

guaranteed or direct business loan under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(e)(1) In order to protect the interest of the United States, upon application by a veterans' small business concern which is the recipient of a loan guaranteed under this subchapter, the Secretary (subject to the provisions of this subsection) may undertake the veterans' small business concern's obligation to make payments under such loan or, if the loan was a direct loan made by the Secretary, may suspend such obligation. While such payments are being made by the Secretary pursuant to the undertaking of such obligation or while such obligation is suspended, no such payment with respect to the loan may be required from the concern.

(2) The Secretary may undertake or suspend a veterans' small business concern's obligation under this subsection only if—

(A) such undertaking or suspension of the obligation is, in the judgment of the Secretary, necessary to protect the interest of the United States;

(B) with the undertaking or suspension of the obligation, the small business concern would, in the judgment of the Secretary, become or remain a viable small business entity; and

(C) the small business concern executes an agreement in writing satisfactory to the Secretary as provided by paragraph (4) of this subsection.

(3) The period of time for which the Secretary undertakes or suspends the obligation on a loan under this subsection may not exceed five years. The Secretary may extend the maturity of any loan on which the Secretary undertakes or suspends the obligation under this subsection for a corresponding period of time.

(4)(A) Before the Secretary may undertake or suspend a veterans' small business concern's obligation under this subsection, the Secretary shall require the small business concern to execute an agreement to repay the aggregate amount of the payments which were required under the loan during the period for which the obligation was undertaken or suspended—

(i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period,

(ii) pursuant to a repayment schedule agreed upon by the Secretary and the small business concern, or

(iii) by a combination of the method of payments described in clauses (i) and (ii) of this subparagraph.

(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A) of this paragraph, the Secretary shall, before the undertaking or suspension of the obligation, take such action and require the small business concern to take such action as the Secretary considers appropriate in the circumstances, including the provision of such security as the Secretary considers necessary or appropriate, to assure that the rights and interest of the United States and any lender will be safeguarded adequately during and after the period in which such obligation is so undertaken or suspended.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1055, §1842; amended Pub. L. 99-576, title VII, §702(10), Oct. 28, 1986, 100 Stat. 3302; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3742 and amended Pub. L. 102-83, §§4(a)(3), (4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404, 406.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (d), 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.

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1842 of this title as this section.

Subsec. (b)(1). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (b)(2). Pub. L. 102-83, §5(c)(1), substituted "3745" for "1845".

1989—Subsecs. (a), (b), (d), (e). Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1986—Subsecs. (a)(3)(A), (b)(4), (d)(2). Pub. L. 99-576 substituted "percent" for "per centum" wherever appearing.

§ 3743. Liability on loans

Each individual who has an ownership interest in a veterans' small business concern that is provided a direct loan under this subchapter, or that obtains a loan guaranteed under this subchapter, shall execute a note or other document evidencing the direct or guaranteed business loan, and such individuals shall be jointly and severally liable to the United States for the amount of such direct loan or, in the case of a guaranteed loan, for any amount paid by the Secretary on account of such loan.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1057, §1843; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3743, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1843 of this title as this section.

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator".

§ 3744. Approval of loans by the Secretary

(a) Except as provided in subsection (b) of this section, a loan may not be guaranteed under this subchapter unless, before the closing of the loan, it is submitted to the Secretary for approval and the Secretary grants approval.

(b) The Secretary may exempt any lender of a class of lenders listed in section 3702(d) of this title from the prior approval requirement in subsection (a) of this section if the Secretary determines that the experience of such lender or class of lenders warrants such exemption.

(c) The Secretary may at any time upon thirty days' notice require loans to be made by any lender or class of lenders under this subchapter to be submitted to the Secretary for prior approval. No guaranty shall exist with respect to any such loan unless evidence of the guaranty is issued by the Secretary.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1057, §1844; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3744 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1844 of this title as this section.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3702(d)” for “1802(d)”.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” in section catchline and wherever appearing in text.

§ 3745. Interest on loans

(a) Loans guaranteed under this subchapter shall bear interest not in excess of such rate as the Secretary may from time to time find the loan market demands. In establishing the rate of interest that shall be applicable to such loans, the Secretary shall consult with the Administrator of the Small Business Administration.

(b) The rate of interest on any direct loan made by the Secretary under this subchapter may not exceed the maximum rate in effect under subsection (a) of this section at the time the direct loan is made.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1058, §1845; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3745 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 103-446, title XII, §1201(a)(3), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-446 substituted “Administrator” for “Secretary” before “of the Small Business Administration”.

1991—Pub. L. 102-83, §5(a), renumbered section 1845 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” before “of the Small Business Administration”.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing other than third place it appears in subsec. (a).

§ 3746. Maturity of loans

The maturity of a loan made or guaranteed under this subchapter that is used in whole or in part for the construction, conversion, or expansion of facilities or for acquisition of real property may not exceed twenty years plus such additional reasonable time as the Secretary may determine, at the time the loan is made, is required to complete the construction, acquisition, or expansion of such facilities. The maturity of any other loan made or guaranteed under this subchapter may not exceed ten years.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1058, §1846; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3746, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1846 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator”.

§ 3747. Eligible financial institutions

The Secretary may not guarantee under this subchapter a loan made by an entity not subject to examination and supervision by an agency of the United States or of a State.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1058, §1847; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3747, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1847 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator”.

§ 3748. Preference for disabled veterans

In the extension of financial assistance under this subchapter, the Secretary shall give preference, first, to veterans' small business concerns in which disabled veterans who have successfully completed a vocational rehabilitation program for self-employment in a small business enterprise under chapter 31 of this title have a significant ownership interest, and, second, to veterans' small business concerns in which other disabled veterans have a significant ownership interest.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1058, §1848; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3748, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1848 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator”.

§ 3749. Revolving fund

(a) There is established in the Treasury a revolving fund to be known as the “Department of Veterans Affairs Small Business Loan Revolving Fund” (hereinafter in this section referred to as the “fund”).

(b) Amounts in the fund shall be available to the Secretary without fiscal year limitation for all loan guaranty and direct loan operations under this subchapter other than administrative expenses and may not be used for any other purpose.

(c)(1) There is authorized to be appropriated to the fund a total of \$25,000,000.

(2) There shall be deposited into the fund all amounts received by the Secretary derived from loan operations under this subchapter, including all collection of principal and interest and the proceeds from the use of property held or of property sold.

(d) The Secretary shall determine annually whether there has developed in the fund a surplus which, in the Secretary's judgment, is more than necessary to meet the needs of the fund. Any such surplus shall immediately be transferred into the general fund of the Treasury.

(e) Not later than two years after the termination of the authority of the Secretary to make new commitments for financial assistance