

amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.

(May 20, 1936, ch. 432, title III, §313, as added Pub. L. 100-203, title I, §1403, Dec. 22, 1987, 101 Stat. 1330-21; amended Pub. L. 103-354, title II, §235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

AMENDMENTS

1994—Subsecs. (a)(1), (b)(2)(A) to (C). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

§ 940c-1. Guarantees for bonds and notes issued for electrification or telephone purposes

(a) In general

Subject to subsection (b) of this section, the Secretary shall guarantee payments on bonds or notes issued by cooperative or other lenders organized on a not-for-profit basis if the proceeds of the bonds or notes are used to make loans for any electrification or telephone purpose eligible for assistance under this chapter, including section 904 or 922 of this title or to refinance bonds or notes issued for such purposes.

(b) Limitations

(1) Outstanding loans

A lender shall not receive a guarantee under this section for a bond or note if, at the time of the guarantee, the total principal amount of such guaranteed bonds or notes outstanding of the lender would exceed the principal amount of outstanding loans of the lender for eligible electrification or telephone purposes consistent with this chapter.

(2) Generation of electricity

The Secretary shall not guarantee payment on a bond or note issued by a lender, the proceeds of which are used for the generation of electricity.

(3) Qualifications

The Secretary may deny the request of a lender for the guarantee of a bond or note under this section if the Secretary determines that—

(A) the lender does not have appropriate expertise or experience or is otherwise not qualified to make loans for electrification or telephone purposes;

(B) the bond or note issued by the lender would not be investment grade quality without a guarantee; or

(C) the lender has not provided to the Secretary a list of loan amounts approved by the lender that the lender certifies are for eligible purposes described in subsection (a) of this section.

(4) Annual amount

The total amount of guarantees provided by the Secretary under this section during a fiscal year shall not exceed \$1,000,000,000, subject to the availability of funds under subsection (e).

(c) Fees

(1) In general

A lender that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary.

(2) Amount

(A) In general

The amount of the annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

(B) Prohibition

Except as otherwise provided in this subsection and subsection (e)(2), no other fees shall be assessed.

(3) Payment

(A) In general

A lender shall pay the fees required under this subsection on a semiannual basis.

(B) Structured schedule

The Secretary shall, with the consent of the lender, structure the schedule for payment of the fee to ensure that sufficient funds are available to pay the subsidy costs for note or bond guarantees as provided for in subsection (e)(2).

(4) Rural economic development subaccount

Subject to subsection (e)(2) of this section, fees collected under this subsection shall be—

(A) deposited into the rural economic development subaccount maintained under section 940c(b)(2)(A) of this title, to remain available until expended; and

(B) used for the purposes described in section 940c(b)(2)(B) of this title.

(d) Guarantees

(1) In general

A guarantee issued under this section shall—

(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

(B) be fully assignable and transferable; and

(C) represent the full faith and credit of the United States.

(2) Limitation

To ensure that the Secretary has the resources necessary to properly examine the proposed guarantees, the Secretary may limit the number of guarantees issued under this section to 5 per year.

(3) Department opinion

On the timely request of a lender, the General Counsel of the Department of Agriculture shall provide the Secretary with an opinion regarding the validity and authority of a guarantee issued to the lender under this section.

(e) Authorization of appropriations

(1) In general

There are authorized to be appropriated such sums as are necessary to carry out this section.

(2) Fees

To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use up to ⅓ of the fees col-

lected under subsection (c) of this section for the cost of providing guarantees of bonds and notes under this section before depositing the remainder of the fees into the rural economic development subaccount maintained under section 940c(b)(2)(A) of this title.

(f) Termination

The authority provided under this section shall terminate on September 30, 2012.

(May 20, 1936, ch. 432, title III, § 313A, as added Pub. L. 107-171, title VI, § 6101(a), May 13, 2002, 116 Stat. 413; amended Pub. L. 110-234, title VI, § 6106(a), May 22, 2008, 122 Stat. 1197; Pub. L. 110-246, § 4(a), title VI, § 6106(a), June 18, 2008, 122 Stat. 1664, 1958.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-246, § 6106(a)(1)(A), substituted “for eligible electrification or telephone purposes consistent with this chapter” for “for electrification or telephone purposes that have been made concurrently with loans approved for such purposes under this chapter”.

Subsec. (b)(4). Pub. L. 110-246, § 6106(a)(1)(B), added par. (4) and struck out former par. (4) which related to prohibition on use of amounts from reduced funding costs for interest rate reduction except for certain concurrent loans.

Subsec. (c)(2), (3). Pub. L. 110-246, § 6106(a)(2), added pars. (2) and (3) and struck out former pars. (2) and (3) which provided that the amount of an annual fee paid for the guarantee would be equal to 30 basis points of the amount of the unpaid principal and directed payment of fees required under subsec. (c) on a semiannual basis.

Subsec. (f). Pub. L. 110-246, § 6106(a)(3), substituted “2012” for “2007”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

REGULATIONS AND IMPLEMENTATION

Pub. L. 110-234, title VI, § 6106(b), May 22, 2008, 122 Stat. 1197, and Pub. L. 110-246, § 4(a), title VI, § 6106(b), June 18, 2008, 122 Stat. 1664, 1959, provided that: “The Secretary [of Agriculture] shall continue to carry out section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c-1) in the same manner as on the day before the date of enactment of this Act [June 18, 2008], except without regard to the limitations prescribed in subsection (b)(1) of that section, until such time as any regulations necessary to carry out the amendments made by this section [amending this section] are fully implemented.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

Pub. L. 108-199, div. A, title VII, § 750(b), Jan. 23, 2004, 118 Stat. 38, provided that: “The Secretary shall publish a proposed rule to carry out section 313A of the Rural Electrification Act of 1936 [7 U.S.C. 940c-1] within 60 days of enactment of this Act [Jan. 23, 2004].”

Pub. L. 107-171, title VI, § 6101(b), May 13, 2002, 116 Stat. 415, provided that:

“(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act [May 13, 2002], the Sec-

retary of Agriculture shall promulgate regulations to carry out the amendments made by this section [enacting this section].

“(2) IMPLEMENTATION.—Not later than 240 days after the date of enactment of this Act [May 13, 2002], the Secretary shall implement the amendment made by this section [enacting this section].”

§ 940d. Limitations on authorization of appropriations

(a) “Adjustment percentage” defined

As used in this section, the term “adjustment percentage” means, with respect to a fiscal year, the percentage (if any) by which—

(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of title 26) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

(b) Fiscal years 1994 through 1998

In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Secretary such sums as may be necessary for the cost of loans in the following amounts, for the following purposes:

(1) Electric hardship loans

For loans under section 935(c)(1) of this title—

(A) for fiscal year 1994, \$125,000,000; and

(B) for each of fiscal years 1995 through 1998, \$125,000,000, increased by the adjustment percentage for the fiscal year.

(2) Electric municipal rate loans

For loans under section 935(c)(2) of this title—

(A) for fiscal year 1994, \$600,000,000; and

(B) for each of fiscal years 1995 through 1998, \$600,000,000, increased by the adjustment percentage for the fiscal year.

(3) Telephone hardship loans

For loans under section 935(d)(1) of this title—

(A) for fiscal year 1994, \$125,000,000; and

(B) for each of fiscal years 1995 through 1998, \$125,000,000, increased by the adjustment percentage for the fiscal year.

(4) Telephone cost-of-money loans

For loans under section 935(d)(2) of this title—

(A) for fiscal year 1994, \$198,000,000; and

(B) for each of fiscal years 1995 through 1998, \$198,000,000, increased by the adjustment percentage for the fiscal year.

(c) Funding levels

The Secretary shall make insured loans under this subchapter for the purposes, in the amounts, and for the periods of time specified in subsection (b) of this section, as provided in advance in appropriations Acts.

(d) Availability of funds for insured loans

Amounts made available for loans under section 935 of this title are authorized to remain available until expended.

(May 20, 1936, ch. 432, title III, § 314, as added Pub. L. 101-508, title I, § 1201, Nov. 5, 1990, 104