established under section 203 of the Public Works and Economic Development Act of 1965 beginning October 1, 1987: *Provided*, That payments of obligations in connection with loans guaranteed under the authority of the Trade Act of 1974 [19 U.S.C. 2101 et seq.] or the Public Works and Economic Development Act of 1965 [42 U.S.C. 3121 et seq.], and any related expenses, shall be made from funds available in the economic development revolving fund: *Provided further*, That deposits to the economic development revolving fund of amounts appropriated for, or received in connection with, activities authorized under the Trade Act of 1974, made prior to October 1, 1987, shall be deemed valid deposits."

§ 2348. Protective provisions**(a) Recordkeeping**

Each recipient of adjustment assistance under this part shall keep records which fully disclose the amount and disposition by such recipient of the proceeds, if any, of such adjustment assistance, and which will facilitate an effective audit. The recipient shall also keep such other records as the Secretary may prescribe.

(b) Audit and examination

The Secretary and the Comptroller General of the United States shall have access for the pur-

pose of audit and examination to any books, documents, papers, and records of the recipient pertaining to adjustment assistance under this part.

(c) Certifications

No adjustment assistance under this part shall be extended to any firm unless the owners, partners, or officers certify to the Secretary—

(1) the names of any attorneys, agents, and other persons engaged by or on behalf of the firm for the purpose of expediting applications for such adjustment assistance; and

(2) the fees paid or to be paid to any such person.

(d) Conflicts of interest

No financial assistance shall be provided to any firm under this part unless the owners, partners, or officers shall execute an agreement binding them and the firm for a period of 2 years after such financial assistance is provided, to refrain from employing, tendering any office or employment to, or retaining for professional services any person who, on the date such assistance or any part thereof was provided, or within 1 year prior thereto, shall have served as an officer, attorney, agent, or employee occupying a position or engaging in activities which the Secretary shall have determined involve discretion with respect to the provision of such financial assistance.

(Pub. L. 93-618, title II, § 258, Jan. 3, 1975, 88 Stat. 2033.)

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2349. Penalties

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, or knowingly willfully overvalues any security, for the purpose of influencing in any way a determination under this part, or for the purpose of obtaining money, property, or anything of value under this part, shall be fined not more than \$5,000 or imprisoned for not more than 2 years, or both.

(Pub. L. 93-618, title II, § 259, Jan. 3, 1975, 88 Stat. 2034.)

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2350. Civil actions

In providing technical and financial assistance under this part the Secretary may sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against him or his prop-

erty. Nothing in this section shall be construed to except the activities pursuant to sections 2343 and 2344 of this title from the application of sections 516, 547, and 2679 of title 28.

(Pub. L. 93-618, title II, § 260, Jan. 3, 1975, 88 Stat. 2034.)

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2351. “Firm” defined

For purposes of this part, the term “firm” includes an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy, and receiver under decree of any court. A firm, together with any predecessor or successor firm, or any affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm where necessary to prevent unjustifiable benefits.

(Pub. L. 93-618, title II, § 261, Jan. 3, 1975, 88 Stat. 2034.)

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2352. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this part.

(Pub. L. 93-618, title II, § 262, Jan. 3, 1975, 88 Stat. 2034.)

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2353. Repealed. Pub. L. 97-35, title XXV, § 2526, Aug. 13, 1981, 95 Stat. 893

Section, Pub. L. 93-618, title II, § 263, Jan. 3, 1975, 88 Stat. 2034, contained transitional provisions for certain events occurring prior to the effective date of this part.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 13, 1981, except as otherwise provided with respect to applications for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 2343 of this title.

§ 2354. Study by Secretary of Commerce when International Trade Commission begins investigation

(a) Subject matter of study

Whenever the Commission begins an investigation under section 2252 of this title with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

(1) the number of firms in the domestic industry producing the like or directly competitive article which have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the orderly adjustment of such firms to the import competition may be facilitated through the use of existing programs.

(b) Report; publication

The report of the Secretary of the study under subsection (a) of this section shall be made to the President not later than 15 days after the day on which the Commission makes its report under section 2252(f) of this title. Upon making its report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

(c) Information to firms

Whenever the Commission makes an affirmative finding under section 2252(b) of this title that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, the Secretary shall make available, to the extent feasible, full information to the firms in such industry about programs which may facilitate the orderly adjustment to import competition of such firms, and he shall provide assistance in the preparation and processing of petitions and applications of such firms for program benefits.

(Pub. L. 93-618, title II, §264, Jan. 3, 1975, 88 Stat. 2035; Pub. L. 100-418, title I, §1401(b)(1)(B), Aug. 23, 1988, 102 Stat. 1239.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-418 substituted “section 2252” for “section 2251”.

Subsec. (b). Pub. L. 100-418 substituted “section 2252(f)” for “section 2251”.

Subsec. (c). Pub. L. 100-418 substituted “section 2252(b)” for “section 2251(b)”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Aug. 23, 1988, and applicable with respect to investigations initiated under part 1 (§2251 et seq.) of this subchapter on or after that date, see section 1401(c) of Pub. L. 100-418, set out as a note under section 2251 of this title.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

§ 2355. Assistance to industry; authorization of appropriations

(a) Technical assistance

The Secretary may provide technical assistance, on such terms and conditions as the Secretary deems appropriate, for the establishment of industrywide programs for new product development, new process development, export development, or other uses consistent with the purposes of this part. Such technical assistance may be provided through existing agencies, private individuals, firms, universities and institu-

tions, and by grants, contracts, or cooperative agreements to associations, unions, or other nonprofit industry organizations in which a substantial number of firms or workers have been certified as eligible to apply for adjustment assistance under section 2273 or 2341 of this title.

(b) Expenditures

Expenditures for technical assistance under this section may be up to \$10,000,000 annually per industry and shall be made under such terms and conditions as the Secretary deems appropriate.

(Pub. L. 93-618, title II, §265, as added Pub. L. 97-35, title XXV, §2527, Aug. 13, 1981, 95 Stat. 893; amended Pub. L. 98-369, div. B, title VI, §2673, July 18, 1984, 98 Stat. 1172.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-369, §2673(1), inserted “or workers” after “of firms” and inserted reference to section 2273 of this title.

Subsec. (b). Pub. L. 98-369, §2673(2), substituted “\$10,000,000” for “\$2,000,000”.

EFFECTIVE DATE

Section effective Aug. 13, 1981, except as otherwise provided with respect to applications for adjustment assistance, see section 2529 of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 2343 of this title.

TERMINATION DATE

No technical assistance to be provided under this part after Dec. 31, 2007, see section 285 of Pub. L. 93-618, as amended, set out as a note preceding section 2271 of this title.

PART 4—ADJUSTMENT ASSISTANCE FOR COMMUNITIES

§§ 2371 to 2374. Omitted

CODIFICATION

Sections 2371 to 2374 were omitted as terminated Sept. 30, 1982, pursuant to section 285 of Pub. L. 93-618, as amended, set out as a Termination Date note preceding section 2271 of this title. Section 285 of Pub. L. 93-618 was amended generally by Pub. L. 107-210 and no longer contains provisions relating to the termination of this part.

Section 2371, Pub. L. 93-618, title II, §271, Jan. 3, 1975, 88 Stat. 2035, related to petitions and determinations.

Section 2372, Pub. L. 93-618, title II, §272, Jan. 3, 1975, 88 Stat. 2036, related to Trade Impacted Area Councils for Adjustment Assistance.

Section 2373, Pub. L. 93-618, title II, §273, Jan. 3, 1975, 88 Stat. 2037, related to program benefits.

Section 2374, Pub. L. 93-618, title II, §274, Jan. 3, 1975, 88 Stat. 2040, related to Community Adjustment Assistance Fund.

PART 5—MISCELLANEOUS PROVISIONS

§ 2391. GAO study and report

(a) Adjustment assistance programs

The Comptroller General of the United States shall conduct a study of the adjustment assistance programs established under parts 2, 3, and 4 of this subchapter and shall report the results of such study to the Congress no later than January 31, 1980. Such report shall include an evaluation of—

(1) the effectiveness of such programs in aiding workers, firms, and communities to adjust