§ 1913. Authority of Secretary of Agriculture under other provisions of law and to establish and consult with advisory committees

Nothing in this Act shall be deemed to limit the authority of the Secretary of Agriculture under other provision of law or to establish or consult with advisory committees.

(Pub. L. 87–128, title I, § 104, Aug. 8, 1961, 75 Stat. 295.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended, known as the Agricultural Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables.

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§ 1921. Congressional findings

The Congress finds that the statutory authority of the Secretary of Agriculture, hereinafter referred to in this chapter as the ''Secretary,'' for making and insuring loans to farmers and ranchers should be revised and consolidated to provide for more effective credit services to farmers.

(Pub. L. 87–128, title III, § 301(b), Aug. 8, 1961, 75 Stat. 307.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, known as the Consoli-

dated Farm and Rural Development Act. For complete classification of title III to the Code, see Short Title note set out below and Tables.

CODIFICATION

Section is comprised of subsec. (b) of section 301 of Pub. L. 87–128. Subsec. (a) of such section 301 is set out as a Short Title note below.

EFFECTIVE DATE

Former section 300.1 of Title 6, Code of Federal Regulations, promulgated on Oct. 15, 1961, by the Administrator of the Farmers Home Administration, published in 26 F.R. 10031, provided: ''The Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1921) [this chapter], is hereby made effective on October 15, 1961, except (a) as to its authorizations to make and sell insured loans with 4½ percent yield to the lender and a three-year repurchase agreement which was made effective by regulations issued on September 13, 1961 (26 F.R. 9307), pursuant to assignment of functions contained in 26 F.R. 7888, and (b) that the provisions of Title IV of the Bankhead-Jones Farm Tenant Act which requires mineral reservations in lands disposed of under Title III of that Act [sections 1010 to 1012 and 1013a of this title] shall not become effective until December 7, 1961.'' See section 341(a) of Pub. L. 87–128, set out as a note under this section.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(4) [div. B, title V, §501], Dec. 21, 2000, 114 Stat. 2763, 2763A–268, provided that: ''This title [enacting subchapter VI of this chapter and amending provisions set out as a note under section 3121 of Title 42, The Public Health and Welfare] may be cited as the 'Delta Regional Authority Act of 2000'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–248, §1, May 11, 1994, 108 Stat. 619, provided that: ''This Act [amending section 1981 of this title] may be cited as the 'Farmers Home Administration Improvement Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–554, §1(a), Oct. 28, 1992, 106 Stat. 4142, provided that: ''This Act [enacting sections 1935, 1936, 1948, 1949, and 2008d of this title, amending sections 1925, 1926c, 1929, 1932, 1981d, 1982, 1983, 1983a, 1985, 1989, 1991, 1994, 2003, and 5102 of this title, and enacting provisions set out as notes under sections 1929 and 1989 of this title] may be cited as the 'Agricultural Credit Improvement Act of 1992'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–624, title XXIII, §2301, Nov. 28, 1990, 104 Stat. 3979, provided that: ''This title [see Tables for classification] may be cited as the 'Rural Economic Development Act of 1990'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–409, §1, Aug. 28, 1986, 100 Stat. 923, provided: ''That this Act [amending section 1932 of this title and enacting provisions set out as a note under section 1932 of this title] may be cited as the 'Rural Industrial Assistance Act of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–258, title VI, §601, Apr. 10, 1984, 98 Stat. 138, provided that: ''This title [enacting section 1981b of this title, amending sections 1943, 1946, 1961, 1964, 1986, and 1994 of this title, enacting provisions set out as notes under sections 1961 and 1981 of this title, and amending provisions set out as a note preceding section 1961 of this title] may be cited as the 'Emergency Agricultural Credit Act of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–334, §1, Aug. 4, 1978, 92 Stat. 420, provided: ''That this Act [enacting sections 1929b, 1934, 1981a, 1994, and 1995 of this title and sections 2201 to 2205 of Title 16, Conservation, amending sections 1309, 1922, 1924 to 1927, 1929, 1929a, 1932, 1941 to 1943, 1946, 1961, 1964, 1968, 1981, 1983, 1991, and 2908 of this title, repealing section 1965 of this title, and enacting provisions set out as notes under this section and sections 1309, 1926, preceding 1961, and 1964 of this title and section 2201 of Title 16] may be cited as the 'Agricultural Credit Act of 1978'.''

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92–419 provided: ''That this Act [enacting sections 1010a, 1929a, 1931 to 1933, 1947, 1992, 2204a, 2212a, 2651 to 2654, and 2661 to 2668 of this title, amending sections 1006a, 1011, 1924 to 1927, 1929, 1941 to 1943, 1981, 1983, 1985, 1991, 2201, and 2204 of this title, section 5315 of Title 5, Government Organization and Employees, sections 590*g*, 590h, 590*o*, and 1001 to 1005 of Title 16, Conservation, and section 3122 of Title 42, The Public Health and Welfare, and amending provisions set out as a note under this section] may be cited as the 'Rural Development Act of 1972'.''

SHORT TITLE

Section 301(a) of title III of Pub. L. 87–128, as amended by Pub. L. 92–419, title I, §101, Aug. 30, 1972, 86 Stat. 657, provided that: ''This title [enacting this section and sections 1013a, 1922 to 1933, 1941 to 1947, 1961 to 1968, 1969, 1970, 1971, and 1981 to 1993 of this title, amending sections 1924 to 1927, 1929, 1941 to 1943, 1981, 1983, 1985, and 1991 of this title, repealing sections 1001 to 1005d, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1027 to 1029 of this title, sections 1148a–1 to 1148a–3 of Title 12, Banks and Banking, and sections 590r to 590x–4 of Title 16, Conservation, and enacting provisions set out as a note under this section] may be cited as the 'Consolidated Farm and Rural Development Act'.''

REGULATIONS

Section 2396 of title XXIII of Pub. L. 101–624 provided that: ''Except as otherwise provided in this title [see Short Title of 1990 Amendment note set out above], no later than 180 days after the date of the enactment of this Act [Nov. 28, 1990], the Secretary shall promulgate such regulations as may be necessary to carry out this title and the amendments made by this title.''

PRESERVATION OF ELIGIBILITY FOR CREDIT ASSISTANCE UNDER FEDERAL LAW

Section 2395 of title XXIII of Pub. L. 101–624 provided that: ''Notwithstanding any other provision of law, this title [see Short Title of 1990 Amendment note set out above] shall not be construed to adversely affect the eligibility, as it existed on the date of enactment of this Act [Nov. 28, 1990], of cooperatives and other entities for any other credit assistance under Federal law.''

USE OF QUALIFIED PERSONNEL BY THE DEPARTMENT OF AGRICULTURE

Pub. L. 95–334, title I, §126, Aug. 4, 1978, 92 Stat. 429, provided that: ''It is the sense of Congress that, in carrying out the provisions of the Consolidated Farm and Rural Development Act [see Short Title note set out above], the Secretary of Agriculture should ensure that—

''(1) only officers and employees of the Department of Agriculture who are adequately prepared to understand the particular needs and problems of farmers in an area are assigned to such area; and

''(2) a high priority is placed on keeping existing farm operations operating.''

REFERENCES IN OTHER LAWS TO BANKHEAD-JONES FARM TENANT ACT OR WATER FACILITIES ACT; REPEALS; SAVINGS AND SEPARABILITY PROVISIONS

Section 341 of Pub. L. 87–128 provided that:

''(a) Reference to any provisions of the Bankhead-Jones Farm Tenant Act [see section 1000 of this title]

or the Act of August 28, 1937 (50 Stat. 869), as amended, superseded by any provision of this title [this chapter] shall be construed as referring to the appropriate provision of this title [this chapter]. Titles I, II, and IV of the Bankhead-Jones Farm Tenant Act, as amended, and the Act of August 28, 1937 (50 Stat. 869), as amended, the Act of April 6, 1949 (63 Stat. 43), as amended, and the Act of August 31, 1954 (68 Stat. 999), as amended, are hereby repealed effective one hundred and twenty days after enactment hereof [Aug. 8, 1961], or such earlier date as the provisions of this title [this chapter] are made effective by the Secretary's regulations except that the repeal of section 2(c) of the Act of April 6, 1949, shall not be effective prior to January 1, 1962. The foregoing provisions shall not have the effect of repealing the amendments to section 24, chapter 6 of the Federal Reserve Act [section 371 of Title 12], as amended, section 5200 of the Revised Statutes [section 84 of Title 12], section 35 of chapter III of the Act approved June 19, 1934 (D.C. Code, title 35, section 535), enacted by section 15 of the Bankhead-Jones Farm Tenant Act, as amended, and by section 10(f) of the Act of August 28, 1937 (50 Stat. 869), as amended.

''(b) The repeal of any provision of law by this title [this chapter] shall not—

''(1) affect the validity of any action taken or obligation entered into pursuant to the authority of any of said Acts, or

''(2) prejudice the application of any person with respect to receiving assistance under the provisions of this title [this chapter], solely because such person is obligated to the Secretary under authorization contained in any such repealed provision.

''(c) If any provision of this title [this chapter] or the application thereof to any person or circumstances is held invalid, the remainder of the title [this chapter] and the application of such provision to other persons or circumstances shall not be affected thereby.''

SUBCHAPTER I—REAL ESTATE LOANS

§ 1922. Persons eligible for real estate loans

(a) In general

The Secretary may make and insure loans under this subchapter to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations, partnerships, joint operations, trusts, and limited liability companies that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies, individuals holding a majority interest in such entity, must (1) be citizens of the United States, (2) for direct loans only, have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences, (3) be or will become owner-operators of not larger than family farms (or in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm or, in the case of holders of the entire interest who are related by blood or marriage and all of whom are or will become farm operators, the ownership interest of each such holder separately constitutes not larger than a family farm, even if their interests collectively constitute larger than a family farm, as defined by the Secretary), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this section, in the case of corporations, partnerships, joint operations, trusts, and limited liability companies, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an ownership and operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies.

(b) Direct loans

(1) In general

Subject to paragraph (3), the Secretary may make a direct loan under this subchapter only to a farmer or rancher who has participated in the business operations of a farm or ranch for not less than 3 years and—

(A) is a qualified beginning farmer or rancher;

(B) has not received a previous direct farm ownership loan made under this subchapter; or

(C) has not received a direct farm ownership loan under this subchapter more than 10 years before the date the new loan would be made.

(2) Youth loans

The operation of an enterprise by a youth under section 1941(b) of this title shall not be considered the operation of a farm or ranch for purposes of paragraph (1).

(3) Transition rule

(A) In general

Subject to subparagraphs (B) and (C), the Secretary may make a direct loan under this subchapter to a farmer or rancher who has a direct loan outstanding under this subchapter on April 4, 1996.

(B) Less than 5 years

If, as of April 4, 1996, a farmer or rancher has had a direct loan outstanding under this subchapter for less than 5 years, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 10 years after April 4, 1996.

(C) 5 years or more

If, as of April 4, 1996, a farmer or rancher has had a direct loan outstanding under this subchapter for 5 years or more, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 5 years after April 4, 1996.

(D) Notice

Beginning with fiscal year 2000 not later than 12 months before a borrower will become ineligible for direct loans under this subchapter by reason of this paragraph, the Secretary shall notify the borrower of such impending ineligibility.

(Pub. L. 87–128, title III, § 302, Aug. 8, 1961, 75 Stat. 307; Pub. L. 91–620, § 2, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 95–334, title I, § 101, Aug. 4, 1978, 92 Stat. 420; Pub. L. 97–98, title XVI, § 1601(a), Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99–198, title XIII, §§ 1301(a), 1302(a), 1303, Dec. 23, 1985, 99 Stat. 1518, 1519; Pub. L. 104–127, title VI, § 601, Apr. 4, 1996, 110 Stat. 1084; Pub. L. 105–277, div. A, § 101(a) [title VIII, §§ 804, 805(1)], Oct. 21, 1998, 112 Stat. 2681, 2681–39; Pub. L. 107–171, title V, §§ 5001, 5302(a), May 13, 2002, 116 Stat. 341, 344; Pub. L. 110–234, title V, § 5001, May 22, 2008, 122 Stat. 1142; Pub. L. 110–246, § 4(a), title V, § 5001, June 18, 2008, 122 Stat. 1664, 1903.)

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—Pub. L. 110–246, § 5001(1), inserted ''real estate'' before ''loans'' in section catchline.

Subsec. (a). Pub. L. 110–246, § 5001, inserted subsec. heading, substituted ''The Secretary may'' for ''The Secretary is authorized to'' in introductory provisions, and inserted '', taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences'' after ''farming operations'' in cl. (2).

2002—Subsec. (a). Pub. L. 107–171, § 5302(a), substituted ''joint operations, trusts, and limited liability companies'' for ''and joint operations'' wherever appearing.

Subsec. (b)(1). Pub. L. 107–171, § 5001, substituted ''participated in the business operations of'' for ''operated'' in introductory provisions.

1998—Subsec. (a). Pub. L. 105–277, § 101(a) [title VIII, § 805(1)], inserted ''for direct loans only,'' before ''have either'' in cl. (2).

Subsec. (b)(3)(D). Pub. L. 105–277, § 101(a) [title VIII, § 804], added subpar. (D).

1996—Subsec. (b). Pub. L. 104–127 added subsec. (b) and struck out former subsec. (b) which read as follows: ''The Secretary may not restrict eligibility for loans made or insured under this subchapter for purposes set forth in section 1923 of this title solely to borrowers of loans that are outstanding on December 23, 1985.''

1985—Subsec. (a). Pub. L. 99–198, §§ 1301(a), 1302(a)(1), designated existing provisions as subsec. (a) and substituted—

(1) '', partnerships, and joint operations'' for ''and partnerships'' wherever appearing after ''corporations'';

(2) '', partnerships, and joint operations'' for '', and partnerships'' wherever appearing after ''corporations''; and

(3) ''individuals'' for ''members, stockholders, or partners, as applicable,'' wherever appearing.

Pub. L. 99–198, § 1303, in cl. (3) parenthetical, inserted provision treating blood or marriage related owner-operators of the entire farm interest as separate interest holders of not larger than family farms though collective ownership constitutes a larger than a family farm.

Subsec. (b). Pub. L. 99–198, § 1302(a)(2), added subsec. (b).

1981—Pub. L. 97–98 substituted ''corporations and partnerships, the family farm'' for ''cooperatives, corporations, and partnerships, the family farm'', and inserted ''in the case of cooperatives, corporations, and partnerships'' at end.

1978—Pub. L. 95–334 substituted provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, for provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands.

1970—Pub. L. 91–620 provided that with respect to veterans as defined in section 1983(e) of this title, a farm background shall not be required as a condition precedent to obtaining any loan.

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.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 663 of title VI of Pub. L. 104–127 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title [enacting sections 2008g to 2008i of this title, amending this section and sections 1631, 1923, 1924, 1927, 1928, 1929, 1929a, 1932, 1934, 1941, 1942, 1946, 1949, 1961 to 1964, 1981, 1981d, 1983, 1983a, 1985, 1991, 1992, 1994, 1997, 1999, 2000, 2001, 2002, and 2003 of this title, repealing sections 1936, 1945, 1947, 1948, and 1968 of this title, and repealing provisions set out as a note under section 1999 of this title] shall become effective on the date of enactment of this Act [Apr. 4, 1996].

''(b) DELAYED EFFECTIVE DATES.—The amendments made by sections 601, 606, 611, 612, 622, 623, 625, 633, 640(1), 642, 645(1), 648(a), and 649 [enacting sections 2008g and 2008i of this title and amending this section and sections 1929, 1941, 1942, 1962, 1963, 1964, 1981d, 1991, 1997, and 2001 of this title] shall become effective 90 days after the date of enactment of this Act [Apr. 4, 1996].

''(c) TRANSITION PROVISION.—The amendments made by sections 638 and 644 [amending sections 1985 and 2000 of this title] shall not apply with respect to a complete application to acquire inventory property submitted prior to the date of enactment of this Act [Apr. 4, 1996].

''(d) REGULATIONS.—Notwithstanding any other provision of law, regulations to implement the amendments made by this title shall be published as interim final rules with request for comments and may be made effective immediately on publication.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EVALUATIONS OF DIRECT AND GUARANTEED LOAN PROGRAMS

Pub. L. 107–171, title V, § 5301, May 13, 2002, 116 Stat. 344, provided that:

''(a) STUDIES.—The Secretary of Agriculture shall conduct 2 studies of the direct and guaranteed loan progams [sic] under sections 302 and 311 of the Consolidated Farm and Rural Development Act [7 U.S.C. 1922 and 1941], each of which shall include an examination of the number, average principal amount, and delinquency and default rates of loans provided or guaranteed during the period covered by the study.

''(b) PERIODS COVERED.—

''(1) FIRST STUDY.—One study under subsection (a) shall cover the 1-year period that begins 1 year after the date of the enactment of this section [May 13, 2002].

''(2) SECOND STUDY.—One study under subsection (a) shall cover the 1-year period that begins 3 years after such date of enactment.

''(c) REPORTS TO THE CONGRESS.—At the end of the period covered by each study under this section, the Secretary of Agriculture shall submit to the Congress a report that contains an evaluation of the results of the study, including an analysis of the effectiveness of loan programs referred to in subsection (a) in meeting the credit needs of agricultural producers in an efficient and fiscally responsible manner.''

§ 1923. Purposes of loans

(a) Allowed purposes

(1) Direct loans

A farmer or rancher may use a direct loan made under this subchapter only for—

(A) acquiring or enlarging a farm or ranch;

(B) making capital improvements to a farm or ranch;

(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch;

(D) paying for activities to promote soil and water conservation and protection described in section 1924 of this title on a farm or ranch; or

(E) refinancing a temporary bridge loan made by a commercial or cooperative lender to a farmer or rancher for the acquisition of land for a farm or ranch, if—

(i) the Secretary approved an application for a direct farm ownership loan to the farmer or rancher for acquisition of the land; and

(ii) funds for direct farm ownership loans under section 1994(b) of this title were not available at the time at which the application was approved.

(2) Guaranteed loans

A farmer or rancher may use a loan guaranteed under this subchapter only for—

(A) acquiring or enlarging a farm or ranch;

(B) making capital improvements to a farm or ranch;

(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch;

(D) paying for activities to promote soil and water conservation and protection described in section 1924 of this title on a farm or ranch; or

(E) refinancing indebtedness.

(b) Preferences

In making or guaranteeing a loan under this subchapter for purchase of a farm or ranch, the Secretary shall give preference to a person who—

(1) has a dependent family;

(2) to the extent practicable, is able to make an initial down payment on the farm or ranch; or

(3) is an owner of livestock or farm or ranch equipment that is necessary to successfully carry out farming or ranching operations.

(c) Hazard insurance requirement

(1) In general

After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subchapter unless the farmer or rancher has, or agrees to obtain, hazard insurance on any real property to be acquired or improved with the loan.

(2) Determination

Not later than 180 days after April 4, 1996, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).

(Pub. L. 87–128, title III, § 303, Aug. 8, 1961, 75 Stat. 307; Pub. L. 87–703, title IV, § 401(1), Sept. 27, 1962, 76 Stat. 631; Pub. L. 90–488, § 1, Aug. 15, 1968, 82 Stat. 770; Pub. L. 95–113, title XIV, § 1448(a), Sept. 29, 1977, 91 Stat. 1011; Pub. L. 96–438, § 1(1), Oct. 13, 1980, 94 Stat. 1871; Pub. L. 97–98, title XVI, § 1602, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 104–127, title VI, § 602(a), Apr. 4, 1996, 110 Stat. 1085; Pub. L. 107–171, title V, § 5002, May 13, 2002, 116 Stat. 341.)

AMENDMENTS

2002—Subsec. (a)(1)(E). Pub. L. 107–171 added subpar. (E).

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions outlining preferences for loans made or insured under this subchapter and defining terms ''improving farms'' and ''qualified non-fossil energy system''.

1981—Subsec. (a). Pub. L. 97–98 substituted ''who have dependent families'' for ''who are married or have dependent families''.

1980—Subsec. (b)(1). Pub. L. 96–438 substituted ''the acquisition, installation, and modification'' for ''the acquisition and installation'' and struck out ''in any residential structure'' after ''energy system''.

1977—Pub. L. 95–113 designated existing provisions as subsec. (a) and added subsec. (b).

1968—Pub. L. 90–488 designated existing provisions as cls. (1), (2), (4), (5), and added cl. (3).

1962—Pub. L. 87–703 authorized loans to be made or insured for recreational uses and facilities.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 602(b) of Pub. L. 104–127 provided that: ''Section 303(c)(1) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1923(c)(1)] shall not apply until the Secretary of Agriculture makes the determination required by section 303(c)(2) of the Act.'' [The Secretary's determination relating to hazard insurance under this provision was contained in interim rules published Mar. 3, 1997, and effective Mar. 24, 1997, see 62 F.R. 9351.]

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

§ 1924. Conservation loan and loan guarantee program

(a) In general

The Secretary may make or guarantee qualified conservation loans to eligible borrowers under this section.

(b) Definitions

In this section:

(1) Qualified conservation loan

The term ''qualified conservation loan'' means a loan, the proceeds of which are used to cover the costs to the borrower of carrying out a qualified conservation project.

(2) Qualified conservation project

The term ''qualified conservation project'' means conservation measures that address provisions of a conservation plan of the eligible borrower.

(3) Conservation plan

The term ''conservation plan'' means a plan, approved by the Secretary, that, for a farming or ranching operation, identifies the conservation activities that will be addressed with loan funds provided under this section, including—

(A) the installation of conservation structures to address soil, water, and related resources;

(B) the establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;

(C) the installation of water conservation measures;

(D) the installation of waste management systems;

(E) the establishment or improvement of permanent pasture;

(F) compliance with section 3812 of title 16; and

(G) other purposes consistent with the plan, including the adoption of any other emerging or existing conservation practices, techniques, or technologies approved by the Secretary.

(c) Eligibility

(1) In general

The Secretary may make or guarantee loans to farmers or ranchers in the United States, farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, or limited liability companies that are controlled by farmers or ranchers and engaged primarily and directly in agricultural production in the United States.

(2) Requirements

To be eligible for a loan under this section, applicants shall meet the requirements in paragraphs (1) and (2) of section 1922(a) of this title.

(d) Priority

In making or guaranteeing loans under this section, the Secretary shall give priority to—

(1) qualified beginning farmers or ranchers and socially disadvantaged farmers or ranchers;

(2) owners or tenants who use the loans to convert to sustainable or organic agricultural production systems; and

(3) producers who use the loans to build conservation structures or establish conservation practices to comply with section 3812 of title 16.

(e) Limitations applicable to loan guarantees

The portion of a loan that the Secretary may guarantee under this section shall be 75 percent of the principal amount of the loan.

(f) Administrative provisions

The Secretary shall ensure, to the maximum extent practicable, that loans made or guaranteed under this section are distributed across diverse geographic regions.

(g) Credit eligibility

The provisions of paragraphs (1) and (3) of section 1983 of this title shall not apply to loans made or guaranteed under this section.

(h) Authorization of appropriations

For each of fiscal years 2008 through 2012, there are authorized to be appropriated to the Secretary such funds as are necessary to carry out this section.

(Pub. L. 87–128, title III, § 304, Aug. 8, 1961, 75 Stat. 308; Pub. L. 90–488, § 2, Aug. 15, 1968, 82 Stat. 770; Pub. L. 92–419, title I, § 102, Aug. 30, 1972, 86 Stat. 657; Pub. L. 95–334, title I, § 102, Aug. 4, 1978, 92 Stat. 421; Pub. L. 101–624, title XVIII, § 1802(a), Nov. 28, 1990, 104 Stat. 3817; Pub. L. 102–237, title V, § 501(a), Dec. 13, 1991, 105 Stat. 1865; Pub. L. 104–127, title VI, § 603, Apr. 4, 1996, 110 Stat. 1085; Pub. L. 110–234, title V, § 5002, May 22, 2008, 122 Stat. 1142; Pub. L. 110–246, § 4(a), title V, § 5002, June 18, 2008, 122 Stat. 1664, 1904.)

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—Pub. L. 110–246, § 5002, amended section generally, substituting provisions relating to conservation loans and loan guarantee programs for former provisions which related to, in subsec. (a), authority to make or insure loans for soil and water conservation and protection, in subsec. (b), priority of producers who would build conservation structures or establish conservation practices to comply with section 3812 of title 16, and in subsec. (c), maximum amount of a loan.

1996—Pub. L. 104–127, § 603(2), inserted section catchline.

Subsec. (a). Pub. L. 104–127, § 603(2), (5), redesignated subsec. (a)(1) as (a), inserted heading, and redesignated subpars. (A) to (F) as pars. (1) to (6), respectively. Former pars. (2) and (3) redesignated subsecs. (b) and (c), respectively.

Subsec. (b). Pub. L. 104–127, § 603(1), (3), redesignated subsec. (a)(2) as (b), inserted heading, substituted ''guaranteeing loans'' for ''insuring loans'', and struck out former subsec. (b) which read as follows: ''Loans may also be made or insured under this subchapter to residents of rural areas without regard to the requirements of clauses (2) and (3) of section 1922 of this title to acquire or establish in rural areas small business enterprises to provide such residents with essential income.''

Subsec. (c). Pub. L. 104–127, § 603(1), (4), (6), redesignated subsec. (a)(3) as (c), inserted heading, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and struck out former subsec. (c) which read as follows: ''Loans may also be made or insured under this subchapter to any farm owners or tenants without regard to the requirements of clauses (1), (2), and (3) of section 1922 of this title for the purposes of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including the construction, modification, or relocation of farm or other structures necessary to comply with such pollution abatement requirements.''

1991—Subsecs. (a), (d). Pub. L. 102–237 redesignated subsec. (d) as (a) and moved it to appear before subsec.

(b) and struck out former subsec. (a) which read as follows: ''Loans may also be made or insured under this subchapter to any farmowners or tenants without regard to the requirements of section 1922(1), (2), and (3) of this title for the purposes only of land and water development, use and conservation, not including recreational uses and facilities, and without regard to the requirements of section 1922(2) and (3) of this title, to farmowners or tenants to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those heretofore financed under this chapter.''

1990—Subsec. (d). Pub. L. 101–624 added subsec. (d).

1978—Subsec. (a). Pub. L. 95–334, § 102(1), struck out ''individual'' after ''title, to''.

Subsec. (c). Pub. L. 95–334, § 102(2), added subsec. (c).

1972—Pub. L. 92–419 designated existing provisions as subsec. (a) and struck out item (a) and (b) designations appearing before ''to any farmowners'' and ''without regard to'', respectively, and added subsec. (b).

1968—Pub. L. 90–488 designated existing provisions as cl. (a), excluded recreational uses and facilities, and added cl. (b).

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.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

§ 1925. Limitations on amount of farm ownership loans

(a) In general

The Secretary shall make or insure no loan under sections 1922, 1923, 1924, 1934, and 1935 of this title that would cause the unpaid indebtedness under such sections of any one borrower to exceed the smaller of (1) the value of the farm or other security, or (2) in the case of a loan other than a loan guaranteed by the Secretary, $300,000, or, in the case of a loan guaranteed by the Secretary, $700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the amount of any unpaid indebtedness of the borrower on loans under subchapter II of this chapter that are guaranteed by the Secretary).

(b) Determination of value

In determining the value of the farm, the Secretary shall consider appraisals made by competent appraisers under rules established by the Secretary.

(c) Inflation percentage

For purposes of this section, the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

(1) the average of the Prices Paid By Farmers Index (as compiled by the National Agricultural Statistics Service of the Department of Agriculture) for the 12-month period ending on August 31 of the immediately preceding fiscal year; exceeds

(2) the average of such index (as so defined) for the 12-month period ending on August 31, 1996.

(Pub. L. 87–128, title III, § 305, Aug. 8, 1961, 75 Stat. 308; Pub. L. 91–620, § 1, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 92–419, title I, § 103, Aug. 30, 1972, 86 Stat. 658; Pub. L. 91–524, title VIII, § 807, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 237; Pub. L. 95–334, title I, § 103, Aug. 4, 1978, 92 Stat. 421; Pub. L. 102–554, § 3, Oct. 28, 1992, 106 Stat. 4142; Pub. L. 105–277, div. A, § 101(a) [title VIII, § 806(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–39; Pub. L. 110–234, title V, § 5003, May 22, 2008, 122 Stat. 1144; Pub. L. 110–246, § 4(a), title V, § 5003, June 18, 2008, 122 Stat. 1664, 1905.)

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. (a)(2). Pub. L. 110–246, § 5003, substituted ''$300,000'' for ''$200,000''.

1998—Pub. L. 105–277 inserted section catchline, designated first sentence as subsec. (a), inserted heading, and substituted ''$700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the amount of any unpaid indebtedness of the borrower on loans under subchapter II of this chapter that are guaranteed by the Secretary)'' for ''$300,000'', designated second sentence as subsec. (b) and inserted heading, and added subsec. (c).

1992—Pub. L. 102–554 inserted reference to section 1935 of this title.

1978—Pub. L. 95–334 substituted provisions setting forth requirements for loans under sections 1922, 1923, 1924, and 1934 of this title for provisions setting forth requirements for loans under sections 1922, 1923, and 1924 of this title.

1973—Pub. L. 91–524, § 807, as added by Pub. L. 93–86, substituted ''$225,000'' for ''$100,000'' in cl. (a), added cl. (b), and redesignated former cl. (b) as (c).

1972—Pub. L. 92–419 struck out ''normal'' before ''value'' in first and second sentences and before ''market value'' in last sentence.

1970—Pub. L. 91–620 substituted ''$100,000'' for ''$60,000''.

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.

§ 1926. Water and waste facility loans and grants

(a) In general

(1) The Secretary is also authorized to make or insure loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies to provide for the application or establishment of soil conservation practices, shifts in land use, the conservation, development, use, and control of water, and the installation or improvement of drainage or waste disposal facilities, recreational developments, and essential community facilities including necessary related equipment, all primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents, and to furnish financial assistance or other aid in planning projects for such purposes. The Sec-

retary may also make or insure loans to communities that have been designated as rural empowerment zones or rural enterprise communities pursuant to part I of subchapter U of chapter 1 of title 26, or as rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681, 2681–37), to provide for the installation or improvement of essential community facilities including necessary related equipment, and to furnish financial assistance or other aid in planning projects for such purposes. The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents. When any loan made for a purpose specified in this paragraph is sold out of the Agricultural Credit Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of title 26. With respect to loans of less than $500,000 made or insured under this paragraph that are evidenced by notes and mortgages, as distinguished from bond issues, borrowers shall not be required to appoint bond counsel to review the legal validity of the loan whenever the Secretary has available legal counsel to perform such review.

(2) WATER, WASTE DISPOSAL, AND WASTEWATER FACILITY GRANTS.—

(A) AUTHORITY.—

(i) IN GENERAL.—The Secretary is authorized to make grants to such associations to finance specific projects for works for the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

(ii) AMOUNT.—The amount of any grant made under the authority of this subparagraph shall not exceed 75 per centum of the development cost of the project to serve the area which the association determines can be feasibly served by the facility and to adequately serve the reasonably foreseeable growth needs of the area.

(iii) GRANT RATE.—The Secretary shall fix the grant rate for each project in conformity with regulations issued by the Secretary that shall provide for a graduated scale of grant rates establishing higher rates for projects in communities that have lower community population and income levels.

(B) REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS.—

(i) IN GENERAL.—The Secretary may make grants to qualified private, nonprofit entities to capitalize revolving funds for the purpose of providing financing to eligible entities for—

(I) predevelopment costs associated with proposed water and wastewater projects or with existing water and wastewater systems; and

(II) short-term costs incurred for replacement equipment, small-scale extension services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

(ii) ELIGIBLE ENTITIES.—To be eligible to obtain financing from a revolving fund under clause (i), an eligible entity must be eligible to obtain a loan, loan guarantee, or grant under paragraph (1) or this paragraph.

(iii) MAXIMUM AMOUNT OF FINANCING.—The amount of financing made to an eligible entity under this subparagraph shall not exceed—

(I) $100,000 for costs described in clause (i)(I); and

(II) $100,000 for costs described in clause (i)(II).

(iv) TERM.—The term of financing provided to an eligible entity under this subparagraph shall not exceed 10 years.

(v) ADMINISTRATION.—The Secretary shall limit the amount of grant funds that may be used by a grant recipient for administrative costs incurred under this subparagraph.

(vi) ANNUAL REPORT.—A nonprofit entity receiving a grant under this subparagraph shall submit to the Secretary an annual report that describes the number and size of communities served and the type of financing provided.

(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph $30,000,000 for each of fiscal years 2008 through 2012.

(C) SPECIAL EVALUATION ASSISTANCE FOR RURAL COMMUNITIES AND HOUSEHOLDS PROGRAM.—

(i) IN GENERAL.—The Secretary may establish the Special Evaluation Assistance for Rural Communities and Households (SEARCH) program, to make predevelopment planning grants for feasibility studies, design assistance, and technical assistance, to financially distressed communities in rural areas with populations of 2,500 or fewer inhabitants for water and waste disposal projects described in paragraph (1), this paragraph, and paragraph (24).

(ii) TERMS.—

(I) DOCUMENTATION.—With respect to grants made under this subparagraph, the Secretary shall require the lowest amount of documentation practicable.

(II) MATCHING.—Notwithstanding any other provisions in this subsection, the Secretary may fund up to 100 percent of the eligible costs of grants provided under this subparagraph, as determined by the Secretary.

(iii) FUNDING.—The Secretary may use not more than 4 percent of the total amount of funds made available for a fiscal year for water, waste disposal, and essential community facility activities under this chapter to carry out this subparagraph.

(iv) RELATIONSHIP TO OTHER AUTHORITY.—The funds and authorities provided under

this subparagraph are in addition to any other funds or authorities the Secretary may have to carry out activities described in clause (i).

(3) No grant shall be made under paragraph (2) of this subsection in connection with any project unless the Secretary determines that the project (i) will serve a rural area which, if such project is carried out, is not likely to decline in population below that for which the project was designed, (ii) is designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area, and (iii) is necessary for an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan of the rural area.

(4)(A) The term ''development cost'' means the cost of construction of a facility and the land, easements, and rights-of-way, and water rights necessary to the construction and operation of the facility.

(B) The term ''project'' shall include facilities providing central service or facilities serving individual properties, or both.

(5) APPLICATION REQUIREMENTS.—Not earlier than 60 days before a preliminary application is filed for a loan under paragraph (1) or a grant under paragraph (2) for a water or waste disposal purpose, a notice of the intent of the applicant to apply for the loan or grant shall be published in a general circulation newspaper. The selection of engineers for a project design shall be done by a request for proposals by the applicant.

(6) The Secretary may make grants aggregating not to exceed $30,000,000 in any fiscal year to public bodies or such other agencies as the Secretary may determine having authority to prepare comprehensive plans for the development of water or waste disposal systems in rural areas which do not have funds available for immediate undertaking of the preparation of such plan.

(7) Repealed. Pub. L. 107–171, title VI, § 6020(b)(1), May 13, 2002, 116 Stat. 363.

(8) In each instance where the Secretary receives two or more applications for financial assistance for projects that would serve substantially the same group of residents within a single rural area, and one such application is submitted by a city, town, county or other unit of general local government, he shall, in the absence of substantial reasons to the contrary, provide such assistance to such city, town, county or other unit of general local government.

(9) CONFORMITY WITH STATE DRINKING WATER STANDARDS.—No Federal funds shall be made available under this section for a water system unless the Secretary determines that the water system will make significant progress toward meeting the standards established under title XIV of the Public Health Service Act (commonly known as the ''Safe Drinking Water Act'') (42 U.S.C. 300f et seq.).

(10) CONFORMITY WITH FEDERAL AND STATE WATER POLLUTION CONTROL STANDARDS.—No Federal funds shall be made available under this section for a water treatment discharge or waste disposal system unless the Secretary determines that the effluent from the system conforms with applicable Federal and State water pollution control standards.

(11) RURAL BUSINESS OPPORTUNITY GRANTS.—

(A) IN GENERAL.—The Secretary may make grants, not to exceed $1,500,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable the recipients—

(i) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

(ii) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

(iii) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and the enhancement of the capacity of local individuals and entities to engage in sound economic activities;

(iv) to conduct regional, community, and local economic development planning and coordination, and leadership development; and

(v) to establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets.

(B) CRITERIA.—In awarding the grants, the Secretary shall consider, among other criteria to be established by the Secretary—

(i) the extent to which the applicant provides development services in the rural service area of the applicant; and

(ii) the capability of the applicant to accomplish the activities described in the relevant clauses of subparagraph (A).

(C) COORDINATION.—The Secretary shall ensure, to the maximum extent practicable, that assistance provided under this paragraph is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the National Institute of Food and Agriculture or other Federal agencies.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $15,000,000 for each of fiscal years 2008 through 2012.

(12)(A) The Secretary shall, in cooperation with institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307 and 308), or the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute and State, substate, and regional planning bodies, establish a system for the dissemination of information and technical assistance on federally sponsored or funded programs. The system shall be for the use of institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Insti-

tute and State, substate, and regional planning bodies, and other persons concerned with rural development.

(B) The informational system developed under this paragraph shall contain all pertinent information, including, but not limited to, information contained in the Federal Procurement Data System, Federal Assistance Program Retrieval System, Catalogue of Federal Domestic Assistance, Geographic Distribution of Federal Funds, United States Census, and Code of Federal Regulations.

(C) The Secretary shall obtain from all other Federal departments and agencies comprehensive, relevant, and applicable information on programs under their jurisdiction that are operated in rural areas.

(D) Of the sums authorized to be appropriated to carry out the provisions of this chapter, not more than $1,000,000 per year may be expended to carry out the provisions of this paragraph.

(13) In the making of loans and grants for community waste disposal and water facilities under paragraphs (1) and (2) of this subsection the Secretary shall accord highest priority to the application of any municipality or other public agency (including an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group) in a rural community having a population not in excess of five thousand five hundred and which, in the case of water facility loans, has a community water supply system, where the Secretary determines that due to unanticipated diminution or deterioration of its water supply, immediate action is needed, or in the case of waste disposal, has a community waste disposal system, where the Secretary determines that due to unanticipated occurrences the system is not adequate to the needs of the community. The Secretary shall utilize the Soil Conservation Service in rendering technical assistance to applicants under this paragraph to the extent he deems appropriate.

(14) RURAL WATER AND WASTEWATER TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—

(A) IN GENERAL.—The Secretary may make grants to private nonprofit organizations for the purpose of enabling them to provide to associations described in paragraph (1) of this subsection technical assistance and training to—

(i) identify, and evaluate alternative solutions to, problems relating to the obtaining, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas;

(ii) prepare applications to receive financial assistance for any purpose specified in paragraph (2) of this subsection from any public or private source; and

(iii) improve the operation and maintenance practices at any existing works for the storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

(B) SELECTION PRIORITY.—In selecting recipients of grants to be made under subparagraph (A), the Secretary shall give priority to private nonprofit organizations that have experience in providing the technical assistance and training described in subparagraph (A) to associations serving rural areas in which residents have low income and in which water supply systems or waste facilities are unhealthful.

(C) FUNDING.—Not less than 1 nor more than 3 percent of any funds appropriated to carry out paragraph (2) of this subsection for any fiscal year shall be reserved for grants under subparagraph (A) unless the applications, qualifying for grants, received by the Secretary from eligible nonprofit organizations for the fiscal year total less than 1 per centum of those funds.

(15) In the case of water and waste disposal facility projects serving more than one separate rural community, the Secretary shall use the median population level and the community income level of all the separate communities to be served in applying the standards specified in paragraph (2) of this subsection and section 1927(a)(3)(A) of this title.

(16) Grants under paragraph (2) of this subsection may be used to pay the local share requirements of another Federal grant-in-aid program to the extent permitted under the law providing for such grant-in-aid program.

(17)(A) In the approval and administration of a loan made under paragraph (1) for a water or waste disposal facility, the Secretary shall consider fully any recommendation made by the loan applicant or borrower concerning the technical design and choice of materials to be used for such facility.

(B) If the Secretary determines that a design or materials, other than those that were recommended, should be used in the water or waste disposal facility, the Secretary shall provide such applicant or borrower with a comprehensive justification for such determination.

(18) In making or insuring loans or making grants under this subsection, the Secretary may not condition approval of such loans or grants upon any requirement, condition or certification other than those specified under this chapter.

(19) COMMUNITY FACILITIES GRANT PROGRAM.—

(A) IN GENERAL.—The Secretary may make grants, in a total amount not to exceed $10,000,000 for any fiscal year, to associations, units of general local government, nonprofit corporations, Indian tribes (as such term is defined under section 450b(e) of title 25),,[1] and federally recognized Indian tribes to provide the Federal share of the cost of developing specific essential community facilities in rural areas.

(B) FEDERAL SHARE.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the amount of the Federal share of the cost of the facility under this paragraph.

(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale for the amount of the Federal share provided under this paragraph, with higher Federal shares

[1] So in original.

for facilities in communities that have lower community population and income levels, as determined by the Secretary.

(C) RESERVATION OF FUNDS FOR CHILD DAY CARE FACILITIES.—

(i) IN GENERAL.—For each fiscal year, not less than 10 percent of the funds made available to carry out this paragraph shall be reserved for grants to pay the Federal share of the cost of developing and constructing day care facilities for children in rural areas.

(ii) RELEASE.—Funds reserved under clause (i) for a fiscal year shall be reserved only until June 1 of the fiscal year.

(20) COMMUNITY FACILITIES GRANT PROGRAM FOR RURAL COMMUNITIES WITH EXTREME UNEMPLOYMENT AND SEVERE ECONOMIC DEPRESSION.—

(A) DEFINITION OF NOT EMPLOYED RATE.—In this paragraph, the term ''not employed rate'', with respect to a community, means the percentage of individuals over the age of 18 who reside within the community and who are ready, willing, and able to be employed but are unable to find employment, as determined by the department of labor of the State in which the community is located.

(B) GRANT AUTHORITY.—The Secretary may make grants to associations, units of general local government, nonprofit corporations, and Indian tribes (as defined in section 450b of title 25) in a State to provide the Federal share of the cost of developing specific essential community facilities in rural communities with respect to which the not employed rate is greater than the lesser of—

(i) 500 percent of the average national unemployment rate on November 9, 2000, as determined by the Bureau of Labor Statistics; or

(ii) 200 percent of the average national unemployment rate during the Great Depression, as determined by the Bureau of Labor Statistics.

(C) FEDERAL SHARE.—Paragraph (19)(B) shall apply to a grant made under this paragraph.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $50,000,000 for fiscal year 2001 and such sums as are necessary for each subsequent fiscal year, of which not more than 5 percent of the amount made available for a fiscal year shall be available for community planning and implementation.

(E) RURAL BROADBAND.—Notwithstanding subparagraph (C), the Secretary may make grants to State agencies for use by regulatory commissions in states[2] with rural communities without local broadband service to establish a competitively, technologically neutral grant program to telecommunications carriers or cable operators that establish common carrier facilities and services which, in the commission's determination, will result in the long-term availability to such communities of affordable broadband services which are used for the provision of high speed Internet access.

(21) COMMUNITY FACILITIES GRANT PROGRAM FOR RURAL COMMUNITIES WITH HIGH LEVELS OF OUT-MIGRATION OR LOSS OF POPULATION.—

(A) GRANT AUTHORITY.—The Secretary may make grants to associations, units of general local government, nonprofit corporations, and Indian tribes (as defined in section 450b of title 25) in a State to provide the Federal share of the cost of developing specific essential community facilities in any geographic area—

(i) that is represented by—

(I) any political subdivision of a State;

(II) an Indian tribe on a Federal or State reservation; or

(III) other federally recognized Indian tribal group;

(ii) that is located in a rural area (as defined in section 2009[3] of this title);

(iii) with respect to which, during the most recent 5-year period, the net out-migration of inhabitants, or other population loss, from the area equals or exceeds 5 percent of the population of the area; and

(iv) that has a median household income that is less than the nonmetropolitan median household income of the United States.

(B) FEDERAL SHARE.—Paragraph (19)(B) shall apply to a grant made under this paragraph.

(C) Authorization of appropriations.—There are authorized to be appropriated to carry out this paragraph $50,000,000 for fiscal year 2001 and such sums as are necessary for each subsequent fiscal year, of which not more than 5 percent of the amount made available for a fiscal year shall be available for community planning and implementation.

(22) RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a national rural water and wastewater circuit rider program that is based on the rural water circuit rider program of the National Rural Water Association that (as of May 13, 2002) receives funding from the Secretary, acting through the Rural Utilities Service.

(B) RELATIONSHIP TO EXISTING PROGRAM.—The program established under subparagraph (A) shall not affect the authority of the Secretary to carry out the circuit rider program for which funds are made available under the heading ''RURAL COMMUNITY ADVANCEMENT PROGRAM'' in title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (115 Stat. 719).

(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $25,000,000 for fiscal year 2008 and each fiscal year thereafter.

(23) MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS.—

(A) GRANTS.—The Secretary shall provide grants to multijurisdictional regional planning and development organizations to pay the Federal share of the cost of providing assistance to local governments to improve the infrastructure, services, and business develop-

[2] So in original. Probably should be capitalized.

[3] See References in Text note below.

ment capabilities of local governments and local economic development organizations.

(B) PRIORITY.—In determining which organizations will receive a grant under this paragraph, the Secretary shall give priority to an organization that—

(i) serves a rural area that, during the most recent 5-year period—

(I) had a net out-migration of inhabitants, or other population loss, from the rural area that equals or exceeds 5 percent of the population of the rural area; or

(II) had a median household income that is less than the nonmetropolitan median household income of the applicable State; and

(ii) has a history of providing substantive assistance to local governments and economic development organizations.

(C) FEDERAL SHARE.—A grant provided under this paragraph shall be for not more than 75 percent of the cost of providing assistance described in subparagraph (A).

(D) MAXIMUM AMOUNT OF GRANTS.—The amount of a grant provided to an organization under this paragraph shall not exceed $100,000.

(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $30,000,000 for each of fiscal years 2003 through 2007.

(24) LOAN GUARANTEES FOR WATER, WASTEWATER, AND ESSENTIAL COMMUNITY FACILITIES LOANS.—

(A) IN GENERAL.—The Secretary may guarantee a loan made to finance a community facility or water or waste facility project in a rural area, including a loan financed by the net proceeds of a bond described in section 142(a) of title 26.

(B) REQUIREMENTS.—To be eligible for a loan guarantee under subparagraph (A), an individual or entity offering to purchase the loan shall demonstrate to the Secretary that the person has—

(i) the capabilities and resources necessary to service the loan in a manner that ensures the continued performance of the loan, as determined by the Secretary; and

(ii) the ability to generate capital to provide borrowers of the loan with the additional credit necessary to properly service the loan.

(25) TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.—

(A) IN GENERAL.—The Secretary may make grants to an entity that is a Tribal College or University (as defined in section 1059c of title 20) to provide the Federal share of the cost of developing specific Tribal College or University essential community facilities in rural areas.

(B) FEDERAL SHARE.—The Secretary shall establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph, except that the Secretary may not require non-Federal financial support in an amount that is greater than 5 percent of the total cost of the facility.

(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 2008 through 2012.

(b) Curtailment or limitation of service prohibited

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.

(c) Repealed. Pub. L. 91–606, title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759

(d) Carryover of unused authorizations for appropriations

Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year.

(Pub. L. 87–128, title III, § 306, Aug. 8, 1961, 75 Stat. 308; Pub. L. 87–703, title IV, § 401(2), Sept. 27, 1962, 76 Stat. 632; Pub. L. 89–240, § 1, Oct. 7, 1965, 79 Stat. 931; Pub. L. 89–769, § 6(b), Nov. 6, 1966, 80 Stat. 1318; Pub. L. 90–488, §§ 3–5, Aug. 15, 1968, 82 Stat. 770; Pub. L. 91–524, title VIII, § 806(a), Nov. 30, 1970, 84 Stat. 1383; Pub. L. 91–606, title III, § 302(2), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 91–617, § 1(a), Dec. 31, 1970, 84 Stat. 1855; Pub. L. 92–419, title I, §§ 104–112, Aug. 30, 1972, 86 Stat. 658, 659; Pub. L. 91–524, title VIII, § 816(c), as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 240; Pub. L. 95–334, title I, §§ 104–107(a), Aug. 4, 1978, 92 Stat. 421, 422; Pub. L. 96–355, § 7, Sept. 24, 1980, 94 Stat. 1174; Pub. L. 96–438, § 2(1), Oct. 13, 1980, 94 Stat. 1871; Pub. L. 97–35, title I, § 121, Aug. 13, 1981, 95 Stat. 368; Pub. L. 99–198, title XIII, § 1304(a), Dec. 23, 1985, 99 Stat. 1519; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–624, title XXIII, §§ 2316(b), 2321, 2328, 2329, 2341, 2342, 2393, Nov. 28, 1990, 104 Stat. 4008, 4010, 4017, 4026, 4027, 4057; Pub. L. 102–237, title VII, § 701(a), (h)(1)(A), (B), Dec. 13, 1991, 105 Stat. 1879, 1880; Pub. L. 103–129, § 3, Nov. 1, 1993, 107 Stat. 1366; Pub. L. 103–354, title II, § 235(b)(5), Oct. 13, 1994, 108 Stat. 3222; Pub. L. 104–127, title VII, §§ 741(a), 758, 763, Apr. 4, 1996, 110 Stat. 1122, 1132, 1148; Pub. L. 106–387, § 1(a) [title VII, § 773], Oct. 28, 2000, 114 Stat. 1549, 1549A–45; Pub. L. 106–472, title III, §§ 304(a), 305(a), Nov. 9, 2000, 114 Stat. 2070, 2071; Pub. L. 107–76, title VII, § 762, Nov. 28, 2001, 115 Stat. 743; Pub. L. 107–171, title VI, §§ 6001–6007(a), 6008, 6020(b)(1), May 13, 2002, 116 Stat. 352–355, 363; Pub. L. 110–234, title VI, §§ 6001, 6002(a), 6003–6007, title VII, § 7511(c)(3), May 22, 2008, 122 Stat. 1161, 1162, 1267; Pub. L. 110–246, § 4(a), title VI, §§ 6001, 6002(a), 6003–6007, title VII, § 7511(c)(3), June 18, 2008, 122 Stat. 1664, 1923, 1924, 2029.)

REFERENCES IN TEXT

Section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

Appropriations Act, 1999, referred to in subsec. (a)(1), is Pub. L. 105–277, div. A, § 101(a)[title VII, § 766], Oct. 21, 1998, 112 Stat. 2681, 2681–37, which is not classified to the Code.

The Rural Electrification Act of 1936, referred to in subsec. (a)(1), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

For definition of ''this chapter'', referred to in subsec. (a)(2)(C)(iii), (12)(D), (18), see note set out under section 1921 of this title.

The Public Health Service Act, referred to in subsec. (a)(9), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XIV of the Act, known as the Safe Drinking Water Act, is classified principally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of these Acts to the Code, see Short Title note and Short Title of 1974 Amendments note set out under section 201 of Title 42 and Tables.

Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307 and 308), referred to in subsec. (a)(12)(A), is act July 2, 1862, ch. 130, 12 Stat. 503, popularly known as the ''Morrill Act'' and also as the ''First Morrill Act'', which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 301 of this title and Tables.

Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), referred to in subsec. (a)(12)(A), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

Section 2009 of this title, referred to in subsec. (a)(21)(A)(ii), was subsequently amended, and no longer defines the term ''rural area''.

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, referred to in subsec. (a)(22)(B), is Pub. L. 107–76, Nov. 28, 2001, 115 Stat. 704. Provisions under the heading ''RURAL COMMUNITY ADVANCEMENT PROGRAM'' in title III of the Act appear at 115 Stat. 719 and are not classified to the Code.

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. (a)(2)(B)(vii). Pub. L. 110–246, § 6001, substituted ''2008 through 2012'' for ''2002 through 2007''.

Subsec. (a)(2)(C). Pub. L. 110–246, § 6002(a), added subpar. (C).

Subsec. (a)(11)(C). Pub. L. 110–246, § 7511(c)(3), substituted ''the National Institute of Food and Agriculture'' for ''the Cooperative State Research, Education, and Extension Service''.

Subsec. (a)(11)(D). Pub. L. 110–246, § 6003, substituted ''2008 through 2012'' for ''1996 through 2007''.

Subsec. (a)(19)(C)(ii). Pub. L. 110–246, § 6004, substituted ''June'' for ''April''.

Subsec. (a)(20)(E). Pub. L. 110–246, § 6005, substituted ''State'' for ''state'' and struck out ''dial-up Internet access or'' before ''broadband service''.

Subsec. (a)(22)(C). Pub. L. 110–246, § 6006, substituted ''$25,000,000 for fiscal year 2008'' for ''$15,000,000 for fiscal year 2003''.

Subsec. (a)(25)(A). Pub. L. 110–246, § 6007(1), substituted ''grants to an entity that is a Tribal College or University'' for ''grants to tribal colleges and universities'' and ''specific Tribal College or University'' for ''specific tribal college or university''.

Subsec. (a)(25)(B). Pub. L. 110–246, § 6007(2), added subpar. (B) and struck out former subpar. (B) which directed the Secretary to establish the maximum percentage of the cost of the facility that could be covered by a grant, provided that the amount of a grant was not to exceed 75 percent of the cost of developing the facility, and directed the Secretary to provide for a graduated scale that would provide higher percentages for facilities in communities with lower community population and income levels.

Subsec. (a)(25)(C). Pub. L. 110–246, § 6007(3), substituted ''2008 through 2012'' for ''2003 through 2007''.

2002—Subsec. (a)(1). Pub. L. 107–171, § 6001, inserted after first sentence ''The Secretary may also make or insure loans to communities that have been designated as rural empowerment zones or rural enterprise communities pursuant to part I of subchapter U of chapter 1 of title 26, or as rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681, 2681–37), to provide for the installation or improvement of essential community facilities including necessary related equipment, and to furnish financial assistance or other aid in planning projects for such purposes.''

Subsec. (a)(2). Pub. L. 107–171, § 6002, inserted heading, designated existing provisions as subpar. (A) and inserted heading, designated first sentence of subpar. (A) as cl. (i), inserted heading, and struck out ''aggregating not to exceed $590,000,000 in any fiscal year'' after ''authorized to make grants'', designated second sentence of subpar. (A) as cl. (ii), inserted heading, and substituted ''subparagraph'' for ''paragraph'', designated third sentence of subpar. (A) as cl. (iii) and inserted heading, and added subpar. (B).

Subsec. (a)(7). Pub. L. 107–171, § 6020(b)(1), struck out heading and text of par. (7). Text read as follows: ''For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1) and (2), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.''

Subsec. (a)(11)(D). Pub. L. 107–171, § 6003, substituted ''$15,000,000'' for ''$7,500,000'' and ''2007'' for ''2002''.

Subsec. (a)(19)(C). Pub. L. 107–171, § 6004, added subpar. (C).

Subsec. (a)(22) to (25). Pub. L. 107–171, §§ 6005–6007(a), 6008, added pars. (22) to (25).

2001—Subsec. (a)(20)(E). Pub. L. 107–76 added subpar. (E).

2000—Subsec. (a)(19)(A). Pub. L. 106–387, which directed amendment of section 306(a)(19)(A) of the Consolidated Farmers Home Administration Act of 1961 by inserting '', Indian tribes (as such term is defined under section 450b(e) of title 25),'' after ''nonprofit corporations'', was executed to this section, which is section 306(a)(19)(A) of the Consolidated Farm and Rural Development Act, to reflect the probable intent of Congress.

Subsec. (a)(20). Pub. L. 106–472, § 304(a), added par. (20).

Subsec. (a)(21). Pub. L. 106–472, § 305(a), added par. (21).

1996—Subsec. (a)(2). Pub. L. 104–127, § 741(a)(1), substituted ''$590,000,000'' for ''$500,000,000''.

Subsec. (a)(5). Pub. L. 104–127, § 758, added par. (5).

Subsec. (a)(7). Pub. L. 104–127, § 741(a)(2), added par. (7) and struck out former par. (7) which read as follows: ''As used in this chapter, the terms 'rural' and 'rural area' shall not include any area in any city or town which has a population in excess of ten thousand inhabitants, except that (A) for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms 'rural' and 'rural area' may include any area in any city or town that has a population not in excess of twenty thousand inhabitants; and (B) for purposes of loans and grants for private business enterprises under sections 1924(b), 1932 and 1942(b), (c), and (d) of this title the terms 'rural' and

'rural area' may include all territory of a State that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States: *Provided*, That special consideration for such loans and grants shall be given to areas other than cities having a population of more than twenty-five thousand.''

Subsec. (a)(9), (10). Pub. L. 104–127, § 741(a)(3), added pars. (9) and (10) and struck out former pars. (9) and (10) which read as follows:

''(9) No Federal funds shall be authorized for use unless it be certified by the appropriate State water pollution control agency that the water supply system authorized will not result in pollution of waters of the State in excess of standards established by that agency.

''(10) In the case of sewers and waste disposal systems, no Federal funds shall be advanced hereunder unless the appropriate State water pollution control agency shall certify that the effluent therefrom shall conform with appropriate State and Federal water pollution control standards when and where established.''

Subsec. (a)(11). Pub. L. 104–127, § 741(a)(3), added par. (11) and struck out former par. (11) which authorized grants to public bodies, private nonprofit community development corporations or entities, or other agencies to enable such recipients to (1) identify and analyze business opportunities, including opportunities in export markets, that would use local rural economic and human resources, (2) identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers, (3) establish business support centers and otherwise assist in creation of new rural businesses, development of methods of financing local businesses, and enhancing capacity of local individuals and entities to engage in sound economic activities, and (4) conduct regional, community, and local economic development planning and coordination, and leadership development.

Subsec. (a)(14). Pub. L. 104–127, § 741(a)(6)(A)–(D)(i), inserted par. heading and headings for subpars. (A) to (C), and realigned margins of subpars. and cls. (i) to (iii) of subpar. (A).

Pub. L. 104–127, § 741(a)(4), (5), redesignated par. (16) as (14) and struck out former par. (14) which read as follows:

''(14)(A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

''(B) For the purposes of this subsection, the term 'eligible volunteer fire department' means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary.''

Subsec. (a)(14)(C). Pub. L. 104–127, § 741(a)(6)(D)(ii), which directed substitution of ''3 percent of any funds appropriated'' for ''2 per centum of any funds provided in appropriations Acts'', was executed by making the substitution for ''2 per centum of any funds provided in Appropriations Acts'', to reflect the probable intent of Congress.

Subsec. (a)(15). Pub. L. 104–127, § 741(a)(4), (5), redesignated par. (17) as (15) and struck out former par. (15) which authorized making or insuring of loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies, for purpose of financing construction, acquisition, and operation of transmission facilities for any electric system owned and operated by a public body located in a rural area which was, as of October 1, 1976, receiving bulk power from designated agencies of Department of the Interior.

Subsec. (a)(16) to (18). Pub. L. 104–127, § 741(a)(5), redesignated pars. (18) to (20) as (16) to (18), respectively. Former pars. (16) to (18) redesignated (14) to (16), respectively.

Subsec. (a)(19). Pub. L. 104–127, § 763, added par. (19).

Pub. L. 104–127, § 741(a)(5), redesignated par. (19) as (17).

Subsec. (a)(20). Pub. L. 104–127, § 741(a)(5), redesignated par. (20) as (18).

1994—Subsec. (a)(15)(C), (D). Pub. L. 103–354 redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''The Administrator of the Rural Electrification Administration shall administer loans made or insured under this paragraph.''

1993—Subsec. (a)(1). Pub. L. 103–129 inserted after first sentence ''The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents.''

1991—Subsec. (a)(11)(B)(ii). Pub. L. 102–237, § 701(a)(1), in subcl. (I) inserted ''and'' after semicolon and in subcl. (II) substituted a period for ''; and''.

Subsec. (a)(12)(D), (20). Pub. L. 102–237, § 701(h)(1)(A), (B), substituted ''this chapter'' for ''this Act''.

Subsec. (a)(21). Pub. L. 102–237, § 701(a)(2), struck out par. (21) which was identical to par. (20).

1990—Subsec. (a)(1). Pub. L. 101–624, § 2328, inserted ''rural businesses,'' after ''farm laborers,''.

Subsec. (a)(2). Pub. L. 101–624, § 2321, struck out '': *Provided*, That for fiscal years commencing after September 30, 1981, such grants may not exceed $154,900,000 in any fiscal year'' after ''in rural areas''.

Subsec. (a)(3). Pub. L. 101–624, § 2316(b), struck out ''and not inconsistent with any planned development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority for the area in which the rural community is located, and the Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A–95 and to the county or municipal government having jurisdiction over the area in which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government. No loan under this section shall be made that is inconsistent with any multijurisdictional planning and development district areawide plan of such agency. The Secretary is authorized to reimburse such agency or government for the cost of making the required review. Until October 1, 1973, the Secretary may make grants prior to the completion of the comprehensive plan, if the preparation of such plan has been undertaken for the area'' after ''of the rural area''.

Subsec. (a)(11). Pub. L. 101–624, §§ 2341, 2342, amended par. (11) generally. Prior to amendment, par. (11) read as follows: ''The Secretary may make grants, not to exceed $15,000,000 annually, to public bodies or such other agencies as the Secretary may select to provide rural development technical assistance, rural community leadership development, and community and areawide rural development planning.''

Subsec. (a)(20). Pub. L. 101–624, § 2329, added par. (20).

Subsec. (a)(21). Pub. L. 101–624, § 2393, added par. (21).

1986—Subsec. (a)(1), (15)(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.

1985—Subsec. (a)(2). Pub. L. 99–198 provided for graduated scale of grant rates for each project and higher rates in communities having lower community population and income levels.

Subsec. (a)(16) to (19). Pub. L. 99–198 added pars. (16) to (19).

1981—Subsec. (a)(2). Pub. L. 97–35 inserted provisions limiting grants for fiscal years after Sept. 30, 1981.

1980—Subsec. (a)(7). Pub. L. 96–438 provided that for the purpose of loans for essential community facilities under subsection (a)(1) of this section, terms ''rural'' and ''rural area'' may include any area in any city or town with a population not in excess of twenty thousand.

Subsec. (a)(11) to (15). Pub. L. 96–355 in par. (11) substituted provisions authorizing annual grants not to exceed $15,000,000 for rural development technical assistance, rural community leadership development, etc., for provisions authorizing annual grants not to exceed $10,000,000 for preparation of comprehensive plans for rural development or designated aspects of such rural development, added par. (12), and redesignated former pars. (12) to (14) as (13) to (15), respectively.

1978—Subsec. (a)(1). Pub. L. 95–334, § 104, inserted provisions respecting bond counsel requirements for loans under $500,000.

Subsec. (a)(2). Pub. L. 95–334, § 105, substituted ''$500,000,000'' for ''$300,000,000'' and ''75'' for ''50''.

Subsec. (a)(7). Pub. L. 95–334, § 106, struck out references to the Commonwealth of Puerto Rico and the Virgin Islands.

Subsec. (a)(14). Pub. L. 95–334, § 107(a), added par. (14).

1973—Subsec. (a)(13). Pub. L. 91–524, title VIII, § 816(c), as added by Pub. L. 93–86 added par. (13).

1972—Subsec. (a)(1). Pub. L. 92–419, § 104(1), (2), authorized loans to Indian tribes on Federal and State reservations and other federally recognized Indian tribes and included as an allowable use provision for essential community facilities including necessary related equipment, respectively.

Subsec. (a)(2). Pub. L. 92–419, § 105, substituted ''$300,000,000'' for ''$100,000,000''.

Subsec. (a)(3). Pub. L. 92–419, §§ 106, 107, substituted ''project'' for ''facility'' where first appearing; in item (i), substituted ''project'' for ''facility'' and inserted in such text '', if such project is carried out,''; in item (ii), substituted ''will or can be'' for ''will be or can be''; substituted ''and (iii)'' for ''or (iii)'' and in such item (iii), substituted ''an orderly community development consistent with a comprehensive community water, waste disposal, or other development plan'' and ''development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority'' for ''orderly community development consistent with a comprehensive community water or sewer development plan'' and ''development under State, county, or municipal plans approved as official plans by competent authority'', substituted ''Secretary shall require the submission of all applications for financial assistance under this section to the multijurisdictional substate areawide general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A–95 and to the county or municipal government having jurisdiction over the area in which the proposed project is to be located for review and comment within a designated period of time not to exceed 30 days concerning among other considerations, the effect of the project upon the areawide goals and plans of such agency or government'' for ''Secretary shall establish regulations requiring the submission of all applications for financial assistance under this chapter to the county or municipal government in which the proposed project is to be located for review and comment by such agency within a designated period of time''; prohibited loans inconsistent with multijurisdictional planning and development district areawide plan of the agency; authorized agency or government reimbursement for cost of making the review; and extended authority for making grants prior to completion of the comprehensive plan from Oct. 1, 1971 to Oct. 1, 1973.

Subsec. (a)(5). Pub. L. 92–419, § 110, struck out provisions of former par. (5) which prohibited any loan or grant under subsec. (a) of this section which would cause the unpaid principal indebtedness of any association under this chapter and Act Aug. 28, 1937, as amended (superseded by this chapter), together with amount of any assistance in the form of a grant to exceed $4,000,000 at any one time.

Subsec. (a)(6). Pub. L. 92–419, § 108, substituted ''$30,000,000'' for ''$15,000,000'', struck out ''official'' before ''comprehensive plans'', and substituted ''waste disposal systems'' for ''sewer systems''.

Subsec. (a)(7). Pub. L. 92–419, § 109, substituted definition of ''rural'' and ''rural area'' as excluding an area in a city or town with a population in excess of ten thousand inhabitants for prior provision for rural areas for purposes of water and waste disposal projects excluding an area in a city or town with a population in excess of 5,500 inhabitants, provided exception provision and special consideration for loans and grants to areas other than cities having a population of more than twenty-five thousand.

Subsec. (a)(11), (12). Pub. L. 92–419, §§ 111, 112, added pars. (11) and (12).

1970—Subsec. (a)(1). Pub. L. 91–617 required inclusion in gross income of the interest or other income paid to an insured holder when any loan made for a purpose specified in subsec. (a)(1) is sold out of the Agricultural Credit Insurance Fund as an insured loan.

Subsec. (c). Pub. L. 91–606 repealed subsec. (c), added by Pub. L. 89–769, § 6(b), Nov. 6, 1966, 80 Stat. 1318, which related to loans to associations in areas suffering major disasters. See section 4401 et seq. of Title 42, The Public Health and Welfare.

Subsec. (d). Pub. L. 91–524 added subsec. (d).

1968—Subsec. (a). Pub. L. 90–488 substituted ''$100,000,000'' for ''$50,000,000'' in par. (2), ''1971'' for ''1968'' in par. (3), and ''$15,000,000'' for ''$5,000,000'' in par. (6), respectively.

1966—Subsec. (c). Pub. L. 89–769 added subsec. (c).

1965—Subsec. (a). Pub. L. 89–240 designated existing provisions as par. (1), struck out ''including the development of recreational facilities'' after ''shifts in land use'', substituted ''drainage or waste disposal facilities'' for ''drainage facilities'', inserted ''and recreational developments'', deleted provisions which prohibited loans which would cause an association's unpaid principal indebtedness to exceed $500,000, in the case of direct loans and $1,000,000 in the case of insured loans at any one time, and added pars. (2) to (10).

1962—Subsec. (a). Pub. L. 87–703 authorized loans to be made or insured to provide for the application or establishment of shifts in land use including the development of recreational facilities.

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, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

Amendment by section 7511(c)(3) of Pub. L. 110–246 effective Oct. 1, 2009, see section 7511(c) of Pub. L. 110–246, set out as a note under section 1522 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(a) of Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, and amendment by section 701(h)(1)(A), (B) of Pub. L. 102–237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, see section 1101(b)(6), (c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–355 effective Oct. 1, 1980, see section 10 of Pub. L. 96–355, set out as an Effective Date note under section 2204b of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 105 of Pub. L. 95–334 provided that the amendment made by that section is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1970 AMENDMENTS

Section 1(b) of Pub. L. 91–617 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to the insured loans sold out of the Agricultural Credit Insurance Fund after the date of the enactment of this Act [Dec. 31, 1970].''

Amendment by Pub. L. 91–606 effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89–769.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

ASSISTANCE IN RURAL ALASKA

Pub. L. 106–387, § 1(a) [title VII, § 736], Oct. 28, 2000, 114 Stat. 1549, 1549A–33, provided that: ''Notwithstanding any other provision of law, for any fiscal year, in the case of a high cost, isolated rural area of the State of Alaska that is not connected to a road system—

''(1) in the case of assistance provided by the Rural Housing Service for single family housing under title V of the Housing Act of 1949 (7 [42] U.S.C. 1471 et seq.), the maximum income level for the assistance shall be 150 percent of the average income level in metropolitan areas of the State;

''(2) in the case of community facility loans and grants provided under paragraphs (1) and (19), respectively, of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) and assistance provided under programs carried out by the Rural Utilities Service, the maximum income level for the loans, grants, and assistance shall be 150 percent of the average income level in nonmetropolitan areas of the State;

''(3) in the case of a business and industry guaranteed loan made under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)), to the extent permitted under that Act, the Secretary of Agriculture shall—

''(A) guarantee the repayment of 90 percent of the principal and interest due on the loan; and

''(B) charge a loan origination and servicing fee in an amount not to exceed 1 percent of the amount of the loan; and

''(4) in the case of assistance provided under the Rural Community Development Initiative for fiscal year 2001 carried out under the rural community advancement program established under subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009 et seq.), the median household income level, and the not employed rate, with respect to applicants for assistance under the Initiative shall be scored on a community-by-community basis.''

TEMPORARY EXPANDED ELIGIBILITY OF CERTAIN TIMBER-DEPENDENT COMMUNITIES IN PACIFIC NORTHWEST FOR LOANS AND GRANTS FROM RURAL DEVELOPMENT ADMINISTRATION

Pub. L. 103–427, Oct. 31, 1994, 108 Stat. 4373, provided that:

''(a) FINDINGS.—Congress finds the following:

''(1) Timber-dependent communities in the Pacific Northwest have contributed significantly to the economic needs of the United States and have helped ensure an adequate national supply of timber and timber products.

''(2) A significant portion of the timber traditionally harvested in the Pacific Northwest is derived from Federal forest lands, and these forests have played an important role in sustaining local economies.

''(b) EXPANDED ELIGIBILITY.—During the period beginning on the date of the enactment of this Act [Oct. 31, 1994] and ending on September 30, 1998, the terms 'rural' and 'rural area', as used in the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), shall include any town, city, or municipality—

''(1) part or all of which lies within 100 miles of the boundary of a national forest covered by the Federal document entitled 'Forest Plan for a Sustainable Economy and a Sustainable Environment', dated July 1, 1993;

''(2) that is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism; and

''(3) that has a population of not more than 25,000 inhabitants.

''(c) EFFECT ON STATE ALLOTMENTS OF FUNDS.—This section shall not be taken into consideration in allotting funds to the various States for purposes of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or otherwise affect or alter the manner under which such funds were allotted to States before the date of the enactment of this Act [Oct. 31, 1994].''

RURAL WASTEWATER TREATMENT CIRCUIT RIDER PROGRAM

Section 2324 of Pub. L. 101–624 directed Secretary to establish national rural wastewater circuit rider grant program that was to be modeled after existing National Rural Water Association Rural Water Circuit Rider Program that received funding from Farmers Home Administration and authorized $4,000,000 for each fiscal year to carry out such program, prior to repeal by Pub. L. 104–127, title VII, § 703, Apr. 4, 1996, 110 Stat. 1108.

INTEREST RATE RESTRUCTURING FOR CERTAIN BORROWERS

Pub. L. 100–233, title VI, § 615(b)(2), Jan. 6, 1988, 101 Stat. 1682, provided that: ''Effective July 29, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 [7 U.S.C. 1926] to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan.''

LEASE OF CERTAIN ACQUIRED PROPERTY

Pub. L. 100–233, title VI, § 620, Jan. 6, 1988, 101 Stat. 1684, provided that: ''Notwithstanding any other provision of law, the Secretary of Agriculture may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306 [7 U.S.C. 1926]. Any such lease shall be for such reasonable period of time as the Secretary determines is appropriate.''

§ 1926–1. Repealed. Pub. L. 104–127, title VII, § 702, Apr. 4, 1996, 110 Stat. 1108

Section, Pub. L. 101–624, title XXIII, § 2322, Nov. 28, 1990, 104 Stat. 4010; Pub. L. 102–237, title VII, § 702(f), Dec. 13, 1991, 105 Stat. 1880; Pub. L. 103–354, title II, § 235(b)(6), Oct. 13, 1994, 108 Stat. 3222, related to water and waste facility financing, including provisions relat-

ing to authority, limitation, priority, coordination, terms, private sector capital, appropriations, repayment, full use, and replenishment of water and waste facility fund.

§ 1926a. Emergency and imminent community water assistance grant program

(a) In general

The Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities, or when such a decline is imminent; or

(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy—

(A) an acute, or imminent, shortage of quality water; or

(B) a significant decline, or imminent decline, in the quantity or quality of water that is available.

(b) Priority

In carrying out subsection (a) of this section, the Secretary shall—

(1) give priority to projects described in subsection (a)(1) of this section; and

(2) provide at least 70 percent of all such grants to such projects.

(c) Eligibility

To be eligible to obtain a grant under this section, an applicant shall—

(1) be a public or private nonprofit entity; and

(2) in the case of a grant made under subsection (a)(1) of this section, demonstrate to the Secretary that the decline referred to in such subsection occurred, or will occur, within 2 years of the date the application was filed for such grant.

(d) Uses

(1) In general

Grants made under this section may be used—

(A) for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, and hook and tap fees;

(B) for any other appropriate purpose associated with developing sources of, treating, storing, or distributing water;

(C) to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(D) to provide potable water to communities through other means.

(2) Joint proposals

Nothing in this section shall preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions contained in subsection (e) of this section. Such restrictions should be considered in the aggregate, depending on the number of communities involved.

(e) Restrictions

(1) Maximum population and income

No grant provided under this section shall be used to assist any rural area or community that—

(A) includes any area in any city or town with a population in excess of 10,000 inhabitants according to the most recent decennial census of the United States; or

(B) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

(2) Set-aside for smaller communities

Not less than 50 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.

(f) Maximum grants

Grants made under this section may not exceed—

(1) in the case of each grant made under subsection (a)(1) of this section, $500,000; and

(2) in the case of each grant made under subsection (a)(2) of this section, $150,000.

(g) Full funding

Subject to subsection (e) of this section, grants under this section shall be made in an amount equal to 100 percent of the costs of the projects conducted under this section.

(h) Application

(1) Nationally competitive application process

The Secretary shall develop a nationally competitive application process to award grants under this section. The process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline, or imminent decline, in quantity or quality of water.

(2) Timing of review of applications

(A) Simplified application

The application process developed by the Secretary under paragraph (1) shall include a simplified application form that will permit expedited consideration of an application for a grant filed under this section.

(B) Priority review

In processing applications for any water or waste grant or loan authorized under this chapter, the Secretary shall afford priority processing to an application for a grant under this section to the extent funds will be available for an award on the application at the conclusion of priority processing.

(C) Timing

The Secretary shall, to the maximum extent practicable, review and act on an application under this section within 60 days after the date on which the application is submitted to the Secretary.

(i) Funding

(1) Reservation

(A) In general

For each fiscal year, not less than 3 nor more than 5 percent of the total amount

made available to carry out section 1926(a)(2) of this title for the fiscal year shall be reserved for grants under this section.

(B) Release

Funds reserved under subparagraph (A) for a fiscal year shall be reserved only until July 1 of the fiscal year.

(2) Authorization of appropriations

In addition to funds made available under paragraph (1), there is authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, § 306A, as added Pub. L. 101–82, title V, § 501(a), Aug. 14, 1989, 103 Stat. 584; amended Pub. L. 104–127, title VII, § 742, Apr. 4, 1996, 110 Stat. 1124; Pub. L. 107–171, title VI, § 6009, May 13, 2002, 116 Stat. 356; Pub. L. 110–234, title VI, § 6008, May 22, 2008, 122 Stat. 1163; Pub. L. 110–246, § 4(a), title VI, § 6008, June 18, 2008, 122 Stat. 1664, 1924.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (d)(1)(C), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Safe Drinking Water Act, referred to in subsec. (d)(1)(C), is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, § 2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

For definition of ''this chapter'', referred to in subsec. (h)(2)(B), see note set out under section 1921 of this title.

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. (i)(2). Pub. L. 110–246, § 6008, substituted ''2008 through 2012'' for ''2003 through 2007''.

2002—Pub. L. 107–171, § 6009(1), inserted ''and imminent'' before ''community water assistance'' in section catchline.

Subsec. (a)(1). Pub. L. 107–171, § 6009(2)(A), inserted '', or when such a decline is imminent'' before semicolon at end.

Subsec. (a)(2)(A). Pub. L. 107–171, § 6009(2)(B)(i), substituted ''acute, or imminent,'' for ''acute''.

Subsec. (a)(2)(B). Pub. L. 107–171, § 6009(2)(B)(ii), substituted ''decline, or imminent decline,'' for ''decline''.

Subsec. (c)(2). Pub. L. 107–171, § 6009(3), substituted ''occurred, or will occur,'' for ''occurred''.

Subsec. (d)(1). Pub. L. 107–171, § 6009(4), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).''

Subsec. (f)(2). Pub. L. 107–171, § 6009(5), substituted ''$150,000'' for ''$75,000''.

Subsec. (h)(1). Pub. L. 107–171, § 6009(6)(A), substituted ''decline, or imminent decline,'' for ''decline'' in second sentence.

Subsec. (h)(2). Pub. L. 107–171, § 6009(6)(B), added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.''

Subsec. (i). Pub. L. 107–171, § 6009(7), added subsec. (i) and struck out heading and text of former subsec. (i). Text read as follows: ''There are authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 1996 through 2002.''

1996—Subsec. (e)(1)(A). Pub. L. 104–127, § 742(1)(A), substituted ''10,000'' for ''15,000''.

Subsec. (e)(2). Pub. L. 104–127, § 742(1)(B), substituted ''3,000'' for ''5,000''.

Subsec. (i). Pub. L. 104–127, § 742(2), added subsec. (i) and struck out heading and text of former subsec. (i). Text read as follows: ''There are authorized to be appropriated to carry out this section, $35,000,000 for each of the fiscal years 1990 and 1991, such sums to remain authorized until fully appropriated.''

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.

IMPLEMENTATION

Section 501(b) of Pub. L. 101–82 provided that:

''(1) REGULATIONS.—The Secretary of Agriculture shall publish—

''(A) interim final regulations to carry out section 306A of the Consolidated Farm and Rural Development Act [7 U.S.C. 1926a] (as added by subsection (a) of this section) not later than 45 days after the date of enactment of this Act [Aug. 14, 1989]; and

''(B) final regulations to carry out section 306A of such Act not later than 90 days after the date of enactment of this Act.

''(2) FUNDS.—

''(A) OBLIGATION.—The Secretary shall designate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306A(i) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

''(B) RELEASE.—The Secretary may release funds prior to the issuance of final regulations under paragraph (1)(B) for grants under section 306A(a)(1) of the Consolidated Farm and Rural Development Act.''

§ 1926b. Repealed. Pub. L. 104–127, title VII, § 743, Apr. 4, 1996, 110 Stat. 1125

Section, Pub. L. 87–128, title III, § 306B, as added Pub. L. 101–624, title XXIII, § 2326(a), Nov. 28, 1990, 104 Stat. 4014, related to emergency community water assistance grant program, including general provisions and provisions relating to priority, eligibility, uses, restrictions, maximum grants, full funding, application, and limitations on authorization of appropriations.

§ 1926c. Water and waste facility loans and grants to alleviate health risks

(a) Loans and grants to persons other than individuals

(1) In general

The Secretary shall make or insure loans and make grants to rural water supply corporations, cooperatives, or similar entities, Indian tribes on Federal and State reservations

and other federally recognized Indian tribes, and public agencies, to provide for the conservation, development, use, and control of water (including the extension or improvement of existing water supply systems), and the installation or improvement of drainage or waste disposal facilities and essential community facilities including necessary related equipment. Such loans and grants shall be available only to provide such water and waste facilities and services to communities whose residents face significant health risks, as determined by the Secretary, due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable—

(A) water supply systems; or

(B) waste disposal facilities.

(2) Certain areas targeted

(A) In general

Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

(i) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

(ii) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

(B) Exception

Notwithstanding subparagraph (A), loans and grants under paragraph (1) may also be made if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a rural area that was recognized as a colonia as of October 1, 1989.

(b) Loans and grants to individuals

(1) In general

The Secretary shall make or insure loans and make grants to individuals who reside in a community described in subsection (a)(1) of this section for the purpose of extending water supply and waste disposal systems, connecting the systems to the residences of the individuals, or installing plumbing and fixtures within the residences of the individuals to facilitate the use of the water supply and waste disposal systems. Such loans shall be at a rate of interest no greater than the Federal Financing Bank rate on loans of a similar term at the time such loans are made. The repayment of such loans shall be amortized over the expected life of the water supply or waste disposal system to which the residence of the borrower will be connected.

(2) Manner in which loans and grants are to be made

Loans and grants to individuals under paragraph (1) shall be made—

(A) directly to such individuals by the Secretary; or

(B) to such individuals through the rural water supply corporation, cooperative, or similar entity, or public agency, providing such water supply or waste disposal services, pursuant to regulations issued by the Secretary.

(c) Preference

The Secretary shall give preference in the awarding of loans and grants—

(1) under subsection (a) of this section to rural water supply corporations, cooperatives, or similar entities, or public agencies, that propose to provide water supply or waste disposal services to the residents of those rural subdivisions commonly referred to as colonias, that are characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities; and

(2) under subsection (b) of this section to individuals who reside in a rural subdivision commonly referred to as a colonia, that is characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities.

(d) "Cooperative" defined

For purposes of this section, the term ''cooperative'' means a cooperative formed specifically for the purpose of the installation, expansion, improvement, or operation of water supply or waste disposal facilities or systems.

(e) Authorization of appropriations

(1) In general

Subject to paragraph (2), there are authorized to be appropriated—

(A) for grants under this section, $30,000,000 for each fiscal year;

(B) for loans under this section, $30,000,000 for each fiscal year; and

(C) in addition to grants provided under subparagraph (A), for grants under this section to benefit Indian tribes (as defined in section 450b of title 25), $20,000,000 for each fiscal year.

(2) Exception

An entity eligible to receive funding through a grant made under section 1926d of this title shall not be eligible for a grant from funds made available under paragraph (1)(C).

(f) Regulations

Not later than 30 days after October 28, 1992, the Secretary shall issue interim final regulations, with a request for public comments, implementing this section.

(Pub. L. 87–128, title III, § 306C, as added Pub. L. 101–624, title XXIII, § 2327, Nov. 28, 1990, 104 Stat. 4015; amended Pub. L. 102–237, title VII, § 701(b), Dec. 13, 1991, 105 Stat. 1879; Pub. L. 102–552, title V, § 516(*l*), (m), Oct. 28, 1992, 106 Stat. 4139; Pub. L. 102–554, § 24, Oct. 28, 1992, 106 Stat. 4161; Pub. L. 107–171, title VI, § 6010, May 13, 2002, 116 Stat. 357.)

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–171 added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: ''There are authorized to be appropriated—

''(1) for grants under this section, $30,000,000 for each fiscal year; and

''(2) for loans under this section, $30,000,000 for each fiscal year.''

1992—Subsec. (a)(2). Pub. L. 102–554 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''(2) CERTAIN COUNTIES TARGETED.—Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

''(A) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

''(B) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.''

Subsec. (b)(1). Pub. L. 102–552, § 516(*l*), substituted '', connecting the systems to the residences of the individuals, or installing plumbing and fixtures within the residences of the individuals to facilitate the use of the water supply and waste disposal systems'' for ''or connecting such systems to the residences of such individuals''.

Subsec. (f). Pub. L. 102–552, § 516(m), added subsec. (f).

1991—Subsec. (a)(2). Pub. L. 102–237 realigned margins of subpars. (A) and (B).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(6) of Pub. L. 102–237, set out as a note under section 1421 of this title.

§ 1926d. Water systems for rural and Native villages in Alaska

(a) In general

The Secretary may make grants to the State of Alaska for the benefit of rural or Native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages.

(b) Matching funds

To be eligible to receive a grant under subsection (a) of this section, the State of Alaska shall provide 25 percent in matching funds from non-Federal sources.

(c) Consultation with State of Alaska

The Secretary shall consult with the State of Alaska on a method of prioritizing the allocation of grants under subsection (a) of this section according to the needs of, and relative health and sanitation conditions in, each village.

(d) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2008 through 2012.

(2) Training and technical assistance

Not more than 2 percent of the amount made available under paragraph (1) for a fiscal year may be used by the State of Alaska for training and technical assistance programs relating to the operation and management of water and waste disposal services in rural and Native villages.

(3) Availability

Funds appropriated pursuant to the authorization of appropriations in paragraph (1) shall be available until expended.

(Pub. L. 87–128, title III, § 306D, as added Pub. L. 104–127, title VII, § 757, Apr. 4, 1996, 110 Stat. 1131; amended Pub. L. 105–277, div. A, § 101(a) [title VII, § 745], Oct. 21, 1998, 112 Stat. 2681, 2681–32; Pub. L. 106–224, title II, § 256, June 20, 2000, 114 Stat. 424; Pub. L. 107–171, title VI, § 6011, May 13, 2002, 116 Stat. 357; Pub. L. 110–234, title VI, § 6009(a), May 22, 2008, 122 Stat. 1163; Pub. L. 110–246, § 4(a), title VI, § 6009(a), June 18, 2008, 122 Stat. 1664, 1924.)

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. (d)(1). Pub. L. 110–246, § 6009(a), substituted ''2008 through 2012'' for ''2001 through 2007''.

2002—Subsec. (d)(1). Pub. L. 107–171 substituted ''through 2007'' for ''and 2002''.

2000—Subsec. (d). Pub. L. 106–224 added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: ''There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 1996 through 2002.''

1998—Subsec. (b). Pub. L. 105–277 substituted ''25 percent in matching'' for ''equal matching''.

Subsec. (d). Pub. L. 105–277 substituted ''$20,000,000'' for ''$15,000,000''.

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.

§ 1926e. Grants to nonprofit organizations to finance the construction, refurbishing, and servicing of individually-owned household water well systems in rural areas for individuals with low or moderate incomes

(a) Definition of eligible individual

In this section, the term ''eligible individual'' means an individual who is a member of a household the members of which have a combined income (for the most recent 12-month period for which the information is available) that is not more than 100 percent of the median nonmetropolitan household income for the State or territory in which the individual resides, according to the most recent decennial census of the United States.

(b) Grants

(1) In general

The Secretary may make grants to private nonprofit organizations for the purpose of providing loans to eligible individuals for the construction, refurbishing, and servicing of individual household water well systems in rural areas that are or will be owned by the eligible individuals.

(2) Terms of loans

A loan made with grant funds under this section—

(A) shall have an interest rate of 1 percent;

(B) shall have a term not to exceed 20 years; and

(C) shall not exceed $11,000 for each water well system described in paragraph (1).

(3) Administrative expenses

A recipient of a grant made under this section may use grant funds to pay administrative expenses associated with providing the assistance described in paragraph (1), as determined by the Secretary.

(c) Priority in awarding grants

In awarding grants under this section, the Secretary shall give priority to an applicant that has substantial expertise and experience in promoting the safe and productive use of individually-owned household water well systems and ground water.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, § 306E, as added Pub. L. 107–171, title VI, § 6012(a), May 13, 2002, 116 Stat. 357; amended Pub. L. 110–234, title VI, § 6010, May 22, 2008, 122 Stat. 1163; Pub. L. 110–246, § 4(a), title VI, § 6010, June 18, 2008, 122 Stat. 1664, 1925.)

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)(2)(C). Pub. L. 110–246, § 6010(1), substituted ''$11,000'' for ''$8,000''.

Subsec. (d). Pub. L. 110–246, § 6010(2), substituted ''2008 through 2012'' for ''2003 through 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.

EFFECTIVE DATE

Pub. L. 107–171, title VI, § 6012(b), May 13, 2002, 116 Stat. 358, provided that: ''The amendment made by subsection (a) [enacting this section] takes effect on October 1, 2002.''

§ 1926f. Contracts with not-for-profit third parties

On and after November 10, 2005, notwithstanding the provisions of the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.] (including the associated regulations) governing the Community Facilities Program, the Secretary may allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan: *Provided*, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.

(Pub. L. 109–97, title VII, § 756, Nov. 10, 2005, 119 Stat. 2157.)

REFERENCES IN TEXT

The Consolidated Farm and Rural Development Act, referred to in text, is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to this chapter. For complete classification of the Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006, and not as part of the Consolidated Farm and Rural Development Act which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–447, div. A, title VII, § 770, Dec. 8, 2004, 118 Stat. 2848.

Pub. L. 108–199, div. A, title VII, § 775, Jan. 23, 2004, 118 Stat. 40.

§ 1927. Repayment requirements

(a) Period of repayment; interest rates

(1) The period for repayment of loans under this subchapter shall not exceed forty years.

(2) Except as otherwise provided in paragraphs (3), (4), (5), and (6) of this subsection, the interest rates on loans under this subchapter shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

(3)(A) Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans), to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized Indian tribal groups) for water and waste disposal facilities and essential community facilities shall be set by the Secretary at rates not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for such loans, and adjusted to the nearest one-eighth of 1 per centum; and not in excess of 5 per centum per annum for any such loans which are for the upgrading of existing facilities or construction of new facilities as required to meet applicable health or sanitary standards in areas where the median household income of the persons to be served by such facility is below the higher of 80 per centum of the statewide nonmetropolitan median household income or the poverty line established by the Office of Management and Budget, as revised under section 9902(2) of title 42 and in other areas as the Secretary may designate where a significant percentage of the persons to be served by such facilities are of low income, as determined by the Secretary; and not in excess of 7 per centum per annum on loans for such facilities that do not qualify for the 5 per centum per annum interest rate but are located in areas where the median household income of the persons to be served by the facility does not exceed 100 per centum of the statewide nonmetropolitan median household income.

(B) Except as provided in subparagraph (D) and in paragraph (6), the interest rate on loans (other than guaranteed loans) under section 1934 of this title shall not be—

(i) greater than the sum of—

(I) an amount that does not exceed one-half of the current average market yield on outstanding marketable obligations of the United States with maturities of 5 years; and

(II) an amount not exceeding 1 percent per year, as the Secretary determines is appropriate; or

(ii) less than 5 percent per year.

(C) Notwithstanding subparagraph (A), the Secretary shall establish loan rates for health care and related facilities based solely on the income of the area to be served, and such rates shall be otherwise consistent with such subparagraph.

(D) JOINT FINANCING ARRANGEMENT.—If a direct farm ownership loan is made under this subchapter as part of a joint financing arrangement and the amount of the direct farm ownership loan does not exceed 50 percent of the total principal amount financed under the arrangement, the interest rate on the direct farm ownership loan shall be at least 4 percent annually.

(E) INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.—

(i) IN GENERAL.—Except as provided in clause (ii) and notwithstanding subparagraph (A), in the case of a direct loan for a water or waste disposal facility—

(I) in the case of a loan that would be subject to the 5 percent interest rate limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 60 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest ⅛ of 1 percent; and

(II) in the case of a loan that would be subject to the 7 percent limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 80 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest ⅛ of 1 percent.

(ii) EXCEPTION.—Clause (i) does not apply to a loan for a specific project that is the subject of a loan that has been approved, but not closed, as of the date of enactment of this subparagraph.

(4) Except as provided in paragraph (6), the interest rates on loans under sections 1926(a)(1) and 1932 of this title (other than guaranteed loans and loans as described in paragraph (3) of this subsection) shall be as determined by the Secretary, but not less than such rates as 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 to maturity comparable to the average maturities of such loans, adjusted in the judgment of the Secretary of the Treasury to provide for rates comparable to the rates prevailing in the private market for similar loans and considering the Secretary's insurance of the loans, plus an additional charge, prescribed by the Secretary, to cover the Secretary's losses and cost of administration, which charge shall be deposited in the Rural Development Insurance Fund, and further adjusted to the nearest one-eighth of 1 per centum.

(5)(A) Except as provided in subparagraph (B), the interest rate on any loan made under this subchapter as a guaranteed loan shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.

(B) In the case of a loan made under section 1932 of this title as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.

(6)(A) Notwithstanding any other provision of this section, in the case of loans (other than guaranteed loans) made or insured under the authorities of this chapter specified in subparagraph (B) for activities that involve the use of prime farmland as defined in subparagraph (C), the interest rates shall be the interest rates otherwise applicable under this section increased by 2 per centum per annum. Wherever practicable, construction by a State, municipality, or other political subdivision of local government that is supported by loans described in the preceding sentence shall be placed on land that is not prime farmland, in order to preserve the maximum practicable amount of prime farmlands for production of food and fiber. Where other options exist for the siting of such construction and where the governmental authority still desires to carry out such construction on prime farmland, the 2 per centum interest rate increase provided by this clause shall apply, but such increased interest rate shall not apply where such other options do not exist.

(B) The authorities referred to in subparagraph (A) are—

(i) the provisions of section 1926(a)(1) of this title relating to loans for recreational developments and essential community facilities,

(ii) section 1932(a)(2)(A) of this title;[1] and

(iii) section 1932(d) of this title.

(C) For purposes of this paragraph, the term ''prime farmland'' means prime farmlands and unique farmland as those terms are defined in sections 657.5(a) and (b) of title 7, Code of Federal Regulations (1980).

(b) Payment of charges; prepayment of taxes and insurance

The borrower shall pay such fees and other charges as the Secretary may require, and borrowers under this chapter shall prepay to the Secretary such taxes and insurance as the Secretary may require, on such terms and conditions as the Secretary may prescribe.

(c) Mortgages, liens, and other security

The Secretary shall take as security for the obligations entered into in connection with

[1] So in original. The semicolon probably should be a comma.

loans, mortgages on farms with respect to which such loans are made or such other security as the Secretary may require, and for obligations in connection with loans to associations under section 1926 of this title, shall take liens on the facility or such other security as he may determine to be necessary. Such security instruments may constitute liens running to the United States notwithstanding the fact that the notes may be held by lenders other than the United States. A borrower may use the same collateral to secure two or more loans made, insured, or guaranteed under this subchapter, except that the outstanding amount of such loans may not exceed the total value of the collateral so used.

(d) Mineral rights as collateral

With respect to a farm ownership loan made after December 23, 1985, unless appraised values of the rights to oil, gas, or other minerals are specifically included as part of the appraised value of collateral securing the loan, the rights to oil, gas, or other minerals located under the property shall not be considered part of the collateral securing the loan. Nothing in this subsection shall prevent the inclusion of, as part of the collateral securing the loan, any payment or other compensation the borrower may receive for damages to the surface of the collateral real estate resulting from the exploration for or recovery of minerals.

(e) Additional collateral

The Secretary may not—

(1) require any borrower to provide additional collateral to secure a farmer program loan made or insured under this chapter, if the borrower is current in the payment of principal and interest on the loan; or

(2) bring any action to foreclose, or otherwise liquidate, any such loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.

(Pub. L. 87–128, title III, § 307, Aug. 8, 1961, 75 Stat. 308; Pub. L. 92–419, title I, §§ 113, 114, 128(b), Aug. 30, 1972, 86 Stat. 660, 666; Pub. L. 95–334, title I, § 108, Aug. 4, 1978, 92 Stat. 422; Pub. L. 97–35, title I, § 160(a), Aug. 13, 1981, 95 Stat. 376; Pub. L. 99–198, title XIII, §§ 1304A, 1305, Dec. 23, 1985, 99 Stat. 1521; Pub. L. 100–233, title VI, §§ 603, 604, Jan. 6, 1988, 101 Stat. 1665, 1666; Pub. L. 101–624, title XVIII, § 1803(a), title XXIII, § 2383, Nov. 28, 1990, 104 Stat. 3818, 4050; Pub. L. 102–552, title V, § 516(c)(1), Oct. 28, 1992, 106 Stat. 4137; Pub. L. 103–328, title I, § 113(a), Sept. 29, 1994, 108 Stat. 2366; Pub. L. 104–127, title VI, §§ 604, 661(a), title VII, § 747(b)(1), Apr. 4, 1996, 110 Stat. 1086, 1106, 1128; Pub. L. 110–234, title VI, §§ 6011, 6012(b)(1), May 22, 2008, 122 Stat. 1163, 1165; Pub. L. 110–246, § 4(a), title VI, §§ 6011, 6012(b)(1), June 18, 2008, 122 Stat. 1664, 1925, 1927.)

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (a)(3)(E)(ii), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

For definition of ''this chapter'', referred to in subsecs. (a)(6)(A) and (e)(1), see note set out under section 1921 of this title.

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. (a)(3)(E). Pub. L. 110–246, § 6011, added subpar. (E).

Subsec. (a)(6)(B)(ii). Pub. L. 110–246, § 6012(b)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: ''clause (1) of section 1932(a) of this title, and''.

1996—Subsec. (a)(3)(B). Pub. L. 104–127, § 604(1), inserted ''subparagraph (D) and in'' after ''Except as provided in''.

Subsec. (a)(3)(D). Pub. L. 104–127, § 604(2), added subpar. (D).

Subsec. (a)(4). Pub. L. 104–127, § 661(a)(1), substituted ''1926(a)(1) and 1932 of this title'' for ''1924(b), 1926(a)(1), and 1932 of this title''.

Subsec. (a)(6)(B). Pub. L. 104–127, § 661(a)(2), inserted ''and'' at end of cl. (v), substituted a period for '', and'' at end of cl. (vi), redesignated cls. (iii), (v), and (vi) as (i), (ii), and (iii), respectively, and struck out cls. (i), (ii), (iv), and (vii) which read as follows:

''(i) clauses (2) and (3) of section 1923(a) of this title,

''(ii) section 1924(b) of this title,

''(iv) section 1926(a)(15) of this title,

''(vii) section 1934(a) of this title as it relates to the making or insuring of loans under clauses (2) and (3) of section 1923(a) of this title.''

Subsec. (a)(6)(B)(iii). Pub. L. 104–127, § 747(b)(1), substituted ''section 1932(d) of this title'' for ''subsections (d) and (e) of section 1932 of this title''.

1994—Subsec. (a)(3)(A). Pub. L. 103–328, § 113(a)(1), substituted ''Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except'' for ''Except''.

Subsec. (a)(5). Pub. L. 103–328, § 113(a)(2), substituted ''(5)(A) Except as provided in subparagraph (B), the'' for ''(5) The'' and added subpar. (B).

1992—Subsec. (a)(6)(B)(ii) to (viii). Pub. L. 102–552 redesignated cls. (iii) to (viii) as (ii) to (vii) and struck out former cl. (ii) which read as follows: ''the provisions of section 1924(a) of this title, relating to the financing of outdoor recreational enterprises or the conversion of farming or ranching operations to recreational uses,''.

1990—Subsec. (a)(3)(A). Pub. L. 101–624, § 2383(1), substituted ''guaranteed'' for ''guranteed''.

Subsec. (a)(3)(B). Pub. L. 101–624, § 1803(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans) under section 1934 of this title shall be as determined by the Secretary, but not in excess of one-half of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, nor less than 5 per centum per annum.''

Subsec. (a)(3)(C). Pub. L. 101–624, § 2383(2), added subpar. (C).

1988—Subsec. (c). Pub. L. 100–233, § 603, inserted provisions at end relating to use of same collateral to secure two or more loans made, insured, or guaranteed under this subchapter.

Subsec. (e). Pub. L. 100–233, § 604, added subsec. (e).

1985—Subsec. (a)(3)(A). Pub. L. 99–198, § 1304A, substituted ''where the median household income of the persons to be served by such facility is below the higher of 80 per centum of the statewide nonmetropolitan median household income or the poverty line established by the Office of Management and Budget, as revised under section 9902(2) of title 42'' for ''where the median family income of the persons to be served by such facility is below the poverty line prescribed by the Office of Management and Budget as adjusted under section

2971d of title 42'' and prescribed a 7 per centum per annum ceiling on loans for facilities that do not qualify for the 5 per centum per annum interest rate but are located in areas where the median household income of the persons to be served by the facility does not exceed 100 per centum of the statewide nonmetropolitan median household income.

Subsec. (d). Pub. L. 99–198, § 1305, added subsec. (d).

1981—Subsec. (a). Pub. L. 97–35 in par. (2) inserted reference to par. (6), in par. (3) designated existing provisions as subpar. (A), expanded provisions to take into account provisions of par. (6) and revised criteria for determination of applicable interest rates, and added subpar. (B), in par. (4) inserted exception for par. (6), and added par. (6).

1978—Subsec. (a). Pub. L. 95–334, § 108(1), substituted provisions relating to determination of interest rates on loans, except as provided in pars. (3) to (5), as not in excess of the current average market yield on outstanding marketable obligations of the United States, with comparable remaining periods of maturity to the average maturities of such loans plus additional adjusted amounts, for provisions relating to establishment of interest rates on loans, except as specifically provided, but not in excess of 5 per centum per annum.

Subsecs. (b), (c). Pub. L. 95–334, § 108(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

1972—Subsec. (a). Pub. L. 92–419, §§ 113, 114, prescribed interest rates on rural development other than guaranteed and guaranteed loans and escrow payment of taxes and insurance, respectively.

Subsec. (b). Pub. L. 92–419, § 128(b), substituted ''may'' for ''shall'' in second sentence.

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.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 113(b) of Pub. L. 103–328 provided that:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) [amending this section] shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act [Sept. 29, 1994].

''(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

''(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(c)(2) of Pub. L. 102–552 provided that: ''The amendments made by paragraph (1) of this subsection [amending this section] shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1865) [amending section 1924 of this title] took effect.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 160(c) of Pub. L. 97–35 provided that: ''The amendments made by this section [amending this section and section 1946 of this title] shall apply to loans approved after September 30, 1981.''

§ 1927a. Loan interest rates charged by Farmers Home Administration; grant funds associated with loans

Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers, upon request of the borrower, the interest rate charged by the Farmers Home Administration to such borrowers shall be the lower of the rates in effect at either the time of loan approval or loan closing and any Farmers Home Administration grant funds associated with such loans shall be set in amount based on the interest rate in effect at the time of loan approval.

(Pub. L. 99–88, title I, § 100, Aug. 15, 1985, 99 Stat. 296; Pub. L. 100–233, title VI, § 615(b)(1)(A), Jan. 6, 1988, 101 Stat. 1681.)

CODIFICATION

Section was enacted as part of the Supplemental Appropriations Act, 1985, and not as part of the Consolidated Farm and Rural Development Act which comprises this chapter.

AMENDMENTS

1988—Pub. L. 100–233 substituted ''Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers'' for ''Effective November 12, 1983, and thereafter'' and ''to such borrowers'' for ''to housing, farm, water and waste disposal, and community facility borrowers''.

APPLICABILITY OF 1988 AMENDMENT

Section 615(b)(1)(B) of Pub. L. 100–233 provided that: ''The amendment made by subparagraph (A) [amending this section] shall not apply to any note or other obligation sold under section 1001 of the Omnibus [Budget] Reconciliation Act of 1986 [Pub. L. 99–509, 7 U.S.C. 1929a note] on or before the date of the enactment of this paragraph [Jan. 6, 1988].''

§ 1928. Full faith and credit

(a) In general

A contract of insurance or guarantee executed by the Secretary under this chapter shall be an obligation supported by the full faith and credit of the United States.

(b) Contestability

A contract of insurance or guarantee executed by the Secretary under this chapter shall be incontestable except for fraud or misrepresentation that the lender or any holder—

(1) has actual knowledge of at the time the contract or guarantee is executed; or

(2) participates in or condones.

(Pub. L. 87–128, title III, § 308, Aug. 8, 1961, 75 Stat. 308; Pub. L. 87–798, Oct. 11, 1962, 76 Stat. 908; Pub. L. 89–240, § 2(a), Oct. 7, 1965, 79 Stat. 932;

Pub. L. 90–488, § 6, Aug. 15, 1968, 82 Stat. 770; Pub. L. 92–133, Oct. 5, 1971, 85 Stat. 364; Pub. L. 101–624, title XXIII, § 2388(a), Nov. 28, 1990, 104 Stat. 4052; Pub. L. 104–127, title VI, § 605, Apr. 4, 1996, 110 Stat. 1086.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1996—Pub. L. 104–127 amended section generally. Prior to amendment, section read as follows: ''Loans under this subchapter may be insured by the Secretary whenever funds are advanced or a loan is purchased by a lender other than the United States. In connection with insurance of loans, the Secretary—

''(1) is authorized to make agreements with respect to the servicing of loans insured hereunder and to purchase such loans on such terms and conditions as he may prescribe; and

''(2) may retain out of payments by the borrower a charge at a rate specified in the insurance agreement applicable to the loan.

Any contract of insurance executed by the Secretary under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.''

1990—Pub. L. 101–624 redesignated pars. (a) and (b) as pars. (1) and (2), respectively, and in par. (1), substituted ''prescribe;'' for ''prescribe,;''.

1971—Pub. L. 92–133 eliminated October 1, 1971, as time limitation for insurance of loans.

1968—Pub. L. 90–488 authorized insurance of loans until Oct. 1, 1971, without the $450,000,000 limitation on aggregate amount in any one year.

1965—Pub. L. 89–240 substituted ''$450,000,000'' for ''$200,000,000'', ''may retain'' for ''shall retain'', and ''specified in the insurance agreement applicable to the loan'' for ''determined by the Secretary from time to time equivalent to not less than one-half of 1 per centum per annum on the principal unpaid balance of the loan'', and struck out ''except that no agreement shall provide for purchase by the Secretary at a date sooner than three years from the date of the note'' after ''he may prescribe''.

1962—Pub. L. 87–798 increased aggregate amount of loans that may be insured in any one year from $150,000,000 to $200,000,000.

§ 1929. Agricultural Credit Insurance Fund

(a) Revolving fund

The fund established pursuant to section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended, shall hereafter be called the Agricultural Credit Insurance Fund and is hereinafter in this subchapter referred to as the ''fund''. The fund shall remain available as a revolving fund for the discharge of the obligations of the Secretary under agreements insuring loans under this subchapter and loans and mortgages insured under prior authority.

(b) Deposits of funds; investments; purchase of notes

Moneys in the fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the fund.

(c) Notes; form and denominations; maturities; terms and conditions; interest rate; purchase by Treasury; public debt transaction

The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this subchapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(d) Notes and security as part of fund; collection or sale of notes; deposit of net proceeds in fund

Notes and security acquired by the Secretary in connection with loans insured under this subchapter and under prior authority shall become a part of the fund. Notes may be held in the fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the fund.

(e) Deposit in fund of portion of charge on outstanding principal obligations; availability of remainder of charge, and merger with appropriations, for administrative expenses

The Secretary shall deposit in the fund all or a portion, not to exceed one-half of 1 per centum of the unpaid principal balance of the loan, of any charge collected in connection with the insurance of loans; and any remainder of any such charge shall be available for administrative expenses of the Farmers Home Administration and the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency, to be transferred annually and become merged with any appropriation for administrative expenses for such agency.

(f) Utilization of fund

The Secretary may utilize the fund—

(1) to pay amounts to which the holder of the note is entitled on loans heretofore or hereafter insured accruing between the date of

any payments made by the borrower and the date of transmittal of any such payments to the lender. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(2) to pay to the holder of the notes any deferred or defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(3) to purchase notes in accordance with agreements previously entered into;

(4) to pay for contract services, taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections and other expenses and advances authorized in connection with insured loans, including the difference between interest payable by borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance;

(5) to pay the Secretary's costs of administration necessary to insure, make grants, service, and otherwise carry out the programs under this chapter not specifically covered by the Rural Development Insurance Fund of section 1929a of this title, including costs of the Secretary incidental to guaranteeing loans under this chapter, either directly from the Fund or by transfers from the Fund to, and merger with, any appropriations for administrative expenses.

(g) Transfer of funds from Farmers Home Administration direct loan account and Emergency Credit Revolving Fund; abolition of such account and fund; payments from Agricultural Credit Insurance Fund; interest

(1) The assets and liabilities of, and authorizations applicable to, the Farmers Home Administration direct loan account created by section 1988(c) of this title (before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996) and the Emergency Credit Revolving Fund referred to in section 1966 of this title are hereby transferred to the fund, and such account and such revolving fund are hereby abolished. Such assets and their proceeds, including loans made out of the fund pursuant to this section, shall be subject to the provisions of this section, the last sentence of section 1926(a)(1), and the last sentence of section 1927 of this title.

(2) From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the value as determined by the Secretary, with the approval of the Comptroller General, of the Government's equity transferred to the fund pursuant to the first sentence of this subsection plus the cumulative amount of appropriations made available after enactment of this provision as capital and for administration of the programs financed from the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of loans made or insured from the fund, adjusted to the nearest one-eighth of 1 per centum. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(h) Guaranteed loans; interest rate for loans sold into secondary market; loan fees

(1) The Secretary may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, or other legally organized lending agency.

(2) The interest rate payable by a borrower on the portion of a guaranteed loan that is sold by a lender to the secondary market under this chapter may be lower than the interest rate charged on the portion retained by the lender, but shall not exceed the average interest rate charged by the lender on loans made to farm and ranch borrowers.

(3) With regard to any loan guarantee on a loan made by a commercial or cooperative lender related to a loan made by the Secretary under section 1935 of this title—

(A) the Secretary shall not charge a fee to any person (including a lender); and

(B) a lender may charge a loan origination and servicing fee in an amount not to exceed 1 percent of the amount of the loan.

(4) MAXIMUM GUARANTEE OF 90 PERCENT.—Except as provided in paragraphs (5), (6), and (7), a loan guarantee under this chapter shall be for not more than 90 percent of the principal and interest due on the loan.

(5) REFINANCED LOANS GUARANTEED AT 95 PERCENT.—The Secretary shall guarantee 95 percent of—

(A) in the case of a loan that solely refinances a direct loan made under this chapter, the principal and interest due on the loan on the date of the refinancing; or

(B) in the case of a loan that is used for multiple purposes, the portion of the loan that refinances the principal and interest due on a direct loan made under this chapter that is outstanding on the date the loan is guaranteed.

(6) BEGINNING FARMER LOANS GUARANTEED UP TO 95 PERCENT.—The Secretary may guarantee not more than 95 percent of—

(A) a farm ownership loan for acquiring a farm or ranch to a borrower who is participating in the down payment loan program under section 1935 of this title; or

(B) an operating loan to a borrower who is participating in the down payment loan program under section 1935 of this title that is made during the period that the borrower has a direct loan outstanding under this subchapter for acquiring a farm or ranch.

(7) AMOUNT OF GUARANTEE OF LOANS FOR FARM OPERATIONS ON TRIBAL LANDS.—In the case of an operating loan made to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction of an Indian tribe, the Secretary shall guarantee 95 percent of the loan.

(i) Coordination of assistance for qualified beginning farmers and ranchers

(1) Not later than 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to qualified beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding that shall govern the coordination of the provision of the financial assistance by the State and the Secretary.

(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide a qualified beginning farmer or rancher with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds provide the farmer or rancher with a down payment loan under section 1935 of this title or a guarantee of the financing provided by the State program, or both.

(3) The Secretary shall not charge any person (including a lender) any fee with respect to the provision of any guarantee under this subsection.

(4) The Secretary shall notify each State of the provisions of this subsection.

(5) As used in paragraph (1), the term ''State beginning farmer program'' means any program that is—

(A) carried out by, or under contract with, a State; and

(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.

(j) Guarantee of loans made under State beginning farmer or rancher programs

The Secretary may guarantee under this chapter a loan made under a State beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond for land or property described in section 144(a)(12)(B)(ii) of title 26.

(Pub. L. 87–128, title III, § 309, Aug. 8, 1961, 75 Stat. 309; Pub. L. 87–703, title IV, § 401(3), Sept. 27, 1962, 76 Stat. 632; Pub. L. 89–240, § 2(b), (c), Oct. 7, 1965, 79 Stat. 932; Pub. L. 89–633, Oct. 8, 1966, 80 Stat. 879; Pub. L. 90–488, § 7, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92–419, title I, § 115, Aug. 30, 1972, 86 Stat. 660; Pub. L. 95–113, title XV, § 1510(a), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 95–334, title I, § 109(a), Aug. 4, 1978, 92 Stat. 423; Pub. L. 101–624, title XXIII, § 2302(a)(2), Nov. 28, 1990, 104 Stat. 3980; Pub. L. 102–554, §§ 4, 5(a), Oct. 28, 1992, 106 Stat. 4143; Pub. L. 104–127, title VI, §§ 606, 661(b), title VII, §§ 744, 749(b)(1), Apr. 4, 1996, 110 Stat. 1086, 1106, 1125, 1129; Pub. L. 107–171, title V, §§ 5003, 5004, May 13, 2002, 116 Stat. 342.)

REFERENCES IN TEXT

Section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended, referred to in subsec. (a), refers to section 11(a) of act July 22, 1937, ch. 517, title I, as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1072, which was classified to section 1005a of this title and was repealed by section 341(a) of Pub. L. 87–128.

For definition of ''this chapter'', referred to in subsecs. (f)(5), (h)(1), (2), (4), (5), and (j), see note set out under section 1921 of this title.

Section 1988(c) of this title (before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996), referred to in subsec. (g)(1), means subsec. (c) of section 1988 of this title prior to repeal by section 749(a)(1) of Pub. L. 104–127.

CODIFICATION

In subsec. (c), ''chapter 31 of title 31'' and ''such chapter'' substituted for ''the Second Liberty Bond Act, as amended'' and ''such Act, as amended,'' respectively, 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

2002—Subsec. (h)(4). Pub. L. 107–171, § 5003(1), substituted ''paragraphs (5), (6), and (7)'' for ''paragraphs (5) and (6)''.

Subsec. (h)(7). Pub. L. 107–171, § 5003(2), added par. (7).

Subsec. (j). Pub. L. 107–171, § 5004, added subsec. (j).

1996—Subsec. (f). Pub. L. 104–127, § 744, redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out former par. (1) which read as follows: ''to make loans which could be insured under this subchapter whenever the Secretary has reasonable assurance that they can be sold without undue delay, and may sell and insure such loans;''.

Subsec. (g)(1). Pub. L. 104–127, § 749(b)(1), inserted ''(before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996)'' after ''section 1988(c) of this title''.

Pub. L. 104–127, § 661(b), struck out ''section 1928,'' after ''provisions of this section,''.

Subsec. (h)(4) to (6). Pub. L. 104–127, § 606, added pars. (4) to (6).

1992—Subsec. (h). Pub. L. 102–554, § 4, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (i). Pub. L. 102–554, § 5(a), added subsec. (i).

1990—Subsec. (e). Pub. L. 101–624 inserted ''and the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency'' and substituted ''expenses for such agency'' for ''expenses''.

1978—Subsec. (f)(1), (6). Pub. L. 95–334 in par. (1) struck out provisions limiting amount of loans outstanding at any one time, and added par. (6).

1977—Subsec. (f)(3). Pub. L. 95–113 substituted ''any deferred or defaulted installment'' for ''any defaulted installment''.

1972—Subsec. (f)(1). Pub. L. 92–419, § 115(a)(1), substituted ''$500,000,000'' for ''$100,000,000''.

Subsec. (f)(2). Pub. L. 92–419, § 115(a)(2), substituted ''amounts'' for ''the interest'' and ''payments'' for ''prepayments'' in three places and inserted ''or until the next agreed annual or semi-annual remittance date'' after ''until due''.

Subsec. (f)(5). Pub. L. 92–419, § 115(a)(3), (4), substituted ''connection with insured loans, including the difference between interest payable to borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance'' for ''section 1985(a) of this title in connection with insured loans,'' and provided payment for contract services.

Subsecs. (g), (h). Pub. L. 92–419, § 115(b), added subsecs. (g) and (h).

1968—Subsec. (f)(1). Pub. L. 90–488 increased from $50,000,000 to $100,000,000 the aggregate amount of loans to be sold and insured and undisposed of at any one time.

1966—Subsec. (f)(2). Pub. L. 89–633 substituted ''until due'' for ''until the due date of the annual installment''.

1965—Subsec. (e). Pub. L. 89–240, § 2(b), substituted ''all or a portion, not to exceed one-half of 1 per centum of the unpaid principal balance of the loan of any charge collected in connection with the insurance of loans; and any remainder of any such charge'' for ''such portion of the charge collected in connection with the insurance of loans at least equal to a rate of one-half of 1 per centum per annum on the outstanding principal obligations and the remainder of such charge''.

Subsec. (f)(1). Pub. L. 89–240, § 2(c), substituted ''$50,000,000'' for ''$25,000,000''.

1962—Subsec. (f)(1). Pub. L. 87–703 increased from $10,000,000 to $25,000,000 the aggregate amount of loans to be sold and insured and undisposed of at any one time.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 606 of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, and amendment by section 661(b) of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

ADVISORY COMMITTEE ON BEGINNING FARMERS AND RANCHERS

Pub. L. 102–554, § 5(b), Oct. 28, 1992, 106 Stat. 4143, as amended by Pub. L. 110–234, title VII, § 7511(c)(4), May 22, 2008, 122 Stat. 1267; Pub. L. 110–246, § 4(a), title VII, § 7511(c)(4), June 18, 2008, 122 Stat. 1664, 2029, provided that:

''(1) ESTABLISHMENT; PURPOSE.—Not later than 18 months after the date of enactment of this Act [Oct. 28, 1992], the Secretary of Agriculture shall establish an advisory committee, to be known as the 'Advisory Committee on Beginning Farmers and Ranchers', which shall provide advice to the Secretary on—

''(A) the development of the program of coordinated assistance to qualified beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1929(i)] (as added by subsection (a) of this section);

''(B) methods of maximizing the number of new farming and ranching opportunities created through the program;

''(C) methods of encouraging States to participate in the program;

''(D) the administration of the program; and

''(E) other methods of creating new farming or ranching opportunities.

''(2) MEMBERSHIP.—The Secretary shall appoint the members of the Advisory Committee. The Advisory Committee shall include representatives from the following:

''(A) The Farmers Home Administration.

''(B) State beginning farmer programs (as defined in section 309(i)(5) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section)).

''(C) Commercial lenders.

''(D) Private nonprofit organizations with active beginning farmer or rancher programs.

''(E) The National Institute of Food and Agriculture.

''(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

''(G) Other entities or persons providing lending or technical assistance for qualified beginning farmers or ranchers.''

LIMITATION ON SALES FROM AGRICULTURAL CREDIT INSURANCE FUND

Pub. L. 99–509, title I, § 1002, Oct. 21, 1986, 100 Stat. 1875, provided that: ''During fiscal years 1987 through 1989, no note shall be sold out of the Agricultural Credit Insurance Fund, except in connection with transactions with the Secretary of the Treasury, without prior approval by Congress.''

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

§ 1929–1. Level of loan programs under Agricultural Credit Insurance Fund

On and after October 28, 1991, no funds in this Act or any other Act shall be available to carry out loan programs under the Agricultural Credit Insurance Fund at levels other than those provided for in advance in appropriations Acts.

(Pub. L. 102–142, title III, Oct. 28, 1991, 105 Stat. 899.)

CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992, and not as part of the Consolidated Farm and Rural Development Act which comprises this chapter.

§ 1929a. Rural Development Insurance Fund

(a) Creation; revolving fund; rural development loans

There is hereby created the Rural Development Insurance Fund (hereinafter in this section referred to as the ''Insurance Fund'') which shall be used by the Secretary as a revolving fund for the discharge of the obligations of the Secretary under contracts guaranteeing or insuring rural development loans. For the purpose of this section ''rural development loans'' shall be those provided for by sections 1926(a)(1) and 1932 of this title, except loans (other than for water systems and waste disposal facilities) of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972.

(b) Transfer of assets and liabilities

The assets and liabilities of the Agricultural Credit Insurance Fund referred to in section 1929(a) of this title applicable to loans for water systems and waste disposal facilities under section 1926(a)(1) of this title are hereby transferred to the Insurance Fund. Such assets (including the proceeds thereof) and liabilities and rural development loans guaranteed or insured pursuant to this chapter shall be subject to the provisions of this section.

(c) Credits in the Treasury; investments; notes, purchasing authority of the Secretary

Moneys in the Insurance Fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the Insurance Fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the Insurance Fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the Insurance Fund.

(d) Notes, issuing authority of the Secretary; use of funds; terms and conditions, form, denominations, maturities, and interest rate of notes; notes, purchasing authority of the Secretary of the Treasury; public debt transactions

The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for making loans, advances, and authorized expenditures out of the Insurance Fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the average maturities of rural development loans made, guaranteed, or insured under this chapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary hereunder. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(e) Notes and security as part of Insurance Fund; collection and sale of notes and other obligations; deposit of net proceeds in Insurance Fund

Notes and security acquired by the Secretary in connection with rural development loans made, guaranteed, or insured under this chapter or transferred by subsection (b) of this section shall become a part of the Insurance Fund. Notes and other obligations may be held in the Insurance Fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time, including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes and other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the Insurance Fund.

(f) Deposit of loan service charges in Insurance Fund

The Secretary shall deposit in the Insurance Fund any charges collected for loan services provided by the Secretary as well as charges assessed for losses and costs of administration in connection with making, guaranteeing, or insuring rural development loans under this chapter.

(g) Use of Insurance Fund

The Secretary may utilize the Insurance Fund—

(1) to pay amounts to which the holder of insured notes is entitled on loans heretofore or hereafter insured accruing between the date of any payments by the borrower and the date of transmittal of any such payments to the holder. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(2) to pay to the holder of insured notes any deferred or defaulted installment, or upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(3) to purchase notes in accordance with contracts of insurance heretofore or hereafter entered into by the Secretary;

(4) to make payments in compliance with the Secretary's obligations under contracts of guarantee entered into by him;

(5) to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction inspections, commercial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 1985(a) of this title in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with acquisition by the Secretary of such loans or security therefor after default, to an extent determined by the Secretary to be necessary to protect the interest of the Government, or in connection with grants and any other activity authorized in this chapter;

(6) to pay the difference between interest payments by borrowers and interest to which holders of insured notes are entitled under contracts of insurance heretofore or hereafter entered into by the Secretary; and

(7) to pay the Secretary's costs of administration necessary to insure loans under the programs referred to in subsection (a) of this section, make grants under sections 1926(a) and 1932 of this title, service, and otherwise carry out such programs, including costs of the Secretary incidental to guaranteeing rural development loans under this chapter, either directly from the Insurance Fund or by transfers from the Fund to, and merger with, any appropriations for administrative expenses.

(h) Gross income; interest or other income on insured loans

When any loan is sold out of the Insurance Fund as an insured loan, the interest or other income thereon paid to an insured holder shall be included in gross income for purposes of chapter 1 of title 26.

(Pub. L. 87–128, title III, § 309A, as added Pub. L. 92–419, title I, § 116, Aug. 30, 1972, 86 Stat. 661; amended Pub. L. 95–113, title XV, § 1510(b), Sept.

29, 1977, 91 Stat. 1022; Pub. L. 95–334, title I, §§107(b), 110, Aug. 4, 1978, 92 Stat. 422, 424; Pub. L. 99–509, title I, §1001(b), Oct. 21, 1986, 100 Stat. 1874; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–500, title III, §381(b), Oct. 18, 1986, 100 Stat. 1783–369, and Pub. L. 99–591, title III, §381(b), Oct. 30, 1986, 100 Stat. 3341–372; Pub. L. 104–127, title VI, §661(c), title VII, §§741(b), 745, Apr. 4, 1996, 110 Stat. 1106, 1124, 1125.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in subsec. (a), see 1972 Amendment note for section 104 of Pub. L. 92–419, set out under section 1926 of this title. For complete classification of the Rural Development Act of 1972 to the Code, see Short Title of 1972 Amendment note set out under section 1921 of this title and Tables.

For definition of ''this chapter'', referred to in subsecs. (b), (d), (e), (f), and (g)(5), (7), see note set out under section 1921 of this title.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

In subsec. (d), ''chapter 31 of title 31'' and ''such chapter'' substituted for ''the Second Liberty Bond Act, as amended'' and ''such Act, as amended,'' respectively, 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

1996—Subsec. (a). Pub. L. 104–127, §741(b), struck out '', 1926(a)(14),'' after ''1926(a)(1)''.

Pub. L. 104–127, §661(c)(1), substituted ''1926(a)(1), 1926(a)(14), and 1932 of this title'' for ''1924(b), 1926(a)(1), 1926(a)(14), 1932, and 1942(b) of this title''.

Subsec. (b). Pub. L. 104–127, §661(c)(2), which directed amendment of first sentence of subsec. (b) by striking ''and section 1928 of this title'', was executed by striking that language in second sentence after ''provisions of this section'' to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 104–127, §745, redesignated pars. (2) to (8) as (1) to (7), respectively, and struck out former par. (1) which read as follows: ''to make rural development loans which could be insured under this chapter whenever he has a reasonable assurance that they can be sold without undue delay, and he may sell and insure such loans;''.

1986—Subsec. (e). Pub. L. 99–500, Pub. L. 99–509, and Pub. L. 99–591 amended second sentence of subsec. (e) identically, substituting ''Notes and other obligations'' for ''Notes'' and substituting '', including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.'' for period at end.

Subsec. (h). 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.

1978—Subsec. (a). Pub. L. 95–334, §107(b), inserted reference to section 1926(a)(14) of this title.

Subsec. (g)(8). Pub. L. 95–334, §110, substituted provisions relating to payment of costs of administration necessary to insure loans under subsec. (a) of this section, make grants under sections 1926(a) and 1932 of this title, and otherwise carry out such programs for provisions relating to payment of costs of administration of the rural loan development program.

1977—Subsec. (g)(3). Pub. L. 95–113 substituted ''any deferred or defaulted installment'' for ''any defaulted installment''.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES

Pub. L. 101–82, title IV, §401, Aug. 14, 1989, 103 Stat. 583, as amended by Pub. L. 101–220, §9(d), Dec. 12, 1989, 103 Stat. 1882, provided that:

''(a) LOAN GUARANTEES.—The Secretary of Agriculture shall guarantee loans made in rural areas to—

''(1) public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist such organizations, tribes, or entities in alleviating the distress caused to such organizations, tribes, or entities, directly or indirectly, by the drought, freeze, storm, excessive moisture, earthquake, or related condition in 1988 or 1989; and

''(2) such organizations, tribes, or entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of such natural disasters in 1988 or 1989.

''(b) ELIGIBLE LOANS.—

''(1) IN GENERAL.—Loans guaranteed under this section shall be loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, insurance company, or other legally organized lending agency.

''(2) PRODUCTION AGRICULTURE.—No application for a loan guarantee under this section shall be denied on the basis that such organization, tribe, or entity engages in whole or in part in production agriculture.

''(c) LOAN GUARANTEE LIMITS.—

''(1) PERCENTAGE OF PRINCIPAL AND INTEREST.—No guarantee under this section shall exceed 90 percent of the principal and interest amount of the loan or $2,500,000, whichever is the lesser amount.

''(2) TOTAL AMOUNT.—The total amount of loan guarantee under this section shall not exceed $300,000,000.

''(d) USE OF THE RURAL DEVELOPMENT INSURANCE FUND.—The Secretary shall use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) for the purposes of discharging the obligations of the Secretary under this section.''

Similar provisions were contained in the following prior act:

Pub. L. 100–387, title III, §331, Aug. 11, 1988, 102 Stat. 951.

SALE OF RURAL DEVELOPMENT NOTES AND OTHER OBLIGATIONS

Section 1001 of Pub. L. 99–509, as amended by Pub. L. 100–233, title VIII, §803, Jan. 6, 1988, 101 Stat. 1714; Pub. L. 101–220, §12, Dec. 12, 1989, 103 Stat. 1883, provided that:

''(a) SALES REQUIRED.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act [7 U.S.C. 1929a] in such amounts as to realize net proceeds to the Government of not less than—

''(1) $1,000,000,000 from such sales during fiscal year 1987,

''(2) $552,000,000 from such sales during fiscal year 1988, and

''(3) $547,000,000 from such sales during fiscal year 1989.

''(b) [Amended subsec. (e) of this section]

''(c) CONTRACT PROVISIONS.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1929a(e)], as amended by subsection (b), any sale of notes or other obligations, as described in subsection (a), shall not alter the terms specified in

the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1983(c)].

''(d) ELIGIBILITY TO PURCHASE NOTES.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

''(e) LOAN SERVICING.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

''(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

''(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

''(f) RIGHT OF FIRST REFUSAL.—

''(1) IN GENERAL.—Before conducting a sale of a portfolio of notes or other obligations under this section, the Secretary of Agriculture shall—

''(A) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

''(B) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under paragraph (2).

''(2) DETERMINATION OF OFFERING PRICE.—

''(A) AUTHORITY.—The Secretary of Agriculture shall determine, in accordance with subparagraph (B), the price at which a note or other obligation shall be offered for sale under this subsection.

''(B) PRICE.—Such price shall be determined by discounting the payment stream of such note or other obligation at the yield on the then most recent sale of the portfolio, adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of such note.

''(3) PROHIBITIONS.—

''(A) PURCHASE OF OBLIGATION NOT TIED TO PURCHASE OF OTHER OBLIGATIONS.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this subsection to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

''(B) OFFER TO BE MADE WITHOUT REGARD TO FINANCING.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this subsection without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations. However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

''(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.

''(h)(1) Notwithstanding the provisions of section 633 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100–460) [title VI, Oct. 1, 1988, 102 Stat. 2263], the Secretary of Agriculture shall offer to the issuer of any unsold note or other obligation described in paragraph (2)(A) for which such issuer made the good faith deposit described in paragraph (2)(A) the opportunity to purchase such note or other obligation consistent with the provisions of this subsection and subsections (f)(2) and (f)(3).

''(2) The provisions of this subsection shall apply only to those issuers who:

''(A) on or before March 9, 1989, made a good faith deposit under this section for fiscal year 1989 with the Secretary to purchase a note or other obligation held in the Rural Development Insurance Fund; and

''(B) otherwise meet all eligibility criteria, as such criteria existed immediately prior to May 9, 1989, at the time the purchase occurs under this subsection.

''(3) The opportunity to purchase any such note or other obligation shall be held open, under the policies and procedures in effect under subsections (f)(2) and (f)(3) immediately prior to May 9, 1989, for 150 days after the date of enactment of this subsection [Dec. 12, 1989]. The Secretary shall not require any further good faith deposit from issuers who qualify under this subsection. The Secretary shall notify eligible issuers of the opportunity afforded under this subsection within 30 days after the date of enactment of this subsection and may require such issuers to express an intention to purchase their note or other obligation by a date certain.''

Section 381 of Pub. L. 99–500 and Pub. L. 99–591 provided that:

''(a) IN GENERAL.—The Secretary of Agriculture shall, under such terms as the Secretary may prescribe, sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) in such amounts as to realize net proceeds of not less than—

''(1) $25,000,000 from such sales during fiscal year 1987;

''(2) $36,000,000 from such sales during fiscal year 1988; and

''(3) $37,000,000 from such sales during fiscal year 1989.

''(b) [Amended subsec. (e) of this section]

''(c) FARM CREDIT SYSTEM INSTITUTIONS.—Notwithstanding any other provision of law, institutions of the Farm Credit System operating under the Farm Credit Act of 1971 (12 U.S.C. 2001) shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institutions' interests in such notes and other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and such purchasing institutions and as are approved by the Farm Credit Administration.''

§ 1929b. Purchase of guaranteed portions of loans; terms and conditions; exercise of authorities

The Secretary may purchase, on such terms and conditions as the Secretary deems appropriate, the guaranteed portion of any loan guaranteed under this chapter: *Provided*, That the Secretary may not pay for any such guaranteed portion of a loan in excess of an amount equal to the unpaid principal balance and accrued interest on the guaranteed portion of the loan. The Secretary may use for such purchases funds from the Rural Development Insurance Fund with respect to rural development loans as defined in section 1929a(a) of this title and funds from the Agricultural Credit Insurance Fund with respect to all other loans under this chapter. This authority may be exercised only if the Secretary determines that an adequate secondary market is not available in the private sector.

(Pub. L. 87–128, title III, § 309B, as added Pub. L. 95–334, title I, § 111, Aug. 4, 1978, 92 Stat. 424.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

§ 1930. Continued availability of appropriated funds for direct real estate loans to farmers and ranchers

Funds appropriated for the purpose of making direct real estate loans to farmers and ranchers under this subchapter shall remain available until expended.

(Pub. L. 87–128, title III, § 310, as added Pub. L. 91–524, title VIII, § 806(b), Nov. 30, 1970, 84 Stat. 1383.)

§ 1931. Repealed. Pub. L. 104–127, title VII, § 746, Apr. 4, 1996, 110 Stat. 1125

Section, Pub. L. 87–128, title III, § 310A, as added Pub. L. 92–419, title I, § 117, Aug. 30, 1972, 86 Stat. 663, related to insured watershed and resource conservation and development loans.

§ 1932. Assistance for rural entities

(a) Loans to private business enterprises

(1) Definitions

In this subsection:

(A) Aquaculture

The term ''aquaculture'' means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of creating or augmenting publicly owned and regulated stocks of fish.

(B) Solar energy

The term ''solar energy'' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974, as amended [42 U.S.C. 5901 et seq.].

(2) Loan purposes

The Secretary may make and insure loans to public, private, or cooperative organizations organized for profit or nonprofit and private investment funds that invest primarily in cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to individuals for the purposes of—

(A) improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control;

(B) the conservation, development, and use of water for aquaculture purposes in rural areas;

(C) reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems and other renewable energy systems (including wind energy systems and anaerobic digestors for the purpose of energy generation), including the modification of existing systems, in rural areas; and

(D) to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade.

(3) Loan guarantees

Loans described in paragraph (2), when originated, held, and serviced by other lenders, may be guaranteed by the Secretary under this section without regard to paragraphs (1) and (4) of section 1983 of this title.

(4) Maximum amount of principal

No loan may be made, insured, or guaranteed under this subsection that exceeds $25,000,000 in principal amount.

(b) Solid waste management grants

The Secretary may make grants to nonprofit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purpose of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for the provision of technical assistance shall be made for 100 percent of the cost of such assistance.

(c) Rural business enterprise grants

(1) Grants

(A) In general

The Secretary may also make grants, not to exceed $50,000,000 annually, to public bodies and private nonprofit corporations for measures designed to finance and facilitate development of small and emerging private business enterprises (including nonprofit entities) or the creation, expansion, and operation of rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement to adult students, including the development, construction or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, services and fees.

(B) Small and emerging private business enterprises

(i) In general

For the purpose of subparagraph (A), a small and emerging private business enterprise shall include (regardless of the number of employees or operating capital of the enterprise) an eligible nonprofit entity, or other tax-exempt organization, with a principal office in an area that is located—

(I) on land of an existing or former Native American reservation; and

(II) in a city, town, or unincorporated area that has a population of not more than 5,000 inhabitants.

(ii) Use of grant

An eligible nonprofit entity, or other tax exempt organization, described in clause

(i) may use assistance provided under this paragraph to create, expand, or operate value-added processing in an area described in clause (i) in connection with production agriculture.

(iii) Priority

In making grants under this paragraph, the Secretary shall give priority to grants that will be used to provide assistance to eligible nonprofit entities and other tax exempt organizations described in clause (i).

(2) Passenger transportation services or facilities

The Secretary may award grants on a competitive basis to qualified nonprofit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Assistance provided under this paragraph may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas, the development of training materials, and the provision of necessary training assistance to local officials and agencies in rural areas.

(3) Grants to aid industries in adjusting to terminated Federal agricultural programs or increased foreign competition

The Secretary may make grants under this section to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade.

(d) Joint loans or grants for private business enterprises; restrictions; system of certification for expeditious processing of requests for assistance; prior approval of grant or loan; equity investment as condition for loan commitment; issuance of certificates of beneficial ownership of notes

(1) The Secretary may participate in joint financing to facilitate development of private business enterprises in rural areas with the Economic Development Administration, the Small Business Administration, and the Department of Housing and Urban Development and other Federal and State agencies and with private and quasi-public financial institutions, through joint loans to applicants eligible under subsection (a) of this section for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas or through joint grants to applicants eligible under subsection (c) of this section for such purposes, including in the case of loans or grants the development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refining, service and fees.

(2) No financial or other assistance shall be extended under any provision of this section, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant, but this limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(3) No financial or other assistance shall be extended under any provision of this section, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, which is calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(4) No financial or other assistance shall be extended under any provision of this section, except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, if the Secretary of Labor certifies within 30 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of paragraphs (2) and (3) of this subsection have not been complied with. The Secretary of Labor shall, in cooperation with the Secretary of Agriculture, develop a system of certification which will insure the expeditious processing of requests for assistance under this section.

(5) No grant or loan authorized to be made under this chapter shall require or be subject to the prior approval of any officer, employee, or agency of any State.

(6) No loan commitment issued under this section shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are special circumstances which necessitate an equity investment by the applicant greater than 10 per centum.

(7) No provision of law shall prohibit issuance by the Secretary of certificates evidencing beneficial ownership in a block of notes insured or guaranteed under this chapter or Title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; any sale by the Secretary of such certificates shall be treated as a sale of assets for the purposes of chapter 11 of title 31. Any security representing

beneficial ownership in a block of notes guaranteed or insured under this chapter or Title V of the Housing Act of 1949 issued by a private entity shall be exempt from laws administered by the Securities and Exchange Commission, except sections 77q, 77v, and 77x of title 15; however, the Secretary shall require (i) that the issuer place such notes in the custody of an institution chartered by a Federal or State agency to act as trustee and (ii) that the issuer provide such periodic reports of sales as the Secretary deems necessary.

(e) Rural cooperative development grants

(1) Definitions

In this subsection:

(A) Nonprofit institution

The term ''nonprofit institution'' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(B) United States

The term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

(2) Grants

The Secretary shall make grants effective October 1, 1996, under this subsection to nonprofit institutions for the purpose of enabling the institutions to establish and operate centers for rural cooperative development.

(3) Goals

The goals of a center funded under this subsection shall be to facilitate the creation of jobs in rural areas through the development of new rural cooperatives, value added processing, and rural businesses.

(4) Application

Any nonprofit institution seeking a grant under paragraph (2) shall submit to the Secretary an application containing a plan for the establishment and operation by the institution of a center or centers for cooperative development. The Secretary may approve the application if the plan contains the following:

(A) A provision that substantiates that the center will effectively serve rural areas in the United States.

(B) A provision that the primary objective of the center will be to improve the economic condition of rural areas through cooperative development.

(C) A description of the activities that the center will carry out to accomplish the objective. The activities may include the following:

(i) Programs for applied research and feasibility studies that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(ii) Programs for the collection, interpretation, and dissemination of information that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(iii) Programs providing training and instruction for individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(iv) Programs providing loans and grants to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(v) Programs providing technical assistance, research services, and advisory services to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(vi) Programs providing for the coordination of services and sharing of information among the center.[1]

(D) A description of the contributions that the activities are likely to make to the improvement of the economic conditions of the rural areas for which the center will provide services.

(E) Provisions that the center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

(F) Provisions that the center will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

(G) Provisions for—

(i) monitoring and evaluating the activities by the nonprofit institution operating the center; and

(ii) accounting for money received by the institution under this section.

(5) Awarding grants

Grants made under paragraph (2) shall be made on a competitive basis. In making grants under paragraph (2), the Secretary shall give preference to grant applications providing for the establishment of centers for rural cooperative development that—

(A) demonstrate a proven track record in carrying out activities to promote and assist the development of cooperatively and mutually owned businesses;

(B) demonstrate previous expertise in providing technical assistance in rural areas to promote and assist the development of cooperatively and mutually owned businesses;

(C) demonstrate the ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

(D) commit to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the United States;

[1] So in original. Probably should be ''centers.''

(E) demonstrate a commitment to—

(i) networking with and sharing the results of the efforts of the center with other cooperative development centers and other organizations involved in rural economic development efforts; and

(ii) developing multiorganization and multistate approaches to addressing the economic development and cooperative needs of rural areas; and

(F) commit to providing a 25 percent matching contribution with private funds and in-kind contributions, except that the Secretary shall not require non-Federal financial support in an amount that is greater than 5 percent in the case of a 1994 institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)).

(6) Grant period

(A) In general

A grant awarded to a center that has received no prior funding under this subsection shall be made for a period of 1 year.

(B) Multiyear grants

If the Secretary determines it to be in the best interest of the program, the Secretary shall award grants for a period of more than 1 year, but not more than 3 years, to a center that has successfully met the parameters described in paragraph (5), as determined by the Secretary.

(7) Authority to extend grant period

The Secretary may extend for 1 additional 12-month period the period in which a grantee may use a grant made under this subsection.

(8) Technical assistance to prevent excessive unemployment or underemployment

In carrying out this subsection, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment, underemployment, outmigration, or low employment growth in economically distressed rural areas that the Secretary determines have a substantial need for the assistance. The assistance may include planning and feasibility studies, management and operational assistance, and studies evaluating the need for development potential of projects that increase employment and improve economic growth in the areas.

(9) Grants to defray administrative costs

The Secretary may make grants to defray not to exceed 75 percent of the costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under this subsection. For purposes of determining the non-Federal share of the costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including premises, equipment, and services.

(10) Cooperative research program

The Secretary shall enter into a cooperative research agreement with 1 or more qualified academic institutions in each fiscal year to conduct research on the effects of all types of cooperatives on the national economy.

(11) Addressing needs of minority communities

(A) Definition of socially disadvantaged group

In this paragraph, the term ''socially disadvantaged group'' has the meaning given the term in section 2003(e) of this title.

(B) Reservation of funds

(i) In general

If the total amount appropriated under paragraph (12) for a fiscal year exceeds $7,500,000, the Secretary shall reserve an amount equal to 20 percent of the total amount appropriated for grants for cooperative development centers, individual cooperatives, or groups of cooperatives—

(I) that serve socially disadvantaged groups; and

(II) a majority of the boards of directors or governing boards of which are comprised of individuals who are members of socially disadvantaged groups.

(ii) Insufficient applications

To the extent there are insufficient applications to carry out clause (i), the Secretary shall use the funds as otherwise authorized by this subsection.

(12) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2008 through 2012.

(f) Grants to broadcasting systems

(1) "Statewide" defined

In this subsection, the term ''statewide'' means having a coverage area of not less than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State (as determined by the Secretary).

(2) Grants

The Secretary may make grants to statewide private nonprofit public television systems, whose coverage area is predominately rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Grants available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.

(3) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.

(g) Business and industry direct and guaranteed loans

(1) Definition of business and industry loan

In this subsection, the term ''business and industry loan'' means a business and industry direct or guaranteed loan that is made or guaranteed by the Secretary under subsection (a)(2)(A) of this section, including guarantees described in paragraph (3)(A)(ii).

(2) Loan guarantees for the purchase of cooperative stock

(A) In general

The Secretary may guarantee a business and industry loan to individual farmers or ranchers for the purpose of purchasing capital stock of a farmer or rancher cooperative established for the purpose of processing an agricultural commodity.

(B) Processing contracts during initial period

A cooperative described in subparagraph (A) for which a farmer or rancher receives a guarantee to purchase stock under subparagraph (A) may contract for services to process agricultural commodities, or otherwise process value-added agricultural products, during the 5-year period beginning on the date of the startup of the cooperative in order to provide adequate time for the planning and construction of the processing facility of the cooperative.

(C) Financial information

Financial information required by the Secretary from a farmer or rancher as a condition of making a business and industry loan guarantee under this paragraph shall be provided in the manner generally required by commercial agricultural lenders in the area.

(3) Loans to cooperatives

(A) Eligibility

(i) In general

The Secretary may make or guarantee a business and industry loan to a cooperative organization that is headquartered in a metropolitan area if the loan is used for a project or venture described in subsection (a) of this section that is located in a rural area or a loan guarantee that meets the requirements of paragraph (6).

(ii) Equity

The Secretary may guarantee a loan made for the purchase of preferred stock or similar equity issued by a cooperative organization or a fund that invests primarily in cooperative organizations, if the guarantee significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary.

(B) Refinancing

A cooperative organization that is eligible for a business and industry loan shall be eligible to refinance an existing business and industry loan with a lender if—

(i) the cooperative organization—

(I) is current and performing with respect to the existing loan; and

(II) is not, and has not been, in payment default, or the collateral of which has not been converted, with respect to the existing loan; and

(ii) there is adequate security or full collateral for the refinanced loan.

(4) Loan appraisals

The Secretary may require that any appraisal made in connection with a business and industry loan be conducted by a specialized appraiser that uses standards that are similar to standards used for similar purposes in the private sector, as determined by the Secretary.

(5) Fees

The Secretary may assess a 1-time fee for any guaranteed business and industry loan in an amount that does not exceed 2 percent of the guaranteed principal portion of the loan.

(6) Loan guarantees in nonrural areas

(A) In general

The Secretary may guarantee a business and industry loan to a cooperative organization for a facility that is not located in a rural area if—

(i) the primary purpose of the loan guarantee is for a facility to provide value-added processing for agricultural producers that are located within 80 miles of the facility;

(ii) the applicant demonstrates to the Secretary that the primary benefit of the loan guarantee will be to provide employment for residents of a rural area; and

(iii) the total amount of business and industry loans guaranteed for a fiscal year under this paragraph does not exceed 10 percent of the business and industry loans guaranteed for the fiscal year under subsection (a)(2)(A) of this section.

(B) Principal amounts

The principal amount of a business and industry loan guaranteed under this paragraph may not exceed $25,000,000.

(7) Intangible assets

In determining whether a cooperative organization is eligible for a guaranteed business and industry loan, the Secretary may consider the market value of a properly appraised brand name, patent, or trademark of the cooperative.

(8) Limitations on loan guarantees for cooperative organizations

(A) Principal amount

(i) In general

Subject to clause (ii), the principal amount of a business and industry loan made to a cooperative organization and guaranteed under this subsection shall not exceed $40,000,000.

(ii) Use

To be eligible for a guarantee under this subsection for a business and industry loan made to a cooperative organization, the principal amount of the any such loan in excess of $25,000,000 shall be used to carry out a project that—

(I)(aa) is in a rural area; and

(bb) provides for the value-added processing of agricultural commodities; or

(II) significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary.

(B) Applications

If a cooperative organization submits an application for a guarantee under this sub-

section of a business and industry loan with a principal amount that is in excess of $25,000,000, the Secretary—

(i) shall review and, if appropriate, approve the application; and

(ii) may not delegate the approval authority.

(C) Maximum amount

The total amount of business and industry loans made to cooperative organizations and guaranteed for a fiscal year under this subsection with principal amounts that are in excess of $25,000,000 may not exceed 10 percent of the business and industry loans guaranteed for the fiscal year under subsection (a)(2)(A) of this section.

(9) Locally or regionally produced agricultural food products

(A) Definitions

In this paragraph:

(i) Locally or regionally produced agricultural food product

The term ''locally or regionally produced agricultural food product'' means any agricultural food product that is raised, produced, and distributed in—

(I) the locality or region in which the final product is marketed, so that the total distance that the product is transported is less than 400 miles from the origin of the product; or

(II) the State in which the product is produced.

(ii) Underserved community

The term ''underserved community'' means a community (including an urban or rural community and an Indian tribal community) that has, as determined by the Secretary—

(I) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets; and

(II) a high rate of hunger or food insecurity or a high poverty rate.

(B) Loan and loan guarantee program

(i) In general

The Secretary shall make or guarantee loans to individuals, cooperatives, cooperative organizations, businesses, and other entities to establish and facilitate enterprises that process, distribute, aggregate, store, and market locally or regionally produced agricultural food products to support community development and farm and ranch income.

(ii) Requirement

The recipient of a loan or loan guarantee under clause (i) shall include in an appropriate agreement with retail and institutional facilities to which the recipient sells locally or regionally produced agricultural food products a requirement to inform consumers of the retail or institutional facilities that the consumers are purchasing or consuming locally or regionally produced agricultural food products.

(iii) Priority

In making or guaranteeing a loan under clause (i), the Secretary shall give priority to projects that have components benefitting underserved communities.

(iv) Reports

Not later than 2 years after the date of enactment of this paragraph and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes projects carried out using loans or loan guarantees made under clause (i), including—

(I) the characteristics of the communities served; and

(II) resulting benefits.

(v) Reservation of funds

(I) In general

For each of fiscal years 2008 through 2012, the Secretary shall reserve not less than 5 percent of the funds made available to carry out this subsection to carry out this subparagraph.

(II) Availability of funds

Funds reserved under subclause (I) for a fiscal year shall be reserved until April 1 of the fiscal year.

(h) Loan guarantees for certain loans

The Secretary may guarantee loans made under subsection (a) of this section to finance the issuance of bonds for the projects described in section 1926(a)(24) of this title.

(i) Appropriate technology transfer for rural areas program

(1) Definition of national nonprofit agricultural assistance institution

In this subsection, the term ''national nonprofit agricultural assistance institution'' means an organization that—

(A) is described in section 501(c)(3) of title 26 and exempt from taxation under[2] 501(a) of that title;

(B) has staff and offices in multiple regions of the United States;

(C) has experience and expertise in operating national agriculture technical assistance programs;

(D) expands markets for the agricultural commodities produced by producers through the use of practices that enhance the environment, natural resource base, and quality of life; and

(E) improves the economic viability of agricultural operations.

(2) Establishment

The Secretary shall establish a national appropriate technology transfer for rural areas program to assist agricultural producers that are seeking information to—

(A) reduce input costs;

(B) conserve energy resources;

[2] So in original. The word ''section'' probably should appear.

(C) diversify operations through new energy crops and energy generation facilities; and

(D) expand markets for agricultural commodities produced by the producers by using practices that enhance the environment, natural resource base, and quality of life.

(3) Implementation

(A) In general

The Secretary shall carry out the program under this subsection by making a grant to, or offering to enter into a cooperative agreement with, a national nonprofit agricultural assistance institution.

(B) Grant amount

A grant made, or cooperative agreement entered into, under subparagraph (A) shall provide 100 percent of the cost of providing information described in paragraph (2).

(4) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.

(j) Rural economic area partnership zones

Effective beginning on the date of enactment of this subsection through September 30, 2012, the Secretary shall carry out those rural economic area partnership zones administratively in effect on the date of enactment of this subsection in accordance with the terms and conditions contained in the memorandums of agreement entered into by the Secretary for the rural economic area partnership zones, except as otherwise provided in this subsection.

(Pub. L. 87–128, title III, § 310B, as added Pub. L. 92–419, title I, § 118(a), Aug. 30, 1972, 86 Stat. 663; amended Pub. L. 91–524, title VIII, § 817, as added Pub. L. 93–86, § 1(27)(B), Aug. 10, 1973, 87 Stat. 241; Pub. L. 95–113, title XV, § 1503(b), Sept. 29, 1977, 91 Stat. 1021; Pub. L. 95–334, title I, § 112, Aug. 4, 1978, 92 Stat. 424; Pub. L. 96–358, § 5, Sept. 25, 1980, 94 Stat. 1187; Pub. L. 96–438, § 1(2), Oct. 13, 1980, 94 Stat. 1871; Pub. L. 99–409, § 2, Aug. 28, 1986, 100 Stat. 923; Pub. L. 100–203, title I, § 1504, Dec. 22, 1987, 101 Stat. 1330–28; Pub. L. 101–624, title XXIII, §§ 2325, 2337, 2347, formerly 2347(a), 2386, 2388(b), (c), Nov. 28, 1990, 104 Stat. 4013, 4022, 4034, 4051, 4052; Pub. L. 102–237, title VII, § 701(c), (h)(1)(C), (D), Dec. 13, 1991, 105 Stat. 1879, 1880; Pub. L. 102–552, title V, § 516(d), Oct. 28, 1992, 106 Stat. 4137; Pub. L. 102–554, § 6, Oct. 28, 1992, 106 Stat. 4144; Pub. L. 104–127, title VI, §§ 635(b), 661(d), title VII, §§ 705(1), 747(a), 759B, Apr. 4, 1996, 110 Stat. 1093, 1107, 1112, 1125, 1138; Pub. L. 104–180, title VII, § 731, Aug. 6, 1996, 110 Stat. 1600; Pub. L. 107–171, title VI, §§ 6007(b), 6013–6017, May 13, 2002, 116 Stat. 355, 358, 359; Pub. L. 110–234, title VI, §§ 6012(a), (b)(2), 6013–6017, May 22, 2008, 122 Stat. 1164–1169; Pub. L. 110–246, § 4(a), title VI, §§ 6012(a), (b)(2), 6013–6017, June 18, 2008, 122 Stat. 1664, 1925, 1927–1931.)

REFERENCES IN TEXT

The Federal Nonnuclear Energy Research and Development Act of 1974, as amended, referred to in subsec. (a)(1)(B), is Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, which is classified generally to chapter 74 (§ 5901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

For definition of ''this chapter'', referred to in subsec. (d)(5), (7), see note set out under section 1921 of this title.

Title V of the Housing Act of 1949, referred to in subsec. (d)(7), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, as amended, which is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the code, see References in Text note set out under section 1441 of Title 42 and Tables.

The date of enactment of this paragraph and the date of enactment of this subsection, referred to in subsecs. (g)(9)(B)(iv) and (j), respectively, is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

In subsec. (d)(7), ''chapter 11 of title 31'' substituted for ''the Budget and Accounting Act of 1921 [31 U.S.C. 1 et seq.]'' 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.

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—Pub. L. 110–246, § 6012(a)(1), inserted section catchline.

Subsec. (a). Pub. L. 110–246, § 6012(a)(1), (2), inserted subsec. heading, inserted par. (1) heading and introductory provisions, designated former fourth sentence as subpar. (A), inserted subpar. heading, substituted ''The'' for ''As used in this subsection, the'', designated former second sentence as subpar. (B), inserted subpar. heading, substituted ''The'' for ''For the purposes of this subsection, the'', designated former first sentence as par. (2), inserted par. heading, in introductory provisions, substituted ''The Secretary may'' for ''The Secretary may also'' and inserted ''and private investment funds that invest primarily in cooperative organizations'' after ''nonprofit'', redesignated former cls. (1) to (4) as subpars. (A) to (D), respectively, designated former third sentence as par. (3), inserted par. heading, substituted ''Loans described in paragraph (2)'' for ''Such loans'', and designated former fifth sentence as par. (4) and inserted par. heading.

Subsec. (e)(5)(A). Pub. L. 110–246, § 6013(a)(1), substituted ''carrying out activities to promote and assist the development of cooperatively and mutually owned businesses'' for ''administering a nationally coordinated, regionally or State-wide operated project''.

Subsec. (e)(5)(B). Pub. L. 110–246, § 6013(a)(2), inserted ''to promote and assist the development of cooperatively and mutually owned businesses'' before semicolon at end.

Subsec. (e)(5)(D), (E). Pub. L. 110–246, § 6013(a)(3)–(6), added subpar. (E), redesignated former subpar. (E) as (D), struck out ''and'' at end, and struck out former subpar. (D) which read as follows: ''demonstrate the ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;''.

Subsec. (e)(5)(F). Pub. L. 110–246, § 6013(a)(7), struck out ''greater than'' before ''a 25 percent''.

Subsec. (e)(6). Pub. L. 110–246, § 6013(b), added par. (6) and struck out former par. (6). Prior to amendment, text read as follows: ''The Secretary shall make grants under this subsection for a period of 1 year. The Secretary shall evaluate programs receiving assistance under this subsection. If the Secretary determines it to be in the best interest of the program, the Secretary may award an additional grant to the program for the immediately succeeding year without application for the grant.''

Subsec. (e)(7) to (12). Pub. L. 110–246, § 6013(c)–(f), added pars. (7), (10), and (11), redesignated former pars. (7) to (9) as (8), (9), and (12), respectively, and in par. (12), substituted ''2008 through 2012'' for ''1996 through 2007''.

Subsec. (f)(3). Pub. L. 110–246, § 6014, substituted ''2008 through 2012'' for ''2002 through 2007''.

Subsec. (g)(1). Pub. L. 110–246, § 6012(a)(3)(A), (b)(2), substituted ''subsection (a)(2)(A)'' for ''subsection (a)(1)'' and inserted '', including guarantees described in paragraph (3)(A)(ii)'' before period at end.

Subsec. (g)(3)(A). Pub. L. 110–246, § 6012(a)(3)(B), substituted ''Eligibility'' for ''In general'' in subpar. heading, designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

Subsec. (g)(6)(A)(iii). Pub. L. 110–246, § 6012(b)(2), substituted ''subsection (a)(2)(A)'' for ''subsection (a)(1)''.

Subsec. (g)(8)(A)(ii). Pub. L. 110–246, § 6012(a)(3)(C), inserted ''that'' after ''project'' in introductory provisions, added subcls. (I) and (II), and struck out former subcls. (I) and (II) which read as follows:

''(I) in a rural area; and

''(II) that provides for the value-added processing of agricultural commodities.''

Subsec. (g)(8)(C). Pub. L. 110–246, § 6012(b)(2), substituted ''subsection (a)(2)(A)'' for ''subsection (a)(1)''.

Subsec. (g)(9). Pub. L. 110–246, § 6015, added par. (9).

Subsecs. (i), (j). Pub. L. 110–246, §§ 6016, 6017, added subsecs. (i) and (j).

2002—Subsec. (a)(3). Pub. L. 107–171, § 6013, inserted ''and other renewable energy systems (including wind energy systems and anaerobic digestors for the purpose of energy generation)'' after ''solar energy systems''.

Subsec. (c)(1). Pub. L. 107–171, § 6014, substituted ''Grants'' for ''In general'' in heading, designated existing provisions as subpar. (A) and inserted heading, and added subpar. (B).

Subsec. (e)(5)(F). Pub. L. 107–171, § 6015(1), inserted '', except that the Secretary shall not require non-Federal financial support in an amount that is greater than 5 percent in the case of a 1994 institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382))'' before period at end.

Subsec. (e)(9). Pub. L. 107–171, § 6015(2), substituted ''2007'' for ''2002''.

Subsec. (f)(3). Pub. L. 107–171, § 6016, added par. (3).

Subsec. (g). Pub. L. 107–171, § 6017, added subsec. (g) and struck out heading and text of former subsec. (g). Text read as follows:

''(1) DEFINITION OF FARMER.—In this subsection, the term 'farmer' means any farmer that the Secretary determines is a family farmer.

''(2) LOAN GUARANTEES.—The Secretary may guarantee loans under this section to individual farmers for the purpose of purchasing start-up capital stock of a farmer cooperative established for the purpose of processing an agricultural commodity.

''(3) ELIGIBILITY.—To be eligible for a loan guarantee under this subsection, a farmer must produce the agricultural commodity that will be processed by the cooperative.''

Subsec. (h). Pub. L. 107–171, § 6007(b), added subsec. (h).

1996—Subsec. (a). Pub. L. 104–127, § 747(a)(1), in first sentence, struck out ''and'' before ''(3)'' and inserted before period at end '', and (4) to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade''.

Pub. L. 104–127, § 635(b), in third sentence, substituted ''(4) of'' for ''(3) of''.

Subsec. (b). Pub. L. 104–127, § 747(a)(2), inserted heading, redesignated par. (2) as subsec. (b), struck out ''(2)'' before ''The Secretary'', and struck out par. (1) which read as follows: ''Secretary may make grants, not to exceed $50,000,000 annually, to eligible applicants under this section for pollution abatement and control projects in rural areas. No such grant shall exceed 50 per centum of the development cost of such a project.''

Subsec. (c). Pub. L. 104–127, § 747(a)(3), inserted heading, in par. (1), inserted par. heading and inserted ''(including nonprofit entities)'' after ''private business enterprises'', in par. (2), inserted par. heading and substituted ''award grants on a competitive basis'' for ''make grants'', and added par. (3).

Subsec. (d)(2) to (4). Pub. L. 104–127, § 661(d)(1), substituted ''provision of this section'' for ''provision of this section and sections 1924(b) and 1942(b) of this title''.

Subsec. (d)(6). Pub. L. 104–127, § 661(d)(2), substituted ''this section'' for ''this section, section 1924 of this title, or section 1942 of this title''.

Subsec. (e). Pub. L. 104–127, § 747(a)(4), added subsec. (e) and struck out former subsec. (e) which authorized the insuring or guaranteeing of loans for the purpose of constructing or improving subterminal facilities.

Subsec. (e)(2). Pub. L. 104–180 amended Pub. L. 104–127, § 747(a)(4), which enacted subsec. (e), to insert ''effective October 1, 1996,'' after ''The Secretary shall make grants'' in par. (2).

Subsec. (f). Pub. L. 104–127, § 759B, added par. (1), redesignated existing provisions as par. (2), and added par. heading.

Pub. L. 104–127, § 747(a)(5), (6), redesignated subsec. (j) as (f) and struck out former subsec. (f) which authorized grants to nonprofit institutions for the purpose of establishing and operating centers for rural technology or cooperative development. See subsec. (e) of this section.

Pub. L. 104–127, § 705(1), made technical amendment to directory language of Pub. L. 101–624, § 2347(a). See 1990 Amendment note below.

Subsec. (g). Pub. L. 104–127, § 747(a)(5), (7), added subsec. (g) and struck out former subsec. (g) which read as follows: ''In carrying out subsection (f) of this section, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment of persons residing in economically distressed rural areas that the Secretary determines have a substantial need for such assistance. Such assistance shall include planning and feasibility studies, management and operational assistance, and studies evaluating the needs for development potential of projects that increase employment and improve economic growth in such areas.''

Pub. L. 104–127, § 705(1), made technical amendment to directory language of Pub. L. 101–624, § 2347(a). See 1990 Amendment note below.

Subsec. (h). Pub. L. 104–127, § 747(a)(5), struck out subsec. (h) which read as follows: ''The Secretary may make grants to defray not to exceed 75 percent of the administrative costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under subsection (f) of this section. For purposes of determining the non-Federal share of such costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including but not limited to premises, equipment, and services.''

Pub. L. 104–127, § 705(1), made technical amendment to directory language of Pub. L. 101–624, § 2347(a). See 1990 Amendment note below.

Subsec. (i). Pub. L. 104–127, § 747(a)(5), struck out subsec. (i) which authorized making of loans at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

Subsec. (j). Pub. L. 104–127, § 747(a)(6), redesignated subsec. (j) as (f).

1992—Subsec. (c). Pub. L. 102–554 designated existing provisions as par. (1) and added par. (2).

Pub. L. 102–552, which directed the substitution of ''business enterprises or the creation, expansion, and operation of rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement to adult students,'' for ''business enterprises,'' in section 310B(c) without specifying

the name of the act, was executed to this section, which is section 310B of the Consolidated Farm and Rural Development Act, to reflect the probable intent of Congress.

1991—Subsec. (d)(5), (7). Pub. L. 102–237, § 701(h)(1)(C), (D), substituted ''this chapter'' for ''this Act''.

Subsec. (f)(4). Pub. L. 102–237, § 701(c)(3), (4), redesignated par. (4), relating to grants to statewide private nonprofit public television systems, as subsec. (j), and transferred such provision to follow subsec. (i).

Subsec. (i)(2)(B)(iv). Pub. L. 102–237, § 701(c)(1), substituted ''(iii) of this subparagraph'' for ''(ii) of this subsection''.

Subsec. (i)(5)(A). Pub. L. 102–237, § 701(c)(2), inserted closing parenthesis after ''section 2008(b)(3) of this title''.

Subsec. (j). Pub. L. 102–237, § 701(c)(3)–(5), redesignated subsec. (f)(4), relating to grants to statewide private nonprofit public television systems, as subsec. (j), transferred such provision to follow subsec. (i), and inserted heading.

1990—Subsec. (a). Pub. L. 101–624, § 2388(b), substituted ''paragraphs (1) and (3)'' for ''subsections (a) and (c)''.

Subsec. (b). Pub. L. 101–624, § 2325, designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 101–624, § 2388(c), designated first par. and and pars. (1) to (6) as (1) to (7), respectively, substituted ''paragraphs (2) and (3)'' for ''paragraph (1) and (2)'' in par. (4), and realigned margins of pars. (5) to (7).

Subsec. (f). Pub. L. 101–624, § 2386, added par. (4) relating to grants to statewide private nonprofit public television systems.

Pub. L. 101–624, § 2347, formerly § 2347(a), as renumbered by Pub. L. 104–127, § 705(1), added subsec. (f) and struck out former subsec. (f) which read as follows:

''(1) The Secretary may make grants under this subsection to public and nonprofit private institutions for the purpose of enabling them to establish and operate centers of rural technology development that have, as a primary objective, the improvement of the economic condition of rural areas by promoting the development (through technological innovation and adaptation of existing technology) and commercialization of (A) new products that can be produced in rural areas, and (B) new processes that can be used in such production.

''(2) Grants under this subsection may be made on a competitive basis. In making grants, the Secretary shall give preference to applicants that will establish centers for rural technology in areas that have (A) few industries and agribusinesses, (B) high levels of unemployment, (C) high rates of out-migration of people, business, and industries, and (D) low levels of per capita income.

''(3) If grants are to be made under this subsection, the Secretary shall issue regulations implementing this subsection that shall include provisions for the monitoring and evaluation of the rural technology development activities carried out by institutions that receive grants under this subsection.''

Subsecs. (g), (h). Pub. L. 101–624, § 2347, formerly § 2347(a), as renumbered by Pub. L. 104–127, § 705(1), added subsecs. (g) and (h).

Subsec. (i). Pub. L. 101–624, § 2337, added subsec. (i).

1987—Subsec. (c). Pub. L. 100–203 inserted ''and private nonprofit corporations'' after ''to public bodies'' and substituted ''to finance and facilitate development of small and emerging'' for ''to facilitate development of''.

1986—Subsec. (a). Pub. L. 99–409, § 2(1), inserted provision that no loan may be made, insured, or guaranteed under this subsection that exceeds $25,000,000 in principal amount.

Subsec. (f). Pub. L. 99–409, § 2(2), added subsec. (f).

1980—Subsec. (a). Pub. L. 96–438 authorized the Secretary to make and insure loans for the purpose of reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems, in rural areas and defined term ''solar energy'', for purposes of subsection (a) of this section, as meaning energy derived from sources, other than fossil fuels, and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974, as amended.

Subsec. (e). Pub. L. 96–358 added subsec. (e).

1978—Subsec. (d)(1), (2). Pub. L. 95–334, § 112(1), inserted exception for assistance less than $1,000,000, or where direct employment will not be increased by more than 50 employees.

Subsec. (d)(3). Pub. L. 95–334, § 112, inserted exception for assistance less than $1,000,000, or where direct employment will not be increased by more than 50 employees and substituted ''30'' for ''60''.

1977—Subsec. (a). Pub. L. 95–113 inserted reference to the conservation, development, and utilization of water for aquaculture purposes and inserted definition of ''aquaculture''.

1973—Subsec. (d)(4) to (6). Pub. L. 91–524, § 817, as added by Pub. L. 93–86, added pars. (4) to (6).

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.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 731 of Pub. L. 104–180 provided in part: ''That this section [amending this section] shall take effect upon enactment of this Act into law [Aug. 6, 1996].''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(c) of Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, and amendment by section 701(h)(1)(C), (D) of Pub. L. 102–237 to any provision specified therein effective as if included in Act that added provision so specified at the time such Act became law, see section 1101(b)(6), (c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 2(2) of Pub. L. 99–409 provided that the amendment made by that section is effective Oct. 1, 1986.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–358 effective Oct. 1, 1980, see section 6 of Pub. L. 96–358, set out as an Effective Date note under section 3701 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions under this section and under section 1323 of Pub. L. 99–198, set out as a note below, transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

BUSINESS DEVELOPMENT

Section 2336 of Pub. L. 101–624 provided that: ''The purposes of this chapter [chapter 2 (§§ 2336, 2337) of subtitle D of title XXIII of Pub. L. 101–624, amending this section] are to—

''(1) provide funds to improve telecommunications service in rural areas; and

''(2) provide access to advanced telecommunications services and computer networks to improve job

opportunities and the business environment in rural areas.''

GUARANTEE BY SECRETARY OF AGRICULTURE OF LOANS TO NONPROFIT NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS

Pub. L. 99–198, title XIII, § 1323, Dec. 23, 1985, 99 Stat. 1534, as amended by Pub. L. 99–425, title IV, § 407(c), Sept. 30, 1986, 100 Stat. 971; Pub. L. 99–500, § 101(a) [title VI, § 641], Oct. 18, 1986, 100 Stat. 1783, 1783–35, and Pub. L. 99–591, § 101(a) [title VI, § 641], Oct. 30, 1986, 100 Stat. 3341, 3341–35; Pub. L. 100–202, § 101(k) [title VI, § 636], Dec. 22, 1987, 101 Stat. 1329–322, 1329–357, provided that:

''(a)(1) Prior to September 30, 1988, the Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') shall guarantee loans made by public agencies or private organizations (including loans made by financial institutions such as insurance companies) to nonprofit national rural development and finance corporations that establish similar and affiliated statewide rural development and finance programs for the purpose of providing loans, guarantees, and other financial assistance to profit or nonprofit local businesses to improve business, industry, and employment opportunities in a rural area (as determined by the Secretary).

''(2) To be eligible to obtain a loan guarantee under this subsection, a corporation must—

''(A) demonstrate to the Secretary the ability of the corporation to administer a national revolving rural development loan program;

''(B) be prepared to commit financial resources under the control of the corporation to the establishment of affiliated statewide rural development and finance programs; and

''(C) have secured commitments of significant financial support from public agencies and private organizations for such affiliated statewide programs.

''(3) A national rural development and finance corporation receiving a loan guarantee under this subsection shall base a determination to establish an affiliated statewide program in large part on the willingness of States and private organizations to sponsor and make funds available to such program.

''(4) Notwithstanding any other provision of law, for the fiscal year ending September 30, 1986, of the amounts available to guarantee loans in accordance with section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) from the Rural Development Insurance Fund, $20,000,000 shall be used by the Secretary to guarantee loans under the national rural development and finance program established under this subsection, to remain available until expended.

''(5) Notwithstanding any provision to the contrary of subsection (4) above, the $20,000,000 which was available pursuant to subsection (4) shall continue to be available and shall be used by the Secretary prior to September 30, 1988, to guarantee loans for the national rural development and finance program and shall remain available until expended.

''(b)(1) Prior to September 30, 1988, the Secretary shall make grants, from funds transferred under paragraph (2), to national rural development and finance corporations for the purpose of establishing a rural development program to provide financial and technical assistance to compliment [sic] the loan guarantees made or to be made to such corporations under subsection (a).

''(2) All funds in, appropriated to, or repaid to the Rural Development Loan Fund, including those on deposit and available upon date of enactment [Dec. 23, 1985], under sections 623 and 633 [42 U.S.C. 9812, 9822] of the Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.) shall be transferred to the Secretary provided that—

''(A) all funds on deposit and available on date of enactment shall be used for the purpose of making grants under paragraph (1) and shall remain available until expended;

''(B) notwithstanding any other provision of law, all loans to intermediary borrowers made prior to date of enactment, shall upon date of enactment, for the life of such loan, bear a rate of interest not to exceed that in effect upon the date of issuance of such loans; and

''(C) notwithstanding paragraph (1), all funds other than funds to which subparagraph (A) applies shall be used by the Secretary to make loans—

''(i) to the entities;

''(ii) for the purposes; and

''(iii) subject to the terms and conditions;

specified in the first, second, and last sentences of section 623(a) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(a)). For purposes of this subparagraph, any reference in such sentences to the Secretary shall be deemed to be a reference to the Secretary of Agriculture.''

Pub. L. 99–500, § 101(a) [title VI, § 641], Oct. 18, 1986, 100 Stat. 1783, 1783–35, and Pub. L. 99–591, § 101(a) [title VI, § 641], Oct. 30, 1986, 100 Stat. 3341, 3341–35, provided in part: ''That such grant funds [probably means grant funds under section 1323(b)(1) of Pub. L. 99–198, set out above] may be used by such corporation to provide technical assistance and financial assistance, including capitalizing revolving loan programs, pursuant to the Act.''

LIMITS ON GRANTS FOR FISCAL YEARS 1982, 1983, AND 1984

Pub. L. 97–35, title I, § 120, Aug. 13, 1981, 95 Stat. 367, provided in part that, notwithstanding any other provision of law, there was authorized to be appropriated for grants pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) not to exceed: $5,007,000 for fiscal year 1982, $5,280,000 for fiscal year 1983, and $5,553,000 for fiscal year 1984.

§ 1933. Guaranteed rural housing loans; Hawaiian home lands

(a) Rural Housing Loans which (1) are guaranteed by the Secretary under section 517(a)(2)[1] of the Housing Act of 1949 [42 U.S.C. 1487(a)(2)], (2) are made by other lenders approved by the Secretary to provide dwellings in rural areas for the applicants' own use, and (3) bear interest and other charges at rates not above the maximum rates prescribed by the Secretary of Housing and Urban Development for loans made by private lenders for similar purposes and guaranteed by the Secretary of Housing and Urban Development under the National Housing Act [12 U.S.C. 1701 et seq.] or superseding legislation shall not be subject to sections 501(c) and 502(b)(3) of the Housing Act of 1949 [42 U.S.C. 1471(c) and 1472(b)(3)].

(b) For the purposes of title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.] or this chapter, a guarantee of payment given under the color of law by the Department of Hawaiian Home Lands (or its successor in function) shall be found by the Secretary reasonably to assure repayment of any indebtedness so guaranteed.

(Pub. L. 87–128, title III, § 310C, as added Pub. L. 92–419, title I, § 119, Aug. 30, 1972, 86 Stat. 664; amended Pub. L. 101–624, title XVIII, § 1804, Nov. 28, 1990, 104 Stat. 3819.)

REFERENCES IN TEXT

Section 517(a) of the Housing Act of 1949 [42 U.S.C. 1487(a)], referred to in subsec. (a), was amended by Pub. L. 98–181, title V, § 514(a)(1), Nov. 30, 1983, 98 Stat. 1247, and, as so amended, does not contain a par. (2).

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended,

[1] See References in Text note below.

which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see References in Text note set out under section 1701 of Title 12 and Tables.

Title V of the Housing Act of 1949, referred to in subsec. (b), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, as amended, which is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see References in Text note set out under section 1441 of Title 42 and Tables.

For definition of ''this chapter'', referred to in subsec. (b), see note set out under section 1921 of this title.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–624 substituted ''or this chapter'' for '', as amended''.

§ 1934. Low-income farm ownership loan program; eligibility; repayment requirements

(a) The Secretary is authorized to make and insure loans for any of the purposes referred to in section 1923(a) of this title, or paragraphs (1) through (5) of section 1924(a) of this title, to farmers and ranchers in the United States who (1) are citizens of the United States, (2) meet the requirements of paragraphs (2) through (4) of section 1922 of this title, (3) are unable to obtain sufficient credit under section 1922 of this title to finance their actual needs, (4) are owners or operators of small or family farms (including new owners or operators), (5) are farmers or ranchers with a low income, and (6) demonstrate a need to maximize their income from farming or ranching operations. The Secretary is also authorized to make such loans to any farm cooperative or private domestic corporation or partnership that is controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States if all of its members, stockholders, or partners, as applicable, are citizens of the United States and the entity and all such members, stockholders, or partners meet the requirements of paragraphs (2) through (6) of the preceding sentence.

(b) Each loan made or insured under this section shall be repayable in such installments as the Secretary determines will provide for reduced payments during the initial repayment period of the loan and larger payments during the remainder of the repayment period of the loan.

(Pub. L. 87–128, title III, § 310D, as added Pub. L. 95–334, title I, § 113, Aug. 4, 1978, 92 Stat. 424; amended Pub. L. 101–624, title XVIII, § 1802(b), Nov. 28, 1990, 104 Stat. 3818; Pub. L. 102–552, title V, § 516(e)(1), Oct. 28, 1992, 106 Stat. 4137; Pub. L. 104–127, title VI, § 661(e), Apr. 4, 1996, 110 Stat. 1107.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 substituted ''section 1923(a) of this title, or paragraphs (1) through (5) of section 1924(a) of this title'' for ''paragraphs (1) through (5) of section 1923(a) of this title, or subparagraphs (A) through (E) of section 1924(a)(1) of this title''.

1992—Subsec. (a). Pub. L. 102–552 substituted ''1924(a)(1)'' for ''1924(d)(1)''.

1990—Subsec. (a). Pub. L. 101–624 substituted ''paragraphs (1) through (5) of section 1923(a) of this title, or subparagraphs (A) through (E) of section 1924(d)(1) of this title,'' for ''clauses (1) through (5) of section 1923(a) of this title'', substituted ''paragraphs'' for ''clauses'' before ''(2) through (4) of section'', made technical amendment to reference to section 1922 of this title which required no change in text, and substituted ''paragraphs'' for ''clauses'' before ''(2) through (6) of the''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(e)(2) of Pub. L. 102–552 provided that: ''The amendment made by paragraph (1) of this subsection [amending this section] shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1865) [amending section 1924 of this title] took effect.''

§ 1935. Down payment loan program

(a) In general

(1) Establishment

Notwithstanding any other section of this subchapter, the Secretary shall establish, within the farm ownership loan program established under this subchapter, a program under which loans shall be made under this section to qualified beginning farmers or ranchers and socially disadvantaged farmers or ranchers for down payments on farm ownership loans.

(2) Administration

The Secretary shall be the primary coordinator of credit supervision for the down payment loan program established under this section, in consultation with the commercial or cooperative lender and, if applicable, the contracting credit counseling service selected under section 2006b(c) of this title.

(b) Loan terms

(1) Principal

Each loan made under this section shall be in an amount that does not exceed 45 percent of the least of—

(A) the purchase price of the farm or ranch to be acquired;

(B) the appraised value of the farm or ranch to be acquired; or

(C) $500,000.

(2) [1] Interest rate

The interest rate on any loan made by the Secretary under this section shall be a rate equal to the greater of—

(A) the difference obtained by subtracting 4 percent from the interest rate for farm ownership loans under this subchapter; or

(B) 1.5 percent.

(2) [1] Interest rate

The interest rate on any loan made by the Secretary under this section shall be 4 percent.

(3) Duration

Each loan under this section shall be made for a period of 20 years or less, at the option of the borrower.

(4) Repayment

Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

[1] So in original. Two pars. (2) have been enacted.

(5) Nature of retained security interest

The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section that shall—

(A) be secured by the farm or ranch;

(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person (including a lender) from whom the borrower obtained a loan used to acquire the farm or ranch; and

(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

(c) Limitations

(1) Borrowers required to make minimum down payment

The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 5 percent of the purchase price of the farm or ranch.

(2) Prohibited types of financing

The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing that contains any of the following conditions:

(A) The financing is to be amortized over a period of less than 30 years.

(B) A balloon payment will be due on the financing during the 20-year period beginning on the date the loan is to be made by the Secretary.

(d) Administration

In carrying out this section, the Secretary shall, to the maximum extent practicable—

(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subchapter;

(2) make efforts to widely publicize the availability of loans under this section among—

(A) potentially eligible recipients of the loans;

(B) retiring farmers and ranchers; and

(C) applicants for farm ownership loans under this subchapter;

(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to qualified beginning farmers and ranchers and socially disadvantaged farmers or ranchers by providing seller financing;

(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers or ranchers or socially disadvantaged farmers or ranchers; and

(5) establish annual performance goals to promote the use of the down payment loan program and other joint financing arrangements as the preferred choice for direct real estate loans made by any lender to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher.

(e) Socially disadvantaged farmer or rancher defined

In this section, the term ''socially disadvantaged farmer or rancher'' has the meaning given that term in section 2003(e)(2) of this title.

(Pub. L. 87–128, title III, § 310E, as added Pub. L. 102–554, § 7(a), Oct. 28, 1992, 106 Stat. 4144; amended Pub. L. 107–171, title V, § 5005, May 13, 2002, 116 Stat. 342; Pub. L. 110–234, title V, § 5004, May 22, 2008, 122 Stat. 1144; Pub. L. 110–246, § 4(a), title V, § 5004, June 18, 2008, 122 Stat. 1664, 1905.)

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. (a)(1). Pub. L. 110–246, § 5004(1), substituted ''or ranchers and socially disadvantaged farmers or ranchers'' for ''and ranchers''.

Subsec. (b)(1), (2). Pub. L. 110–246, § 5004(2)(A), added par. (1) and par. (2) consisting of subpars. (A) and (B) and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: ''Each loan made under this section shall be in an amount equal to 40 percent of the purchase price or appraisal value, whichever is lower, of the farm or ranch to be acquired, unless the borrower requests a lesser amount.''

Subsec. (b)(3). Pub. L. 110–246, § 5004(2)(B), substituted ''20'' for ''15''.

Subsec. (c)(1). Pub. L. 110–246, § 5004(3)(A), substituted ''5'' for ''10''.

Subsec. (c)(2), (3). Pub. L. 110–246, § 5004(3)(B), (C), redesignated par. (3) as (2), in subpar. (B), substituted ''20-year'' for ''15-year'', and struck out former par. (2). Prior to amendment, text read as follows: ''The Secretary shall not make a loan under this section with respect to a farm or ranch for which the purchase price or appraisal value, whichever is lower, exceeds $250,000.''

Subsec. (d)(3). Pub. L. 110–246, § 5004(4)(A)(ii), struck out ''and'' at end.

Pub. L. 110–246, § 5004(4)(A)(i), which directed the insertion of ''and socially disadvantaged farmers or ranchers'' after ''ranchers'', was executed by making the insertion after ''ranchers'' the second place it appeared to reflect the probable intent of Congress.

Subsec. (d)(4). Pub. L. 110–246, § 5004(4)(B), substituted ''or ranchers or socially disadvantaged farmers or ranchers; and'' for ''and ranchers.''

Subsec. (d)(5). Pub. L. 110–246, § 5004(4)(C), added par. (5).

Subsec. (e). Pub. L. 110–246, § 5004(5), added subsec. (e).

2002—Subsec. (b)(1). Pub. L. 107–171, § 5005(1)(A), substituted ''40 percent'' for ''30 percent''.

Subsec. (b)(3). Pub. L. 107–171, § 5005(1)(B), substituted ''15 years'' for ''10 years''.

Subsec. (c)(3)(B). Pub. L. 107–171, § 5005(2), substituted ''15-year'' for ''10-year''.

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.

§ 1936. Beginning farmer or rancher and socially disadvantaged farmer or rancher contract land sales program

(a) In general

The Secretary shall, in accordance with this section, guarantee a loan made by a private sell-

er of a farm or ranch to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher (as defined in section 2003(e)(2) of this title) on a contract land sales basis.

(b) Eligibility

In order to be eligible for a loan guarantee under subsection (a)—

(1) the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher shall—

(A) on the date the contract land sale that is subject of the loan is complete, own and operate the farm or ranch that is the subject of the contract land sale;

(B) have a credit history that—

(i) includes a record of satisfactory debt repayment, as determined by the Secretary; and

(ii) is acceptable to the Secretary; and

(C) demonstrate to the Secretary that the farmer or rancher, as the case may be, is unable to obtain sufficient credit without a guarantee to finance any actual need of the farmer or rancher, as the case may be, at a reasonable rate or term; and

(2) the loan shall meet applicable underwriting criteria, as determined by the Secretary.

(c) Limitations

(1) Down payment

The Secretary shall not provide a loan guarantee under subsection (a) if the contribution of the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher to the down payment for the farm or ranch that is the subject of the contract land sale would be less than 5 percent of the purchase price of the farm or ranch.

(2) Maximum purchase price

The Secretary shall not provide a loan guarantee under subsection (a) if the purchase price or the appraisal value of the farm or ranch that is the subject of the contract land sale is greater than $500,000.

(d) Period of guarantee

The period during which a loan guarantee under this section is in effect shall be the 10-year period beginning with the date the guarantee is provided.

(e) Guarantee plan

(1) Selection of plan

A private seller of a farm or ranch who makes a loan that is guaranteed by the Secretary under subsection (a) may select—

(A) a prompt payment guarantee plan, which shall cover—

(i) 3 amortized annual installments; or

(ii) an amount equal to 3 annual installments (including an amount equal to the total cost of any tax and insurance incurred during the period covered by the annual installments); or

(B) a standard guarantee plan, which shall cover an amount equal to 90 percent of the outstanding principal of the loan.

(2) Eligiblity[1] for standard guarantee plan

In order for a private seller to be eligible for a standard guarantee plan referred to in paragraph (1)(B), the private seller shall—

(A) secure a commercial lending institution or similar entity, as determined by the Secretary, to serve as an escrow agent; or

(B) in cooperation with the farmer or rancher, use an appropriate alternate arrangement, as determined by the Secretary.

(f) Transition from pilot program

(1) In general

The Secretary may phase-in the implementation of the changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program provided for in this section.

(2) Limitation

All changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program must be implemented for the 2011 Fiscal Year.

(Pub. L. 87–128, title III, § 310F, as added Pub. L. 107–171, title V, § 5006, May 13, 2002, 116 Stat. 342; amended Pub. L. 110–234, title V, § 5005, May 22, 2008, 122 Stat. 1145; Pub. L. 110–246, § 4(a), title V, § 5005, June 18, 2008, 122 Stat. 1664, 1906.)

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.

PRIOR PROVISIONS

A prior section 1936, Pub. L. 87–128, title III, § 310F, as added Pub. L. 102–554, § 7(b), Oct. 28, 1992, 106 Stat. 4146, related to availability of farm ownership loans and loan guarantees for certain qualified beginning farmers and ranchers, prior to repeal by Pub. L. 104–127, title VI, § 616(b), Apr. 4, 1996, 110 Stat. 1090.

AMENDMENTS

2008—Pub. L. 110–246, § 5005, amended section generally, substituting provisions relating to guarantee of a loan made by a private seller of a farm or ranch to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher on a contract land sales basis, for similar provisions relating to a pilot program in fiscal years 2003 through 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.

§ 1936a. Use of rural development loans and grants for other purposes

If, after making a loan or a grant described in section 2009d(d) of this title, the Secretary determines that the circumstances under which the loan or grant was made have sufficiently changed to make the project or activity for which the loan or grant was made available no longer appropriate, the Secretary may allow the loan borrower or grant recipient to use property (real and personal) purchased or improved with

[1] So in original. Probably should be ''Eligibility''.

the loan or grant funds, or proceeds from the sale of property (real and personal) purchased with such funds, for another project or activity that (as determined by the Secretary)—

(1) will be carried out in the same area as the original project or activity;

(2) meets the criteria for a loan or a grant described in section 2009d(d) of this title; and

(3) satisfies such additional requirements as are established by the Secretary.

(Pub. L. 87–128, title III, § 310G, as added Pub. L. 107–171, title VI, § 6018, May 13, 2002, 116 Stat. 361.)

SUBCHAPTER II—OPERATING LOANS

§ 1941. Persons eligible for loans

(a) In general

The Secretary may make and insure loans under this subchapter to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations, partnerships, joint operations, trusts, and limited liability companies that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies, individuals holding a majority interest in such entity, must (1) be citizens of the United States, (2) for direct loans only, have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences, (3) be or will become operators of not larger than family farms (or in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm or, in the case of holders of the entire interest who are related by blood or marriage and all of whom are or will become farm operators, the ownership interest of each such holder separately constitutes not larger than a family farm, even if their interests collectively constitute larger than a family farm, as defined by the Secretary), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this subsection, in the case of corporations, partnerships, joint operations, trusts, and limited liability companies, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to the entity in the case of cooperatives, corporations, partnerships, joint operations, trusts, and limited liability companies.

(b) Rural youths in 4–H Clubs, Future Farmers of America, etc.

(1) Loans may also be made under this subchapter without regard to the requirements of clauses (2) and (3) of subsection (a) of this section to youths who are rural residents to enable them to operate enterprises in connection with their participation in 4–H Clubs, Future Farmers of America, and similar organizations.

(2) A person receiving a loan under this subsection who executes a promissory note therefor shall thereby incur full personal liability for the indebtedness evidenced by such note in accordance with its terms free of any disability of minority.

(3) For loans under this subsection the Secretary may accept the personal liability of a cosigner of the promissory note in addition to the borrowers' personal liability.

(4) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—The operation of an enterprise by a youth under this subsection shall not be considered the operation of a farm or ranch under this chapter.

(c) Direct loans

(1) In general

Subject to paragraphs (3) and (4), the Secretary may make a direct loan under this subchapter only to a farmer or rancher who—

(A) is a qualified beginning farmer or rancher;

(B) has not received a previous direct operating loan made under this subchapter; or

(C) has received a previous direct operating loan made under this subchapter during 6 or fewer years.

(2) Youth loans

In this subsection, the term ''direct operating loan'' shall not include a loan made to a youth under subsection (b) of this section.

(3) Transition rule

If, as of April 4, 1996, a farmer or rancher has received a direct operating loan under this subchapter during each of 4 or more previous years, the borrower shall be eligible to receive a direct operating loan under this subchapter during 3 additional years after April 4, 1996.

(4) Waivers

(A) Farm and ranch operations on tribal lands

The Secretary shall waive the limitation under paragraph (1)(C) or (3) for a direct loan made under this subchapter to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction of an Indian tribe if the Secretary determines that commercial credit is not generally available for such farm or ranch operations.

(B) Other farm and ranch operations

On a case-by-case determination not subject to administrative appeal, the Secretary

may grant a borrower a waiver, 1 time only for a period of 2 years, of the limitation under paragraph (1)(C) or (3) for a direct operating loan if the borrower demonstrates to the satisfaction of the Secretary that—

(i) the borrower has a viable farm or ranch operation;

(ii) the borrower applied for commercial credit from at least 2 commercial lenders;

(iii) the borrower was unable to obtain a commercial loan (including a loan guaranteed by the Secretary); and

(iv) the borrower successfully has completed, or will complete within 1 year, borrower training under section 2006a of this title (from which requirement the Secretary shall not grant a waiver under section 2006a(f) of this title).

(Pub. L. 87–128, title III, § 311, Aug. 8, 1961, 75 Stat. 310; Pub. L. 92–419, title I, § 120(a), Aug. 30, 1972, 86 Stat. 665; Pub. L. 95–334, title I, § 114, Aug. 4, 1978, 92 Stat. 425; Pub. L. 97–98, title XVI, § 1601(b), Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99–198, title XIII, §§ 1301(a), 1302(b), 1303, Dec. 23, 1985, 99 Stat. 1518, 1519; Pub. L. 104–127, title VI, §§ 611, 661(f), Apr. 4, 1996, 110 Stat. 1087, 1107; Pub. L. 105–277, div. A, § 101(a) [title VIII, § 805(2)], Oct. 21, 1998, 112 Stat. 2681, 2681–39; Pub. L. 107–171, title V, §§ 5101, 5302(a), May 13, 2002, 116 Stat. 343, 344; Pub. L. 110–234, title V, § 5101, May 22, 2008, 122 Stat. 1146; Pub. L. 110–246, § 4(a), title V, § 5101, June 18, 2008, 122 Stat. 1664, 1907.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b)(4), see note set out under section 1921 of this title.

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—Pub. L. 110–246, § 5101, inserted section catchline and, in subsec. (a), inserted heading, substituted ''The Secretary may'' for ''The Secretary is authorized to'' in introductory provisions, and inserted '', taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences'' after ''farming operations'' in cl. (2).

2002—Subsec. (a). Pub. L. 107–171, § 5302(a), substituted ''joint operations, trusts, and limited liability companies'' for ''and joint operations'' wherever appearing.

Subsec. (c)(1). Pub. L. 107–171, § 5101(1)(A), substituted ''paragraphs (3) and (4)'' for ''paragraph (3)'' in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 107–171, § 5101(1)(B), struck out ''who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years'' before semicolon.

Subsec. (c)(4). Pub. L. 107–171, § 5101(2), added par. (4).

1998—Subsec. (a). Pub. L. 105–277 inserted ''for direct loans only,'' before ''have either'' in cl. (2).

1996—Subsec. (b)(1). Pub. L. 104–127, § 661(f), struck out ''and for the purposes specified in section 1942 of this title'' before period at end.

Subsec. (b)(4). Pub. L. 104–127, § 611(b), added par. (4).

Subsec. (c). Pub. L. 104–127, § 611(a), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The Secretary may not restrict eligibility for loans made or insured under this subchapter for purposes set forth in section 1942 of this title solely to borrowers of loans that are outstanding on December 23, 1985.''

1985—Subsec. (a). Pub. L. 99–198, § 1301(a), substituted—

(1) '', partnerships, and joint operations'' for ''and partnerships'' wherever appearing after ''corporations'';

(2) '', partnerships, and joint operations'' for '', and partnerships'' wherever appearing after ''corporations''; and

(3) ''individuals'' for ''members, stockholders, or partners, as applicable,'' wherever appearing.

Pub. L. 99–198, § 1303, in cl. (3) parenthetical, inserted provision treating blood or marriage related owner-operators of the entire farm interest as separate interest holders of not larger than family farms though collective ownership constitutes a larger than a family farm.

Subsec. (c). Pub. L. 99–198, § 1302(b), added subsec. (c).

1981—Subsec. (a). Pub. L. 97–98 substituted ''corporations and partnerships, the family farm'' for ''cooperatives, corporations, and partnerships, the family farm'' and ''as well to the entity in the case of cooperatives, corporations, and partnerships'' for ''as well to the entity''.

1978—Pub. L. 95–334 substituted provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, for provisions setting forth eligibility criteria for loans to farmers and ranchers in the United States, Puerto Rico, and the Virgin Islands.

1972—Pub. L. 92–419 designated existing provisions as subsec. (a) and added subsec. (b).

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.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 611 of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, and amendment by section 661(f) of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

FARM OPERATING LOAN ELIGIBILITY

Pub. L. 106–224, title II, § 255, June 20, 2000, 114 Stat. 424, provided that: ''During the period beginning on the date of the enactment of this Act [June 20, 2000] and ending on December 31, 2002—

''(1) sections 311(c) and 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c), 1949) shall have no force or effect; and

''(2) in making direct loans under subtitle B of that Act (7 U.S.C. 1941 et seq.), the Secretary shall give priority to a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years.''

AUTHORITY OF SECRETARY TO MAKE OR GUARANTEE CERTAIN LOANS

Pub. L. 104–134, title II, § 2002, Apr. 26, 1996, 110 Stat. 1321–313, provided that: ''Notwithstanding any other provision of law, the Secretary of Agriculture is hereby authorized to make or guarantee an operating loan under Subtitle B [7 U.S.C. 1941 et seq.] or an emergency loan under Subtitle C [7 U.S.C. 1961 et seq.] of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et. seq.), as in effect prior to April 4, 1996, to a loan applicant who was less than 90 days delinquent on April 4, 1996, if the loan applicant had submitted an application for the loan prior to April 5, 1996.''

1989 FARM OPERATING LOANS

Pub. L. 101–82, title III, § 302, Aug. 14, 1989, 103 Stat. 582, provided that:

''(a) DIRECT CREDIT.—To the maximum extent practicable, the Secretary of Agriculture shall ensure that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) for 1990 crop production are made available to farmers and ranchers suffering major losses due to excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, as authorized under existing law and under regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

''(b) LOAN GUARANTEES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall make available in fiscal year 1990 guarantees to commercial or cooperative lenders for loans under subtitle B of the Consolidated Farm and Rural Development Act [7 U.S.C. 1941 et seq.], to refinance and reamortize 1989 operating loans, or 1989 or 1990 installments due and payable on real estate debt, farm equipment or building (including storage facilities) debt, livestock loans, or other operating debt, of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989.

''(2) REAMORTIZATION.—Each fiscal year 1990 guaranteed loan for 1988 or 1989 natural disaster purposes, as described in paragraph (1), shall contain terms and conditions governing the reamortization of the debt of the farmer or rancher that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit while repaying the guaranteed loan, as determined by the Secretary.

''(3) ELIGIBILITY.—Notwithstanding any other provision of law, any person eligible to receive payments under subtitle A of title I [7 U.S.C. 1421 note] shall be deemed eligible to have guaranteed, in accordance with this subsection, loans made to such person by a commercial or cooperative lender to refinance installment payments that are or become due and payable during 1989 or 1990, as described in paragraph (1), except that, to be deemed eligible to have such loan guaranteed, the person must otherwise—

''(A) be current in the person's obligation to the commercial or cooperative lender that agrees to accept the guarantee in consideration of allowing the person to make the 1989 or 1990 payment or installment over a period of time not to exceed 6 years from the original due date of such payment or installment; and

''(B) meet the criteria for guaranteed loan borrowers under subtitle B of the Consolidated Farm and Rural Development Act established by the Secretary.

''(c) USE OF AGRICULTURAL CREDIT INSURANCE FUND.—For purposes of providing guaranteed loans in accordance with subsection (b), in addition to funds otherwise available, the Secretary may use any funds available from the Agricultural Credit Insurance Fund during fiscal years [sic] 1989 or 1990 for emergency insured and guaranteed loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) to meet the needs resulting from natural disasters, except that funds available from such Fund first shall be used to satisfy the level of assistance estimated by the Secretary to meet the needs of persons eligible for emergency disaster loans.''

Similar provisions were contained in the following prior act:

Pub. L. 100–387, title III, § 312, Aug. 11, 1988, 102 Stat. 948.

§ 1942. Purposes of loans

(a) In general

A direct loan may be made under this subchapter only for—

(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

(2) purchasing livestock, poultry, or farm or ranch equipment;

(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

(4) financing land or water development, use, or conservation;

(5) paying loan closing costs;

(6) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 655 of title 29 or a standard adopted by a State under a plan approved under section 667 of title 29, if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury in complying with the standard;

(7) training a limited-resource borrower receiving a loan under section 1934 of this title in maintaining records of farming and ranching operations;

(8) training a borrower under section 2006a of this title;

(9) refinancing the indebtedness of a borrower, if the borrower—

(A) has refinanced a loan under this subchapter not more than 4 times previously; and

(B)(i) is a direct loan borrower under this chapter at the time of the refinancing and has suffered a qualifying loss because of a natural disaster declared by the Secretary under this chapter or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(ii) is refinancing a debt obtained from a creditor other than the Secretary; or

(10) providing other farm, ranch, or home needs, including family subsistence.

(b) Guaranteed loans

A loan may be guaranteed under this subchapter only for—

(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

(2) purchasing livestock, poultry, or farm or ranch equipment;

(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

(4) financing land or water development, use, or conservation;

(5) refinancing indebtedness;

(6) paying loan closing costs;

(7) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 655 of title 29 or a standard adopted by a State under

a plan approved under section 667 of title 29, if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury due to compliance with the standard;

(8) training a borrower under section 2006a of this title; or

(9) providing other farm, ranch, or home needs, including family subsistence.

(c) Hazard insurance requirement

(1) In general

After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subchapter unless the farmer or rancher has, or agrees to obtain, hazard insurance on the property to be acquired with the loan.

(2) Determination

Not later than 180 days after April 4, 1996, the Secretary shall determine the appropriate level of insurance to be required by paragraph (1).

(d) Private reserve

(1) In general

Notwithstanding any other provision of this chapter, the Secretary may reserve a portion of any loan made under this subchapter to be placed in an unsupervised bank account that may be used at the discretion of the borrower for the basic family needs of the borrower and the immediate family of the borrower.

(2) Limit on size of the reserve

The size of the reserve shall not exceed the least of—

(A) 10 percent of the loan;

(B) $5,000; or

(C) the amount needed to provide for the basic family needs of the borrower and the borrower's immediate family for 3 calendar months.

(Pub. L. 87–128, title III, § 312, Aug. 8, 1961, 75 Stat. 310; Pub. L. 87–703, title IV, § 401(4), Sept. 27, 1962, 76 Stat. 632; Pub. L. 90–488, § 8, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92–419, title I, §§ 120(b), 121, Aug. 30, 1972, 86 Stat. 665; Pub. L. 95–113, title XIV, § 1448(b), Sept. 29, 1977, 91 Stat. 1012; Pub. L. 95–334, title I, § 115, Aug. 4, 1978, 92 Stat. 425; Pub. L. 96–438, § 1(3), Oct. 13, 1980, 94 Stat. 1871; Pub. L. 99–198, title XIII, §§ 1306, 1307, Dec. 23, 1985, 99 Stat. 1521; Pub. L. 101–624, title XVIII, § 1818(b), Nov. 28, 1990, 104 Stat. 3830; Pub. L. 102–237, title V, § 501(b), Dec. 13, 1991, 105 Stat. 1866; Pub. L. 102–552, title V, § 516(f)(1)(A), (2), Oct. 28, 1992, 106 Stat. 4137, 4138; Pub. L. 104–127, title VI, § 612(a), Apr. 4, 1996, 110 Stat. 1087.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in subsecs. (a)(9)(B)(i) and (d)(1), see note set out under section 1921 of this title.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(9)(B)(i), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1996—Pub. L. 104–127 amended section generally, substituting present provisions for provisions outlining purposes of loans made under this subchapter, authorizing loans to rural area residents to operate small business enterprises, authorizing loans for pollution abatement and control projects in rural areas and providing for limitations on such loans, and authorizing creation, from loan funds, of nonsupervised bank accounts to be used at discretion of borrower for necessary family living expenses.

1992—Subsec. (a). Pub. L. 102–552, § 516(f)(2), repealed amendment by Pub. L. 102–237, § 501(b). See 1991 Amendment note below.

Pub. L. 102–552, § 516(f)(1)(A), made technical correction to directory language of Pub. L. 101–624, § 1818(b). See 1990 Amendment note below.

1991—Subsec. (a). Pub. L. 102–237, § 501(b), which directed the substitution of "systems (for purposes of this subchapter, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974) (42 U.S.C. 5901 et seq.), (12) training in maintaining records of farming and ranching operations for limited resource borrowers receiving loans under section 1934 of this title, and (13) borrower training under section 2006a of this title." for "'systems.' and all that follows", could not be executed because "systems." does not appear in subsec. (a) was repealed by Pub. L. 102–552, § 516(f)(2). See Construction of 1991 Amendment note below.

1990—Subsec. (a). Pub. L. 101–624, § 1818(b), as amended by Pub. L. 102–552, § 516(f)(1)(A), added cl. (13).

1985—Subsec. (a). Pub. L. 99–198, § 1306, added cl. (12).

Subsec. (e). Pub. L. 99–198, § 1307, added subsec. (e).

1980—Subsec. (a). Pub. L. 96–438 added cl. (11).

1978—Subsec. (a). Pub. L. 95–334, struck out "individual" after "title, to".

1977—Subsec. (a). Pub. L. 95–113 inserted parenthetical provision extending the section to include farm equipment which utilizes solar energy and inserted definition of "solar energy".

1972—Subsec. (a). Pub. L. 92–419, §§ 120(b), 121(1), (2), substituted "section 1941(a) for "section 1941", designated existing provisions as subsec. (a), and added cl. (10).

Subsecs. (b) to (d). Pub. L. 92–419, § 121(3), added subsecs. (b) to (d).

1968—Pub. L. 90–488 struck out from cl. (4) the concluding phrase, "including recreational uses and facilities", added cls. (5) and (6), and redesignated former cls. (5) to (7) as (7) to (9), respectively.

1962—Pub. L. 87–703 authorized, in cl. (4), loans to be made for recreational uses and facilities.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 612(b) of Pub. L. 104–127 provided that: "Section 312(c)(1) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1942(c)(1)] shall not apply until the Secretary of Agriculture makes the determination required by section 312(c)(2) of the Act." [The Secretary's determination relating to hazard insurance under this provision was contained in interim rules published Mar. 3, 1997, and effective Mar. 24, 1997, see 62 F.R. 9351.]

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section (f)(1)(B) of Pub. L. 102–552 provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the Food, Agriculture, Conservation, and Trade Act of 1990 [Pub. L. 101–624] at the time such Act became law."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as a note under section 1307 of this title.

TRANSFER OF FUNCTIONS

Powers, duties, and assets of agencies, offices, and other entities within Department of Agriculture relating to rural development functions transferred to Rural Development Administration by section 2302(b) of Pub. L. 101–624.

CONSTRUCTION OF 1991 AMENDMENT

Section 516(f)(2) of Pub. L. 102–552 provided that: ''Subsection (b) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1866) [amending this section] is repealed. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) shall be applied and administered as if such subsection had never become law.''

§ 1943. Limitations on amount of operating loans

(a) In general

The Secretary shall make or insure no loan under this subchapter—

(1) that would cause the total principal indebtedness outstanding at any one time for loans made under this subchapter to any one borrower to exceed, in the case of a loan other than a loan guaranteed by the Secretary, $300,000, or, in the case of a loan guaranteed by the Secretary, $700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the unpaid indebtedness of the borrower on loans under the sections specified in section 1925 of this title that are guaranteed by the Secretary); or

(2) for the purchasing or leasing of land other than for cash rent, or for carrying on any land leasing or land purchasing program.

(b) Inflation percentage

For purposes of this section, the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

(1) the average of the Prices Paid By Farmers Index (as compiled by the National Agricultural Statistics Service of the Department of Agriculture) for the 12-month period ending on August 31 of the immediately preceding fiscal year; exceeds

(2) the average of such index (as so defined) for the 12-month period ending on August 31, 1996.

(Pub. L. 87–128, title III, § 313, Aug. 8, 1961, 75 Stat. 310; Pub. L. 90–488, § 9, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92–419, title I, § 122, Aug. 30, 1972, 86 Stat. 665; Pub. L. 95–334, title I, § 116, Aug. 4, 1978, 92 Stat. 426; Pub. L. 98–258, title VI, § 604(a), Apr. 10, 1984, 98 Stat. 139; Pub. L. 105–277, div. A, § 101(a) [title VIII, § 806(b)], Oct. 21, 1998, 112 Stat. 2681, 2681–39; Pub. L. 110–234, title V, § 5102, May 22, 2008, 122 Stat. 1146; Pub. L. 110–246, § 4(a), title V, § 5102, June 18, 2008, 122 Stat. 1664, 1908.)

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. (a)(1). Pub. L. 110–246, § 5102, substituted ''$300,000'' for ''$200,000''.

1998—Pub. L. 105–277 inserted section catchline, designated existing provisions as subsec. (a), inserted heading, substituted ''this subchapter—'' for ''this subchapter'', in introductory provisions, realigned margin of par. (1) and substituted ''$700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the unpaid indebtedness of the borrower on loans under the sections specified in section 1925 of this title that are guaranteed by the Secretary); or'' for ''$400,000; or'', realigned margin of par. (2), and added subsec. (b).

1984—Pub. L. 98–258 substituted ''$200,000'' and ''$400,000'' for ''$100,000'' and ''$200,000'', respectively.

1978—Pub. L. 95–334 substituted provisions setting forth criteria for Secretary to make or insure loans under this subchapter for provisions setting forth criteria for Secretary to make loans under this subchapter.

1972—Pub. L. 92–419 substituted ''$50,000'' for ''$35,000''.

1968—Pub. L. 90–488 struck out from item (1) the proviso which limited the amount to be used for loans which would cause the indebtedness of any borrower to exceed $15,000 to 25 per centum of the sums made available for loans.

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.

§ 1944. Soil conservation district loans; limitation; purchase of conservation equipment

Loans aggregating not more than $500,000 in any one year may also be made to soil conservation districts which cannot obtain necessary credit elsewhere upon reasonable terms and conditions for the purchase of equipment customarily used for soil conservation purposes.

(Pub. L. 87–128, title III, § 314, Aug. 8, 1961, 75 Stat. 311.)

§ 1945. Repealed. Pub. L. 104–127, title VI, § 613, Apr. 4, 1996, 110 Stat. 1089

Section, Pub. L. 87–128, title III, § 315, Aug. 8, 1961, 75 Stat. 311, authorized Secretary to participate in certain loans made under this subchapter.

§ 1946. Liability of borrower

(a) Determination of interest rates

(1) The Secretary shall make all loans under this subchapter upon the full personal liability of the borrower and upon such security as the Secretary may prescribe. The interest rates on such loans, except for guaranteed loans and loans as provided in paragraphs (2) and (3),[1] shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge not to exceed 1 per centum as determined by the Secretary, which charge shall be deposited in the Rural Development Insurance Fund or the Agri-

[1] See References in Text note below.

cultural Credit Insurance Fund, as appropriate, and adjusted to the nearest one-eighth of 1 per centum. The interest rate on any guaranteed loan made under this subchapter shall be such rate as may be agreed upon by the borrower and lender, but not in excess of a rate as may be determined by the Secretary.

(2) The interest rate on any loan (other than a guaranteed loan) to a low income, limited resource borrower under this subchapter shall not be—

(A) greater than the sum of—

(i) an amount that does not exceed one-half of the current average market yield on outstanding marketable obligations of the United States with maturities of 5 years; and

(ii) an amount not exceeding 1 percent per year, as the Secretary determines is appropriate; or

(B) less than 5 percent per year.

(b) Payment period; consolidation and rescheduling of loans

Loans made under this subchapter shall be payable in not to exceed seven years. The Secretary may consolidate or reschedule outstanding loans for payment over a period not to exceed seven years (or, in the case of loans for farm operating purposes, fifteen years) from the date of such consolidation or rescheduling, and the amount of unpaid principal and interest of the prior loans so consolidated or rescheduled shall not create a new charge against any loan levels authorized by law. A new loan may be included in a consolidation. Such new loan shall be charged against any loan level authorized by law. Except as otherwise provided for farm loans under section 1981b of this title, the interest rate on such consolidated or rescheduled loans, other than guaranteed loans, may be changed by the Secretary to a rate not to exceed the rate being charged for loans made under this subchapter at the time of the consolidation or rescheduling. The interest rate on any guaranteed loan under this subchapter that may be consolidated or rescheduled for payment shall be such rate as may be agreed upon by the borrower and the lender, but not in excess of a rate as may be determined by the Secretary.

(c) Line-of-credit loans

(1) In general

A loan made or guaranteed by the Secretary under this subchapter may be in the form of a line-of-credit loan.

(2) Term

A line-of-credit loan under paragraph (1) shall terminate not later than 5 years after the date that the loan is made or guaranteed.

(3) Eligibility

For purposes of determining eligibility for a farm operating loan under this subchapter, each year during which a farmer or rancher takes an advance or draws on a line-of-credit loan the farmer or rancher shall be considered to have received an operating loan for 1 year.

(4) Termination of delinquent loans

If a borrower does not pay an installment on a line-of-credit loan on schedule, the borrower may not take an advance or draw on the line-of-credit, unless the Secretary determines that—

(A) the borrower's failure to pay on schedule was due to unusual conditions that the borrower could not control; and

(B) the borrower will reduce the line-of-credit balance to the scheduled level at the end of—

(i) the production cycle; or

(ii) the marketing of the borrower's agricultural products.

(5) Agricultural commodities

A line-of-credit loan may be used to finance the production or marketing of an agricultural commodity that—

(A) is eligible for a price support program of the Department of Agriculture; or

(B) was eligible for a price support program of the Department of Agriculture on the day before April 4, 1996.

(Pub. L. 87–128, title III, § 316, Aug. 8, 1961, 75 Stat. 311; Pub. L. 90–488, § 10, Aug. 15, 1968, 82 Stat. 771; Pub. L. 95–334, title I, § 117, Aug. 4, 1978, 92 Stat. 426; Pub. L. 97–35, title I, § 160(b), Aug. 13, 1981, 95 Stat. 377; Pub. L. 98–258, title VI, § 604(b), Apr. 10, 1984, 98 Stat. 139; Pub. L. 101–624, title XVIII, § 1803(b), Nov. 28, 1990, 104 Stat. 3818; Pub. L. 104–127, title VI, §§ 614, 661(g), Apr. 4, 1996, 110 Stat. 1089, 1107.)

REFERENCES IN TEXT

Paragraph (3), referred to in subsec. (a)(1), was repealed by Pub. L. 104–127, title VI, § 661(g), Apr. 4, 1996, 110 Stat. 1107.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104–127, § 661(g), struck out par. (3) which read as follows: "The interest rate on any loan (other than a guaranteed loan) made or insured under clause (5) of section 1942(a) of this title for activities that involve the use of prime farmland as defined in section 1927(a)(6)(C) of this title shall be the interest rate otherwise applicable under this section increased by 2 per centum per annum."

Subsec. (c). Pub. L. 104–127, § 614, added subsec. (c).

1990—Subsec. (a)(2). Pub. L. 101–624 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The interest rate on any loan (other than a guaranteed loan) to a low-income, limited resource borrower under this subchapter shall be the interest rate otherwise applicable under this section reduced by 3 per centum per annum."

1984—Subsec. (b). Pub. L. 98–258 inserted "(or, in the case of loans for farm operating purposes, fifteen years)" and substituted "Except as otherwise provided for farm loans under section 1981b of this title, the interest rate" for "The interest rate".

1981—Subsec. (a). Pub. L. 97–35 redesignated existing provisions as par. (1), inserted reference to loans guaranteed under pars. (2) and (3), and added pars. (2) and (3).

1978—Pub. L. 95–334 designated existing provisions as subsec. (a), inserted provisions relating to depositing of charges and provisions relating to interest rates on guaranteed loans, struck out provisions relating to payment and renewal of loans, and added subsec. (b).

1968—Pub. L. 90–488 substituted provisions for determination of interest rate by taking into consideration current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth of 1 per centum, plus not to exceed 1 per centum per

annum as determined by the Secretary, for former prohibition of an interest rate exceeding 5 per centum per annum.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 applicable to loans made after Sept. 30, 1981, see section 160(c) of Pub. L. 97–35, set out as a note under section 1927 of this title.

§§ 1947, 1948. Repealed. Pub. L. 104–127, title VI, §§ 615, 616(a), Apr. 4, 1996, 110 Stat. 1090

Section 1947, Pub. L. 87–128, title III, § 317, as added Pub. L. 92–419, title I, § 123, Aug. 30, 1972, 86 Stat. 665, related to insured operating loans.

Section 1948, Pub. L. 87–128, title III, § 318, as added Pub. L. 102–554, § 8, Oct. 28, 1992, 106 Stat. 4146, related to special assistance to certain qualified beginning farmers and ranchers.

§ 1949. Graduation of borrowers with operating loans or guarantees to private commercial credit

(a) Graduation plan

The Secretary shall establish a plan, in coordination with activities under sections 2006a, 2006b, 2006c, and 2006d of this title, to encourage each borrower with an outstanding loan under this subchapter or with respect to whom there is an outstanding guarantee under this subchapter to graduate to private commercial or other sources of credit.

(b) Limitation on period borrowers are eligible for guaranteed assistance

(1) General rule

Subject to paragraph (2), the Secretary shall not guarantee a loan under this subchapter for a borrower for any year after the 15th year that a loan is made to, or a guarantee is provided with respect to, the borrower under this subchapter.

(2) Transition rule

If, as of October 28, 1992, a farmer or rancher has received a direct or guaranteed operating loan under this subchapter during each of 10 or more previous years, the borrower shall be eligible to receive a guaranteed operating loan under this subchapter during 5 additional years after October 28, 1992.

(Pub. L. 87–128, title III, § 319, as added Pub. L. 102–554, § 9, Oct. 28, 1992, 106 Stat. 4150; amended Pub. L. 104–127, title VI, § 617, Apr. 4, 1996, 110 Stat. 1090.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127 added subsec. (b) and struck out former subsec. (b) which provided for limitation on period for which borrowers were eligible for assistance under this subchapter and contained transition rule.

SUSPENSION OF LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE

Pub. L. 107–171, title V, § 5102, May 13, 2002, 116 Stat. 343, as amended by Pub. L. 109–467, § 1, Dec. 22, 2006, 120 Stat. 3485; Pub. L. 110–234, title V, § 5103, May 22, 2008, 122 Stat. 1146; Pub. L. 110–246, § 4(a), title V, § 5103, June 18, 2008, 122 Stat. 1664, 1908, provided that: ''During the period beginning January 1, 2002, and ending December 31, 2010, section 319(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949(b)) shall have no force or effect.''

SUBCHAPTER III—EMERGENCY LOANS

EMERGENCY AGRICULTURAL CREDIT

Pub. L. 95–334, title II, §§ 201–211, Aug. 4, 1978, 92 Stat. 429–433, as amended by Pub. L. 96–220, § 1, Mar. 30, 1980, 94 Stat. 129; Pub. L. 97–98, title XVI, § 1605, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 98–258, title VI, § 603, Apr. 10, 1984, 98 Stat. 139; Pub. L. 99–198, title XIII, § 1310(b), Dec. 23, 1985, 99 Stat. 1523, which authorized the Secretary of Agriculture to insure or guarantee loans to (1) bona fide farmers and ranchers who were primarily and directly engaged in agricultural production and who were citizens of the United States and (2) farm cooperatives and private domestic corporations and partnerships that were primarily and directly engaged in agricultural production and in which a majority interest was held by members, stockholders, or partners, as applicable, who themselves were citizens of the United States and were primarily and directly engaged in agricultural production, if the applicant for such loan: (A) had the experience or training and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan; (B) needed such credit in order to maintain a viable agricultural production operation; and (C) was not able to obtain sufficient credit elsewhere due to economic stresses, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities; and which provided requirements as to purposes of loans, loan limits, interest rates, repayment period, loan certifications and conditions, loan security, funding, maximum amount of outstanding loans, full faith and credit of the United States, issuance of certificates of beneficial ownership, assignment of contracts of guarantee, geographical availability, the conduct of a study and report on the program, and termination of authority to make new contracts of insurance or guarantee on Sept. 30, 1982, except with respect to the economic emergency loan program operated from Dec. 22, 1983, to Sept. 30, 1984, was repealed by Pub. L. 101–624, title XVIII, § 1851, Nov. 28, 1990, 104 Stat. 3837.

EMERGENCY LIVESTOCK CREDIT

Pub. L. 93–357, July 25, 1974, 88 Stat. 391, as amended by Pub. L. 94–35, § 1, June 16, 1975, 89 Stat. 213; Pub. L. 94–517, Oct. 15, 1976, 90 Stat. 2446; Pub. L. 95–334, title III, § 301, Aug. 4, 1978, 92 Stat. 433; Pub. L. 96–470, title I, § 102(d), Oct. 19, 1980, 94 Stat. 2237, authorized the Secretary of Agriculture to provide financial assistance to bona fide farmers and ranchers, including bona fide farmers or ranchers owning livestock that were fed in custom feedyards, who were primarily and directly engaged in agricultural production and who had substantial operations in breeding, raising, fattening, or marketing livestock, and to corporations or partnerships when a majority interest in such corporations or partnerships was held by stockholders or partners who themselves were primarily and directly engaged in such agricultural production and required the Secretary to guarantee loans, including both principal and interest, made by any legally organized lending agency. The provisions also provided requirements as to loan limits, fees or charges, interest rates, repayment period, loan certifications and conditions, loan security, maximum amount of outstanding loans, exclusion from budget totals, full faith and credit of the United States, issuance of certificates of beneficial ownership, assignment of contracts of guarantee, rules and regulations, and termination of authority to make new guarantees on Sept. 30, 1979.

§ 1961. Eligibility for loans

(a) Persons eligible

The Secretary shall make and insure loans under this subchapter only to the extent and in such amounts as provided in advance in appropriation Acts to (1) established farmers or

ranchers (including equine farmers or ranchers), or persons engaged in aquaculture, who are citizens of the United States and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms, and (2) farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, or limited liability companies (A) that are engaged primarily in farming or ranching (including equine farming or ranching) or aquaculture, and (B) in which a majority interest is held by individuals who are citizens of the United States and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms (or in the case of such cooperatives, corporations, partnerships, joint operations, trusts, or limited liability companies in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, such individuals must be either owners or operators of not larger than a family farm and at least one such individual must be an operator of not larger than a family farm), where the Secretary finds that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a quarantine imposed by the Secretary under the Plant Protection Act [7 U.S.C. 7701 et seq.] or the animal quarantine laws (as defined in section 136a of title 21), a natural disaster in the United States, or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided*, That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are not able to obtain sufficient credit elsewhere. In addition to the foregoing requirements of this subsection, in the case of farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, and limited liability companies, the family farm requirement of the preceding sentence shall apply as well to all farms in which the entity has an ownership and operator interest (in the case of loans for a purpose under subchapter I of this chapter) or an operator interest (in the case of loans for a purpose under subchapter II of this chapter). The Secretary shall accept applications from, and make or insure loans pursuant to the requirements of this subchapter to, applicants, otherwise eligible under this subchapter, that conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that farming, ranching, or aquaculture operations have been substantially affected by a quarantine imposed by the Secretary under the Plant Protection Act [7 U.S.C. 7701 et seq.] or the animal quarantine laws (as defined in section 136a of title 21), a natural disaster in the United States, or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The Secretary shall accept applications for assistance under this subchapter from persons affected by such a quarantine or natural disaster at any time during the eight-month period beginning (A) on the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by such quarantine or natural disaster or (B) on the date the President makes the major disaster or emergency designation with respect to such natural disaster, as the case may be.

(b) Hazard insurance requirement

(1) In general

After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subchapter to cover a property loss unless the farmer or rancher had hazard insurance that insured the property at the time of the loss.

(2) Determination

Not later than 180 days after April 4, 1996, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).

(3) Loans to poultry farmers

(A) Inability to obtain insurance

(i) In general

Notwithstanding any other provision of this subchapter, the Secretary may make a loan to a poultry farmer under this subchapter to cover the loss of a chicken house for which the farmer did not have hazard insurance at the time of the loss, if the farmer—

(I) applied for, but was unable, to obtain hazard insurance for the chicken house;

(II) uses the loan to rebuild the chicken house in accordance with industry standards in effect on the date the farmer submits an application for the loan (referred to in this paragraph as ''current industry standards'');

(III) obtains, for the term of the loan, hazard insurance for the full market value of the chicken house; and

(IV) meets the other requirements for the loan under this subchapter.

(ii) Amount

Subject to the limitation contained in section 1964(a)(2) of this title, the amount of a loan made to a poultry farmer under clause (i) shall be an amount that will allow the farmer to rebuild the chicken house in accordance with current industry standards.

(B) Loans to comply with current industry standards

(i) In general

Notwithstanding any other provision of this subchapter, the Secretary may make a loan to a poultry farmer under this subchapter to cover the loss of a chicken house for which the farmer had hazard insurance at the time of the loss, if—

(I) the amount of the hazard insurance is less than the cost of rebuilding the

chicken house in accordance with current industry standards;

(II) the farmer uses the loan to rebuild the chicken house in accordance with current industry standards;

(III) the farmer obtains, for the term of the loan, hazard insurance for the full market value of the chicken house; and

(IV) the farmer meets the other requirements for the loan under this subchapter.

(ii) Amount

Subject to the limitation contained in section 1964(a)(2) of this title, the amount of a loan made to a poultry farmer under clause (i) shall be the difference between—

(I) the amount of the hazard insurance obtained by the farmer; and

(II) the cost of rebuilding the chicken house in accordance with current industry standards.

(c) Family farm system

The Secretary shall conduct the emergency loan program under this subchapter in a manner that will foster and encourage the family farm system of agriculture, consistent with the reaffirmation of policy and declaration of the intent of Congress contained in section 2266(a) of this title.

(d) Definitions

For the purposes of this subchapter—

(1) ''aquaculture'' means the husbandry of aquatic organisms under a controlled or selected environment; and

(2) ''able to obtain sufficient credit elsewhere'' means able to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(Pub. L. 87–128, title III, § 321, Aug. 8, 1961, 75 Stat. 311; Pub. L. 87–832, Oct. 15, 1962, 76 Stat. 958; Pub. L. 93–24, §§ 2, 3, 6, Apr. 20, 1973, 87 Stat. 24, 25; Pub. L. 93–237, § 10(a), (d), Jan. 2, 1974, 87 Stat. 1025; Pub. L. 94–68, §§ 2, 3, Aug. 5, 1975, 89 Stat. 381; Pub. L. 95–334, title I, § 118, Aug. 4, 1978, 92 Stat. 426; Pub. L. 96–302, title I, § 120(a), July 2, 1980, 94 Stat. 841; Pub. L. 96–438, § 3(a), (b)(1), Oct. 13, 1980, 94 Stat. 1872; Pub. L. 97–35, title I, § 161, Aug. 13, 1981, 95 Stat. 378; Pub. L. 98–258, title VI, § 602(a), Apr. 10, 1984, 98 Stat. 138; Pub. L. 99–198, title XIII, § 1308(a), (b)(1), Dec. 23, 1985, 99 Stat. 1522; Pub. L. 100–707, title I, § 109(c)(1), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 104–127, title VI, § 621(a), Apr. 4, 1996, 110 Stat. 1091; Pub. L. 106–387, § 1(a) [title VIII, § 833], Oct. 28, 2000, 114 Stat. 1549, 1549A–61; Pub. L. 107–171, title V, §§ 5201(a), 5302, 5501(a), May 13, 2002, 116 Stat. 344, 351; Pub. L. 110–234, title V, § 5201, May 22, 2008, 122 Stat. 1146; Pub. L. 110–246, § 4(a), title V, § 5201, June 18, 2008, 122 Stat. 1664, 1908.)

REFERENCES IN TEXT

The Plant Protection Act, referred to in subsec. (a), is title IV of Pub. L. 106–224, June 20, 2000, 114 Stat. 438, as amended, which is classified principally to chapter 104 (§ 7701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

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. (a)(1). Pub. L. 110–246, § 5201(1), substituted ''farmers or ranchers (including equine farmers or ranchers)'' for ''farmers, ranchers''.

Subsec. (a)(2)(A). Pub. L. 110–246, § 5201(2), substituted ''farming or ranching (including equine farming or ranching)'' for ''farming, ranching,''.

2002—Subsec. (a). Pub. L. 107–171 substituted ''a quarantine imposed by the Secretary under the Plant Protection Act or the animal quarantine laws (as defined in section 136a of title 21), a natural disaster in the United States, or'' for ''a natural disaster in the United States or by'' in two places, ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)'' for ''Disaster Relief and Emergency Assistance Act'' in two places, ''joint operations, trusts, or limited liability companies'' for ''or joint operations'' in two places, ''joint operations, trusts, and limited liability companies'' for ''and joint operations'', ''such a quarantine or natural disaster at any time'' for ''a natural disaster at any time'', and ''by such quarantine or natural disaster or (B)'' for ''by such natural disaster or (B)''.

2000—Subsec. (b)(3). Pub. L. 106–387 added par. (3).

1996—Subsec. (b). Pub. L. 104–127 added subsec. (b) and struck out former subsec. (b) which read as follows: ''An applicant shall be ineligible for financial assistance under this subchapter for crop losses if crop insurance was available to the applicant for such crop losses under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).''

1988—Subsec. (a). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974'' in two places.

1985—Subsec. (a)(1). Pub. L. 99–198, § 1308(a), inserted ''and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms'' after ''United States'' in cl. (1) of first sentence, extended applicability to joint operations, and substituted requirement that a majority interest be held by individuals who are citizens of the United States and who are owner-operators (in the case of loans for a purpose under subchapter I of this chapter) or operators (in the case of loans for a purpose under subchapter II of this chapter) of not larger than family farms (or in the case of such cooperatives, corporations, partnerships, or joint operations in which a majority interest is held by individuals who are related by blood or marriage, as defined by the Secretary, that such individuals must be either owners or operators of not larger than a family farm and at least one such individual must be an operator of not larger than a family farm) for requirement that a majority interest be held by members, stockholders or partners who are citizens of the United States, in cl. (2) of first sentence, and inserted provision extending the family farm requirement to all farms in which the entity has an ownership and operator interest (in the case of loans for a purpose under subchapter I of this chapter) or an operator interest (in the case of loans for a purpose under subchapter II of this chapter).

Subsec. (b). Pub. L. 99–198, § 1308(b)(1), amended subsec. (b) generally, substituting provision declaring a loan applicant ineligible for financial assistance for crop losses where crop insurance was available to the applicant for former provision which made applicants eligible for loans, though able to obtain credit elsewhere, subject to the other terms and conditions for loans under this subchapter and as prescribed under regulations by the Secretary.

1984—Subsec. (a). Pub. L. 98–258 inserted provisions directing the Secretary to accept applications from, and make or insure loans pursuant to the requirements of this subchapter to, applicants, otherwise eligible under this subchapter, that conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has found that farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, and further directing the Secretary to accept applications for assistance under this subchapter from persons affected by a natural disaster at any time during the eight-month period beginning (A) on the date on which the Secretary determines that farming, ranching, or aquaculture operations have been substantially affected by such natural disaster or (B) on the date the President makes the major disaster or emergency designation with respect to such natural disaster, as the case may be.

1981—Subsec. (a). Pub. L. 97–35 inserted provisions relating to requirement for advance appropriation of amounts.

1980—Subsec. (a). Pub. L. 96–348, § 3(a), (b)(1), repealed section 120 of Pub. L. 96–302 (see par. below) and amended section generally, designating existing provisions as subsec. (a) and, as so designated, restoring provision to proviso requiring loan recipients to be unable to obtain sufficient credit elsewhere.

Pub. L. 96–302, § 120(a) (see par. above), struck out from proviso requirement that persons to be eligible for loans be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which they reside for loans for similar purposes and periods of time.

Subsecs. (b) to (d). Pub. L. 96–438, § 3(b)(1), added subsecs. (b) to (d).

1978—Pub. L. 95–334 struck out subsec. (a) which set forth provisions relating to designation of emergency areas and definition of term ''aquaculture'', and incorporated provisions of subsec. (b) as entire section and, as so incorporated, substituted provisions relating to criteria authorizing the Secretary to make and insure loans, for provisions relating to criteria authorizing the Secretary to make loans in designated areas.

1975—Subsec. (a). Pub. L. 94–68, § 2, substituted provisions authorizing the Secretary to designate an emergency area if he finds that a natural disaster has occurred in that area which substantially affected farming, ranching, or aquaculture operations for provisions authorizing the Secretary to designate an emergency area if he finds that there exists in that area a general need for agricultural credit and that the need for such credit in that area is the result of a natural disaster, and inserted definition of ''aquaculture''.

Subsec. (b). Pub. L. 94–68, § 3, extended the authority of the Secretary to make loans to areas designated by the President as ''Emergency'' pursuant to Disaster Relief Act of 1970, substituted reference to persons engaged in aquaculture and aquaculture for reference to oyster planters and oyster planting respectively, struck out provision that such loans be made without regard to whether the required financial assistance is otherwise available from private, cooperative, or other responsible sources, inserted requirement that the loan applicant be unable to obtain credit elsewhere at reasonable rates and terms, and inserted sentence that the provisions of this subsection shall not apply to loan applications filed prior to July 9, 1975.

1974—Subsec. (a). Pub. L. 93–237, § 10(d), struck out ''which cannot be met for temporary periods of time by private, cooperative, or other responsible sources (including loans the Secretary is authorized to make or insure under subchapters I and II of this chapter or any other Act of Congress), at reasonable rates and terms for loans for similar purposes and periods of time'' after ''a general need for agricultural credit''.

Subsec. (b). Pub. L. 93–237, § 10(a), struck out '', and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing practice and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time'' after ''a reasonable prospect for successful operation with the assistance of such loan'' and inserted provision that the loans be made without regard to whether the required financial assistance is otherwise available from the private, cooperative, or other responsible sources.

1973—Subsec. (a). Pub. L. 93–24, §§ 2, 6, substituted in parenthetical text ''authorized to make or insure under subchapters I and II of this chapter'' for ''authorized to make under subchapter II of this chapter or to make or insure under subchapter I of this chapter'' and introductory words ''shall designate'' for ''may designate''.

Subsec. (b). Pub. L. 93–24, § 3, substituted introductory text ''shall make loans in any such area designated by the Secretary in accordance with subsection (a) of this section and in any area designated as a major disaster by the President pursuant to the provisions of the Disaster Relief Act of 1970, as amended,'' for ''is authorized to make loans in any such area'' and '': *Provided*, That'' for ''provided'' before ''they have experience''.

1962—Subsec. (b). Pub. L. 87–832 authorized loans to established oyster planters and to private domestic corporations or partnerships engaged primarily in oyster planting.

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.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 621(b) of Pub. L. 104–127 provided that: ''Section 321(b)(1) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1961(b)(1)] shall not apply until the Secretary of Agriculture makes the determination required by section 321(b)(2) of the Act.'' [The Secretary's determination relating to hazard insurance under this provision was contained in interim rules published Mar. 3, 1997, and effective Mar. 24, 1997, see 62 F.R. 9351.]

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1308(b)(2) of Pub. L. 99–198 provided that: ''The amendment made by paragraph (1) [amending this section] shall not apply to a person whose eligibility for an emergency loan is the result of damage to an annual crop planted or harvested before the end of 1986.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 602(c) of Pub. L. 98–258 provided that: ''the amendments made by this section [amending this section and section 1964 of this title] shall be applicable to disasters occurring after May 30, 1983.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 3(d) of Pub. L. 96–438 provided that: ''The amendments to subtitle C of the Consolidated Farm and Rural Development Act made by subsection (b) of this section [amending this section and sections 1962 to 1964 and 1971 of this title] shall be effective with respect to loans approved by the Secretary of Agriculture under subtitle C [this subchapter] after the date of en-

actment of this Act [Oct. 13, 1980], except that, for borrowers with loans outstanding under subtitle C as of December 15, 1979—

"(1) the limits on loans under section 324 of the Consolidated Farm and Rural Development Act [section 1964 of this title] made by subsection (b)(1) of this section [amending this section and sections 1962 to 1964 of this title], and

"(2) the reduction in the time limit on subsequent emergency loans under section 330 of the Consolidated Farm and Rural Development Act [section 1971 of this title] made by subsection (b)(2) of this section [amending section 1971 of this title]

shall not apply to subsequent emergency loans under section 330 (as in effect on the date preceding the date of enactment of this Act) that are made to such borrowers for the disasters for which the borrowers obtained loans under subtitle C prior to December 16, 1979."

Amendment by Pub. L. 96–302 effective Oct. 1, 1980, see section 507 of Pub. L. 96–302, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10(b) of Pub. L. 93–237 provided that: "The provisions of subsection (a) of this section [amending this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after April 20, 1973."

Section 10(d) of Pub. L. 93–237 provided in part that: "The provisions of this subsection [amending this section] shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after December 27, 1972."

INELIGIBILITY FOR EMERGENCY LOANS

Pub. L. 101–82, title III, § 301, Aug. 14, 1989, 103 Stat. 581, provided that: "Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to a person who otherwise would be eligible for an emergency loan under subtitle C of such Act [7 U.S.C. 1961 et seq.], if such eligibility is the result of damage to an annual crop planted for harvest in 1989."

Similar provisions were contained in the following prior act:

Pub. L. 100–387, title III, § 311, Aug. 11, 1988, 102 Stat. 948.

NINETY-DAY EXTENSION AFTER JANUARY 2, 1974, OF DEADLINE FOR SEEKING ASSISTANCE WITH REGARD TO DISASTERS OCCURRING ON OR AFTER DECEMBER 27, 1972

Section 10(c) of Pub. L. 93–237 provided that: "With regard to all disasters occurring on or after December 27, 1972, the Secretary of Agriculture shall extend for ninety days after the date of enactment of this section [Jan. 2, 1974] the deadline for seeking assistance under section 321 of the Consolidated Farm and Rural Development Act [this section] as amended by this section [amending this section]."

§ 1962. Loan determination factors; written credit declinations

(a) For the purpose of determining whether to make or insure any loan under this subchapter, the Secretary shall take into consideration the net worth of the applicant involved, including all the assets and liabilities of the applicant.

(b) For the purpose of determining whether an applicant under this subchapter is not able to obtain sufficient credit elsewhere, the Secretary shall require at least one written indication of declination of credit, from a legally organized lending institution within reasonable proximity to the applicant, that specifies the reasons for the declination: *Provided*, That for loans in excess of $300,000, the Secretary shall require at least two such written declinations: *Provided further*, That for loans of $100,000 or less, the Secretary may waive the requirement of this subsection if the Secretary determines that it would impose an undue burden on the applicant.

(Pub. L. 87–128, title III, § 322, Aug. 8, 1961, 75 Stat. 311; Pub. L. 94–68, § 4, Aug. 5, 1975, 89 Stat. 381; Pub. L. 96–438, § 3(b)(1), Oct. 13, 1980, 94 Stat. 1873; Pub. L. 104–127, title VI, § 622, Apr. 4, 1996, 110 Stat. 1091.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127 substituted "loans of $100,000 or less" for "loans of $300,000 or less".

1980—Pub. L. 96–438 substituted provisions prescribing factors to be considered in determining whether to make or insure a loan and relating to the need for applicants unable to obtain sufficient credit elsewhere to provide written credit declinations for provisions relating to the purpose and extent of loans under this subchapter.

1975—Pub. L. 94–68 extended authority to finance crop or livestock changes deemed desirable as a result of changes in market demand, and to make emergency loans in excess of the actual loss sustained as a result of the natural disaster.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–438 effective with respect to loans approved after Oct. 13, 1980, except for certain subsequent emergency loans, see section 3(d) of Pub. L. 96–438, set out as a note under section 1961 of this title.

§ 1963. Purpose and extent of loans

Loans may be made or insured under this subchapter for any purpose authorized for loans under subchapter I or II of this chapter and for crop or livestock changes that are necessitated by a quarantine, natural disaster, major disaster, or emergency and that are deemed desirable by the applicant, subject to the limitations on the amounts of loans provided in section 1964(a) of this title.

(Pub. L. 87–128, title III, § 323, Aug. 8, 1961, 75 Stat. 311; Pub. L. 96–438, § 3(b)(1), Oct. 13, 1980, 94 Stat. 1873; Pub. L. 104–127, title VI, § 623, Apr. 4, 1996, 110 Stat. 1091; Pub. L. 107–171, title V, § 5201(b), May 13, 2002, 116 Stat. 344.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

2002—Pub. L. 107–171 inserted "quarantine," before "natural disaster".

1996—Pub. L. 104–127 inserted "that are necessitated by a natural disaster, major disaster, or emergency and that are" after "livestock changes".

1980—Pub. L. 96–438 substituted provisions relating to the purposes and extent of loans made or insured under this subchapter for provisions limiting loans to amounts certified by the county committee.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–438 effective with respect to loans approved after Oct. 13, 1980, except for certain subsequent emergency loans, see section 3(d) of Pub. L. 96–438, set out as a note under section 1961 of this title.

§ 1964. Terms of loans

(a) Maximum amount of loan

The Secretary may not make a loan under this subchapter to a borrower who has suffered a loss in an amount that—

(1) exceeds the actual loss caused by a disaster; or

(2) would cause the total indebtedness of the borrower under this subchapter to exceed $500,000.

(b) Interest rates

Loans under this subchapter shall be at rates of interest as follows:

(1) For loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, the interest shall be at rates prescribed by the Secretary, but not in excess of 8 percent per annum; and

(2) For loans or portions of loans in excess of the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, (A) the interest for insured loans shall be at rates prevailing in the private market for similar loans, as determined by the Secretary, and (B) the interest for guaranteed loans shall be at rates agreed on by the borrower and lender, but not in excess of such rates as may be determined by the Secretary.

(c) Interest subsidies

For guaranteed loans under this subchapter, the Secretary may pay interest subsidies to the lenders for those portions of the loans up to the amount of the actual loss caused by the disaster, as limited under subsection (a)(1) of this section. Any such subsidy shall not exceed the difference between the interest rate being charged for loans up to the amount of the actual loss, as established under subsection (b)(1) of this section, and the maximum interest rate for guaranteed loans, as established under subsection (b)(2) of this section.

(d) Repayment

(1) In general

All loans under this subchapter shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than as provided for loans for similar purposes under subchapters I and II of this chapter, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided*, That the security is adequate to assure repayment of the loans, except that if such security is not available because of the disaster, the Secretary shall (1) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with the Secretary's confidence in the repayment ability of the applicant, is adequate security for the loan, and (2) make such loan repayable at such times as the Secretary may determine, not later than as provided under subchapters I and II of this chapter, as justified by the needs of the applicant: *Provided further*, That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subchapter II of this chapter, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period: *Provided further*, That for any direct or insured loan (other than a guaranteed loan) approved under section 1961(b) of this title, three years after the loan is made or insured, and every two years thereafter for the term of the loan, the Secretary shall review the loan; and if, based on such review, the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans for similar purposes and periods of time, the borrower shall on request by the Secretary, apply for and accept such non-Federal loan in sufficient amount to repay the Secretary. If farm assets (including land, livestock, and equipment) are used as collateral to secure a loan made under this subchapter, the Secretary shall establish the value of the assets as of the day before the occurrence of the natural disaster, major disaster, or emergency that is the basis for a request for assistance under this subchapter or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) No basis for denial of loan

(A) In general

Subject to subparagraph (B), the Secretary shall not deny a loan under this subchapter to a borrower by reason of the fact that the borrower lacks a particular amount of collateral for the loan if the Secretary is reasonably certain that the borrower will be able to repay the loan.

(B) Refusal to pledge available collateral

The Secretary may deny or cancel a loan under this subchapter if a borrower refuses to pledge available collateral on request by the Secretary.

(e) Grant eligibility

Any political subdivision of a State with a population of less than ten thousand inhabitants that, if such subdivision had a population of ten thousand or more inhabitants, would be eligible for a grant under the first title of the Community Emergency Drought Relief Act of 1977 shall be eligible for a grant under this chapter during any period in which the Community Emergency Drought Relief Act of 1977 is or has been in effect.

(Pub. L. 87–128, title III, § 324, Aug. 8, 1961, 75 Stat. 311; Pub. L. 93–24, § 4, Apr. 20, 1973, 87 Stat. 25; Pub. L. 94–68, § 5, Aug. 5, 1975, 89 Stat. 381; Pub. L. 95–89, title IV, § 406, Aug. 4, 1977, 91 Stat. 561; Pub. L. 95–334, title I, § 119, Aug. 4, 1978, 92

Stat. 427; Pub. L. 96–302, title I, §120(b), July 2, 1980, 94 Stat. 841; Pub. L. 96–438, §3(a), (b)(1), Oct. 13, 1980, 94 Stat. 1872, 1873; Pub. L. 97–35, title I, §162(a), Aug. 13, 1981, 95 Stat. 378; Pub. L. 98–258, title VI, §602(b), Apr. 10, 1984, 98 Stat. 138; Pub. L. 99–198, title XIII, §1308(b)(3), (c), Dec. 23, 1985, 99 Stat. 1523; Pub. L. 100–707, title I, §109(c)(2), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 104–127, title VI, §§624, 625, Apr. 4, 1996, 110 Stat. 1091; Pub. L. 105–277, div. A, §101(a) [title VIII, §802], Oct. 21, 1998, 112 Stat. 2681, 2681–38.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (d) and (e), see note set out under section 1921 of this title.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The Community Emergency Drought Relief Act of 1977, referred to in subsec. (e), is Pub. L. 95–31, May 23, 1977, 91 Stat. 169. Title I of the Community Emergency Drought Relief Act of 1977 is set out as a note under section 5184 of Title 42. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–277 inserted heading, designated existing provisions as par. (1) and inserted heading, and added par. (2).

1996—Pub. L. 104–127, §624, inserted section catchline.

Subsec. (a). Pub. L. 104–127, §624, added subsec. (a) and struck out former subsec. (a) which read as follows: ''No loan made or insured under this subchapter may exceed the amount of the actual loss caused by the disaster or $500,000, whichever is less, for each disaster.''

Subsec. (d). Pub. L. 104–127, §625, in last sentence, substituted ''establish the value of the assets as of the day before the occurrence of the natural disaster, major disaster, or emergency that is the basis for a request for assistance under this subchapter or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).'' for ''value the assets based on the higher of (A) the value of the assets on the day before the date the governor of the State in which the farm is located requests assistance under this subchapter or the Disaster Relief and Emergency Assistance Act for any portion of such State affected by the disaster with respect to which the application for the loan is made, or (B) the value of the assets one year before such day.''

1988—Subsec. (d). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974''.

1985—Subsec. (a). Pub. L. 99–198, §1308(c), in amending subsec. (a) generally, struck out par. (1) designation, substituted ''No loan'' for ''Except as otherwise provided in paragraph (2) of this subsection, no loan'', and struck out par. (2) authorization of loans through Sept. 30, 1982 for applicants unable to obtain sufficient credit elsewhere, limited to an amount that would not cause the total unpaid principal indebtedness of the loan applicant to exceed: $1,500,000 through end of fiscal year 1980; $1,000,000 during fiscal year 1981; and $500,000 during fiscal year 1982; and restricted loans in excess of amount of actual loss that were for more than $300,000 without a prior determination of the Secretary of applicant's inability to obtain loans to finance actual needs at reasonable rates and terms in the residential community of the applicant for loans for similar purposes and periods of time.

Subsec. (b)(1). Pub. L. 99–198, §1308(b)(3), substituted provision for interest rates prescribed by the Secretary but ''not in excess of 8 percent per annum'' for former such provision but ''(A) if the applicant is not able to obtain sufficient credit elsewhere, not in excess of 8 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, not in excess of the rate prevailing in the private market for similar loans, as determined by the Secretary''.

1984—Subsec. (d). Pub. L. 98–258 inserted provision that, if farm assets (including land, livestock, and equipment) are used as collateral to secure a loan made under this subchapter, the Secretary shall value the assets based on the higher of (A) the value of the assets on the day before the date the governor of the State in which the farm is located requests assistance under this subchapter or the Disaster Relief Act of 1974 for any portion of such State affected by the disaster with respect to which the application for the loan is made, or (B) the value of the assets one year before such day.

1981—Subsec. (b)(1). Pub. L. 97–35 in cl. (A) increased amount from 5 to 8 per centum, and in cl. (B) substituted provisions relating to a rate not in excess of the rate prevailing in the private market for similar loans, for provisions relating to a rate not in excess of current average market yield on outstanding United States marketable obligations, plus additional charges and adjustments.

1980—Subsec. (a). Pub. L. 96–348, §3(a), (b)(1), repealed section 120 of Pub. L. 96–302 (see par. below) and amended subsec. (a) generally, substituting provisions relating to the limitation on loans made or insured under this subchapter and authorizing excess loan amounts for provisions relating to the interest rates, maturity and security of loans made or insured under this chapter.

Pub. L. 96–302, §120(b) (see par. above), substituted interest rate provisions of first sentence for prior provision for loans ''(1) at a rate of interest not in excess of 5 per centum per annum on loans up to the amount of the actual loss caused by the disaster, and (2) for any loans or portions of loans in excess of that amount, the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary'' and inserted proviso in second sentence for repayment of subsec. (a)(1)(B) loans.

Subsec. (b). Pub. L. 96–438, §3(b)(1), substituted provisions relating to interest rates on loans made or insured under this subchapter for provisions relating to eligibility of political subdivisions of states for grants under this chapter.

Subsecs. (c) to (e). Pub. L. 96–438, §3(b)(1), added subsecs. (c) to (e).

1978—Subsecs. (b), (c). Pub. L. 95–334 redesignated subsec. (c) as (b). Former subsec. (b), which related to reductions in the interest rate based on interest rate of the Small Business Administration, was struck out.

1977—Subsec. (a). Pub. L. 95–89 designated existing provisions as subsec. (a) and struck out last proviso prescribing for any loan made by the Small Business Administration in connection with a disaster occurring on or after Aug. 5, 1975, under section 636(b)(1), (2), or (4) of title 15 a rate of interest determined in the first paragraph following section 636(b)(8) of title 15 for loans under paragraphs (3), (5), (6), (7), or (8) of section 636(b) of title 15, now covered in subsec. (b) of this section.

Subsecs. (b), (c). Pub. L. 95–89 added subsecs. (b) and (c).

1975—Pub. L. 94–68 made the existing rate of 5 percent applicable to loans up to the amount of the actual loss caused by the disaster, inserted provisions that for loans or portions of loans in excess of that amount the interest rate will be that prevailing in the private market for similar loans, as determined by the Secretary, and inserted provisos relating to security, disasters occurring after Jan. 1, 1975, and loans made by Small Business Administration.

1973—Pub. L. 93–24 substituted ''5'' for ''3'' per centum.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 624 of Pub. L. 104–127 effective Apr. 4, 1996, and amendment by section 625 of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section

663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–258 applicable to disasters occurring after May 30, 1983, see section 602(c) of Pub. L. 98–258, set out as a note under section 1961 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 162(b) of Pub. L. 97–35 provided that: ''The amendments made by this section [amending this section] shall apply to loans made with respect to disasters occurring after September 30, 1981''.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by section 3(b)(1) of Pub. L. 96–438 effective with respect to loans approved after Oct. 13, 1980, except for certain subsequent emergency loans, see section 3(d) of Pub. L. 96–438, set out as a note under section 1961 of this title.

Amendment by Pub. L. 96–302 effective Oct. 1, 1980, see section 507 of Pub. L. 96–302, set out as a note under section 631 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 119 of Pub. L. 95–334 provided that the amendment made by that section is effective Oct. 1, 1978.

SMALL BUSINESS DISASTER LOANS; INTEREST RATE; CANCELLATION OF LOANS

Loans by Small Business Administration in connection with any disaster occurring on or after Apr. 20, 1973 made under section 636(b)(1), (2), or (4) of Title 15, as subject to interest rate determined under this section and prohibition against cancellation of such loan under any provision of law, see section 9 of Pub. L. 93–24, set out as a note under section 636 of Title 15, Commerce and Trade.

§ 1965. Repealed. Pub. L. 95–334, title I, § 120, Aug. 4, 1978, 92 Stat. 427

Section, Pub. L. 87–128, title III, § 325, Aug. 8, 1961, 75 Stat. 311; Pub. L. 94–68, § 6, Aug. 5, 1975, 89 Stat. 382, authorized delegation of authority to State Directors of Farmers Home Administration for making emergency loans.

§ 1966. Emergency Credit Revolving Fund utilization

The Secretary is authorized to utilize the revolving fund created by section 1148a[1] of title 12 (hereinafter in this subchapter referred to as the ''Emergency Credit Revolving Fund'') for carrying out the purposes of this subchapter.

(Pub. L. 87–128, title III, § 326, Aug. 8, 1961, 75 Stat. 312.)

REFERENCES IN TEXT

Section 1148a of title 12, referred to in text, was repealed by Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624. See section 2252 of Title 12, Banks and Banking.

The Emergency Credit Revolving Fund, referred to in text, was abolished and its assets and liabilities transferred to the Agricultural Credit Insurance Fund by section 1929 of this title.

§ 1967. Addition to Emergency Credit Revolving Fund of sums from liquidation of loans; authorization of appropriations

(a) All sums received by the Secretary from the liquidation of loans made under the provisions of this subchapter or under the Act of April 6, 1949, as amended, or the Act of August 31, 1954, and from the liquidation of any other assets acquired with money from the Emergency Credit Revolving Fund shall be added to and become a part of such fund.

(b) There are authorized to be appropriated to the Emergency Credit Revolving Fund such additional sums as the Congress shall from time to time determine to be necessary.

(Pub. L. 87–128, title III, § 327, Aug. 8, 1961, 75 Stat. 312.)

REFERENCES IN TEXT

Act of April 6, 1949, as amended, referred to in subsec. (a), is act Apr. 6, 1949, ch. 49, 63 Stat. 43, as amended, which was classified to sections 1148a–1 to 1148a–3 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

Act of August 31, 1954, referred to in subsec. (a), is act Aug. 31, 1954, ch. 1145, 68 Stat. 999, which was classified as a note under section 1148a–1 of Title 12, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

ABOLITION OF EMERGENCY CREDIT REVOLVING FUND

The Emergency Credit Revolving Fund, referred to in this section and in section 1966 of this title, was abolished and its assets and liabilities transferred to the Agricultural Credit Insurance Fund by section 1929 of this title.

§ 1968. Repealed. Pub. L. 104–127, title VI, § 626, Apr. 4, 1996, 110 Stat. 1092

Section, Pub. L. 87–128, title III, § 328, as added Pub. L. 92–173, Nov. 24, 1971, 85 Stat. 491; amended Pub. L. 93–24, § 5, Apr. 20, 1973, 87 Stat. 25; Pub. L. 95–334, title I, § 109(b), Aug. 4, 1978, 92 Stat. 423, related to insurance of loans.

§ 1969. Repealed. Pub. L. 93–24, § 1, Apr. 20, 1973, 87 Stat. 24

Section, Pub. L. 87–128, title III, § 328, as added Pub. L. 92–385, § 5, Aug. 16, 1972, 86 Stat. 557, provided for emergency loans for major and natural disasters occurring between June 30, 1971, and July 1, 1973, providing in: subsec. (a) for cancellation of existing loans and the considerations in making grants, loans, and refinancing of loans; subsec. (b) for loans for loss or damage to agricultural crops; subsec. (c) for amount of loans and interest rates; subsec. (d) for availability of benefits irrespective of age; subsec. (e) for availability of benefits irrespective of approval date; and subsec. (f) for report to Congress.

LOANS TO ELIGIBLE APPLICANTS IN AREAS DETERMINED AS NATURAL DISASTER AREAS AFTER JANUARY 1, 1972, AND BEFORE DECEMBER 27, 1972; TIME FOR ACCEPTANCE OF APPLICATIONS

Section 8 of Pub. L. 93–24 provided that: ''Notwithstanding the repeal herein of section 5 of Public Law 92–385 [this section], and notwithstanding any other provision of law, the Secretary of Agriculture shall make loans in accordance with the provisions of section 5 of Public Law 92–385 [this section] to eligible applicants in natural disaster areas determined or designated by the Secretary of Agriculture where such determination or designation had been made after January 1, 1972 and prior to December 27, 1972. The authority to accept applications for such loans shall expire 18 days after the effective date of this Act [Apr. 20, 1973].''

CONTINUATION OF SECRETARY'S AUTHORITY WITH RESPECT TO NATURAL DISASTERS OCCURRING AFTER DECEMBER 26, 1972, AND PRIOR TO APRIL 20, 1973

Pub. L. 93–237, § 4, Jan. 2, 1974, 87 Stat. 1024, provided that: ''Notwithstanding the provisions of Public Law

[1] See References in Text note below.

93–24 [which repealed this section], the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92–385 [this section] as such section was in effect prior to April 20, 1973.''

§ 1970. Eligibility for assistance based on production loss

The Secretary shall make financial assistance under this subchapter available to any applicant seeking assistance based on production losses if the applicant shows that a single enterprise which constitutes a basic part of the applicant's farming, ranching, or aquaculture operation has sustained at least a 30 per centum loss of normal per acre or per animal production, or such lesser per centum of loss as the Secretary may determine, as a result of the disaster based upon the average monthly price in effect for the previous year and the applicant otherwise meets the conditions of eligibility prescribed under this subchapter. Such loans shall be made available based upon 80 per centum, or such greater per centum as the Secretary may determine, of the total calculated actual production loss sustained by the applicant.

(Pub. L. 87–128, title III, § 329, as added Pub. L. 94–68, § 7, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 97–35, title I, § 163, Aug. 13, 1981, 95 Stat. 378.)

AMENDMENTS

1981—Pub. L. 97–35 increased specific per centum loss from 20 to 30, and authorized a lesser per centum loss pursuant to determinations by the Secretary under applicable criteria.

§ 1971. Repealed. Pub. L. 99–198, title XIII, § 1308(d), Dec. 23, 1985, 99 Stat. 1523

Section, Pub. L. 87–128, title III, § 330, as added Pub. L. 94–68, § 8, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 96–438, § 3(b)(2), Oct. 13, 1980, 94 Stat. 1875, authorized additional emergency loans.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§ 1981. Farmers Home Administration

(a) Appointment and compensation of Administrator; transfer of powers, duties, and assets pertaining to agricultural credit

In accordance with section 2006a of this title, for purposes of this chapter, and for the administration of assets under the jurisdiction of the Secretary of Agriculture pursuant to the Farmers Home Administration Act of 1946, as amended, the Bankhead-Jones Farm Tenant Act, as amended, the Act of August 28, 1937, as amended, the Act of April 6, 1949, as amended, the Act of August 31, 1954, as amended, and the powers and duties of the Secretary under any other Act authorizing agricultural credit, the Secretary may assign and transfer such powers, duties, and assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.

(b) Powers of Secretary of Agriculture

The Secretary may—

(1) administer his powers and duties through such national, area, State, or local offices and employees in the United States as he determines to be necessary and may authorize an office to serve the area composed of two or more States if he determines that the volume of business in the area is not sufficient to justify separate State offices, and until January 1, 1975, make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter; (and the Secretary shall prior to June 30, 1974, report to the Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit);

(2) accept and utilize voluntary and uncompensated services, and, with the consent of the agency concerned, utilize the officers, employees, equipment, and information of any agency of the Federal Government, or of any State, territory, or political subdivision;

(3) within the limits of appropriations made therefor, make necessary expenditures for purchase or hire of passenger vehicles, and such other facilities and services as he may from time to time find necessary for the proper administration of this chapter;

(4) compromise, adjust, reduce, or charge-off debts or claims (including debts and claims arising from loan guarantees), and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or the Rural Development Administration, except for activities under the Housing Act of 1949 [42 U.S.C. 1441 et seq.]. In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph. The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection. After consultation with a local or area county committee, the Secretary may release borrowers or others obligated on a debt, except for debt incurred under the Housing Act of 1949, from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim, except that no compromise, adjustment, reduction, or charge-off of any claim may be made or carried out after the claim has been referred to the Attorney General, unless the Attorney General approves;

(5) except for activities conducted under the Housing Act of 1949 [42 U.S.C. 1441 et seq.], collect all claims and obligations administered by the Farmers Home Administration, or under any mortgage, lease, contract, or agreement entered into or administered by the Farmers Home Administration and, if in his judgment necessary and advisable, pursue the

same to final collection in any court having jurisdiction;

(6) release mortgage and other contract liens if it appears that they have no present or prospective value or that their enforcement likely would be ineffectual or uneconomical;

(7) obtain fidelity bonds protecting the Government against fraud and dishonesty of officers and employees of the Farmers Home Administration in lieu of faithful performance of duties bonds under section 14[1] of title 6, and regulations issued pursuant thereto, but otherwise in accordance with the provisions thereof;

(8) consent to (A) long-term leases of facilities financed under this subchapter notwithstanding the failure of the lessee to meet any of the requirements of this subchapter if such long-term leases are necessary to ensure the continuation of services for which financing was extended to the lessor, and (B) the transfer of property securing any loan or financed by any loan or grant made, insured, or held by the Secretary under this chapter, or the provisions of any other law administered by the Rural Development Administration under this chapter or by the Farmers Home Administration, upon such terms as he deems necessary to carry out the purpose of the loan or grant or to protect the financial interest of the Government, and shall document the consent of the Secretary for the transfer of the property of a borrower in the file of the borrower; and

(9) notwithstanding that an area ceases, or has ceased, to be ''rural'', in a ''rural area'', or an eligible area, make loans and grants, and approve transfers and assumptions, under this chapter on the same basis as though the area still was rural in connection with property securing any loan made, insured, or held by the Secretary under this chapter or in connection with any property held by the Secretary under this chapter.

(c) Delinquent claims and obligations

The Secretary may use for the prosecution or defense of any claim or obligation described in subsection (b)(5) of this section the Attorney General, the General Counsel of the Department of Agriculture, or a private attorney who has entered into a contract with the Secretary.

(Pub. L. 87–128, title III, § 331, Aug. 8, 1961, 75 Stat. 312; Pub. L. 90–488, § 11, Aug. 15, 1968, 82 Stat. 771; Pub. L. 92–419, title I, § 124, Aug. 30, 1972, 86 Stat. 665; Pub. L. 95–334, title I, § 121, Aug. 4, 1978, 92 Stat. 427; Pub. L. 97–98, title XVI, § 1603, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 99–198, title XIII, § 1309, Dec. 23, 1985, 99 Stat. 1523; Pub. L. 100–233, title VI, § 615(c), Jan. 6, 1988, 101 Stat. 1682; Pub. L. 101–624, title XVIII, §§ 1805, 1806, title XXIII, §§ 2303(a), 2388(d)(1), Nov. 28, 1990, 104 Stat. 3819, 3981, 4052; Pub. L. 102–237, title V, § 501(c), title VII, § 701(h)(1)(E), Dec. 13, 1991, 105 Stat. 1866, 1880; Pub. L. 103–248, § 2, May 11, 1994, 108 Stat. 619; Pub. L. 103–354, title II, § 226(h), Oct. 13, 1994, 108 Stat. 3216; Pub. L. 104–127, title VI, §§ 631, 632, title VII, § 748, Apr. 4, 1996, 110 Stat. 1092, 1128; Pub. L. 107–171, title V, §§ 5303, 5304(a), May 13, 2002, 116 Stat. 345.)

[1] See References in Text note below.

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (b)(1), (3), (8), (9), see note set out under section 1921 of this title.

The Farmers Home Administration Act of 1946, as amended, referred to in subsec. (a), is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended, which was classified to sections 1001 to 1005, 1005a to 1005d, 1007, 1008, 1009, 1015 to 1029, 1030, and 1031 of this title, section 371 of Title 12, Banks and Banking, and section 82h of Title 31, Money and Finance, and in so far as it amended provisions of Title I, II, and IV of the Bankhead-Jones Farm Tenant Act, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

The Bankhead-Jones Farm Tenant Act, as amended, referred to in subsec. (a), is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of act July 22, 1937, as amended, is classified to sections 1010 to 1012 and 1013a of this title. Titles I, II, and IV of act July 22, 1937, as amended, were formerly classified to sections 1001 to 1005, 1005a to 1005d, 1006, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, 1026, and 1027 to 1029 of this title, respectively, were repealed by section 341(a) of Pub. L. 87–128, and are covered by this chapter.

Act of August 28, 1937, as amended, referred to in subsec. (a), is act Aug. 28, 1937, ch. 870, 50 Stat. 869, as amended, which was formerly classified to sections 590r to 590x–4 of Title 16, Conservation, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

Act of April 6, 1949, as amended, referred to in subsec. (a), is act Apr. 6, 1949, ch. 49, 63 Stat. 43, as amended, which was formerly classified to sections 1148a–1 to 1148a–3 of Title 12, Banks and Banking, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

Act of August 31, 1954, as amended, referred to in subsec. (a), is act Aug. 31, 1954, ch. 1145, 68 Stat. 999, which was formerly classified as a note under section 1148a–1 of Title 12, was repealed by section 341(a) of Pub. L. 87–128, and is covered by this chapter.

The Housing Act of 1949, as amended, referred to in subsec. (b)(4), (5), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

The Rural Electrification Act of 1936, referred to in subsec. (b)(4), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

Section 14 of title 6, referred to in subsec. (b)(7), was repealed by Pub. L. 92–310, title II, § 203(1), June 6, 1972, 86 Stat. 202. For provisions relating to surety bonds of Federal personnel, see section 9301 et seq. of Title 31, Money and Finance.

AMENDMENTS

2002—Subsec. (b)(4). Pub. L. 107–171, § 5303, substituted ''After consultation with a local or area county committee, the Secretary may release'' for ''The Secretary may release'' and ''carried out after'' for ''carried out—

''(A) with respect to farmer program loans, on terms more favorable than those recommended by the appropriate county committee utilized pursuant to section 1982 of this title; or

''(B) after''.

Subsecs. (d), (e). Pub. L. 107–171, § 5304(a), struck out subsecs. (d) and (e) which related to temporary authority to enter into contracts, and private collection agency, respectively.

1996—Subsec. (b)(4). Pub. L. 104–127, § 748, inserted ''(including debts and claims arising from loan guarantees)'' after ''debts or claims'', substituted ''Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative

Service, or a successor agency, or'' for ''Farmers Home Administration or'', and inserted ''In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph.'' after ''activities under the Housing Act of 1949 [42 U.S.C. 1441 et seq.].''

Subsec. (d). Pub. L. 104–127, § 631, added subsec. (d).

Subsec. (e). Pub. L. 104–127, § 632, added subsec. (e).

1994—Subsec. (a). Pub. L. 103–354 substituted ''assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.'' for ''assets to the Farmers Home Administration, to be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate, without regard to the civil service laws or chapter 51 and subchapter III of chapter 53 of title 5, who shall receive basic compensation as provided by law for that office, or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office.''

Subsec. (c). Pub. L. 103–248 added subsec. (c).

1991—Pub. L. 102–237, § 501(c)(2)(B)(i), amended directory language of Pub. L. 101–624, § 2388(d)(1). See 1990 Amendment note below.

Subsec. (b)(1), (2). Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(3). Pub. L. 102–237, § 701(h)(1)(E), substituted ''this chapter'' for ''this Act''.

Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(4). Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(1), struck out ''this chapter'' after ''activities under the Housing Act of 1949'' and substituted ''1949, from'' for ''1949 from''.

Subsec. (b)(4)(A). Pub. L. 102–237, § 501(c)(2)(B)(iii), redesignated Pub. L. 101–624, § 2388(d)(1)(A)(vi), as (v). See 1990 Amendment note below.

Subsec. (b)(4)(B). Pub. L. 102–237, § 501(c)(2)(B)(iii), redesignated Pub. L. 101–624, § 2388(d)(1)(A)(vi), as (v). See 1990 Amendment note below.

Subsec. (b)(5). Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Subsec. (b)(6). Pub. L. 102–237, § 501(c)(2)(B)(ii), (iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(i), (vi). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(2)(A), repealed Pub. L. 101–624, § 1805(c)(1), (2). See 1990 Amendment note below.

Subsec. (b)(7). Pub. L. 102–237, § 501(c)(2)(B)(ii), (iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(i), (vi). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(2)(A), repealed Pub. L. 101–624, § 1805(c)(1), (3). See 1990 Amendment note below.

Subsec. (b)(8). Pub. L. 102–237, § 501(c)(2)(B)(ii)–(v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(i), (iv), (vi). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(2)(A), repealed Pub. L. 101–624, § 1805(c)(1), (4). See 1990 Amendment note below.

Subsec. (b)(9). Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Pars. (c) to (g). Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), amended directory language of Pub. L. 101–624, § 2388(d)(1)(A)(vi). See 1990 Amendment note below.

Par. (h). Pub. L. 102–237, § 501(c)(2)(B)(iii), repealed Pub. L. 101–624, § 2388(d)(1)(A)(iv). See 1990 Amendment note below.

Pub. L. 102–237, § 501(c)(2)(A), amended Pub. L. 101–624, § 1805(b), and repealed Pub. L. 101–624, § 1805(c)(5). See 1990 Amendment note below.

Pars. (i), (j). Pub. L. 102–237, § 501(c)(2)(A), amended Pub. L. 101–624, § 1805(b), and repealed Pub. L. 101–624, § 1805(c)(5). See 1990 Amendment note below.

1990—Pub. L. 101–624, § 2388(d)(1), was amended in its directory language by Pub. L. 102–237, § 501(c)(2)(B)(i), resulting in no change in text.

Subsec. (a). Pub. L. 101–624, §§ 2303(a)(1), 2388(d)(1)(B), designated first undesignated par. as subsec. (a) and substituted ''In accordance with section 2006a of this title, for purposes of this chapter, and'' for ''For the purposes of this chapter and'', and inserted before period at end '', or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office''.

Subsec. (b). Pub. L. 101–624, § 2388(d)(1)(B), designated second undesignated par. beginning ''The Secretary may—'' as subsec. (b).

Subsec. (b)(1) to (3). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated pars. (a) to (c) as (1) to (3), respectively, of subsec. (b).

Subsec. (b)(4). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (d) as (4) of subsec. (b).

Pub. L. 101–624, §§ 1805(a)(1)(A), (B), 2303(a)(2), inserted ''or the Rural Development Administration'' after ''Farmers Home Administration'' in first sentence, substituted '', except for activities under the Housing Act of 1949'' for ''under any of its programs, as circumstances may require, to carry out'' in first sentence, and substituted '', except for debt incurred under the Housing Act of 1949'' for ''incurred under this chapter'' in third sentence.

Subsec. (b)(4)(A). Pub. L. 101–624, § 2388(d)(1)(A)(v), formerly (vi), as redesignated by Pub. L. 102–237, § 501(c)(2)(B)(iii), redesignated subpar. (1) as (A).

Pub. L. 101–624, § 1805(a)(1)(C), inserted ''with respect to farmer program loans,'' before ''on terms''.

Subsec. (b)(4)(B). Pub. L. 101–624, § 2388(d)(1)(A)(v), formerly (vi), as redesignated by Pub. L. 102–237, § 501(c)(2)(B)(iii), redesignated subpar. (2) as (B).

Subsec. (b)(5). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (e) as (5) of subsec. (b).

Pub. L. 101–624, § 1805(a)(2), inserted ''except for activities conducted under the Housing Act of 1949,'' before ''collect'', struck out ''arising or'' after ''obligations'', substituted ''by the Farmers Home Administration'' for ''under this chapter'' before '', or under any'' and ''by the Farmers Home Administration'' for ''pursuant to this chapter'' before ''and, if in his''.

Subsec. (b)(6). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (f) as (6) of subsec. (b).

Pub. L. 101–624, § 2388(d)(1)(A)(ii), substituted ''release'' for ''Release''.

Pub. L. 101–624, § 2388(d)(1)(A)(i), as amended by Pub. L. 102–237, § 501(c)(2)(B)(ii), realigned margin.

Pub. L. 101–624, § 1805(c)(1), (2), which made amendments identical to those by Pub. L. 101–624, § 2388(d)(1)(A)(i), (ii), was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Subsec. (b)(7). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (g) as (7) of subsec. (b).

Pub. L. 101–624, § 2388(d)(1)(A)(iii), substituted ''obtain'' for ''Obtain''.

Pub. L. 101–624, § 2388(d)(1)(A)(i), as amended by Pub. L. 102–237, § 501(c)(2)(B)(ii), realigned margin.

Pub. L. 101–624, § 1805(c)(1), (3), which made amendments identical to those by Pub. L. 101–624, § 2388(d)(1)(A)(i), (iii), was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Subsec. (b)(8). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (h) [par. (i) prior to redesignation by Pub. L. 101–624, § 1805(b), as amended] as (8) of subsec. (b).

Pub. L. 101–624, § 2388(d)(1)(A)(iv)(II), formerly (v)(II), as redesignated and amended by Pub. L. 102–237,

§ 501(c)(2)(B)(iii), (iv), redesignated former subpars. (1) and (2) as (A) and (B), respectively.

Pub. L. 101–624, § 2303(a)(3), inserted ''Rural Development Administration under this chapter or by the'' before ''Farmers Home Administration''.

Pub. L. 101–624, § 1806, inserted before semicolon at end '', and shall document the consent of the Secretary for the transfer of the property of a borrower in the file of the borrower''.

Pub. L. 101–624, § 2388(d)(1)(A)(i), (iv)(I), formerly (v)(I), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(ii)–(iv), realigned margin and substituted ''consent'' for ''Consent''.

Pub. L. 101–624, § 1805(c)(1), (4), which made amendments identical to those by Pub. L. 101–624, § 2388(d)(1)(A)(i), (iv)(I), was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Subsec. (b)(9). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated par. (i) [par. (j) prior to redesignation by Pub. L. 101–624, § 1805(b), as amended] as (9) of subsec. (b).

Pars. (c) to (g). Pub. L. 101–624, § 2388(d)(1)(A)(vi), formerly (vii), (B), as redesignated and amended by Pub. L. 102–237, § 501(c)(2)(B)(iii), (v), redesignated former pars. (c) to (g) as (3) to (7), respectively, of subsec. (b). See above.

Par. (h). Pub. L. 101–624, § 2388(d)(1)(A)(iv), which directed substitution of ''not'' for ''Not'' before ''require'', was repealed by Pub. L. 102–237, § 501(c)(2)(B)(iii).

Pub. L. 101–624, § 1805(c)(5), which redesignated par. (i) as (h), was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Pub. L. 101–624, § 1805(b), as amended by Pub. L. 102–237, § 501(c)(2)(A), redesignated par. (i) as (h) and struck out par. (h) which read as follows: ''Not require borrowers to pay interest accrued after December 31, 1972, on interest which is not more than 90 days overdue on any loan held or insured by the Farmers Home Administration;''.

Pars. (i), (j). Pub. L. 101–624, § 1805(c)(5), which redesignated pars. (i) and (j) as (h) and (i), respectively, was repealed by Pub. L. 102–237, § 501(c)(2)(A).

Pub. L. 101–624, § 1805(b), as amended by Pub. L. 102–237, § 501(c)(2)(A), redesignated pars. (i) and (j) as (h) and (i), respectively. Pars. (h) and (i) subsequently redesignated pars. (8) and (9) of subsec. (b). See above.

1988—Par. (d). Pub. L. 100–233 inserted ''or debts'' before ''claims'', and inserted ''The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection.''

1985—Par. (d). Pub. L. 99–198, § 1309, in amending par. (d) generally, substituted provisions authorizing the Secretary to compromise, adjust, reduce, or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Farmers Home Administration to carry out this chapter for provisions which had authorized the Secretary to compromise, adjust, or reduce claims, and adjust and modify the terms of mortgages, leases, contracts and agreements entered into or administered by the Administration under any of its programs, but not in the event of claims of $25,000 or more without the approval of the Administrator, substituted provisions authorizing the Secretary to release borrowers or others obligated on a debt incurred under this chapter from personal liability with or without consideration at the time of the compromise, adjustment, reduction or charge-off of any claim for provisions authorizing the Secretary to release from personal liability, with or without payment of any consideration at the time of adjustment of the claims, borrowers who transferred the security property to approved applicants, to other than approved applicants, or for amounts less than the indebtedness secured thereby, struck out provisions that compromise, adjustment, or reduction of the claim shall be based on the value of the security and a determination of the debtor's reasonable ability to pay considering his other assets and income, and struck out provisions relating to any claim due and payable for five years or more and to partial releases and subordination of mortgages.

1981—Par. (i). Pub. L. 97–98 designated existing provisions following ''consent to'' as cl. (2) and added cl. (1).

1978—Pub. L. 95–334 in par. (a) struck out references to Puerto Rico and the Virgin Islands, in par. (d) substituted ''$25,000'' for ''$15,000'', and added par. (j).

1972—Par. (a). Pub. L. 92–419, § 124(1), authorized the Secretary of Agriculture, until Jan. 1, 1975, to make contracts for services incident to making, insuring, collecting, and servicing loans and property as determined by the Secretary to be necessary for carrying out the purposes of this chapter, and required the Secretary, prior to June 30, 1974, to report to Congress through the President on the experience in using such contracts, together with recommendations for such legislation as he may see fit.

Pars. (d) to (i). Pub. L. 92–419, § 124(2), substituted a semicolon for a period at end of lettered pars. (d), (e) and (f) and added pars. (g) to (i).

1968—Par. (f). Pub. L. 90–488 added par. (f).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–171, title V, § 5304(b), May 13, 2002, 116 Stat. 345, provided that: ''The amendment made by subsection (a) [amending this section] shall not apply to a contract entered into before the effective date of this Act [May 13, 2002].''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 501(c) of Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, and amendment by section 701(h)(1)(E) of Pub. L. 102–237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, see section 1101(b)(3), (c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

CONTINUATION OF SMALL FARMER TRAINING AND TECHNICAL ASSISTANCE PROGRAM

Section 1328 of Pub. L. 99–198 provided that: ''The Secretary of Agriculture shall, during the period beginning on the date of enactment of this Act [Dec. 23, 1985] and ending on September 30, 1988, maintain at substantially current levels the small farmer training and technical assistance program in the office of the Administrator of the Farmers Home Administration.''

REAMORTIZATION OF DISTRESSED FARMERS HOME ADMINISTRATION LOANS FROM REVENUES FROM SOFTWOOD TIMBER CROP PLANTINGS ON MARGINAL LAND

Pub. L. 98–258, title VI, § 608, Apr. 10, 1984, 98 Stat. 140, as amended by Pub. L. 99–198, title XII, § 1254, Dec. 23, 1985, 99 Stat. 1517, provided that:

''(a)(1) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') may implement a program, pursuant to the recommendations contained in the study mandated by section 608 of the Agricultural Programs Adjustment Act of 1984 (7 U.S.C. 1421 [1981] note), under which a distressed loan (as determined by the Secretary) made or insured under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or a portion thereof, may be reamortized with the use of future revenue produced from the planting of softwood timber crops on marginal land (as determined by the Secretary) that—

''(A) was previously used to produce an agricultural commodity or as pasture; and

''(B) secures a loan made or insured under such Act.

''(2) Accrued interest on a loan reamortized under this section may be capitalized and interest charged on such interest.

''(3) All or a portion of the payments on such reamortized loan may be deferred until such softwood timber crop produces revenue or for a term of 45 years, whichever comes first.

''(4) Repayment of such reamortized loan shall be made not later than 50 years after the date of reamortization.

''(b) The interest rate on such reamortized loans shall be determined by the Secretary, but not in excess of the current average yield on outstanding marketable obligations of the United States with periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary and adjusted to the nearest one-eighth of 1 percent.

''(c) To be eligible for such program—

''(1) the borrower of such reamortized loan must place not less than 50 acres of such land in softwood timber production;

''(2) such land (including timber) may not have any lien against such land other than a lien for—

''(A) a loan made or insured under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.] to secure such reamortized loan; or

''(B) a loan made under this section, at the time of reamortization or thereafter, that is subject to a lien on such land (including timber) in favor of the Secretary; and

''(3) the total amount of loans secured by such land (including timber) may not exceed $1,000 per acre.

''(d)(1) To assist such borrowers to place such land in softwood timber production, the Secretary may make loans to such borrowers for such purpose in an aggregate amount not to exceed the actual cost of tree planting for land placed in the program.

''(2) Any such loan shall be secured by the land (including timber) on which the trees are planted.

''(3) Such loans shall be made on the same terms and conditions as are provided in this section for reamortized loans.

''(e) The Secretary shall issue such rules as are necessary to carry out this section, including rules prescribing terms and conditions for—

''(1) reamortizing and making loans under this section;

''(2) entering into security instruments and agreements under this section; and

''(3) management and harvesting practices of the timber crop.

''(f) There are authorized to be appropriated such sums as are necessary to carry out this section.

''(g) No more than 50,000 acres may be placed in such program.''

§ 1981a. Loan moratorium and policy on foreclosures

(a) In general

In addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this chapter, or under the provisions of any other law administered by the Farmers Home Administration or by the Rural Development Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*, That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

(b) Moratorium

(1) In general

Subject to the other provisions of this subsection, effective beginning on the date of the enactment of this subsection, there shall be in effect a moratorium, with respect to farmer program loans made under subchapter I, II, or III, on all acceleration and foreclosure proceedings instituted by the Department of Agriculture against any farmer or rancher who—

(A) has pending against the Department a claim of program discrimination that is accepted by the Department as valid; or

(B) files a claim of program discrimination that is accepted by the Department as valid.

(2) Waiver of interest and offsets

During the period of the moratorium, the Secretary shall waive the accrual of interest and offsets on all farmer program loans made under subchapter I, II, or III for which loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

(3) Termination of moratorium

The moratorium shall terminate with respect to a claim of discrimination by a farmer or rancher on the earlier of—

(A) the date the Secretary resolves the claim; or

(B) if the farmer or rancher appeals the decision of the Secretary on the claim to a court of competent jurisdiction, the date that the court renders a final decision on the claim.

(4) Failure to prevail

If a farmer or rancher does not prevail on a claim of discrimination described in paragraph (1), the farmer or rancher shall be liable for any interest and offsets that accrued during the period that loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

(Pub. L. 87–128, title III, § 331A, as added Pub. L. 95–334, title I, § 122, Aug. 4, 1978, 92 Stat. 427; amended Pub. L. 101–624, title XXIII, § 2303(b), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 110–234, title XIV, § 14002(a), May 22, 2008, 122 Stat. 1442; Pub. L. 110–246, § 4(a), title XIV, § 14002(a), June 18, 2008, 122 Stat. 1664, 2204.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 1921 of this title.

The date of the enactment of this subsection, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

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.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 102–341, title III, Aug. 14, 1992, 106 Stat. 897.

Pub. L. 102–142, title III, Oct. 28, 1991, 105 Stat. 902.

Pub. L. 101–506, title II, Nov. 5, 1990, 104 Stat. 1333.

Pub. L. 101–161, title II, Nov. 21, 1989, 103 Stat. 969.

Pub. L. 100–460, title II, Oct. 1, 1988, 102 Stat. 2246.

Pub. L. 100–202, § 101(k) [title II], Dec. 22, 1987, 101 Stat. 1329–322, 1329–340.

Pub. L. 99–500, § 101(a) [title II], Oct. 18, 1986, 100 Stat. 1783, 1783–16, and Pub. L. 99–591, § 101(a) [title II], Oct. 30, 1986, 100 Stat. 3341, 3341–16.

Pub. L. 99–190, § 101(a) [H.R. 3037, title II], Dec. 19, 1985, 99 Stat. 1185; Pub. L. 100–202, § 106, Dec. 22, 1987, 101 Stat. 1329–433.

Pub. L. 97–370, title II, Dec. 18, 1982, 96 Stat. 1800.

AMENDMENTS

2008—Pub. L. 110–246, § 14002(a), designated existing provisions as subsec. (a) and added subsec. (b).

1990—Pub. L. 101–624 inserted ''or by the Rural Development Administration'' after ''Farmers Home Administration''.

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.

FORBEARANCE AND RESTRUCTURING FOR FARM LOANS

Pub. L. 100–387, title III, § 313(a), Aug. 11, 1988, 102 Stat. 949, provided that: ''It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988—

''(1) exercise forbearance in the collection of interest and principal on direct farmer program loans under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.] outstanding for such farmers and ranchers;

''(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 [Pub. L. 100–233, Jan. 6, 1988, 101 Stat. 1568, see Tables for classification] and similar provisions of law for such farmers and ranchers; and

''(3) encourage commercial lenders participating in guaranteed farmer lending programs under the Consolidated Farm and Rural Development Act to exercise forbearance before declaring loans to such farmers and ranchers under such programs in default.''

§ 1981b. Farm loan interest rates

Any loan for farm ownership purposes under subchapter I of this chapter, farm operating purposes under subchapter II of this chapter, or disaster emergency purposes under subchapter III of this chapter, other than a guaranteed loan, that is deferred, consolidated, rescheduled, or reamortized under this chapter shall, notwithstanding any other provision of this chapter, bear interest on the balance of the original loan and for the term of the original loan at a rate that is the lowest of—

(1) the rate of interest on the original loan;

(2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time at which the borrower applies for a deferral, consolidation, rescheduling, or reamortization; or

(3) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time of the deferral, consolidation, rescheduling, or reamortization.

(Pub. L. 87–128, title III, § 331B, as added Pub. L. 98–258, title VI, § 605, Apr. 10, 1984, 98 Stat. 139; amended Pub. L. 107–171, title V, § 5305, May 13, 2002, 116 Stat. 345.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

2002—Pub. L. 107–171 substituted ''lowest of—'' for ''lower of'', realigned margins for pars., substituted ''original loan;'' for ''original loan or (2) the'', added par. (2), and redesignated former par. (2) as (3).

ADJUSTMENT OF INTEREST RATES

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 428, provided that: ''The Secretary may adjust interest rates on existing nonsubsidized loans if he determines such interest rates are excessive in relation to prevailing commercial rates for comparable loans: *Provided*, That such rate adjustments shall constitute a change in the loan agreement and not a new loan.''

§ 1981c. Oil and gas royalty payments on loans

(a) The Secretary shall permit a borrower of a loan made or insured under this chapter to make a prospective payment on such loan with proceeds from—

(1) the leasing of oil, gas, or other mineral rights to real property used to secure such loan; or

(2) the sale of oil, gas, or other minerals removed from real property used to secure such loan, if the value of the rights to such oil, gas, or other minerals has not been used to secure such loan.

(b) Subsection (a) of this section shall not apply to a borrower of a loan made or insured under this chapter with respect to which a liquidation or foreclosure proceeding is pending on December 23, 1985.

(Pub. L. 87–128, title III, § 331C, as added Pub. L. 99–198, title XIII, § 1310(a), Dec. 23, 1985, 99 Stat. 1523.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

§ 1981d. Notice of loan service programs

(a) Requirement

The Secretary shall provide notice by certified mail to each borrower who is at least 90 days past due on the payment of principal or interest on a loan made or insured under this chapter.

(b) Contents

The notice required under subsection (a) of this section shall—

(1) include a summary of all primary loan service programs, preservation loan service programs, debt settlement programs, and appeal procedures, including the eligibility criteria, and terms and conditions of such programs and procedures;

(2) include a summary of the manner in which the borrower may apply, and be consid-

ered, for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive any right in order to be considered for any program carried out by the Secretary;

(3) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

(4) provide any relevant forms, including applicable response forms;

(5) advise the borrower that a copy of regulations is available on request; and

(6) be designed to be readable and understandable by the borrower.

(c) Contained in regulations

All notices required by this section shall be contained in the regulations implementing this chapter.

(d) Timing

The notice described in subsection (b) of this section shall be provided—

(1) at the time an application is made for participation in a loan service program;

(2) on written request of the borrower; and

(3) before the earliest of—

(A) initiating any liquidation;

(B) requesting the conveyance of security property;

(C) accelerating the loan;

(D) repossessing property;

(E) foreclosing on property; or

(F) taking any other collection action.

(e) Consideration of borrowers for loan service programs

The Secretary shall consider a farmer program borrower for all loan service programs if, within 60 days after receipt of the notice required in this section or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period, the borrower requests such consideration in writing. In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower's farming operations.

(Pub. L. 87–128, title III, § 331D, as added Pub. L. 100–233, title VI, § 605, Jan. 6, 1988, 101 Stat. 1666; amended Pub. L. 101–624, title XVIII, § 1807, Nov. 28, 1990, 104 Stat. 3819; Pub. L. 102–554, § 10, Oct. 28, 1992, 106 Stat. 4151; Pub. L. 104–127, title VI, § 633, Apr. 4, 1996, 110 Stat. 1092.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (c), see note set out under section 1921 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–127 substituted ''90 days past due on'' for ''180 days delinquent in''.

1992—Subsec. (e). Pub. L. 102–554, which directed the insertion of ''or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period'' after ''not later than 60 days after receipt of the notice required in this section'', was executed by making the insertion after ''within 60 days after receipt of the notice required in this section'' to reflect the probable intent of Congress.

1990—Subsec. (b)(1). Pub. L. 101–624, § 1807(1), inserted ''debt settlement programs,'' after ''preservation loan service programs''.

Subsec. (e). Pub. L. 101–624, § 1807(2), substituted ''60 days'' for ''45 days''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1807(1) of Pub. L. 101–624 effective 120 days after Nov. 28, 1990, see section 1861(b) of Pub. L. 101–624, set out as a note under section 2001 of this title.

§ 1981e. Planting and production history guidelines

(a) In general

The Secretary shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) Calculation of yields

(1) In general

For purposes of averaging past yields of the farm of a borrower or applicant over a period of crop years to calculate future yields for the farm under this chapter (except for loans under subchapter III of this chapter), the Secretary shall permit the borrower or applicant to exclude the crop year with the lowest actual or county average yield for the farm from the calculation, if the borrower or applicant was affected by a disaster during at least 2 of the crop years during the period.

(2) Affected by a disaster

For purposes of paragraph (1), a borrower or applicant was affected by a disaster if the Secretary finds that the borrower or applicant's farming operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including a borrower or applicant who has a qualifying loss but is not located in a designated or declared disaster area.

(3) Application of subsection

Paragraph (1) shall apply to all actions taken by the Secretary to carry out this chapter (except for loans under subchapter III of this chapter) that involve the yields of a farm of a borrower or applicant, including making loans and loan guarantees, servicing loans, and making credit sales.

(Pub. L. 87–128, title III, § 331E, as added Pub. L. 100–233, title VI, § 606, Jan. 6, 1988, 101 Stat. 1667; amended Pub. L. 102–237, title V, § 501(d)(1), Dec. 13, 1991, 105 Stat. 1866; Pub. L. 102–552, title V, § 516(g)(1), Oct. 28, 1992, 106 Stat. 4138.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsecs. (a) and

(b)(2), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

For definition of ''this chapter'', referred to in subsec. (b)(1), (3), see note set out under section 1921 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–552, § 516(g)(1)(A), substituted ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)'' for ''Disaster Relief Act of 1974''.

Subsec. (b)(2). Pub. L. 102–552, § 516(g)(1)(B), inserted ''Robert T. Stafford'' before ''Disaster Relief''.

1991—Pub. L. 102–237 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(g)(2) of Pub. L. 102–552 provided that: ''The amendments made by paragraph (1) of this subsection [amending this section] shall take effect immediately after section 501(d) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1866) [amending this section and enacting provisions set out below] took effect.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 501(d)(3) of Pub. L. 102–237 provided that:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) [amending this section] shall become effective on the date of publication of the interim regulations issued pursuant to paragraph (2)(A) [set out below].

''(B) EXCEPTION.—The amendment made by paragraph (1) shall apply to each primary loan servicing application submitted on or after the date of enactment of this Act [Dec. 13, 1991].''

REGULATIONS

Section 501(d)(2) of Pub. L. 102–237 provided that:

''(A) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, as soon as practicable after the date of enactment of this Act [Dec. 13, 1991] and without a requirement for prior public notice and comment, the Secretary of Agriculture shall issue interim regulations that provide for the implementation of the amendment made by paragraph (1) [amending this section] beginning in crop year 1992.

''(B) FINAL REGULATIONS.—The Secretary of Agriculture shall provide for public notice and comment before the issuance of final regulations to implement the amendment made by paragraph (1).''

§ 1981f. Underwriting forms and standards

In the administration of this chapter, the Secretary shall, to the extent practicable, use underwriting forms, standards, practices, and terminology similar to the forms, standards, practices, and terminology used by lenders in the private sector.

(Pub. L. 87–128, title III, § 331F, as added Pub. L. 101–624, title XVIII, § 1808(a), Nov. 28, 1990, 104 Stat. 3820.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

REGULATIONS

Section 1808(b) of Pub. L. 101–624 provided that: ''The Secretary of Agriculture shall not issue final regulations providing for the use of ratios and standards for determining the degree of potential loan risk under section 331F of the Consolidated Farm and Rural Development Act [7 U.S.C. 1981f] (as added by subsection (a) of this section), prior to the submission of the study and report on the effects of the regulations required by section 621 of the Agricultural Credit Act of 1987 (7 U.S.C. 1989 note).''

§ 1982. Relief for mobilized military reservists from certain agricultural loan obligations

(a) Definition of mobilized military reservist

In this section, the term ''mobilized military reservist'' means an individual who—

(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32 for purposes of responding to a national emergency declared by the President and supported by Federal funds.

(b) Forgiveness of interest payments due while borrower is a mobilized military reservist

Any requirement that a borrower of a direct loan made under this chapter make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is rescinded.

(c) Deferral of principal payments due while or after borrower is a mobilized military reservist

The due date of any payment of principal on a direct loan made to a borrower under this chapter that would otherwise be required to be made while or after the borrower is a mobilized military reservist is deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

(d) Nonaccrual of interest

Interest on a direct loan made to a borrower described in this section shall not accrue during the period the borrower is a mobilized military reservist.

(e) Borrower not considered to be delinquent or receiving debt forgiveness

Notwithstanding section 2008h of this title or any other provision of this chapter, a borrower who receives assistance under this section shall not, as a result of the assistance, be considered to be delinquent or receiving debt forgiveness for purposes of receiving a direct or guaranteed loan under this chapter.

(Pub. L. 87–128, title III, § 332, as added Pub. L. 108–375, div. A, title VI, § 664, Oct. 28, 2004, 118 Stat. 1974.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), and (e), was in the original ''this title'', meaning title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, known as the Consolidated Farm and Rural Develop-

ment Act. For complete classification of title III to the Code, see Short Title note set out under section 1921 of this title and Tables.

PRIOR PROVISIONS

A prior section 1982, Pub. L. 87–128, title III, § 332, Aug. 8, 1961, 75 Stat. 314; Pub. L. 99–198, title XIII, § 1311, Dec. 23, 1985, 99 Stat. 1524; Pub. L. 100–233, title VI, § 607, Jan. 6, 1988, 101 Stat. 1667; Pub. L. 101–624, title XVIII, § 1809, Nov. 28, 1990, 104 Stat. 3820; Pub. L. 102–554, § 11, Oct. 28, 1992, 106 Stat. 4151, related to county committees, prior to repeal by Pub. L. 103–354, title II, § 227(b)(1), Oct. 13, 1994, 108 Stat. 3218.

§ 1983. Special conditions and limitations on loans

In connection with loans made or insured under this chapter, the Secretary shall require—

(1) the applicant (A) to certify in writing, and the Secretary shall determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, and (B) to furnish an appropriate written financial statement;

(2) except with respect to a loan under section 1926, 1932, or 1944 of this title—

(A) an annual review of the credit history and business operation of the borrower; and

(B) an annual review of the continued eligibility of the borrower for the loan;

(3) except for guaranteed loans, an agreement by the borrower that if at any time it shall appear to the Secretary that the borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source (or, in the case of a borrower under section 1934 of this title, the borrower may be able to obtain a loan under section 1922 of this title), at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary or the insured lender, or both, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan;

(4) such provision for supervision of the borrower's operations as the Secretary shall deem necessary to achieve the objectives of the loan and protect the interests of the United States; and

(5) the application of a person who is a veteran of any war, as defined in section 101(12) of title 38, for a loan under subchapter I or II of this chapter to be given preference over a similar application from a person who is not a veteran of any war, if the applications are on file in a county or area office at the same time.

(Pub. L. 87–128, title III, § 333, Aug. 8, 1961, 75 Stat. 314; Pub. L. 90–488, § 12, Aug. 15, 1968, 82 Stat. 771; Pub. L. 91–620, § 3, Dec. 31, 1970, 84 Stat. 1862; Pub. L. 92–419, title I, §§ 118(b), 125, 126, Aug. 30, 1972, 86 Stat. 664, 666; Pub. L. 95–334, title I, § 123, Aug. 4, 1978, 92 Stat. 428; Pub. L. 96–438, § 3(c), Oct. 13, 1980, 94 Stat. 1875; Pub. L. 97–98, title XVI, § 1604, Dec. 22, 1981, 95 Stat. 1346; Pub. L. 101–624, title XVIII, § 1810, title XXIII, § 2388(e), Nov. 28, 1990, 104 Stat. 3820, 4053; Pub. L. 102–237, title V, § 501(e), Dec. 13, 1991, 105 Stat. 1867; Pub. L. 102–554, § 12, Oct. 28, 1992, 106 Stat. 4151; Pub. L. 103–354, title II, § 227(b)(2), Oct. 13, 1994, 108 Stat. 3218; Pub. L. 104–127, title VI, §§ 634, 635(a), 636, Apr. 4, 1996, 110 Stat. 1093; Pub. L. 107–171, title V, § 5306, May 13, 2002, 116 Stat. 345.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in introductory provisions, see note set out under section 1921 of this title.

AMENDMENTS

2002—Par. (2). Pub. L. 107–171 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "except with respect to a loan under section 1926, 1932, or 1944 of this title, the county or area committee established under section 590h(b)(5)(B) of title 16 to certify in writing—

"(A) that an annual review of the credit history and business operation of the borrower has been conducted; and

"(B) that a review of the continued eligibility of the borrower for the loan has been conducted;".

1996—Par. (1)(B). Pub. L. 104–127, § 634, substituted "an appropriate written financial statement" for "a written statement showing the applicant's net worth".

Pars. (2) to (4). Pub. L. 104–127, § 635(a), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Par. (5). Pub. L. 104–127, § 636, added par. (5) and struck out former par. (5) which read as follows: "the applications of veterans for loans under subchapter I or II of this chapter to be given preference over similar applications of nonveterans on file in any county or area office at the same time. Veterans as used herein shall mean persons who served in the Armed Forces of the United States during any war between the United States and any other nation, during the Korean conflict or the Vietnam era and who were discharged or released therefrom under conditions other than dishonorable."

Pub. L. 104–127, § 635(a)(1), redesignated par. (4) as (5).

1994—Pars. (2) to (5). Pub. L. 103–354 redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2) relating to certification by county committee of applicant's eligibility for loan.

1992—Par. (2)(A)(iii). Pub. L. 102–554 substituted "5 years" for "2 years".

1991—Par. (2)(A). Pub. L. 102–237 redesignated cls. (1) to (3) as (i) to (iii), respectively.

1990—Pub. L. 101–624, § 2388(e), redesignated pars. (a) to (e) as (1) to (5), respectively, and in par. (1) redesignated subpars. (1) and (2) as (A) and (B), respectively; in par. (2) redesignated subpars. (1) and (2) as (A) and (B), respectively, and in subpar. (A) redesignated cls. (A) to (C) as (1) to (3), respectively; in par. (3) made technical amendments to references to sections 1934 and 1922 of this title involving original act and requiring no change in text; and in par. (5) made technical amendments to reference to subchapter I or II of this chapter involving original act and requiring no change in text.

Pub. L. 101–624, § 1810, amended par. (b) generally. Prior to amendment, par. (b) read as follows: "except for loans under sections 1926, 1932, 1944 and 1961(a)(2) of this title, the county committee to certify in writing that the applicant meets the eligibility requirements for the loan, and has the character, industry, and ability to carry out the proposed operations, and will, in the opinion of the committee, honestly endeavor to carry out his undertakings and obligations; and for loans under section 1961(a)(2) of this title, the Secretary shall require the recommendation of the county

committee as to the making or insuring of the loan: *Provided*, That the Secretary may provide a procedure for appeal and review of any determination relating to a certification or recommendation required to be made by the county committee, and for reversal or modification thereof should the facts warrant such action;''.

1981—Par. (a). Pub. L. 97–98 designated existing provisions after ''the applicant'' as cl. (1), and added cl. (2).

1980—Par. (b). Pub. L. 96–438 substituted ''section 1961(a)(2)'' for ''section 1961(b)(2)'' in two places.

1978—Par. (b). Pub. L. 95–334, § 123(1), inserted proviso relating to appeal and review procedure for any determination regarding a certification, etc.

Par. (c). Pub. L. 95–334, § 123(2), (3), inserted provisions excepting guaranteed loans and provisions relating to borrowers under section 1934 of this title obtaining loans under section 1922 of this title.

1972—Par. (a). Pub. L. 92–419, § 125, inserted '', and the Secretary shall determine,'' after ''in writing''.

Par. (b). Pub. L. 92–419, §§ 118(b), 126, inserted reference to section 1932 of this title and substituted ''section 1961(b)(2) of this title'' for ''said sections'', respectively.

1970—Pub. L. 91–620 included persons who served during the Vietnam era within the definition of ''Veterans'' in par. (e).

1968—Par. (b). Pub. L. 90–488 struck out ''farming'' from phrase ''proposed farming operations''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–98 effective Dec. 22, 1981, see section 1801 of Pub. L. 97–98, set out as an Effective Date note under section 4301 of this title.

§ 1983a. Prompt approval of loans and loan guarantees

(a) Applications; time for action by Secretary; notice; statement of reasons

(1) The Secretary shall approve or disapprove an application for a loan or loan guarantee made under this chapter, and notify the applicant of such action, not later than 60 days after the Secretary has received a complete application for such loan or loan guarantee.

(2)(A) If an application for a loan or loan guarantee under this chapter (other than under subchapter II of this chapter) is incomplete, the Secretary shall inform the applicant of the reasons such application is incomplete not later than 20 days after the Secretary has received such application.

(B)(i) Not later than 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subchapter II of this chapter, the Secretary shall notify the applicant of any information required before a decision may be made on the application. On receipt of an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

(ii) Not later than 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Secretary with the requested information.

(iii) If, not later than 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Secretary has not received the information requested, the Secretary shall notify the applicant and the district office of the Farmers Home Administration, in writing, of the outstanding information.

(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subchapter II of this chapter that is pending more than 45 days after receipt, and the reasons the application is pending.

(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application not later than 15 days after the date of the receipt of the notice.

(vi) The district office shall report to the State office of the Farmers Home Administration on each application for an operating loan or loan guarantee under subchapter II of this chapter that is pending more than 45 days after receipt by the county committee, and the reasons the application is pending.

(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subchapter II of this chapter on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons final action had not been taken.

(3) If an application for a loan or loan guarantee under this chapter is disapproved by the Secretary, the Secretary shall state the reasons for the disapproval in the notice required under paragraph (1).

(4)(A) Notwithstanding paragraph (1), each application for a loan or loan guarantee under section 1932(a) of this title, or for a loan under section 1926(a) of this title, that is to be disapproved by the Secretary solely because the Secretary lacks the necessary amount of funds to make the loan or guarantee shall not be disapproved but shall be placed in pending status.

(B) The Secretary shall retain the pending application and reconsider the application beginning on the date that sufficient funds become available.

(C) Not later than 60 days after funds become available regarding each pending application, the Secretary shall notify the applicant of the approval or disapproval of funding for the application.

(b) Loan proceeds; time for receipt

(1) Except as provided in paragraph (2), if an application for an insured loan under this chapter is approved by the Secretary, the Secretary shall provide the loan proceeds to the applicant not later than 15 days (or such longer period as the applicant may approve) after the application for the loan is approved by the Secretary.

(2) If the Secretary is unable to provide the loan proceeds to the applicant within such 15-day period because sufficient funds are not available to the Secretary for such purpose, the Secretary shall provide the loan proceeds to the applicant as soon as practicable (but in no event

later than 15 days unless the applicant agrees to a longer period) after sufficient funds for such purpose become available to the Secretary.

(c) Reconsideration of applications; time for action by Secretary

If an application for a loan or loan guarantee under this chapter is disapproved by the Secretary, but such action is subsequently reversed or revised as the result of an appeal within the Department of Agriculture or to the courts of the United States and the application is returned to the Secretary for further consideration, the Secretary shall act on the application and provide the applicant with notice of the action within 15 days after return of the application to the Secretary.

(d) Approved lender designation applications; time for decision by Secretary

In carrying out the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations, the Secretary shall ensure that each request of a lending institution for designation as an approved lender under such program is reviewed, and a decision made on the application, not later than 15 days after the Secretary has received a complete application for such designation.

(e) Processing loan applications; personnel and other resources made available; use of authorities of law

(1) As soon as practicable after December 23, 1985, the Secretary shall take such steps as are necessary to make personnel, including the payment of overtime for such personnel, and other resources of the Department of Agriculture available to the Farmers Home Administration as are sufficient to enable the Farmers Home Administration to expeditiously process loan applications that are submitted by farmers and ranchers.

(2) In carrying out paragraph (1), the Secretary may use any authority of law provided to the Secretary, including—

(A) the Agricultural Credit Insurance Fund established under section 1929 of this title; and

(B) the employment procedures used in connection with the emergency loan program established under subchapter III of this chapter.

(f) Graduation of seasoned direct loan borrowers to loan guarantee program

(1) As used in this subsection:

(A) The term ''approved lender'' means a lender approved prior to October 28, 1992, by the Secretary under the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations (as in effect on January 1, 1991), or a lender certified under section 1989[1] of this title.

(B) The term ''seasoned direct loan borrower'' means a borrower receiving a direct loan under this chapter who has been classified as ''commercial'' or ''standard'' under subpart W of part 2006 of the Instruction Manual (as in effect on January 1, 1991).

(2) The Secretary, or a contracting third party, shall annually review under section 2006b of this title the loans of each seasoned loan borrower. If, based on the review, it is determined that a borrower would be able to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender at reasonable rates and terms for loans for similar purposes and periods of time, the Secretary shall assist the borrower in applying for the commercial or cooperative loan.

(3) In accordance with section 2006d of this title, the Secretary shall prepare a prospectus on each seasoned direct loan borrower determined eligible to obtain a guaranteed loan. The prospectus shall contain a description of the amounts of loan guarantee and interest assistance that the Secretary will provide to the seasoned direct loan borrower to enable the seasoned direct loan borrower to carry out a financially viable farming plan if a guaranteed loan is made.

(4) VERIFICATION.—

(A) IN GENERAL.—The Secretary shall provide a prospectus of a seasoned direct loan borrower to each approved lender whose lending area includes the location of the seasoned direct loan borrower.

(B) NOTIFICATION.—The Secretary shall notify each borrower of a loan that a prospectus has been provided to a lender under subparagraph (A).

(C) CREDIT EXTENDED.—If the Secretary receives an offer from an approved lender to extend credit to the seasoned direct loan borrower under terms and conditions contained in the prospectus, the seasoned direct loan borrower shall not be eligible for an insured loan from the Secretary under subchapter I or II of this chapter, except as otherwise provided in this subsection.

(5) If the Secretary is unable to provide loan guarantees and, if necessary, interest assistance to the seasoned direct loan borrower under this subsection in amounts sufficient to enable the seasoned direct loan borrower to borrow from commercial sources the amount required to carry out a financially viable farming plan, or if the Secretary does not receive an offer from an approved lender to extend credit to a seasoned direct loan borrower under the terms and conditions contained in the prospectus, the Secretary shall make an insured loan to the seasoned direct loan borrower under subchapter I or II of this chapter, whichever is applicable.

(6) To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions as provided for under section 1999 of this title.

(g) Simplified application forms for loan guarantees

(1) In general

The Secretary shall provide to lenders a short, simplified application form for guarantees under this chapter of—

(A) farmer program loans the principal amount of which is $125,000 or less; and

(B) business and industry guaranteed loans under section 1932(a)(2)(A) of this title the principal amount of which is—

[1] See References in Text note below.

(i) in the case of a loan guarantee made during fiscal year 2002 or 2003, $400,000 or less; and

(ii) in the case of a loan guarantee made during any subsequent fiscal year—

(I) $400,000 or less; or

(II) if the Secretary determines that there is not a significant increased risk of a default on the loan, $600,000 or less.

(2) Water and waste disposal grants and loans

The Secretary shall develop an application process that accelerates, to the maximum extent practicable, the processing of applications for water and waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 1926(a) of this title the grant award amount or principal loan amount, respectively, of which is $300,000 or less.

(3) Administration

In developing an application under this subsection, the Secretary shall—

(A) consult with commercial and cooperative lenders; and

(B) ensure that—

(i) the form can be completed manually or electronically, at the option of the lender;

(ii) the form minimizes the documentation required to accompany the form;

(iii) the cost of completing and processing the form is minimal; and

(iv) the form can be completed and processed in an expeditious manner.

(Pub. L. 87–128, title III, § 333A, as added Pub. L. 99–198, title XIII, § 1312(a), Dec. 23, 1985, 99 Stat. 1524; amended Pub. L. 101–624, title XVIII, § 1811, title XXIII, § 2388(f), Nov. 28, 1990, 104 Stat. 3821, 4053; Pub. L. 102–554, §§ 13–15, Oct. 28, 1992, 106 Stat. 4152, 4153; Pub. L. 104–127, title VI, § 637, Apr. 4, 1996, 110 Stat. 1093; Pub. L. 107–171, title V, § 5307, title VI, § 6019, May 13, 2002, 116 Stat. 345, 362; Pub. L. 110–234, title VI, § 6012(b)(3), May 22, 2008, 122 Stat. 1165; Pub. L. 110–246, § 4(a), title VI, § 6012(b)(3), June 18, 2008, 122 Stat. 1664, 1927.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a), (b)(1), (c), (f)(1)(B), and (g)(1), see note set out under section 1921 of this title.

Section 1989 of this title, referred to in subsec. (f)(1)(A), was in the original ''section 114'', and was translated as meaning section 339 of Pub. L. 87–128, which is classified to section 1989 of this title, to reflect the probable intent of Congress, because Pub. L. 87–128 does not contain a section 114 and section 1989 provides for a lender certification program.

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. (g)(1)(B). Pub. L. 110–246, § 6012(b)(3), substituted ''1932(a)(2)(A)'' for ''1932(a)(1)'' in introductory provisions.

2002—Subsec. (g). Pub. L. 107–171, § 6019, added subsec. (g) and struck out former subsec. (g) which read as follows:

''(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this chapter of loans the principal amount of which is $125,000 or less.

''(2) In developing the application, the Secretary shall—

''(A) consult with commercial and cooperative lenders; and

''(B) ensure that—

''(i) the form can be completed manually or electronically, at the option of the lender;

''(ii) the form minimizes the documentation required to accompany the form;

''(iii) the cost of completing and processing the form is minimal; and

''(iv) the form can be completed and processed in an expeditious manner.''

Subsec. (g)(1). Pub. L. 107–171, § 5307, substituted ''$125,000'' for ''$50,000''.

1996—Subsec. (f)(4). Pub. L. 104–127, § 637(1), inserted heading.

Subsec. (f)(4)(A). Pub. L. 104–127, § 637(1), designated first sentence of par. (4) as subpar. (A), inserted heading, and directed the substitution of ''The Secretary shall provide a prospectus of a seasoned'' for ''With'' and all that follows through ''seasoned'', which was executed by making the substitution for all that follows through ''seasoned'' the first place appearing resulting in making the substitution for ''With the approval of the borrower, the Secretary shall provide the prospectus of the seasoned'', to reflect the probable intent of Congress.

Subsec. (f)(4)(B), (C). Pub. L. 104–127, § 637(2), added subpar. (B), designated second sentence of par. (4) as subpar. (C), and inserted heading.

1992—Subsec. (a)(2). Pub. L. 102–554, § 13, designated existing provisions as subpar. (A), inserted ''(other than under subchapter II of this chapter)'' after ''under this chapter'', and added subpar. (B).

Subsec. (f). Pub. L. 102–554, § 14, added subsec. (f).

Subsec. (g). Pub. L. 102–554, § 15, added subsec. (g).

1990—Subsec. (a)(4). Pub. L. 101–624, § 1811, added par. (4).

Subsec. (c). Pub. L. 101–624, § 2388(f), substituted ''If'' for ''In''.

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.

EFFECTIVE DATE

Section 1312(b) of Pub. L. 99–198 provided that: ''The amendment made by subsection (a) [enacting this section] shall be effective with respect to applications for loans or loan guarantees under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) received by the Secretary of Agriculture after the date of enactment of this Act [Dec. 23, 1985].''

§ 1983b. Beginning farmer and rancher individual development accounts pilot program

(a) Definitions

In this section:

(1) Demonstration program

The term ''demonstration program'' means a demonstration program carried out by a qualified entity under the pilot program established in subsection (b)(1).

(2) Eligible participant

The term ''eligible participant'' means a qualified beginning farmer or rancher that—

(A) lacks significant financial resources or assets; and

(B) has an income that is less than—

(i) 80 percent of the median income of the State in which the farmer or rancher resides; or

(ii) 200 percent of the most recent annual Federal Poverty Income Guidelines published by the Department of Health and Human Services for the State.

(3) Individual development account

The term ''individual development account'' means a savings account described in subsection (b)(4)(A).

(4) Qualified entity

(A) In general

The term ''qualified entity'' means—

(i) 1 or more organizations—

(I) described in section 501(c)(3) of title 26; and

(II) exempt from taxation under section 501(a) of such title; or

(ii) a State, local, or tribal government submitting an application jointly with an organization described in clause (i).

(B) No prohibition on collaboration

An organization described in subparagraph (A)(i) may collaborate with a financial institution or for-profit community development corporation to carry out the purposes of this section.

(b) Pilot program

(1) In general

The Secretary shall establish a pilot program to be known as the ''New Farmer Individual Development Accounts Pilot Program'' under which the Secretary shall work through qualified entities to establish demonstration programs—

(A) of at least 5 years in duration; and

(B) in at least 15 States.

(2) Coordination

The Secretary shall operate the pilot program through, and in coordination with the farm loan programs of, the Farm Service Agency.

(3) Reserve funds

(A) In general

A qualified entity carrying out a demonstration program under this section shall establish a reserve fund consisting of a non-Federal match of 50 percent of the total amount of the grant awarded to the demonstration program under this section.

(B) Federal funds

After the qualified entity has deposited the non-Federal matching funds described in subparagraph (A) in the reserve fund, the Secretary shall provide the total amount of the grant awarded under this section to the demonstration program for deposit in the reserve fund.

(C) Use of funds

Of the funds deposited under subparagraph (B) in the reserve fund established for a demonstration program, the qualified entity carrying out the demonstration program—

(i) may use up to 10 percent for administrative expenses; and

(ii) shall use the remainder in making matching awards described in paragraph (4)(B)(ii)(I).

(D) Interest

Any interest earned on amounts in a reserve fund established under subparagraph (A) may be used by the qualified entity as additional matching funds for, or to administer, the demonstration program.

(E) Guidance

The Secretary shall issue guidance regarding the investment requirements of reserve funds established under this paragraph.

(F) Reversion

On the date on which all funds remaining in any individual development account established by a qualified entity have reverted under paragraph (5)(B)(ii) to the reserve fund established by the qualified entity, there shall revert to the Treasury of the United States a percentage of the amount (if any) in the reserve fund equal to—

(i) the amount of Federal funds deposited in the reserve fund under subparagraph (B) that were not used for administrative expenses; divided by

(ii) the total amount of funds deposited in the reserve fund.

(4) Individual development accounts

(A) In general

A qualified entity receiving a grant under this section shall establish and administer individual development accounts for eligible participants.

(B) Contract requirements

To be eligible to receive funds under this section from a qualified entity, an eligible participant shall enter into a contract with only 1 qualified entity under which—

(i) the eligible participant agrees—

(I) to deposit a certain amount of funds of the eligible participant in a personal savings account, as prescribed by the contractual agreement between the eligible participant and the qualified entity;

(II) to use the funds described in subclause (I) only for 1 or more eligible expenditures described in paragraph (5)(A); and

(III) to complete financial training; and

(ii) the qualified entity agrees—

(I) to deposit, not later than 1 month after an amount is deposited pursuant to clause (i)(I), at least a 100-percent, and up to a 200-percent, match of that amount into the individual development account established for the eligible participant; and

(II) with uses of funds proposed by the eligible participant.

(C) Limitation

(i) In general

A qualified entity administering a demonstration program under this section may

provide not more than $6,000 for each fiscal year in matching funds to the individual development account established by the qualified entity for an eligible participant.

(ii) Treatment of amount

An amount provided under clause (i) shall not be considered to be a gift or loan for mortgage purposes.

(5) Eligible expenditures

(A) In general

An eligible expenditure described in this subparagraph is an expenditure—

(i) to purchase farmland or make a down payment on an accepted purchase offer for farmland;

(ii) to make mortgage payments on farmland purchased pursuant to clause (i), for up to 180 days after the date of the purchase;

(iii) to purchase breeding stock, fruit or nut trees, or trees to harvest for timber; and

(iv) for other similar expenditures, as determined by the Secretary.

(B) Timing

(i) In general

An eligible participant may make an eligible expenditure at any time during the 2-year period beginning on the date on which the last matching funds are provided under paragraph (4)(B)(ii)(I) to the individual development account established for the eligible participant.

(ii) Unexpended funds

At the end of the period described in clause (i), any funds remaining in an individual development account established for an eligible participant shall revert to the reserve fund of the demonstration program under which the account was established.

(c) Applications

(1) In general

A qualified entity that seeks to carry out a demonstration program under this section may submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.

(2) Criteria

In considering whether to approve an application to carry out a demonstration program under this section, the Secretary shall assess—

(A) the degree to which the demonstration program described in the application is likely to aid eligible participants in successfully pursuing new farming opportunities;

(B) the experience and ability of the qualified entity to responsibly administer the demonstration program;

(C) the experience and ability of the qualified entity in recruiting, educating, and assisting eligible participants to increase economic independence and pursue or advance farming opportunities;

(D) the aggregate amount of direct funds from non-Federal public sector and private sources that are formally committed to the demonstration program as matching contributions;

(E) the adequacy of the plan of the qualified entity to provide information relevant to an evaluation of the demonstration program; and

(F) such other factors as the Secretary considers to be appropriate.

(3) Preferences

In considering an application to conduct a demonstration program under this section, the Secretary shall give preference to an application from a qualified entity that demonstrates—

(A) a track record of serving clients targeted by the program, including, as appropriate, socially disadvantaged farmers or ranchers (as defined in section 2003(e)(2) of this title); and

(B) expertise in dealing with financial management aspects of farming.

(4) Approval

Not later than 1 year after the date of enactment of this section, in accordance with this section, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration programs as the Secretary considers appropriate.

(5) Term of authority

If the Secretary approves an application to carry out a demonstration program, the Secretary shall authorize the applicant to carry out the project for a period of 5 years, plus an additional 2 years to make eligible expenditures in accordance with subsection (b)(5)(B).

(d) Grant authority

(1) In general

The Secretary shall make a grant to a qualified entity authorized to carry out a demonstration program under this section.

(2) Maximum amount of grants

The aggregate amount of grant funds provided to a demonstration program carried out under this section shall not exceed $250,000.

(3) Timing of grant payments

The Secretary shall pay the amounts awarded under a grant made under this section—

(A) on the awarding of the grant; or

(B) pursuant to such payment plan as the qualified entity may specify.

(e) Reports

(1) Annual progress reports

(A) In general

Not later than 60 days after the end of the calendar year in which the Secretary authorizes a qualified entity to carry out a demonstration program under this section, and annually thereafter until the conclusion of the demonstration program, the qualified entity shall prepare an annual report that includes, for the period covered by the report—

(i) an evaluation of the progress of the demonstration program;

(ii) information about the demonstration program, including the eligible participants and the individual development accounts that have been established; and

(iii) such other information as the Secretary may require.

(B) Submission of reports

A qualified entity shall submit each report required under subparagraph (A) to the Secretary.

(2) Reports by the Secretary

Not later than 1 year after the date on which all demonstration programs under this section are concluded, the Secretary shall submit to Congress a final report that describes the results and findings of all reports and evaluations carried out under this section.

(f) Annual review

The Secretary may conduct an annual review of the financial records of a qualified entity—

(1) to assess the financial soundness of the qualified entity; and

(2) to determine the use of grant funds made available to the qualified entity under this section.

(g) Regulations

In carrying out this section, the Secretary may promulgate regulations to ensure that the program includes provisions for—

(1) the termination of demonstration programs;

(2) control of the reserve funds in the case of such a termination;

(3) transfer of demonstration programs to other qualified entities; and

(4) remissions from a reserve fund to the Secretary in a case in which a demonstration program is terminated without transfer to a new qualified entity.

(h) Authorization of appropriations

There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, § 333B, as added Pub. L. 110–234, title V, § 5301, May 22, 2008, 122 Stat. 1147, and Pub. L. 110–246, § 4(a), title V, § 5301, June 18, 2008, 122 Stat. 1664, 1908.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(4), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 1983b, Pub. L. 87–128, title III, § 333B, as added Pub. L. 99–198, title XIII, § 1313(a), Dec. 23, 1985, 99 Stat. 1525; amended Pub. L. 100–233, title VI, § 608, Jan. 6, 1988, 101 Stat. 1667; Pub. L. 101–624, title XVIII, § 1812, Nov. 28, 1990, 104 Stat. 3821, related to appeals from adverse decisions under the Consolidated Farm and Rural Development Act, prior to repeal by Pub. L. 103–354, title II, § 281(c), Oct. 13, 1994, 108 Stat. 3233. See section 6991 et seq. of this title.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

§ 1983c. Provision of information to borrowers

(a) In general

On request of a farm borrower of a farmer program loan, the Secretary shall make available to the borrower the following:

(1) One copy of each document signed by the borrower.

(2) One copy of each appraisal performed with respect to the loan.

(3) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

(b) Construction of section

Subsection (a) of this section shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect immediately before January 6, 1988, unless such duty is in direct conflict with any duty imposed by subsection (a) of this section.

(Pub. L. 87–128, title III, § 333C, as added Pub. L. 100–233, title VI, § 609, Jan. 6, 1988, 101 Stat. 1668.)

§ 1984. Taxation

All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this chapter other than property used for administrative purposes shall be subject to taxation by State, territory, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided, however*, That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

(1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;

(2) any notes or lien instruments administered under this chapter which are made, assigned, or held by a person otherwise liable for such tax; or

(3) the value of any property conveyed or transferred to the Secretary,

whether as a tax on the instrument, the privilege of conveying or transferring or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal court.

(Pub. L. 87–128, title III, § 334, Aug. 8, 1961, 75 Stat. 315.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

§ 1985. Security servicing

(a) Preservation and protection of security, lien, or priority of lien securing loan

The Secretary is authorized and empowered to make advances, without regard to any loan or total indebtedness limitation, to preserve and

protect the security for or the lien or priority of the lien securing any loan or other indebtedness owing to, insured by, or acquired by the Secretary under this chapter or under any other programs administered by the Farmers Home Administration or the Rural Development Administration; to bid for and purchase at any execution, foreclosure, or other sale or otherwise to acquire property upon which the United States has a lien by reason of a judgment or execution arising from, or which is pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of, any such indebtedness whether or not such property is subject to other liens, to accept title to any property so purchased or acquired; and to sell, manage, or otherwise dispose of such property as hereinafter provided.

(b) Operation or lease of realty

Except as provided in subsections (c) and (e) of this section, real property administered under the provisions of this chapter may be operated or leased by the Secretary for such period or periods as the Secretary may deem necessary to protect the Government's investment therein.

(c) Sale of property

(1) In general

Subject to this subsection and subsection (e)(1)(A) of this section, the Secretary shall offer to sell real property that is acquired by the Secretary under this chapter using the following order and method of sale:

(A) Advertisement

Not later than 15 days after acquiring real property, the Secretary shall publicly advertise the property for sale.

(B) Beginning farmer or rancher; socially disadvantaged farmer or rancher

(i) In general

Not later than 135 days after acquiring real property, the Secretary shall offer to sell the property to a qualified beginning farmer or rancher or a socially disadvantaged farmer or rancher at current market value based on a current appraisal.

(ii) Random selection

If more than 1 qualified beginning farmer or rancher or socially disadvantaged farmer or rancher offers to purchase the property, the Secretary shall select between the qualified applicants on a random basis.

(iii) Appeal of random selection

A random selection or denial by the Secretary of a beginning farmer or rancher or a socially disadvantaged farmer or rancher for farm inventory property under this subparagraph shall be final and not administratively appealable.

(iv) Combining and dividing of property

To the maximum extent practicable, the Secretary shall maximize the opportunity for beginning farmers or ranchers and socially disadvantaged farmers or ranchers to purchase real property acquired by the Secretary under this chapter by combining or dividing inventory parcels of the property in such manner as the Secretary determines to be appropriate.

(C) Public sale

If no acceptable offer is received from a qualified beginning farmer or rancher or a socially disadvantaged farmer or rancher under subparagraph (B) not later than 135 days after acquiring the real property, the Secretary shall, not later than 30 days after the 135-day period, sell the property after public notice at a public sale, and, if no acceptable bid is received, by negotiated sale, at the best price obtainable.

(2) Previous lease

In the case of real property acquired before April 4, 1996, that the Secretary leased before April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

(3) Interest

(A) In general

Subject to subparagraph (B), any conveyance of real property under this subsection shall include all of the interest of the United States in the property, including mineral rights.

(B) Conservation

The Secretary may for conservation purposes grant or sell an easement, restriction, development right, or similar legal right to real property to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.

(4) Other law

The Federal Property and Administrative Services Act of 1949[1] shall not apply to any exercise of authority under this chapter.

(5) Lease of property

(A) In general

Subject to subparagraph (B), the Secretary may not lease any real property acquired under this chapter.

(B) Exception

(i) Beginning farmer or rancher; socially disadvantaged farmer or rancher

The Secretary may lease or contract to sell to a beginning farmer or rancher or a socially disadvantaged farmer or rancher a farm or ranch acquired by the Secretary under this chapter if the beginning farmer or rancher or the socially disadvantaged farmer or rancher qualifies for a credit sale or direct farm ownership loan under subchapter I of this chapter but credit sale authority for loans or direct farm ownership loan funds, respectively, are not available.

(ii) Term

The term of a lease or contract to sell to a beginning farmer or rancher or a socially disadvantaged farmer or rancher under clause (i) shall be until the earlier of—

[1] See References in Text note below.

(I) the date that is 18 months after the date of the lease or sale; or

(II) the date that direct farm ownership loan funds or credit sale authority for loans becomes available to the beginning farmer or rancher or the socially disadvantaged farmer or rancher.

(iii) Income-producing capability

In determining the rental rate on real property leased under this subparagraph, the Secretary shall consider the income-producing capability of the property during the term that the property is leased.

(6) Expedited determination

(A) In general

On the request of an applicant, not later than 30 days after denial of the applicant's application, the appropriate State director shall provide an expedited review and determination of whether the applicant is a beginning farmer or rancher or a socially disadvantaged farmer or rancher for the purpose of acquiring farm inventory property.

(B) Appeal

The determination of a State Director under subparagraph (A) shall be final and not administratively appealable.

(C) Effects of determinations

(i) In general

The Secretary shall maintain statistical data on the number and results of determinations made under subparagraph (A) and the effect of the determinations on—

(I) selling farm inventory property to beginning farmers or ranchers and socially disadvantaged farmers or ranchers; and

(II) disposing of real property in inventory.

(ii) Notification

The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary determines that the review process under subparagraph (A) is adversely affecting the selling of farm inventory property to beginning farmers or ranchers or socially disadvantaged farmers or ranchers or the disposing of real property in inventory.

(d) Easements; condemnations

With respect to any real property administered under this chapter, the Secretary is authorized to grant or sell easements or rights-of-way for roads, utilities, and other appurtenances not inconsistent with the public interest. With respect to any rights-of-way over land on which the United States has a lien administered under this chapter, the Secretary may release said lien upon payment to the United States of adequate consideration, and the interest of the United States arising under any such lien may be acquired for highway purposes by any State or political subdivision thereof in condemnation proceedings under State law by service by certified mail upon the United States attorney for the district, the State Director of the Farmers Home Administration for the State in which the farm is located, and the Attorney General of the United States: *Provided*, *however*, That the United States shall not be required to appear, answer, or respond to any notice or writ sooner than ninety days from the time such notice or writ is returnable or purports to be effective, and the taking or vesting of title to the interest of the United States shall not become final under any proceeding, order, or decree until adequate compensation and damages have been finally determined and paid to the United States or into the registry of the court.

(e) Real property located within Indian reservation; conservation practices; adverse effects prohibition

(1)(A)(i) Except as provided in subparagraph (D), if—

(I) the Secretary acquires property under this chapter that is located within an Indian reservation; and

(II) the borrower-owner is the Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of such Indian tribe;

the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

(ii) For purposes of this subparagraph, the term ''Indian reservation'' means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

(iii) Not later than 90 days after acquiring the property, the Secretary shall afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

(I) to an Indian member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;

(II) to an Indian corporate entity;

(III) to such Indian tribe.

(iv) The governing body of any Indian tribe having jurisdiction over an Indian reservation may revise the order of priority provided in clause (iii) under which lands located within such reservation shall be offered for purchase or lease by the Secretary under clause (iii) and may restrict the eligibility for such purchase or lease to—

(I) persons who are members of such Indian tribe,

(II) Indian corporate entities that are authorized by such Indian tribe to lease or pur-

chase lands within the boundaries of such reservation, or

(III) such Indian tribe itself.

(v) If real property described in clause (i) is not purchased or leased under clause (iii) and the Indian tribe having jurisdiction over the reservation within which the real property is located is unable to purchase or lease the real property, the Secretary shall transfer the real property to the Secretary of the Interior who shall administer the real property as if the real property were held in trust by the United States for the benefit of such Indian tribe. From the rental income derived from the lease of the transferred real property, and all other income generated from the transferred real property, the Secretary of the Interior shall pay those State, county, municipal, or other local taxes to which the transferred real property was subject at the time of acquisition by the Secretary, until the earlier of—

(I) the expiration of the 4-year period beginning on the date on which the real property is so transferred, or

(II) such time as the lands are transferred into trust pursuant to clause (viii).

(vi) At any time any real property is transferred to the Secretary of the Interior under clause (v), the Secretary of Agriculture shall be deemed to have no further responsibility under this Act for collection of any amounts with regard to the farm program loan which had been secured by such real property, nor with regard to any lien arising out of such loan transaction, nor for repayments of any amount with regard to such loan transactions or liens to the Treasury of the United States, and the Secretary of the Interior shall be deemed to have succeeded to all right, title and interest of the Secretary of Agriculture in such real estate arising from the farm program loan transaction, including the obligation to remit to the Treasury of the United States, in repayment of the original loan, those amounts provided in clause (vii).

(vii) After the payment of any taxes which are required to be paid under clause (v), all remaining rental income derived from the lease of the real property transferred to the Secretary of the Interior under clause (v), and all other income generated from the real property transferred to the Secretary of the Interior under clause (v), shall be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of—

(I) the amount of the outstanding lien of the United States against such real property, as of the date the real property was acquired by the Secretary;

(II) the fair market value of the real property, as of the date of the transfer to the Secretary of the Interior; or

(III) the capitalized value of the real property, as of the date of the transfer to the Secretary of the Interior.

(viii) When the total amount that is required to be deposited under clause (vii) with respect to any real property has been deposited into the Treasury of the United States, title to the real property shall be held in trust by the United States for the benefit of the Indian tribe having jurisdiction over the Indian reservation within which the real property is located.

(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within which the real property described in clause (i) is located may, at any time after the real property has been transferred to the Secretary of the Interior under clause (v), offer to pay the remaining amount on the lien, or the fair market value of the real property, whichever is less. Upon payment of such amount, title to such real property shall be held by the United States in trust for the tribe and such trust or restricted lands that have been acquired by the Secretary under foreclosure or voluntary transfer under a loan made or insured under this chapter and transferred to an Indian person, entity, or tribe under the provisions of this subparagraph shall be deemed to have never lost trust or restricted status.

(x) This subparagraph shall apply to all lands in the land inventory established under this chapter (as of November 28, 1990) that were (immediately prior to November 28, 1990) owned by an Indian borrower-owner described in clause (i) and that are situated within an Indian reservation (as defined in clause (ii)), regardless of the date of foreclosure or acquisition by the Secretary. The Secretary shall afford an opportunity to a tribal member, an Indian corporate entity, or the tribe to purchase or lease the real property as provided in clause (iii). If the right is not exercised or no expression of intent to exercise such right is received within 180 days after November 28, 1990, the Secretary shall transfer the real property to the Secretary of the Interior as provided in clause (v).

(B) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.

(C) As used in this paragraph, the term ''borrower-owner'' means—

(i) a borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this chapter; or

(ii) in any case in which an owner of property pledged the property to secure the loan and the owner is different than the borrower, the owner.

(D)(i) If—

(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this chapter; and

(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this chapter to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided in subparagraph (A), as modified by this subparagraph.

(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this chapter to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

(I) the provisions of subparagraph (A), this subparagraph, and subsection (g)(6)[1] of this section;

(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, that—

(aa) the Secretary may foreclose on the property;

(bb) in the event of foreclosure, the property will be offered for sale;

(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property or the outstanding principal and interest of the loan, whichever is higher;

(dd) the property may be purchased by another party; and

(ee) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this chapter; and

(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this chapter.

(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

(II) If a hazardous substance (as defined in section 9601(14) of title 42) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that it is in the best interests of the Federal Government.

(v) FORECLOSURE PROCEDURES.—

(I) NOTICE TO BORROWER.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide the Indian borrower-owner with the option of—

(aa) requiring the Secretary to assign the loan and security instruments to the Secretary of the Interior, if the Secretary of the Interior agrees to an assignment releasing the Secretary of Agriculture from all further responsibility for collection of any amounts with regard to the loan secured by the real property; or

(bb) requiring the Secretary to assign the loan and security instruments to the tribe having jurisdiction over the reservation in which the real property is located, if the tribe agrees to the assignment.

(II) NOTICE TO TRIBE.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

(aa) the sale;

(bb) the fair market value of the property; and

(cc) the requirements of this subparagraph.

(III) ASSUMED LOANS.—If an Indian tribe assumes a loan under subclause (I)—

(aa) the Secretary shall not foreclose the loan because of any default that occurred prior to the date of the assumption;

(bb) the loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property; and

(cc) the loan shall be treated as though the loan was made under sections 488 to 494 of title 25.

(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

(aa) the fair market value of the property; or

(bb) the outstanding principal and interest of the loan.

(II) If a hazardous substance (as defined in section 9601(14) of title 42) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal Government.

(2) The Secretary shall not offer for sale or sell any such farmland if the placing of such farmland on the market will have a detrimental effect on the value of farmland in the area.

(3)(A) The Secretary may sell farmland administered under this chapter through an installment sale or similar device that contains such terms as the Secretary considers necessary to protect the investment of the Federal Government in such land.

(B) The Secretary may subsequently sell any contract entered into to carry out subparagraph (A).

(4) In the case of farmland administered under this chapter that is highly erodible land (as defined in section 3801 of title 16), the Secretary may require the use of specified conservation practices on such land as a condition of the sale or lease of such land.

(5) Notwithstanding any other provisions of law, compliance by the Secretary with this subsection shall not cause any acreage allotment, marketing quota, or acreage base assigned to such property to lapse, terminate, be reduced, or otherwise be adversely affected.

(6) In the event of any conflict between any provision of this subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.

(f) Normal security income

(1) As used in this subsection, the term ''normal income security'' means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herd or flock, that is the basis of the farming or other operation, and is the basic security for a Farmers Home Administration farmer program loan.

(2) The Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

(3) A borrower whose account was accelerated on or after November 1, 1985, and on or before May 7, 1987, but not thereafter foreclosed on or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed $18,000 over 12 months, if such borrower—

(A) as of October 30, 1987, continued to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 2001 of this title.

(4) The county committee in the county in which borrower's land is located shall determine whether the borrower has complied with the requirements of paragraph (3)(A).

(5)(A) Within 45 days after January 6, 1988, the Secretary shall provide to the borrowers described in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days after receipt.

(C) Within 12 months after a borrower has requested restructuring under section 2001 of this title, the Secretary shall make a final determination on the request. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 2001 of this title is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary.

(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

(A) notify the borrower of such requirement; and

(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

(7) The Secretary shall issue regulations consistent with this section that—

(A) ensure the release of funds to each borrower; and

(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.

(g) Easements on inventoried property

(1) In general

Subject to paragraph (2), in the disposal of real property under this section, the Secretary shall establish perpetual wetland conservation easements to protect and restore wetlands or converted wetlands that exist on inventoried property.

(2) Limitation

The Secretary shall not establish a wetland conservation easement on an inventoried property that—

(A) was cropland on the date the property entered the inventory of the Secretary; or

(B) was used for farming at any time during the period beginning on the date 5 years before the property entered the inventory of the Secretary and ending on the date the property entered the inventory of the Secretary.

(3) Notification

The Secretary shall provide prior written notification to a borrower considering preservation loan servicing that a wetlands conservation easement may be placed on land for which the borrower is negotiating a lease option.

(4) Appraised value

The appraised value of the farm shall reflect the value of the land due to the placement of wetland conservation easements.

(Pub. L. 87–128, title III, § 335, Aug. 8, 1961, 75 Stat. 315; Pub. L. 92–419, title I, § 127, Aug. 30, 1972, 86 Stat. 666; Pub. L. 99–198, title XIII, §§ 1314(a), 1315, 1318(b)(1), Dec. 23, 1985, 99 Stat. 1526, 1528, 1531; Pub. L. 100–233, title VI, §§ 610, 611, Jan. 6, 1988, 101 Stat. 1669, 1673; Pub. L. 101–624, title XVIII, §§ 1813(a)–(h)(1), 1816(e), title XXIII, §§ 2303(c), 2388(g), Nov. 28, 1990, 104 Stat. 3821–3823, 3827, 3981, 4053; Pub. L. 102–237, title V, § 501(f), Dec. 13, 1991, 105 Stat. 1867; Pub. L. 102–552, title V, § 516(h)(1), Oct. 28, 1992, 106 Stat. 4138; Pub. L. 102–554, §§ 16, 17, Oct. 28, 1992, 106

Stat. 4154; Pub. L. 104–127, title VI, §§638, 639, Apr. 4, 1996, 110 Stat. 1093, 1097; Pub. L. 107–171, title V, §5308, May 13, 2002, 116 Stat. 345; Pub. L. 110–234, title V, §5302(a), May 22, 2008, 122 Stat. 1151; Pub. L. 110–246, §4(a), title V, §5302(a), June 18, 2008, 122 Stat. 1664, 1913.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (c)(4), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (§251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107–217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

This Act, referred to in subsec. (e)(1)(A)(vi), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be ''this title'' meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

Subsection (g)(6) of this section, referred to in subsec. (e)(1)(D)(iii)(I), was redesignated subsection (g)(3) of this section by Pub. L. 104–127, title VI, §639(4), Apr. 4, 1996, 110 Stat. 1097.

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. (c)(1)(B). Pub. L. 110–246, §5302(a)(1)(A), in heading, inserted ''; socially disadvantaged farmer or rancher'' at end, in cls. (i) and (iii), inserted ''or a socially disadvantaged farmer or rancher'' after ''beginning farmer or rancher'', in cl. (ii), inserted ''or socially disadvantaged farmer or rancher'' after ''beginning farmer or rancher'', and, in cl. (iv), substituted ''beginning farmers or ranchers and socially disadvantaged farmers or ranchers'' for ''beginning farmers and ranchers''.

Subsec. (c)(1)(C). Pub. L. 110–246, §5302(a)(1)(B), inserted ''or a socially disadvantaged farmer or rancher'' after ''beginning farmer or rancher''.

Subsec. (c)(5)(B)(i). Pub. L. 110–246, §5302(a)(2)(A), in heading, inserted ''; socially disadvantaged farmer or rancher'' at end and, in text, inserted ''or a socially disadvantaged farmer or rancher'' after ''a beginning farmer or rancher'' and ''or the socially disadvantaged farmer or rancher'' after ''the beginning farmer or rancher''.

Subsec. (c)(5)(B)(ii). Pub. L. 110–246, §5302(a)(2)(B), in introductory provisions, inserted ''or a socially disadvantaged farmer or rancher'' after ''a beginning farmer or rancher'' and, in subcl. (II), inserted ''or the socially disadvantaged farmer or rancher'' after ''the beginning farmer or rancher''.

Subsec. (c)(6)(A). Pub. L. 110–246, §5302(a)(3)(A), inserted ''or a socially disadvantaged farmer or rancher'' after ''beginning farmer or rancher''.

Subsec. (c)(6)(C). Pub. L. 110–246, §5302(a)(3)(B), in cl. (i)(I), substituted ''beginning farmers or ranchers and socially disadvantaged farmers or ranchers'' for ''beginning farmers and ranchers'' and, in cl. (ii), inserted ''or socially disadvantaged farmers or ranchers'' after ''beginning farmers or ranchers''.

2002—Subsec. (c)(1)(B)(i). Pub. L. 107–171, §5308(1)(A)(i), substituted ''135 days'' for ''75 days''.

Subsec. (c)(1)(B)(iv). Pub. L. 107–171, §5308(1)(A)(ii), added cl. (iv).

Subsec. (c)(1)(C). Pub. L. 107–171, §5308(1)(B), substituted ''135 days'' for ''75 days'' and ''135-day period'' for ''75-day period''.

Subsec. (c)(2). Pub. L. 107–171, §5308(2), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

''(A) PREVIOUS LEASE.—In the case of real property acquired prior to April 4, 1996, that the Secretary leased prior to April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

''(B) PREVIOUSLY IN INVENTORY.—In the case of real property acquired prior to April 4, 1996, that the Secretary has not leased, not later than 60 days after April 4, 1996, the Secretary shall offer to sell the property in accordance with paragraph (1).''

1996—Subsec. (b). Pub. L. 104–127, §638(1), substituted ''subsections (c) and (e)'' for ''subsection (e)''.

Subsec. (c). Pub. L. 104–127, §638(2), added subsec. (c) and struck out former subsec. (c) which authorized Secretary to determine whether real property administered under this chapter was suitable for disposition to persons eligible for assistance under provisions of any law administered by Farmers Home Administration or Rural Development Administration.

Subsec. (e)(1)(A). Pub. L. 104–127, §638(3)(A)(i)–(iii), redesignated subpar. (D) as (A), in cl. (i), substituted ''(D)'' for ''(G)'' in introductory provisions, added subcl. (I) and struck out former subcl. (I) which read as follows: ''the real property described in subparagraph (A)(i) is located within an Indian reservation,'', in subcl. (II), substituted a semicolon for '', and'' at end, and struck out subcl. (III) which read as follows: ''the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired,'', in cl. (iii), substituted ''Not later than 90 days after acquiring the property, the Secretary shall'' for ''The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A),'', and struck out former subpar. (A) which authorized the Secretary, during 180-day period beginning on date of acquisition, or during applicable period under State law, to allow borrower-owner to purchase or lease property, if such borrower-owner had acted in good faith with the Secretary.

Subsec. (e)(1)(B). Pub. L. 104–127, §638(3)(A)(i), (ii), redesignated subpar. (E) as (B) and struck out former subpar. (B) which read as follows: ''Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.''

Subsec. (e)(1)(C). Pub. L. 104–127, §638(3)(A)(i), (ii), redesignated subpar. (F) as (C) and struck out former subpar. (C) which authorized Secretary to give preference in sale or lease, with option to purchase, of property that had been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in specified order.

Subsec. (e)(1)(D). Pub. L. 104–127, §638(3)(A)(ii), (iv), redesignated subpar. (G) as (D), in cl. (i), substituted ''(A)'' for ''(D)'' in concluding provisions, in cl. (iii)(I), substituted ''subparagraph (A)'' for ''subparagraphs (C)(i), (C)(ii), and (D)'', and added cl. (v) and struck out former cl. (v) which read as follows: ''If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

''(I) the sale;

''(II) the fair market value of the property; and

''(III) the requirements of this subparagraph.''

Former subpar. (D) redesignated (A).

Subsec. (e)(1)(E) to (G). Pub. L. 104–127, §638(3)(A)(ii), redesignated subpars. (E) to (G) as (B) to (D), respectively.

Subsec. (e)(3). Pub. L. 104–127, § 638(3)(B), (C), (E), redesignated par. (4) as (3), struck out ''(i)'' before ''The Secretary may sell'', redesignated cl. (ii) of subpar. (A) as subpar. (B) and substituted ''subparagraph (A)'' for ''clause (i)'', struck out former subpar. (B) which read as follows: ''If two or more qualified operators of not larger than family-size farms desire to purchase, or lease with an option to purchase, such land, the appropriate county committee shall randomly select the operator who may purchase such land, on such basis as the Secretary may prescribe by regulation, in accordance with subsection (c)(2)(B)(iii) of this section.'', and struck out former par. (3) which directed the Secretary to issue regulations providing for leasing of real property, or leasing such property with option to purchase, on fair and equitable basis.

Subsec. (e)(4). Pub. L. 104–127, § 638(3)(E), redesignated par. (7) as (4). Former par. (4) redesignated (3).

Subsec. (e)(5). Pub. L. 104–127, § 638(3)(D), (E), redesignated par. (8) as (5) and struck out former par. (5) which read as follows:

''(5)(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subchapter I of this chapter because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c) of this section. Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 1925 of this title.

''(B) The Secretary shall dispose of such subdivided farmland in accordance with this subsection.''

Subsec. (e)(6). Pub. L. 104–127, § 638(3)(D), (E), redesignated par. (10) as (6) and struck out former par. (6) which read as follows: ''If suitable farmland is available for disposition under this subsection, the Secretary shall—

''(A) publish an announcement of the availability of such farmland in at least one newspaper that is widely circulated in the county in which the farmland is located;

''(B) post an announcement of the availability of such farmland in a prominent place in the local office of the Farmers Home Administration that serves the county in which the farmland is located; and

''(C) provide written notice reasonably calculated to inform the immediate previous owner or immediate previous family-size farm operator of such farmland, of the availability of such farmland.''

Subsec. (e)(7), (8). Pub. L. 104–127, § 638(3)(E), redesignated pars. (7) and (8) as (4) and (5), respectively.

Subsec. (e)(9). Pub. L. 104–127, § 638(3)(D), struck out par. (9) which read as follows: ''Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 1983b of this title.''

Subsec. (e)(10). Pub. L. 104–127, § 638(3)(E), redesignated par. (10) as (6).

Subsec. (g). Pub. L. 104–127, § 639(1)(A), inserted heading.

Subsec. (g)(1). Pub. L. 104–127, § 639(1), inserted heading, substituted ''Subject to paragraph (2)'' for ''Subject to paragraphs (2) through (5)'', and struck out '', as determined by the Secretary in accordance with title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.)'' after ''inventoried property''.

Subsec. (g)(2). Pub. L. 104–127, § 639(2), added par. (2) and struck out former par. (2) which read as follows: ''In establishing the wetland conservation easements on land that is considered to be cropland as of November 28, 1990, the Secretary shall avoid, to the extent practicable, an adverse impact on the productivity of the croplands, as provided in this subsection.''

Subsec. (g)(3). Pub. L. 104–127, § 639(3), (4), redesignated par. (6) as (3), inserted heading, and struck out former par. (3) which read as follows: ''In order to avoid the adverse impact, the Secretary shall—

''(A) not establish the wetland conservation easements with respect to wetlands that were converted prior to December 23, 1985, and that have been in cropland use, as determined by the Secretary, in excess of 10 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

''(B) not establish the wetland conservation easements with respect to wetlands that have been frequently planted to agricultural commodities and wetlands described in subparagraph (A), in excess of 20 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

''(C) ensure that the buffer area adjacent to the wetland is generally not more than 100 feet in average width; and

''(D) ensure that access to other portions of the property for farming and other uses is provided.''

Subsec. (g)(4). Pub. L. 104–127, § 639(3), (5), redesignated par. (7) as (4), inserted heading, and struck out former par. (4) which read as follows: ''The wetland conservation easements shall be placed on wetlands that have a history of haying and grazing, as determined by the Secretary, except that in no case shall the quantity of the wetland subject to the easements exceed 50 percent of the existing forage lands on the parcel of inventoried property. All haying and grazing practices on the wetlands (including the timing and intensity of haying and grazing) shall conform to forage management standards designed to protect wetlands.''

Subsec. (g)(5). Pub. L. 104–127, § 639(3), struck out par. (5) which read as follows: ''If, despite the limitations contained in paragraph (3), wetland conservation easements established under paragraph (1) would prevent a particular parcel of inventoried property that is to be sold or leased to a borrower described in clause (i), (ii), or (iii) of subsection (e)(1)(C) of this section, or to a borrower who is a beginning farmer or rancher, from being a marketable agricultural production unit that is comparable to the parcel as acquired, the Secretary may—

''(A) establish wetland conservation easements on wetland that was converted prior to December 23, 1985, in a quantity that is less than 10 percent of the existing croplands available for production of agricultural commodities on the particular parcel; and

''(B) if the reduction provided in subparagraph (A) is not applicable, or is not sufficient to ensure that the particular parcel would be a marketable agricultural production unit, amend the wetland conservation easements established on the wetlands that have been frequently planted to agricultural commodities to permit the production of agricultural commodities (consistent with title XII of the Food Security Act of 1985) on the wetlands, to the extent necessary to maintain the parcel as a marketable agricultural production unit.''

Subsec. (g)(6), (7). Pub. L. 104–127, § 639(4), (5), redesignated pars. (6) and (7) as (3) and (4), respectively.

Subsec. (g)(8). Pub. L. 104–127, § 639(3), struck out par. (8) which read as follows: ''Notwithstanding the limitations described under paragraphs (3) and (4), the limitations may be voluntarily, knowingly waived by any person with respect to real property described in paragraph (3) or (4).''

1992—Subsec. (c)(1). Pub. L. 102–554, § 16, in fourth sentence, inserted ''(A)'' after ''shall be'' and ''or (B) leased to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration or the Rural Development Administration under an annual lease or a lease with an option to purchase, with a preference for sale'' before period at end.

Subsec. (e)(1)(A)(i). Pub. L. 102–552, which, in amending directory language of Pub. L. 102–237, § 501(f)(1), directed the substitution of ''the borrower-owner (as defined in subparagraph (F))'' for ''borrower-owner (as defined in subparagraph (F))'', was executed by making the substitution in text which did not contain a closing parenthesis after ''(F)'', to reflect the probable intent of Congress. See 1991 Amendment note below.

Subsec. (e)(1)(D)(i). Pub. L. 102–554, § 17(1), substituted ''Except as provided in subparagraph (G), if'' for ''If''.

Subsec. (e)(1)(G). Pub. L. 102–554, § 17(2), added subpar. (G).

1991—Subsec. (e)(1)(A)(i). Pub. L. 102–237, § 501(f)(1), as amended by Pub. L. 102–552, substituted ''the borrower-owner (as defined in subparagraph (F))'' for ''the borrower from whom the Secretary acquired real farm or ranch property (including the principal residence of the borrower) used to secure any loan made to the borrower under this chapter (hereinafter referred to in this paragraph as the 'borrower-owner')''. See 1992 Amendment note above.

Subsec. (e)(1)(F). Pub. L. 102–237, § 501(f)(2), added subpar. (F).

1990—Subsec. (a). Pub. L. 101–624, §§ 1813(a), 2303(c)(1), inserted ''or the Rural Development Administration'' after ''Farmers Home Administration'' and substituted ''12 months from the date first published under paragraph (2)(D)'' for ''three years from the date of acquisition''.

Subsec. (c)(1). Pub. L. 101–624, § 2303(c)(2), inserted ''or the Rural Development Administration'' after ''Farmers Home Administration''.

Subsec. (c)(2)(A), (B). Pub. L. 101–624, § 1813(e)(1), added subpar. (A) and subpar. (B) introductory provisions, redesignated former subpars. (A) through (D) as cls. (i) through (iv), respectively, of subpar. (B), and struck out former introductory provisions which read as follows: ''Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subchapter to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall—''.

Subsec. (c)(2)(B)(ii). Pub. L. 101–624, § 1813(g)(1), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''offer suitable land at a price not greater than that which reflects the appraised market value of such land;''.

Subsec. (c)(2)(B)(iii). Pub. L. 101–624, § 1813(b)(1), inserted before semicolon '', except that if the committee determines that two or more applicants meet the loan eligibility criteria, the committee shall select between the qualified applicants on a random basis''.

Subsec. (c)(2)(B)(iv). Pub. L. 101–624, § 2388(g), substituted ''cause'' for ''caused''.

Subsec. (e)(1)(A)(i). Pub. L. 101–624, § 1813(c), substituted ''real farm or ranch property (including the principal residence of the borrower)'' for ''real property''.

Pub. L. 101–624, § 1816(e)(1), inserted before period at end '', if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with such loan''.

Subsec. (e)(1)(A)(iv). Pub. L. 101–624, § 1813(d), added cl. (iv).

Subsec. (e)(1)(C)(i). Pub. L. 101–624, § 1816(e)(2), inserted before period at end '', if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with the loan of such borrower-owner for which such property served as security''.

Subsec. (e)(1)(C)(iv), (v). Pub. L. 101–624, § 1813(e)(2), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (e)(1)(D)(x). Pub. L. 101–624, § 1813(f), added cl. (x).

Subsec. (e)(4)(B). Pub. L. 101–624, § 1813(g)(2), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''The Secretary shall offer such land for sale to operators of not larger than family-size farms at a price that reflects the average annual income that may be reasonably anticipated to be generated from farming such land.''

Subsec. (e)(4)(C). Pub. L. 101–624, § 1813(g)(2), redesignated former subpar. (C) as (B).

Pub. L. 101–624, § 1813(b)(2), substituted ''shall randomly'' for ''shall, by majority vote,'' and inserted '', in accordance with subsection (c)(2)(B)(iii) of this section''.

Subsec. (g). Pub. L. 101–624, § 1813(h)(1), added subsec. (g).

1988—Subsec. (c). Pub. L. 100–233, § 610(a), designated existing provisions as par. (1), inserted provisions requiring the County Committee to classify or reclassify real property that is farmland, as being suitable for farming operation for such disposition unless property cannot be used to meet any of the purposes of section 1923 of this title, and added par. (2).

Subsec. (e)(1). Pub. L. 100–233, § 610(b)(1), added par. (1) and struck out former par. (1) which read as follows: ''The Secretary shall to the extent practicable sell or lease farmland administered under this chapter in the following order of priority:

''(A) Sale of such farmland to operators (as of the time immediately before such sale) of not larger than family-size farms.

''(B) Lease of such farmland to operators (as of the time immediately before such lease is entered into) of not larger than family-size farms.''

Subsec. (e)(3). Pub. L. 100–233, § 610(b)(2), redesignated subpars. (B) to (D) as (A) to (C), respectively, in subpar. (B) substituted ''Secretary shall determine if the lessee'' for ''Secretary shall give special consideration to a previous owner or operator of such land if such owner or operator'', added subpar. (D), and struck out former subpar. (A) which read as follows: ''The Secretary shall consider granting, and may grant, to an operator of not larger than a family-size farm, in conjunction with paragraph (3), a lease with an option to purchase farmland administered under this chapter.''

Subsec. (e)(5)(A). Pub. L. 100–233, § 610(b)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to an operator of not larger than a family-size farm because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for family-size farms, the Secretary shall subdivide such land into tracts suitable for such operator.''

Subsec. (e)(6)(C). Pub. L. 100–233, § 610(b)(4), added subpar. (C).

Subsec. (e)(9), (10). Pub. L. 100–233, § 610(b)(5), added pars. (9) and (10).

Subsec. (f). Pub. L. 100–233, § 611, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(1) As used in this subsection, the term 'normal income security' has the same meaning given such term in section 1962.17(b) of title 7, Code of Federal Regulations (as of January 1, 1985).

''(2) Until such time as the Secretary accelerates a loan made or insured under this chapter, the Secretary shall release from the normal income security provided for such loan an amount sufficient to pay the essential household and farm operating expenses of the borrower, as determined by the Secretary.''

1985—Subsec. (b). Pub. L. 99–198, § 1314(a)(1), substituted ''Except as provided in subsection (e) of this section, real property'' for ''Real property''.

Subsec. (c). Pub. L. 99–198, § 1314(a)(2), substituted ''Except as provided in subsection (e) of this section, the Secretary'' for ''The Secretary'' and inserted sentence at end providing that notwithstanding the preceding sentence, the Secretary may for conservation purposes grant or sell an easement, restriction, development rights, or the equivalent thereof, to a unit of local or State government or a private nonprofit organization separately from the underlying fee or sum of all other rights possessed by the United States.

Pub. L. 99–198, § 1318(b)(1), which directed insertion of '', other than easements acquired under section 1997 of this title'' at end of last sentence, was executed to fifth sentence of subsec. (c), and not to sixth and last sentence as added by section 1314(a)(2)(B) of Pub. L. 99–198, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 99–198, § 1314(a)(3), added subsec. (e).

Subsec. (f). Pub. L. 99–198, § 1315, added subsec. (f).

1972—Subsec. (c). Pub. L. 92–419 substituted ''the provisions of any law administered by the Farmers Home Administration'' for ''subchapter I of this chapter'' in first sentence and ''such provisions'' for ''the provisions of subchapter I of this chapter'' in second sentence, struck out from fourth sentence initial minimum 20 per centum downpayment requirement and provision for payment of remainder in not more than five annual installments, and provided in such fourth sentence for interest rates and terms not more favorable than legally permissible for eligible borrowers.

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.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 638 of Pub. L. 104–127 effective Apr. 4, 1996, but not applicable with respect to complete application to acquire inventory property submitted prior to Apr. 4, 1996, and amendment by section 639 of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (c) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(h)(2) of Pub. L. 102–552 provided that: ''The amendments made by paragraph (1) of this subsection [amending section 501(f) of Pub. L. 102–237, see 1992 Amendment note above] shall take effect immediately after section 501(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 [probably should be Food, Agriculture, Conservation, and Trade Act Amendments of 1991 [Pub. L. 102–237]] took effect.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1816 of Pub. L. 101–624 applicable to new applications submitted under section 2001 of this title on or after Nov. 28, 1990, see section 1861 of Pub. L. 101–624, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1314(b) of Pub. L. 99–198 provided that: ''The Secretary of Agriculture shall implement the amendments made by this section [amending this section] not later than 90 days after the date of enactment of this Act [Dec. 23, 1985].''

COMPLETION OF SALES OF FARMERS HOME ADMINISTRATION INVENTORY FARMS

Pub. L. 102–142, title VII, § 740, Oct. 28, 1991, 105 Stat. 915, provided that: ''Hereafter, the Secretary shall complete the sales of Farmers Home Administration inventory farms, in accordance with the law and regulations in effect before November 28, 1990, in situations in which a County Committee, acting pursuant to section 335 of the Consolidated Farm and Rural Development Act [7 U.S.C. 1985], had made its initial selection of a buyer before November 28, 1990. Such sales shall be completed as soon as the selection decision is administratively final and all terms and conditions have been agreed to. In carrying out sales of inventory property, priority shall be given to the former owner and members of the immediate family.''

FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS

Section 623 of Pub. L. 100–233, as amended by Pub. L. 101–624, title XVIII, § 1852, Nov. 28, 1990, 104 Stat. 3837, provided that:

''(a) IN GENERAL.—The Secretary of Agriculture, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

''(1) informing persons eligible for assistance under any other provision of this Act [see Short Title of 1988 Amendment note set out under section 2001 of Title 12, Banks and Banking] of—

''(A) the possiblity [sic] of acquiring such inventory farmland; and

''(B) various farm ownership loan programs; and

''(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991 through 1995.''

§ 1986. Conflicts of interests

(a) Acceptance of fees, commissions, gifts, or other considerations prohibited

No officer, attorney, or other employee of the Secretary shall, directly or indirectly, be the beneficiary of or receive any fee, commission, gift, or other consideration for or in connection with any transaction or business under this chapter other than such salary, fee, or other compensation as he may receive as such officer, attorney, or employee.

(b) Acquisition of interest in land by certain officers or employees of Department of Agriculture prohibited; 3-year period

Except as otherwise provided in this subsection, no officer or employee of the Department of Agriculture who acts on or reviews an application made by any person under this chapter for a loan to purchase land may acquire, directly or indirectly, any interest in such land for a period of three years after the date on which such action is taken or such review is made. This prohibition shall not apply to a former member of a county committee upon a determination by the Secretary, prior to the acquisition of such interest, that such former member acted in good faith when acting on or reviewing such application.

(c) Certifications on loans to family members prohibited

No member of a county committee shall knowingly make or join in making any certification with respect to a loan to purchase any land in which he or any person related to him within the second degree of consanguinity or affinity has or may acquire any interest or with respect to any applicant related to him within the second degree of consanguinity or affinity.

(d) Penalties

Any persons violating any provision of this section shall, upon conviction thereof, be punished by a fine of not more than $2,000 or imprisonment for not more than two years, or both.

(Pub. L. 87–128, title III, § 336, Aug. 8, 1961, 75 Stat. 316; Pub. L. 98–258, title VI, § 606, Apr. 10, 1984, 98 Stat. 140; Pub. L. 107–171, title V, § 5501(b), May 13, 2002, 116 Stat. 351.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (b), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–171 struck out ''provided for in section 1982 of this title'' after ''former member of a county committee''.

1984—Pub. L. 98–258 designated first, second, and third sentences of existing provisions as subsecs. (a), (c), and (d), respectively, and added subsec. (b).

§ 1987. Debt adjustment and credit counseling; "summary period" defined; loan summary statements

(a) The Secretary may provide voluntary debt adjustment assistance between farmers and their creditors and may cooperate with State, territorial, and local agencies and committees engaged in such debt adjustment, and may give credit counseling.

(b)(1) As used in this subsection, the term ''summary period'' means—

(A) the period beginning on December 23, 1985, and ending on the date on which the first loan summary statement is issued after December 23, 1985; or

(B) the period beginning on the date of issuance of the preceding loan summary statement and ending on the date of issuance of the current loan summary statement.

(2) On the request of a borrower of a loan made or insured (but not guaranteed) under this chapter, the Secretary shall issue to such borrower a loan summary statement that reflects the account activity during the summary period for each loan made or insured under this chapter to such borrower, including—

(A) the outstanding amount of principal due on each such loan at the beginning of the summary period;

(B) the interest rate charged on each such loan;

(C) the amount of payments made on and their application to each such loan during the summary period and an explanation of the basis for the application of such payments;

(D) the amount of principal and interest due on each such loan at the end of the summary period;

(E) the total amount of unpaid principal and interest on all such loans at the end of the summary period;

(F) any delinquency in the repayment of any such loan;

(G) a schedule of the amount and date of payments due on each such loan; and

(H) the procedure the borrower may use to obtain more information concerning the status of such loans.

(Pub. L. 87–128, title III, § 337, Aug. 8, 1961, 75 Stat. 316; Pub. L. 99–198, title XIII, § 1316, Dec. 23, 1985, 99 Stat. 1528.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b)(2), see note set out under section 1921 of this title.

AMENDMENTS

1985—Pub. L. 99–198 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1988. Appropriations

(a) Authorization

There is authorized to be appropriated to the Secretary such sums as the Congress may from time to time determine to be necessary to enable the Secretary to carry out the purposes of this chapter and for the administration of assets transferred to the Farmers Home Administration or the Rural Development Administration.

(b) Sale by lender and any holder of guaranteed portion of loan pursuant to regulations governing such sales; limitations; issuance of pool certificates representing ownership of guaranteed portion of guaranteed loan; terms and conditions, etc.; reporting requirements

(1)(A) The guaranteed portion of any loan made under this chapter may be sold by the lender, and by any subsequent holder, in accordance with regulations governing such sales as the Secretary shall establish, subject to the following limitations:

(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

(ii) The loan is to have been fully disbursed to the borrower before the sale.

(B) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement.

(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for determining the increase of farmers' access to capital at reasonable rates and terms as a result of secondary market operations.

(D) This subsection shall not be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made under this chapter, or to impede or extinguish the rights of any party under any provision of this chapter.

(2)(A) The Secretary may, directly or through a market maker approved by the Secretary, issue pool certificates representing ownership of part or all of the guaranteed portion of any loan guaranteed by the Secretary under this chapter. Such certificates shall be based on and backed by a pool established or approved by the Secretary and composed solely of the entire guaranteed portion of such loans.

(B) The Secretary may, on such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certifi-

cate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection. The Secretary may expend amounts in the Agricultural Credit Insurance Fund to make payments on such guarantees.

(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

(E) Within 30 days after a borrower of a guaranteed loan is in default of any principal or interest payment due for 60 days or more, the Secretary shall—

(i) purchase the pool certificates representing ownership of the guaranteed portion of the loan; and

(ii) pay the registered holder of the certificates an amount equal to the guaranteed portion of the loan represented by the certificate.

(F)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment, as may be provided by the Secretary.

(ii) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of the Secretary's ownership rights in the portions of loans constituting the pool against which the certificates are issued.

(3) On the adoption of final rules and regulations, the Secretary shall do the following:

(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates sold under paragraphs (1) and (2). Such information shall include, with respect to each original sale and any subsequent sale, identification of the interest rate paid by the borrower to the lender, the lender's servicing fee, whether interest on the loan is at a fixed or variable rate, identification of each purchaser of a pool certificate, the interest rate paid on the certificate, and such other information as the Secretary deems appropriate.

(B) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under this chapter and to each prospective purchaser of a pool certificate issued under paragraph (2), information on the terms, conditions, and yield of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term ''seller'' does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

(C) Provide for adequate custody of any pooled guaranteed loans.

(D) Take such actions as are necessary, in restructuring pools of the guaranteed portion of loans, to minimize the estimated costs of paying claims under guarantees issued under this subsection.

(E) Require each market maker—

(i) to service all pools formed, and participations sold, by the market maker; and

(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments, prepayments, and default funds from lenders, to or from the reserve fund that the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

(F) Regulate market makers in pool certificates sold under this subsection.

(4) The Secretary may contract for goods and services to be used for the purposes of this subsection without regard to the provisions of titles 5, 40, and 41, and any regulations issued thereunder.

(Pub. L. 87–128, title III, § 338, Aug. 8, 1961, 75 Stat. 316; Pub. L. 89–429, § 5, May 24, 1966, 80 Stat. 167; Pub. L. 100–233, title VII, § 711(a), Jan. 6, 1988, 101 Stat. 1707; Pub. L. 100–399, title VI, § 605, Aug. 17, 1988, 102 Stat. 1006; Pub. L. 101–624, title XXIII, § 2303(d), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 104–127, title VII, § 749(a), Apr. 4, 1996, 110 Stat. 1129; Pub. L. 105–362, title I, § 101(a), Nov. 10, 1998, 112 Stat. 3281.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1998—Subsec. (b)(4), (5). Pub. L. 105–362 redesignated par. (5) as (4) and struck out former par. (4) which provided that not later than March 31 of each year, Secretary was to transmit to Congress a report on secondary market operations under subsec. (b) during preceding calendar year, and described contents of reports.

1996—Subsecs. (b) to (f). Pub. L. 104–127 redesignated subsec. (f) as (b) and struck out former subsecs. (b) to (e) which provided for: in subsec. (b), form and denomination of notes to obtain funds for making direct loans under this chapter as well as maturities, terms and conditions, interest rate, purchase by Treasury, and public debt transaction; in subsec. (c), establishment of Farmers Home Administration direct loan account as well as deposits into account, liabilities, obligations, expenditures, and net expenditure basis of budgeting; in subsec. (d), sale of notes and mortgages; and in subsec. (e), distribution of real estate loans among States.

1990—Subsec. (a). Pub. L. 101–624 inserted ''or the Rural Development Administration'' after ''Farmers Home Administration''.

1988—Subsec. (f)(5). Pub. L. 100–399 added par. (5).

Subsec. (f). Pub. L. 100–233 added subsec. (f).

1966—Subsec. (c). Pub. L. 89–429 inserted references to section 8 of the Watershed Protection and Flood Prevention Act, as amended, and section 32(e) of the Bankhead-Jones Farm Tenant Act, as amended.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–399 effective as if enacted immediately after enactment of Pub. L. 100–233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100–399, set out as a note under section 2002 of Title 12, Banks and Banking.

REGULATIONS

Section 711(b) of Pub. L. 100–233 provided that: ''Within 180 days after the date of the enactment of this Act [Jan. 6, 1988], the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section [amending this section and enacting provisions set out below].''

POOL CERTIFICATES NOT TO BE ISSUED UNTIL FINAL REGULATIONS TAKE EFFECT

Section 711(c) of Pub. L. 100–233 provided that: ''The Secretary of Agriculture shall not implement para-

graph (2) of section 338(f) [now 338(b)] of the Consolidated Farm and Rural Development Act [7 U.S.C. 1988(f) [now 1988(b)]], as added by subsection (a), until the final regulations governing the administration of such paragraph take effect.''

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

§ 1989. Rules and regulations

(a) In general

The Secretary is authorized to make such rules and regulations, prescribe the terms and conditions for making or insuring loans, security instruments and agreements, except as otherwise specified herein, and make such delegations of authority as he deems necessary to carry out this chapter.

(b) Debt service margin requirements

Notwithstanding subsection (a) of this section, in providing farmer program loan guarantees under this chapter, the Secretary shall consider the income of the borrower adequate if the income is equal to or greater than the income necessary—

(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

(2) to cover the necessary living expenses of the family of the borrower; and

(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1).

(c) Certified Lenders Program

(1) In general

The Secretary shall establish a program under which the Secretary shall guarantee loans for any purpose specified in subchapter II of this chapter that are made by lending institutions certified by the Secretary.

(2) Certification requirements

The Secretary shall certify a lending institution that meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate the loans of the institution.

(3) Condition of certification

As a condition of the certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection, using standards that are not less stringent than generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of the certification are being met.

(4) Effect of certification

Notwithstanding any other provision of law:

(A) The Secretary shall guarantee 80 percent of a loan made under this subsection by a certified lending institution as described in paragraph (1), subject to county committee certification that the borrower of the loan meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this chapter.

(B) With respect to loans to be guaranteed by the Secretary under this subsection, the Secretary shall permit certified lending institutions to make appropriate certifications (as provided by regulations issued by the Secretary)—

(i) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of farm operation; and

(ii) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

(C) The Secretary shall approve or disapprove a guarantee not later than 14 calendar days after the date that the lending institution applied to the Secretary for the guarantee. If the Secretary rejects the loan application within the 14-day period, the Secretary shall state, in writing, all of the reasons the application was rejected.

(5) Relationship to other requirements

Neither this subsection nor subsection (d) of this section shall affect the responsibility of the Secretary to certify eligibility, review financial information, and otherwise assess an application.

(d) Preferred Certified Lenders Program

(1) In general

Commencing not later than two years after October 28, 1992, the Secretary shall establish a Preferred Certified Lenders Program for lenders who establish their—

(A) knowledge of, and experience under, the program established under subsection (c) of this section;

(B) knowledge of the regulations concerning the guaranteed loan program; and

(C) proficiency related to the certified lender program requirements.

The Secretary shall certify any lending institution as a Preferred Certified Lender that meets such criteria as the Secretary may prescribe by regulation.

(2) Revocation of designation

The designation of a lender as a Preferred Certified Lender shall be revoked at any time that the Secretary determines that such lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of a Preferred Certified Lender are excessive as compared to other Preferred Certified Lenders, except that such suspension or revocation shall not affect any outstanding guarantee.

(3) Condition of certification

As a condition of such preferred certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by pru-

dent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of such certification are being met.

(4) Effect of preferred lender certification

Notwithstanding any other provision of law, the Secretary shall—

(A) guarantee 80 percent of an approved loan made by a certified lending institution as described in this subsection, subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this chapter;

(B) permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to credit worthiness, the closing, monitoring, collection and liquidation of loans, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

(C) be deemed to have guaranteed 80 percent of a loan made by a preferred certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application of such institution within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Secretary shall state, in writing, the reasons the application was rejected.

(e) Administration of Certified Lenders and Preferred Certified Lenders programs

The Secretary may administer the loan guarantee programs under subsections (c) and (d) of this section through central offices established in States or in multi-State areas.

(Pub. L. 87–128, title III, § 339, Aug. 8, 1961, 75 Stat. 318; Pub. L. 102–554, § 18, Oct. 28, 1992, 106 Stat. 4155; Pub. L. 106–31, title III, § 3019(a), May 21, 1999, 113 Stat. 99; Pub. L. 107–171, title V, § 5309, May 13, 2002, 116 Stat. 346.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–171 added subsec. (e).

1999—Subsec. (b)(3). Pub. L. 106–31 struck out '', including expenses of replacing capital items (determined after taking into account depreciation of the items)'' after ''paragraph (1)''.

1992—Pub. L. 102–554, inserted section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (d).

REGULATIONS

Section 23 of Pub. L. 102–554 provided that:

''(a) INTERIM REGULATIONS.—Not later than 180 days after the date of enactment of this Act [Oct. 28, 1992], the Secretary of Agriculture shall issue such interim regulations as are necessary to implement this Act [see Short Title of 1992 Amendment note set out under section 1921 of this title] and the amendments made by this Act.

''(b) FINAL REGULATIONS.—Not later than October 1, 1993, the Secretary of Agriculture shall issue such final regulations as are necessary to implement this Act and the amendments made by this Act.''

Pub. L. 100–233, title VI, § 624, Jan. 6, 1988, 101 Stat. 1685, provided that: ''Within 150 days after the date of the enactment of this title [Jan. 6, 1988], and after considering public comment obtained under section 553 of title 5, United States Code, the Secretary shall issue final regulations to carry out the amendments made by this title [enacting sections 1981d, 1981e, 1983c, and 2001 to 2005 of this title, amending sections 1927, 1927a, 1981, 1982, 1983b, 1985, 1991, 1997, 1999, and 2000 of this title, and amending provisions set out as a note under section 1999 of this title].''

STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS

Pub. L. 100–233, title VI, § 621, Jan. 6, 1988, 101 Stat. 1684, provided that: ''Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.], the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act [Jan. 6, 1988], are borrowers or potential borrowers of such loans, and shall demonstrate in such study that the implementation of such final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.''

AVAILABILITY OF FUNDS FOR CONTINUING ASSISTANCE TO DELINQUENT BORROWERS; PROHIBITION ON USE OF FUNDS

Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 429, provided in part that:

''Hereafter, funds appropriated or available to the Farmers Home Administration under this or any other Act to make or to service farm loans shall be available for continuing assistance to delinquent borrowers on the basis of the policies contained in Farmers Home Administration Announcement Number 1113–1960, dated November 30, 1984.

''Hereafter, none of the funds appropriated or made available by this or any other Act, or otherwise made available to the Secretary of Agriculture or the Farmers Home Administration, may be used to implement section 1944.16(c)(1) of title 7, Code of Federal Regulations, as published in 52 Federal Register 11983 (April 14, 1987) or any other regulation that would have the same effect as such regulation.''

COORDINATED FINANCIAL STATEMENTS; USE OF SUBMISSION REQUIREMENT PROHIBITED

Pub. L. 99–198, title XIII, § 1325, Dec. 23, 1985, 99 Stat. 1540, provided that: ''The Secretary of Agriculture shall not use or require the submission of the coordinated financial statement referred to in the proposed regulations of the Farmers Home Administration published in the Federal Register of November 8, 1983 (48 F.R. 51312–51317) in connection with an application submitted on or after the date of the enactment of this Act [Dec. 23, 1985] for any loan under any program of the Department of Agriculture carried out by the Farmers Home Administration.''

§ 1990. Transfer of lands to Secretary

The President may at any time in his discretion transfer to the Secretary any right, inter-

est, or title held by the United States in any lands acquired in the program of national defense and no longer needed therefor, which the President shall find suitable for the purposes of this chapter, and the Secretary shall dispose of such lands in the manner and subject to the terms and conditions of the chapter.

(Pub. L. 87–128, title III, § 340, Aug. 8, 1961, 75 Stat. 318.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

DELEGATION OF FUNCTIONS

Authority of President under this section in his discretion to transfer to Secretary of Agriculture any right, interest or title held by United States in any lands acquired in program of national defense and no longer needed for that program, and to determine suitability of lands to be transferred, for purposes referred to in this section, delegated to Administrator of General Services, provided, that exercise by Administrator of authority delegated to him herein shall require concurrence of Secretary of Defense as to absence of further need of lands for national defense program, see section 1(15) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 1991. Definitions

(a) As used in this chapter:

(1) The term ''farmer'' includes a person who is engaged in, or who, with assistance afforded under this chapter, intends to engage in, fish farming.

(2) The term ''farming'' shall be deemed to include fish farming.

(3) The term ''owner-operator'' shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee-operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this chapter, and that there is a reasonable probability of accomplishing the objectives and repayment of such loan.

(4) The word ''insure'' as used in this chapter includes guarantee, which means to guarantee the payment of a loan originated, held, and serviced by a private financial agency or other lender approved by the Secretary.

(5) The term ''contract of insurance'' includes a contract of guarantee.

(6) The terms ''United States'' and ''State'' shall include each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, to the extent the Secretary determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands.

(7) The term ''joint operation'' means a joint farming operation in which two or more farmers work together sharing equally or unequally land, labor, equipment, expenses, and income.

(8) The term ''beginning farmer or rancher'' means such term as defined by the Secretary.

(9) The term ''direct loan'' means a loan made or insured from funds in the account created by section 1929 of this title.

(10) The term ''farmer program loan'' means a farm ownership loan (FO) under section 1923 of this title, operating loan (OL) under section 1942 of this title, soil and water loan (SW) under section 1924 of this title, emergency loan (EM) under section 1961 of this title, economic emergency loan (EE) under section 202 of the Emergency Agricultural Credit Adjustment Act (title II of Public Law 95-334), economic opportunity loan (EO) under the Economic Opportunity Act of 1961 (42 U.S.C. 2942), softwood timber loan (ST) under section 1254 of the Food Security Act of 1985, or rural housing loan for farm service buildings (RHF) under section 1472 of title 42.

(11) The term ''qualified beginning farmer or rancher'' means an applicant, regardless of whether the applicant is participating in a program under section 1935 of this title—

(A) who is eligible for assistance under this chapter;

(B) who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years;

(C) in the case of a cooperative, corporation, partnership, or joint operation, who has members, stockholders, partners, or joint operators who are all related to one another by blood or marriage;

(D)(i) in the case of an owner and operator of a farm or ranch, who—

(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant—

(aa) materially and substantially participates in the operation of the farm or ranch; and

(bb) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, has members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers; and

(ii) in the case of an applicant seeking to own and operate a farm or ranch, who—

(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant, will—

(aa) materially and substantially participate in the operation of the farm or ranch; and

(bb) provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or

joint operation, will have members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers;

(E) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

(F) who does not own land or who, directly or through interests in family farm corporations, owns land, the aggregate acreage of which does not exceed 30 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the farm or ranch operations of the applicant are located, as reported in the most recent census of agriculture, except that this subparagraph shall not apply to a loan made or guaranteed under subchapter II of this chapter; and

(G) who demonstrates that the available resources of the applicant and spouse (if any) of the applicant are not sufficient to enable the applicant to continue farming or ranching on a viable scale.

(12) DEBT FORGIVENESS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''debt forgiveness'' means reducing or terminating a farmer program loan made or guaranteed under this chapter, in a manner that results in a loss to the Secretary, through—

(i) writing down or writing off a loan under section 2001 of this title;

(ii) compromising, adjusting, reducing, or charging-off a debt or claim under section 1981 of this title;

(iii) paying a loss on a guaranteed loan under section 2005 of this title; or

(iv) discharging a debt as a result of bankruptcy.

(B) EXCEPTIONS.—The term ''debt forgiveness'' does not include—

(i) consolidation, rescheduling, reamortization, or deferral of a loan; or

(ii) any write-down provided as part of a resolution of a discrimination complaint against the Secretary.

(13) RURAL AND RURAL AREA.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (G), the terms ''rural'' and ''rural area'' mean any area other than—

(i) a city or town that has a population of greater than 50,000 inhabitants; and

(ii) any urbanized area contiguous and adjacent to a city or town described in clause (i).

(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1), (2), and (24) of section 1926(a) of this title, the terms ''rural'' and ''rural area'' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21), and (24) of section 1926(a) of this title, the terms ''rural'' and ''rural area'' mean any area other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

(D) AREAS RURAL IN CHARACTER.—

(i) APPLICATION.—This subparagraph applies to—

(I) an urbanized area described in subparagraphs (A)(ii) and (F) that—

(aa) has 2 points on its boundary that are at least 40 miles apart; and

(bb) is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or an urbanized area of such city or town; and

(II) an area within an urbanized area described in subparagraphs (A)(ii) and (F) that is within ¼-mile of a rural area described in subparagraph (A).

(ii) DETERMINATION.—Notwithstanding any other provision of this paragraph, on the petition of a unit of local government in an area described in clause (i) or on the initiative of the Under Secretary for Rural Development, the Under Secretary may determine that a part of an area described in clause (i) is a rural area for the purposes of this paragraph, if the Under Secretary finds that the part is rural in character, as determined by the Under Secretary.

(iii) ADMINISTRATION.—In carrying out this subparagraph, the Under Secretary for Rural Development shall—

(I) not delegate the authority to carry out this subparagraph;

(II) consult with the applicable rural development State or regional director of the Department of Agriculture and the governor of the respective State;

(III) provide to the petitioner an opportunity to appeal to the Under Secretary a determination made under this subparagraph;

(IV) release to the public notice of a petition filed or initiative of the Under Secretary under this subparagraph not later than 30 days after receipt of the petition or the commencement of the initiative, as appropriate;

(V) make a determination under this subparagraph not less than 15 days, and not more than 60 days, after the release of the notice under subclause (IV);

(VI) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on actions taken to carry out this subparagraph; and

(VII) terminate a determination under this subparagraph that part of an area is a rural area on the date that data is available for the next decennial census conducted under section 141(a) of title 13.

(E) EXCLUSIONS.—Notwithstanding any other provision of this paragraph, in determining which census blocks in an urbanized area are not in a rural area (as defined in this paragraph), the Secretary shall exclude any cluster of census blocks that would otherwise be considered not in a rural area only because the cluster is adjacent to not more than 2 census blocks that are otherwise considered not in a rural area under this paragraph.

(F) URBAN AREA GROWTH.—

(i) APPLICATION.—This subparagraph applies to—

(I) any area that—

(aa) is a collection of census blocks that are contiguous to each other;

(bb) has a housing density that the Secretary estimates is greater than 200 housing units per square mile; and

(cc) is contiguous or adjacent to an existing boundary of a rural area; and

(II) any urbanized area contiguous and adjacent to a city or town described in subparagraph (A)(i).

(ii) ADJUSTMENTS.—The Secretary may, by regulation only, consider—

(I) an area described in clause (i)(I) not to be a rural area for purposes of subparagraphs (A) and (C); and

(II) an area described in clause (i)(II) not to be a rural area for purposes of subparagraph (C).

(iii) APPEALS.—A program applicant may appeal an estimate made under clause (i)(I) based on appropriate data for an area, as determined by the Secretary.

(G) HAWAII AND PUERTO RICO.—Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu Census Designated Place or the San Juan Census Designated Place.

(b) As used in sections 1927(e), 1981d, 1985(e) and (f), 1988(b), 2000(b) and (c), 2001, and 2005 of this title:

(1) The term ''borrower'' means any farm borrower who has outstanding obligations to the Secretary under any farmer program loan, without regard to whether the loan has been accelerated, but does not include any farm borrower all of whose loans and accounts have been foreclosed on or liquidated, voluntarily or otherwise.

(2) The term ''loan service program'' means, with respect to a farmer program borrower, a primary loan service program or a preservation loan service program.

(3) The term ''primary loan service program'' means—

(A) loan consolidation, rescheduling, or reamortization;

(B) interest rate reduction, including the use of the limited resource program;

(C) loan restructuring, including deferral, set aside, or writing down of the principal or accumulated interest charges, or both, of the loan; or

(D) any combination of actions described in subparagraphs (A), (B), and (C).

(4) PRESERVATION LOAN SERVICE PROGRAM.—The term ''preservation loan service program'' means homestead retention as authorized under section 2000 of this title.

(Pub. L. 87–128, title III, § 343, as added Pub. L. 87–703, title IV, § 401(5), Sept. 27, 1962, 76 Stat. 632; amended Pub. L. 89–586, Sept. 19, 1966, 80 Stat. 809; Pub. L. 92–419, title I, § 128(a), Aug. 30, 1972, 86 Stat. 666; Pub. L. 95–334, title I, § 124, Aug. 4, 1978, 92 Stat. 428; Pub. L. 96–438, § 2(2), Oct. 13, 1980, 94 Stat. 1872; Pub. L. 99–198, title XIII, § 1301(b), Dec. 23, 1985, 99 Stat. 1519; Pub. L. 100–233, title VI, § 602, Jan. 6, 1988, 101 Stat. 1665; Pub. L. 101–624, title XVIII, § 1814, title XXIII, § 2388(h), Nov. 28, 1990, 104 Stat. 3824, 4053; Pub. L. 102–237, title VII, § 702(h)(1), Dec. 13, 1991, 105 Stat. 1880; Pub. L. 102–554, § 19, Oct. 28, 1992, 106 Stat. 4158; Pub. L. 104–127, title VI, §§ 640, 661(h), title VII, § 749(b)(2), Apr. 4, 1996, 110 Stat. 1098, 1107, 1129; Pub. L. 105–113, § 3(c), Nov. 21, 1997, 111 Stat. 2275; Pub. L. 107–171, title V, § 5310, title VI, § 6020(a), May 13, 2002, 116 Stat. 346, 362; Pub. L. 110–234, title VI, § 6018(a), May 22, 2008, 122 Stat. 1170; Pub. L. 110–246, § 4(a), title VI, § 6018(a), June 18, 2008, 122 Stat. 1664, 1931.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 1921 of this title.

Section 202 of the Emergency Agricultural Credit Adjustment Act, referred to in subsec. (a)(10), is section 202 of Pub. L. 95–334, title II, Aug. 4, 1978, 92 Stat. 429, as amended, which was set out in a note preceding section 1961 of this title prior to repeal by Pub. L. 101–624, title XVIII, § 1851, Nov. 28, 1990, 104 Stat. 3837.

The Economic Opportunity Act of 1961, referred to in subsec. (a)(10), probably means the Economic Opportunity Act of 1964, Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (§ 2701 et seq.) of Title 42, The Public Health and Welfare, prior to repeal, except for titles VIII and X, by Pub. L. 97–35, title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (§ 2991 et seq.) and X (§ 2996 et seq.) of chapter 34 of Title 42. For complete classification of this Act to the Code, see Tables.

Section 1254 of the Food Security Act of 1985, referred to in subsec. (a)(10), is section 1254 of Pub. L. 99–198, title XII, Dec. 23, 1985, 99 Stat. 1517, which amended Pub. L. 98–258, § 608, set out as a note under section 1981 of this title.

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

Subsec. (a)(13). Pub. L. 110–246, § 6018(a), amended par. (13) generally, substituting provisions defining ''rural'' and ''rural area'', provisions defining such terms for the purpose of water and waste disposal grants and direct and guaranteed loans and community facility loans and grants, and provisions relating to areas rural in character, exclusions, urban area growth, and designations in Hawaii and Puerto Rico, for provisions defining ''rural'' and ''rural area'' and defining such

terms for the purpose of water and waste disposal grants and direct and guaranteed loans, community facility loans and grants, multijurisdictional regional planning organizations, and the rural business investment program.

2002—Subsec. (a)(11)(F). Pub. L. 107–171, § 5310(a), substituted ''30 percent'' for ''25 percent''.

Subsec. (a)(12)(B). Pub. L. 107–171, § 5310(b), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''The term 'debt forgiveness' does not include consolidation, rescheduling, reamortization, or deferral.''

Subsec. (a)(13). Pub. L. 107–171, § 6020(a), added par. (13).

1997—Subsec. (a)(11)(F). Pub. L. 105–113 struck out ''taken under section 142 of title 13'' after ''census of agriculture''.

1996—Subsec. (a)(10). Pub. L. 104–127, § 661(h)(1), struck out ''recreation loan (RL) under section 1924 of this title,'' before ''emergency loan (EM)''.

Subsec. (a)(11). Pub. L. 104–127, § 640(1)(A), in introductory provisions, substituted ''applicant, regardless of whether the applicant is participating in a program under section 1935 of this title'' for ''applicant''.

Subsec. (a)(11)(F). Pub. L. 104–127, § 640(1)(B), substituted ''25 percent'' for ''15 percent'' and inserted before semicolon at end '', except that this subparagraph shall not apply to a loan made or guaranteed under subchapter II of this chapter''.

Subsec. (a)(12). Pub. L. 104–127, § 640(2), added par. (12).

Subsec. (b). Pub. L. 104–127, §§ 661(h)(2)(A), 749(b)(2), in introductory provisions, substituted ''1988(b), 2000(b) and (c)'' for ''1988(f), 1999(h), 2000(b) and (c)''.

Subsec. (b)(4). Pub. L. 104–127, § 661(h)(2)(B), added par. (4) and struck out former par. (4) which read as follows: ''The term 'preservation loan service program' means—

''(A) homestead retention as authorized under section 2000 of this title; and

''(B) a leaseback or buyback of farmland authorized under section 1985 of this title.''

1992—Subsec. (a). Pub. L. 102–554 substituted ''this chapter:'' and par. (1) for ''this chapter (1) the term 'farmers' shall be deemed to include persons who are engaged in, or who, with assistance afforded under this chapter, intend to engage in, fish farming,'', in pars. (2) to (8), realigned margins and substituted ''The'' for ''the'' first place appearing in each par. and a period for a comma at end of each par., in par. (9), realigned margin and substituted ''The'' for ''the'' first place appearing and a period for '', and'' at end, in par. (10), realigned margin and substituted ''The'' for ''the'' first place appearing, and added par. (11).

1991—Subsec. (a)(1), (3). Pub. L. 102–237, § 702(h)(1)(A), (B), made technical amendment to directory language of Pub. L. 101–624, § 2388(h)(1), (2). See 1990 Amendment note below.

Subsec. (a)(5). Pub. L. 102–237, § 702(h)(1)(C), repealed Pub. L. 101–624, § 2388(h)(3). See 1990 Amendment note below.

1990—Subsec. (a)(1), (3). Pub. L. 101–624, § 2388(h)(1), (2), as amended by Pub. L. 102–237, § 702(h)(1)(A), (B), struck out ''and'' after ''fish farming,'' in par. (1), and ''and'' after ''such loan,'' in par. (3).

Subsec. (a)(5). Pub. L. 101–624, § 2388(h)(3), which directed substitution of '' 'contract of insurance' '' for ''contract of insurance'', was repealed by Pub. L. 102–237, § 702(h)(1)(C). See Construction of 1990 Amendment note below.

Subsec. (a)(8) to (10). Pub. L. 101–624, § 1814, added pars. (8) to (10).

1988—Pub. L. 100–233 designated existing provisions as subsec. (a) and added subsec. (b).

1985—Pub. L. 99–198 added cl. (7).

1980—Pub. L. 96–438 added cl. (3). For termination of former cl. (3) as added by Pub. L. 89–586, see Effective and Termination Date of 1966 Amendment note below.

1978—Pub. L. 95–334 added cl. (6).

1972—Pub. L. 92–419 added cls. (4) and (5).

1966—Pub. L. 89–586 struck out ''and'' before ''(2)'' and inserted cl. (3) defining ''owner-operator''. See Effective and Termination Date of 1966 Amendment note below.

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.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 3(d) of Pub. L. 104–113 provided that: ''This section [amending this section and repealing section 142 of Title 13, Census] and the amendments made by this section shall take effect October 1, 1998.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 640(1) of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, and amendment by sections 640(2) and 661(h) of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(7) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE AND TERMINATION DATE OF 1966 AMENDMENT

Pub. L. 89–586, as amended by Pub. L. 90–426, July 26, 1968, 82 Stat. 445, provided in part that the amendment made by Pub. L. 89–586 is effective only for the period of time commencing with Sept. 19, 1966, and ending on June 30, 1970.

CONSTRUCTION OF 1990 AMENDMENT

Section 702(h)(2) of Pub. L. 102–237, as amended by Pub. L. 102–552, title V, § 516(k), Oct. 28, 1992, 106 Stat. 4139, provided that: ''The Consolidated Farm and Rural Development Act [see Short Title note set out under section 1921 of this title] shall be applied and administered as if the amendment made by section 2388(h)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 [Pub. L. 101–624, amending this section] had never been enacted.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1992. Loan limitations

No loan (other than one to a public body or nonprofit association (including Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups) for community facilities or one of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972) shall be made by the Secretary either for sale as an insured loan or otherwise under sections 1926(a)(1), 1932, or 1942(c) of this title unless the Secretary shall have determined that no other lender is willing to make such loan and assume 10 per centum of any loss sustained thereon. No contract guaranteeing any such loan by such other lender shall require the Secretary to guarantee more than 90 per centum of the principal and interest on such loan.

(Pub. L. 87–128, title III, § 344, as added Pub. L. 92–419, title I, § 129, Aug. 30, 1972, 86 Stat. 666; amended Pub. L. 94–35, § 2, June 16, 1975, 89 Stat. 214; Pub. L. 104–127, title VI, § 661(i), Apr. 4, 1996, 110 Stat. 1107.)

REFERENCES IN TEXT

For statutory changes to section 1926(a)(1) of this title by the Rural Development Act of 1972, referred to in text, see 1972 Amendment note for section 104 of Pub. L. 92–419, set out under section 1926 of this title. For complete classification of Rural Development Act of 1972 to the Code, see Short Title of 1972 Amendment note set out under section 1921 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127 substituted ''1926(a)(1), 1932, or 1942(c) of this title'' for ''1924(b), 1926(a)(1), 1932, 1942(b), or 1942(c) of this title''.

1975—Pub. L. 94–35 substituted ''guaranteed more than 90 per centum of the principal and interest on such loan'' for ''participate in more than 90 per centum of any loss sustained thereon''.

§ 1993. Transition to private commercial or other sources of credit

(a) In general

In making or insuring a farm loan under subchapter I or II, the Secretary shall establish a plan and promulgate regulations (including performance criteria) that promote the goal of transitioning borrowers to private commercial credit and other sources of credit in the shortest period of time practicable.

(b) Coordination

In carrying out this section, the Secretary shall integrate and coordinate the transition policy described in subsection (a) with—

(1) the borrower training program established by section 2006a of this title;

(2) the loan assessment process established by section 2006b of this title;

(3) the supervised credit requirement established by section 2006c of this title;

(4) the market placement program established by section 2006d of this title; and

(5) other appropriate programs and authorities, as determined by the Secretary.

(Pub. L. 87–128, title III, § 345, as added Pub. L. 110–234, title V, § 5304, May 22, 2008, 110 Stat. 1153, and Pub. L. 110–246, § 4(a), title V, § 5304, June 18, 2008, 122 Stat. 1664, 1914.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 1993, Pub. L. 87–128, title III, § 345, as added Pub. L. 94–68, § 9, Aug. 5, 1975, 89 Stat. 382; amended Pub. L. 103–437, § 4(a)(7), Nov. 2, 1994, 108 Stat. 4582, related to testimony by Secretary of Agriculture before congressional committees, prior to repeal by Pub. L. 104–127, title VII, § 750, Apr. 4, 1996, 110 Stat. 1129.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

§ 1994. Maximum amounts for loans authorized; long-term cost projections

(a) Maximum aggregate principal amounts for loans authorized

Effective October 1, 1979, the aggregate principal amount of loans under the programs authorized under each subchapter of this chapter during each three-year period thereafter shall not exceed such amounts as may be authorized by law after August 4, 1978. There shall be two amounts so established for each of such programs and for any maximum levels provided in appropriation Acts for the programs authorized under this chapter, one against which direct and insured loans shall be charged and the other against which guaranteed loans shall be charged,.[1]

(b) Authorization for loans

(1) In general

The Secretary may make or guarantee loans under subchapters I and II of this chapter from the Agricultural Credit Insurance Fund provided for in section 1929 of this title for not more than $4,226,000,000 for each of fiscal years 2008 through 2012, of which, for each fiscal year—

(A) $1,200,000,000 shall be for direct loans, of which—

(i) $350,000,000 shall be for farm ownership loans under subchapter I of this chapter; and

(ii) $850,000,000 shall be for operating loans under subchapter II of this chapter; and

(B) $3,026,000,000 shall be for guaranteed loans, of which—

(i) $1,000,000,000 shall be for guarantees of farm ownership loans under subchapter I of this chapter; and

(ii) $2,026,000,000 shall be for guarantees of operating loans under subchapter II of this chapter.

(2) Beginning farmers and ranchers

(A) Direct loans

(i) Farm ownership loans

(I) In general

Of the amounts made available under paragraph (1) for direct farm ownership loans, the Secretary shall reserve an amount that is not less than 75 percent of the total amount for qualified beginning farmers and ranchers.

(II) Down payment loans; joint financing arrangements

Of the amounts reserved for a fiscal year under subclause (I), the Secretary shall reserve an amount not less than ⅔ of the amount for the down payment loan program under section 1935 of this title and joint financing arrangements under section 1927(a)(3)(D) of this title until April 1 of the fiscal year.

(ii) Operating loans

Of the amounts made available under paragraph (1) for direct operating loans, the Secretary shall reserve for qualified beginning farmers and ranchers—

(I) for each of fiscal years 1996 through 1998, 25 percent;

(II) for fiscal year 1999, 30 percent; and

[1] So in original.

(III) for each of fiscal years 2008 through 2012, an amount that is not less than 50 percent of the total amount.

(iii) Funds reserved until September 1

Except as provided in clause (i)(II), funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until September 1 of the fiscal year.

(B) Guaranteed loans

(i) Farm ownership loans

Of the amounts made available under paragraph (1) for guarantees of farm ownership loans, the Secretary shall reserve an amount that is not less than 40 percent of the total amount for qualified beginning farmers and ranchers.

(ii) Operating loans

Of the amounts made available under paragraph (1) for guarantees of operating loans, the Secretary shall reserve 40 percent for qualified beginning farmers and ranchers.

(iii) Funds reserved until April 1

Funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until April 1 of the fiscal year.

(C) Reserved funds for all qualified beginning farmers and ranchers

If a qualified beginning farmer or rancher meets the eligibility criteria for receiving a direct or guaranteed loan under section 1922, 1935, or 1941 of this title, the Secretary shall make or guarantee the loan if sufficient funds reserved under this paragraph are available to make or guarantee the loan.

(3) Transfer for down payment loans

(A) In general

Notwithstanding subsection (a) of this section, subject to subparagraph (B)—

(i) beginning on August 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers under the down payment loan program established under section 1935 of this title, if sufficient direct farm ownership loan funds are not otherwise available; and

(ii) beginning on September 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers, if sufficient direct farm ownership loan funds are not otherwise available.

(B) Limitation

The Secretary shall limit the transfer of funds under subparagraph (A) so that all guaranteed farm operating loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

(4) Transfer for credit sales of farm inventory property

(A) In general

Notwithstanding subsection (a) of this section, subject to subparagraphs (B) and (C), beginning on September 1 of each fiscal year, the Secretary may use available funds made available under subchapter III of this chapter for the fiscal year to fund the credit sale of farm real estate in the inventory of the Secretary.

(B) Supplemental appropriations

The transfer authority provided under subparagraph (A) shall not apply to any funds made available to the Secretary for any fiscal year under an Act making supplemental appropriations.

(C) Limitation

The Secretary shall limit the transfer of funds under subparagraph (A) so that all emergency disaster loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

(c) Development of long-term cost projections for loan program authorizations

The Secretary shall develop long-term cost projections for loan program authorizations required under subsection (a) of this section. Each such projection shall include analyses of (1) the long-term costs of the lending levels that the Secretary requests to be authorized under subsection (a) of this section and (2) the long-term costs for increases in lending levels beyond those requested to be authorized, based on increments of $10,000,000 or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and each three-year period thereafter shall be submitted to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations at the time the requests for authorizations for those periods are submitted to Congress. Not later than fifteen days after October 13, 1980, the Secretary shall submit to such committees long-term cost projections covering authorized lending levels for the loan programs for fiscal years 1981 and 1982.

(d) Low-income, limited-resource borrowers

(1) Notwithstanding any other provision of law, not less than 25 per centum of the loans for farm ownership purposes under subchapter I of this chapter, and not less than 25 per centum of the loans for farm operating purposes under subchapter II of this chapter, authorized to be insured, or made to be sold and insured, from the Agricultural Credit Insurance Fund during each fiscal year shall be for low-income, limited-resource borrowers.

(2) The Secretary shall provide notification to farm borrowers under this chapter, as soon as practicable after April 10, 1984, and in the normal course of loan making and loan servicing operations, of the provisions of this chapter relating to low-income, limited-resource borrowers and the procedures by which persons may

apply for loans under the low-income, limited-resource borrower program.

(Pub. L. 87–128, title III, § 346, as added Pub. L. 95–334, title I, § 125, Aug. 4, 1978, 92 Stat. 428; amended Pub. L. 96–438, § 4, Oct. 13, 1980, 94 Stat. 1876; Pub. L. 97–35, title I, § 164, Aug. 13, 1981, 95 Stat. 379; Pub. L. 98–258, title VI, § 607, Apr. 10, 1984, 98 Stat. 140; Pub. L. 99–198, title XIII, § 1317, Dec. 23, 1985, 99 Stat. 1529; Pub. L. 101–508, title I, § 1202(a), Nov. 5, 1990, 104 Stat. 1388–9; Pub. L. 101–624, title XXIII, § 2388(i), Nov. 28, 1990, 104 Stat. 4053; Pub. L. 102–237, title VII, §§ 701(h)(1)(F), 702(i), Dec. 13, 1991, 105 Stat. 1880, 1881; Pub. L. 102–554, § 20, Oct. 28, 1992, 106 Stat. 4159; Pub. L. 104–127, title VI, § 641, Apr. 4, 1996, 110 Stat. 1098; Pub. L. 107–171, title V, §§ 5311, 5312, May 13, 2002, 116 Stat. 346, 347; Pub. L. 110–234, title V, §§ 5302(b), 5303, May 22, 2008, 122 Stat. 1152; Pub. L. 110–246, § 4(a), title V, §§ 5302(b), 5303, June 18, 2008, 122 Stat. 1664, 1913, 1914.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (d)(2), see note set out under section 1921 of this title.

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, § 5303(1), substituted ''$4,226,000,000 for each of fiscal years 2008 through 2012'' for ''$3,796,000,000 for each of fiscal years 2003 through 2007'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 110–246, § 5303(2), in introductory provisions, substituted ''$1,200,000,000'' for ''$770,000,000'', in cl. (i), substituted ''$350,000,000'' for ''$205,000,000'', and, in cl. (ii), substituted ''$850,000,000'' for ''$565,000,000''.

Subsec. (b)(2)(A)(i). Pub. L. 110–246, § 5302(b)(1)(A), in subcl. (I), substituted ''an amount that is not less than 75 percent of the total amount'' for ''70 percent'' and, in subcl. (II), inserted ''; joint financing arrangements'' at end of heading and, in text, substituted ''an amount not less than ⅔ of the amount'' for ''60 percent'' and inserted ''and joint financing arrangements under section 1927(a)(3)(D) of this title'' after ''section 1935 of this title''.

Subsec. (b)(2)(A)(ii)(III). Pub. L. 110–246, § 5302(b)(1)(B), substituted ''2008 through 2012, an amount that is not less than 50 percent of the total amount'' for ''2003 through 2007, 35 percent''.

Subsec. (b)(2)(B)(i). Pub. L. 110–246, § 5302(b)(2), substituted ''an amount that is not less than 40 percent of the total amount'' for ''25 percent''.

2002—Subsec. (b)(1). Pub. L. 107–171, § 5311, reenacted heading without change and amended text generally. Prior to amendment, text related to guaranteed loans under subchapters I and II of this chapter from the Agricultural Credit Insurance Fund provided for in section 1929 of this title for fiscal years 1996 to 2002.

Subsec. (b)(2)(A)(ii)(III). Pub. L. 107–171, § 5312, substituted ''2003 through 2007'' for ''2000 through 2002''.

1996—Subsec. (a). Pub. L. 104–127, § 641(1), in second sentence, struck out ''with or without authority for the Secretary to transfer amounts between such categories within a given program for more effective administration'' before period at end.

Subsec. (b). Pub. L. 104–127, § 641(2), added subsec. (b) and struck out former subsec. (b), which set forth maximum amounts for direct and guaranteed loans under the Agricultural Credit Insurance Fund for fiscal years 1991 to 1995.

1992—Subsec. (b)(2). Pub. L. 102–554, § 20(b), inserted sentence at end.

Subsec. (b)(3)(D) to (G). Pub. L. 102–554, § 20(c), (d), added subpars. (D) to (G).

Subsec. (b)(5), (6). Pub. L. 102–554, § 20(a), (e), added pars. (5) and (6).

1991—Subsec. (b). Pub. L. 102–237, § 702(i), repealed Pub. L. 101–624, § 2388(i). See 1990 Amendment note below.

Subsec. (b)(3)(C). Pub. L. 102–237, § 701(h)(1)(F), substituted ''this chapter'' for ''this Act'' in two places.

1990—Subsec. (b). Pub. L. 101–624, § 2388(i), which amended subsec. (b), in par. (1)(B), by striking ''subparagraph (C)'' and inserting ''paragraph (3)''; in par. (1)(C), by striking ''subparagraph (A)'' and inserting ''paragraph (1)''; by redesignating pars. (1)(A), (B), (C), (D)(i), and (E) as (1), (2), (3), (4), and (5), respectively; in par. (2), by redesignating cls. (i), (ii), and (iii) as subpars. (A), (B), and (C), respectively; in subpars. (A) to (C) of par. (2), by redesignating subcls. (I) and (II) as cls. (i) and (ii), respectively; and in par. (5), by redesignating cls. (i), (ii), and (iii) as subpars. (A), (B), and (C), respectively, was repealed by Pub. L. 102–237, § 702(i). See Construction of 1990 Amendment note below.

Pub. L. 101–508, § 1202(a), amended subsec. (b) generally, substituting present provisions for provisions relating to maximum amounts for loans under the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund for fiscal years 1986 through 1988.

1985—Subsec. (b). Pub. L. 99–198, § 1317(a), amended subsec. (b) generally, substituting provisions setting maximum amounts for loans under the Agricultural Credit Insurance Fund and the Rural Development Insurance Fund for each of fiscal years ending September 30, 1986, through September 30, 1988, for provisions setting such amounts for each of fiscal years 1980, 1981, and 1982.

Subsecs. (d), (e). Pub. L. 99–198, § 1317, struck out subsec. (d) which authorized special amounts for fiscal year 1982, redesignated subsec. (e) as (d), and in par. (1) substituted ''25 per centum'' for ''20 per centum'' wherever appearing and ''each fiscal year'' for ''fiscal year 1984''.

1984—Subsec. (e). Pub. L. 98–258 added subsec. (e).

1981—Subsec. (d). Pub. L. 97–35 added subsec. (d).

1980—Pub. L. 96–438 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

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.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(h)(1)(F) of Pub. L. 102–237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, and amendment by section 702(i) of Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(7), (c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as an Effective Date note under section 940d of this title.

CONSTRUCTION OF 1990 AMENDMENT

Section 702(i) of Pub. L. 102–237 provided that: ''Subsection (i) of section 2388 of the Food, Agriculture, Conservation, and Trade Act of 1990 (104 Stat. 4053) [Pub. L. 101–624, amending this section] is hereby repealed and the Consolidated Farm and Rural Development Act [see Short Title note set out under section 1921 of this title]

shall be applied and administered as if the amendments made by such subsection had never been enacted.''

NULLIFICATION OF RESERVATION OF FUNDS DURING FISCAL YEAR 1999 FOR GUARANTEED LOANS FOR QUALIFIED BEGINNING FARMERS AND RANCHERS

Pub. L. 106–2, § 1, Mar. 15, 1999, 113 Stat. 5, provided that: ''Amounts shall be made available pursuant to section 346(b)(1)(D) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1994(b)(1)(D)] for guaranteed loans, without regard to any reservation under section 346(b)(2)(B) of such Act.''

§ 1995. Participation and financial and technical assistance by other Federal departments, etc., to program participants

Notwithstanding any other provision of law, other departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with the Secretary to any applicant to whom assistance is being provided under any program administered by the Farmers Home Administration. Participation by any other department, agency, or executive establishment shall be only to the extent authorized for, and subject to the authorities of, such other department, agency, or executive establishment, except that any limitation on joint participation is superseded by this section.

(Pub. L. 87–128, title III, § 347, as added Pub. L. 95–334, title I, § 125, Aug. 4, 1978, 92 Stat. 429.)

§ 1996. Loans to resident aliens

Notwithstanding the provisions of this chapter limiting the making and insuring of loans to citizens of the United States, the Secretary may make and insure loans under this chapter to aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.]: *Provided*, That no loans may be made or insured under this chapter to such aliens until the Secretary issues regulations establishing the terms and conditions under which such aliens may receive loans: *Provided further*, That the Secretary shall submit the regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least thirty days prior to the date the regulations are published in the Federal Register.

(Pub. L. 87–128, title III, § 348, as added Pub. L. 96–438, § 2(3), Oct. 13, 1980, 94 Stat. 1872.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

§ 1997. Conservation easements

(a) Definitions

For purposes of this section:

(1) The term ''governmental entity'' means any agency of the United States, a State, or a unit of local government of a State.

(2) The terms ''highly erodible land'' and ''wetland'' have the meanings, respectively, that such terms are given in section 3801 of title 16.

(3) The term ''wildlife'' means fish or wildlife as defined in section 3371(a) of title 16.

(4) The term ''recreational purposes'' includes hunting.

(b) Contracts on loan security properties

Subject to subsection (c) of this section, the Secretary may enter into a contract related to real property for conservation, recreation, or wildlife purposes.

(c) Limitations

The Secretary may enter into a contract under subsection (b) of this section if—

(1) such property is wetland, upland, or highly erodible land;

(2) such property is determined by the Secretary to be suitable for the purposes involved; and

(3)(A) such property secures any loan made under any law administered by the Secretary and held by the Secretary; and

(B) such contract better enables a qualified borrower to repay the loan in a timely manner, as determined by the Secretary.

(d) Terms and conditions

The terms and conditions specified in each such contract shall—

(1) specify the purposes for which such real property may be used;

(2) identify the conservation measures to be taken, and the recreational and wildlife uses to be allowed, with respect to such real property; and

(3) require such owner to permit the Secretary, and any person or governmental entity designated by the Secretary, to have access to such real property for the purpose of monitoring compliance with such contract.

(e) Purchase; limitation upon cancellation or prepayment

(1) Subject to paragraph (2), the Secretary may reduce or forgive the outstanding debt of a borrower—

(A) in the case of a borrower to whom the Secretary has made one or more outstanding loans under laws administered by the Secretary, by canceling that part of the aggregate amount of such outstanding loans that bears the same ratio to such aggregate amount as the number of acres of the real property of the borrower that are subject to the contract bears to the aggregate number of acres securing such loans; or

(B) in any other case, by treating as prepaid that part of the principal amount of a new loan to the borrower issued and held by the Secretary under a law administered by the Secretary that bears the same ratio to such principal amount as the number of acres of the real property of the borrower that are subject to the contract bears to the aggregate number of acres securing the new loan.

(2) The amount so canceled or treated as prepaid pursuant to paragraph (1) shall not exceed—

(A) in the case of a delinquent loan, the value of the land on which the contract is en-

tered into or the difference between the amount of the outstanding loan secured by the land and the value of the land, whichever is greater; or

(B) in the case of a nondelinquent loan, 33 percent of the amount of the loan secured by the land.

(f) Consultations with Director of Fish and Wildlife Service

If the Secretary elects to use the authority provided by this section, the Secretary shall consult with the Director of the Fish and Wildlife Service for purposes of—

(1) selecting real property in which the Secretary may enter into contracts under this section;

(2) formulating the terms and conditions of such contracts; and

(3) enforcing such contracts.

(g) Enforcement

The Secretary, and any person or governmental entity designated by the Secretary, may enforce a contract entered into by the Secretary under this section.

(Pub. L. 87–128, title III, § 349, as added Pub. L. 99–198, title XIII, § 1318(a), Dec. 23, 1985, 99 Stat. 1530; amended Pub. L. 100–233, title VI, § 612, Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101–624, title XVIII, § 1815, title XXIII, § 2388(j), Nov. 28, 1990, 104 Stat. 3825, 4053; Pub. L. 104–127, title VI, § 642, Apr. 4, 1996, 110 Stat. 1102.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–127, § 642(1), added subsec. (b) and struck out former subsec. (b) which read as follows: ''Subject to subsection (c) of this section, the Secretary may acquire and retain an easement in real property, for a term of not less than 50 years, for conservation, recreational, and wildlife purposes.''

Subsec. (c). Pub. L. 104–127, § 642(2)(A), inserted heading and substituted ''The Secretary may enter into a contract under subsection (b) of this section if'' for ''Such easement may be acquired or retained for real property if''.

Subsec. (c)(2). Pub. L. 104–127, § 642(2)(B), inserted ''and'' at end.

Subsec. (c)(3). Pub. L. 104–127, § 642(2)(C), struck out ''(i)'' after ''(3)(A)'', substituted ''administered by the Secretary'' for ''administered by the Farmers Home Administration'', redesignated cl. (ii) of subpar. (A) as subpar. (B), substituted ''such contract'' for ''such easement'' and a period for ''; or'' at end, and struck out former subpar. (B) which read as follows: ''such property is administered under this chapter by the Secretary; and''.

Subsec. (c)(4). Pub. L. 104–127, § 642(2)(D), struck out par. (4) which read as follows: ''such property was (except in the case of wetland and other wildlife habitat) row cropped each year of the 3-year period ending on December 23, 1985.''

Subsec. (d). Pub. L. 104–127, § 642(3), substituted ''contract'' for ''easement'' in introductory provisions and par. (3).

Subsec. (e). Pub. L. 104–127, § 642(4), in par. (1), substituted ''reduce or forgive the outstanding debt of a borrower'' for ''purchase any such easement from the borrower'' in introductory provisions, in subpars. (A) and (B), substituted ''administered by the Secretary'' for ''administered by the Farmers Home Administration'' and ''contract bears'' for ''easement bears'', and in par. (2)(A), substituted ''contract is entered into'' for ''easement is acquired''.

Subsec. (f). Pub. L. 104–127, § 642(5), in par. (1), substituted ''enter into contracts'' for ''acquire easements'' and in pars. (2) and (3), substituted ''contracts'' for ''easements''.

Subsec. (g). Pub. L. 104–127, § 642(6), substituted ''a contract entered into'' for ''an easement acquired''.

1990—Subsec. (a)(4), (5). Pub. L. 101–624, § 2388(j), redesignated par. (5) as (4).

Subsec. (c). Pub. L. 101–624, § 1815(1)(A)–(D), (F), (G), in introductory provision, struck out ''such property'' after ''real property if'', and inserted ''such property'' after par. (1), (2), (3)(A)(i), (3)(B), and (4) designations.

Subsec. (c)(3)(A)(ii). Pub. L. 101–624, § 1815(1)(E), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the borrower of such loan is unable, as determined by the Secretary, to repay such loan in a timely manner; or''.

Subsec. (e). Pub. L. 101–624, § 1815(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Any such easement acquired by the Secretary shall be purchased from the borrower involved by canceling that part of the aggregate amount of such outstanding loans of the borrower held by the Secretary under laws administered by the Farmers Home Administration that bears the same ratio to the aggregate amount of the outstanding loans of such borrower held by the Secretary under all such laws as the number of acres of the real property of such borrower that are subject to such easement bears to the aggregate number of acres securing such loans. In no case shall the amount so cancelled exceed the value of the land on which the easement is acquired or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.''

Subsec. (h). Pub. L. 101–624, § 1815(9), struck out subsec. (h) which read as follows: ''This section shall not apply with respect to the cancellation of any part of any loan that was made after December 25, 1985.''

1988—Subsec. (c)(4). Pub. L. 100–233, § 612(1), inserted ''and other wildlife habitat'' after ''wetland''.

Subsec. (e). Pub. L. 100–233, § 612(2), inserted ''or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater'' at end of second sentence.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

§ 1998. Guaranteed farm loan programs

Notwithstanding any other provision of this chapter, the Secretary shall ensure that farm loan guarantee programs carried out under this chapter are designed so as to be responsive to borrower and lender needs and to include provisions under reasonable terms and conditions for advances, before completion of the liquidation process, of guarantee proceeds on loans in default.

(Pub. L. 87–128, title III, § 350, as added Pub. L. 99–198, title XIII, § 1319, Dec. 23, 1985, 99 Stat. 1531.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

§ 1999. Interest rate reduction program

(a) Establishment of program

The Secretary shall establish and carry out in accordance with this section an interest rate reduction program for loans guaranteed under this chapter.

(b) Contracts with lenders

Under such program, the Secretary shall enter into a contract with, and make payments to, a

legally organized institution to reduce during the term of such contract the interest rate paid by a borrower on a guaranteed loan made by such institution if—

(1) the borrower—

(A) is unable to obtain sufficient credit elsewhere to finance the actual needs of the borrower at reasonable rates and terms, taking into consideration private and cooperative rates and terms for a loan for a similar purpose and period of time in the community in or near which the borrower resides;

(B) is otherwise unable to make payments on such loan in a timely manner; and

(C) has a total estimated cash income during the 24-month period beginning on the date such contract is entered into (including all farm and nonfarm income) that will equal or exceed the total estimated cash expenses to be incurred by the borrower during such period (including all farm and nonfarm expenses); and

(2) the lender reduces during the term of such contract the annual rate of interest payable on such loan by a minimum percentage specified in such contract.

(c) Payments to lenders

In return for a contract entered into by a lender under subsection (b) of this section for the reduction of the interest rate paid on a loan, the Secretary shall make payments to the lender in an amount equal to not more than 100 percent of the cost of reducing the annual rate of interest payable on such loan, except that such payments may not exceed the cost of reducing such rate by more than 4 percent.

(d) Duration of contracts

The term of a contract entered into under this section to reduce the interest rate on a guaranteed loan may not exceed the outstanding term of such loan.

(e) Agricultural Credit Insurance Fund use limitation

(1) Notwithstanding any other provision of this chapter, the Agricultural Credit Insurance Fund established under section 1929 of this title may be used by the Secretary to carry out this section.

(2) MAXIMUM AMOUNT OF FUNDS.—

(A) IN GENERAL.—The total amount of funds used by the Secretary to carry out this section for a fiscal year shall not exceed $750,000,000.

(B) BEGINNING FARMERS AND RANCHERS.—

(i) IN GENERAL.—The Secretary shall reserve not less than 15 percent of the funds used by the Secretary under subparagraph (A) to make payments for guaranteed loans made to beginning farmers and ranchers.

(ii) DURATION OF RESERVATION OF FUNDS.—Funds reserved for beginning farmers or ranchers under clause (i) for a fiscal year shall be reserved only until March 1 of the fiscal year.

(f) List of lender participants in guaranteed loan program

The Secretary shall make available to farmers, on request, a list of lenders in the area that participate in guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

(g) Foreclosure action provision in farm loan guarantees

Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this chapter after January 6, 1988, shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.

(Pub. L. 87–128, title III, § 351, as added Pub. L. 99–198, title XIII, § 1320, Dec. 23, 1985, 99 Stat. 1532; amended Pub. L. 100–233, title VI, § 613(b), (c), Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101–508, title I, § 1202(b)(1), (c), Nov. 5, 1990, 104 Stat. 1388–10, 1388–11; Pub. L. 104–105, title II, § 220, Feb. 10, 1996, 110 Stat. 184; Pub. L. 104–127, title VI, § 643(a), Apr. 4, 1996, 110 Stat. 1102; Pub. L. 107–171, title V, § 5313, May 13, 2002, 116 Stat. 347.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a)(1), (e)(1), and (g), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171, § 5313(1), struck out par. (1) designation and heading and struck out heading and text of par. (2). Text read as follows: ''The authority provided by this subsection shall terminate on September 30, 2002.''

Subsec. (e)(2). Pub. L. 107–171, § 5313(2), added par. (2) and struck out former par. (2) which read as follows: ''The total amount of funds used by the Secretary to carry out this section may not exceed $490,000,000.''

1996—Subsec. (a). Pub. L. 104–105 inserted heading, designated existing provisions as par. (1) and inserted heading, and added par. (2).

Subsec. (f). Pub. L. 104–127, § 643(a)(1), substituted ''The Secretary'' for ''Each Farmers Home Administration county supervisor'' and ''list of lenders'' for ''list of approved lenders'' and struck out ''the Farmers Home Administration'' before ''guaranteed farm loan programs''.

Subsec. (h). Pub. L. 104–127, § 643(a)(2), struck out subsec. (h) which established a demonstration project during 4-year period beginning Jan. 6, 1988, for purchase of Farm Credit System land.

1990—Subsec. (c). Pub. L. 101–508, § 1202(b)(1)(A), substituted ''100 percent'' for ''50 percent'' and ''4 percent'' for ''2 percent''.

Subsec. (d). Pub. L. 101–508, § 1202(b)(1)(B), struck out '', or 3 years, whichever is less'' after ''term of such loan''.

Subsec. (h)(1). Pub. L. 101–508, § 1202(c), substituted ''4-year'' for ''3-year''.

1988—Subsec. (b)(1)(C). Pub. L. 100–233, § 613(b)(1), substituted ''24-month'' for ''12-month''.

Subsecs. (f), (g). Pub. L. 100–233, § 613(b)(2), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 100–233, § 613(c), added subsec. (h).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective Nov. 29, 1990, see section 1301 of Pub. L. 101–508, set out as an Effective Date note under section 940d of this title.

EFFECTIVE AND TERMINATION DATES

That part of section 1320 of Pub. L. 99–198, as amended by Pub. L. 100–233, title VI, § 613(a), Jan. 6, 1988, 101 Stat. 1674; Pub. L. 101–508, title I, § 1202(b)(2), Nov. 5,

1990, 104 Stat. 1388–11, which provided that this section was effective only for the period beginning Dec. 23, 1985, and ending Sept. 30, 1995, was repealed by Pub. L. 104–127, title VI, § 643(b), Apr. 4, 1996, 110 Stat. 1103.

§ 2000. Homestead protection

(a) Definitions

As used in this section:

(1) The term ''Administrator'' means the Administrator of the Small Business Administration.

(2) The term ''borrower-owner'' means—

(A) a borrower of a loan made or insured by the Secretary or the Administrator who meets the eligibility requirements of subsection (c)(1) of this section; or

(B) in any case in which an owner of homestead property pledged the property to secure the loan and the owner is different than the borrower, the owner.

(3) The term ''farm program loan'' means any loan made by the Administrator under the Small Business Act (15 U.S.C. 631 et seq.) for any of the purposes authorized for loans under subchapters[1] I or II of this chapter.

(4) The term ''homestead property'' means the principal residence and adjoining property possessed and occupied by a borrower-owner specified in paragraph (2) of this subsection, including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual.

(5) The term ''Secretary'' means the Secretary of Agriculture.

(b) Occupancy of homestead upon foreclosure, bankruptcy, or liquidation; appraisal; period of occupancy

(1) The Secretary or the Administrator shall, on application by a borrower-owner who meets the eligibility requirements of subsection (c)(1) of this section, permit the borrower-owner to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

(A) the Secretary forecloses, holds in inventory on January 6, 1988, or takes into inventory, property securing a loan made or insured under this chapter;

(B) the Administrator forecloses, holds in inventory on January 6, 1988, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

(C) the borrower-owner of a loan made or insured by the Secretary or the Administrator files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part.

(2) The value of the homestead property shall be determined insofar as possible by an independent appraisal made within six months from the date of the borrower-owner's application to retain possession and occupancy of the homestead property.

(3) The period of occupancy of homestead property under this subsection may not exceed five years, but in no case shall the Secretary or the Administrator grant a period of occupancy less than three years, subject to compliance with the requirements of subsection (c) of this section.

(c) Terms and conditions

(1) To be eligible to occupy homestead property, a borrower-owner of a loan made or insured by the Secretary or the Administrator shall—

(A) apply for such occupancy not later than 30 days after the property is acquired by the Secretary or Administrator, or for property in inventory on January 6, 1988, the borrower-owner shall apply for occupancy not later than 30 days after January 6, 1988;

(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

(i) the size and location of the farming unit of the borrower-owner; and

(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower-owner and any spouse of the borrower-owner in at least 2 calendar years during any 6-year period described in subparagraph (B);

(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower-owner has, due to circumstances beyond the control of the borrower-owner, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located;

(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term ''farming or ranching operations'' shall include rent paid by lessees of agricultural land during any period in which the borrower-owner, due to circumstances beyond the control of the borrower-owner, is unable to actively farm such land.

(3) For the purposes of paragraph (1)(E), the failure of the borrower-owner to make timely rental payments shall constitute cause for the termination of all rights of such borrower-owner to possession and occupancy of the homestead

[1] So in original. Probably should be ''subchapter''.

property under this section. In effecting any such termination, the Secretary shall afford the borrower-owner or lessee the notice and hearing procedural rights described in section 1983b[2] of this title and shall comply with all applicable State and local laws governing eviction from residential property.

(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner, except that such period shall not exceed 5 years.

(B) At any time during the period of occupancy of a borrower-owner who is a socially disadvantaged farmer or rancher (as defined in section 2003(e)(2) of this title), the borrower-owner or a member of the immediate family of the borrower-owner shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower-owner or immediate family member, as the case may be, from a list of three appraisers approved by the county supervisor.

(5) No rights of a borrower-owner under this section, and no agreement entered into between the borrower-owner and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower-owner or by operation of any law, except that in the case of death or incompetency of such borrower-owner, such rights and agreements shall be transferable to the spouse of the borrower-owner if the spouse agrees to comply with the terms and conditions thereof.

(6) Not later than the date of acquisition of the property securing a loan made under this chapter (or, in the case of real property in inventory on April 4, 1996, not later than 5 days after April 4, 1996), the Secretary shall notify the borrower-owner from whom the property was acquired of the availability of homestead protection rights under this section.

(d) First right of refusal of reacquisition

At the end of the period of occupancy described in subsection (c) of this section, the Secretary or the Administrator shall grant to the borrower-owner a first right of refusal to reacquire the homestead property on such terms and conditions (which may include payment of principal in installments) as the Secretary or the Administrator shall determine. Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer.

(e) Value as measure of reacquisition payment of principal

At the time any reacquisition agreement is entered into, the Secretary or the Administrator may not demand a total payment of principal that is in excess of the value of the homestead property as established under subsection (b)(2) of this section.

[2] See References in Text note below.

(f) Contract authority

The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property.

(g) Conflict between Federal and State law

In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower-owner to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.

(Pub. L. 87–128, title III, § 352, as added Pub. L. 99–198, title XIII, § 1321, Dec. 23, 1985, 99 Stat. 1532; amended Pub. L. 100–233, title VI, § 614, Jan. 6, 1988, 101 Stat. 1675; Pub. L. 102–237, title V, § 501(g), title VII, § 701(h)(2), Dec. 13, 1991, 105 Stat. 1867, 1880; Pub. L. 102–552, title V, § 516(i), (j)(1), Oct. 28, 1992, 106 Stat. 4138; Pub. L. 104–127, title VI, § 644, Apr. 4, 1996, 110 Stat. 1103; Pub. L. 110–234, title V, § 5305, May 22, 2008, 122 Stat. 1153; Pub. L. 110–246, § 4(a), title V, § 5305, June 18, 2008, 122 Stat. 1664, 1915.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsecs. (a)(3) and (b)(1)(B), 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.

For definition of ''this chapter'', referred to in subsecs. (b)(1)(A) and (c)(6), see note set out under section 1921 of this title.

Section 1983b of this title, referred to in subsec. (c)(3), was repealed by Pub. L. 103–354, title II, § 281(c), Oct. 13, 1994, 108 Stat. 3233.

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. (c)(4)(B). Pub. L. 110–246, § 5305, substituted ''period of occupancy of a borrower-owner who is a socially disadvantaged farmer or rancher (as defined in section 2003(e)(2) of this title), the borrower-owner or a member of the immediate family of the borrower-owner'' for ''period of occupancy, the borrower-owner'' and inserted ''or immediate family member, as the case may be,'' after ''selected by the borrower-owner''.

1996—Subsec. (c)(1)(A). Pub. L. 104–127, § 644(1), substituted ''30'' for ''90'' in two places.

Subsec. (c)(6). Pub. L. 104–127, § 644(2), substituted ''Not later than the date of acquisition of the property securing a loan made under this chapter (or, in the case of real property in inventory on April 4, 1996, not later than 5 days after April 4, 1996),'' for ''Within 30 days of the acquisition of the homestead property securing a loan made or insured under this chapter,'' and struck out at end ''For property in inventory on January 6, 1988, the Secretary shall make a good faith effort to notify the borrower-owner of the availability of homestead protection rights under this section within 60 days after January 6, 1988.''

1992—Subsec. (a)(4), (5). Pub. L. 102–552, § 516(i), redesignated par. (4), defining ''Secretary'', as (5).

Subsec. (b)(2). Pub. L. 102–552, § 516(j)(1), substituted ''borrower-owner's'' for ''borrower's''.

1991—Subsec. (a)(2) to (4). Pub. L. 102–237, § 501(g), added par. (2), redesignated former pars. (2) and (3) as

(3) and (4), respectively, and substituted ''borrower-owner'' for ''borrower'' in redesignated par. (4).

Subsec. (b)(1). Pub. L. 102–237, § 501(g)(2), substituted ''borrower-owner'' for ''borrower'' wherever appearing.

Subsec. (b)(3). Pub. L. 102–237, § 701(h)(2), struck out ''be'' after ''shall''.

Subsecs. (c), (d), (g). Pub. L. 102–237, § 501(g)(2), substituted ''borrower-owner'' for ''borrower'' wherever appearing.

1988—Subsec. (a)(3). Pub. L. 100–233, § 614(1), inserted '', including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual''.

Subsec. (b)(1). Pub. L. 100–233, § 614(2), added par. (1) and struck out former par. (1) which read as follows: ''If the Secretary forecloses a loan made or insured under this chapter, the Administrator forecloses a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.), or a borrower of a loan made or insured by either agency declares bankruptcy or goes into voluntary liquidation to avoid foreclosure or bankruptcy, the Secretary or Administrator may upon application by the borrower, permit the borrower to retain possession and occupancy of any principal residence of the borrower, and a reasonable amount of adjoining land for the purpose of family maintenance.''

Subsec. (c). Pub. L. 100–233, § 614(3), completely revised and restated subsec. (c), substituting pars. (1) to (6) for former pars. (1) to (8).

Subsec. (d). Pub. L. 100–233, § 614(3), inserted at end ''Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer.''

Subsecs. (f), (g). Pub. L. 100–233, § 614(4), added subsecs. (f) and (g).

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.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–127 effective Apr. 4, 1996, but not applicable with respect to complete application to acquire inventory property submitted prior to Apr. 4, 1996, see section 663(a), (c) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 516(j)(2) of Pub. L. 102–552 provided that: ''The amendment made by paragraph (1) of this subsection [amending this section] shall take effect at the same time as the amendments made by section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1867) [amending section 1985 of this title] took effect.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 701(h)(2) of Pub. L. 102–237 to any provision specified therein effective as if included in act that added provision so specified at the time such act became law, see section 1101(c) of Pub. L. 102–237, set out as a note under section 1421 of this title.

§ 2001. Debt restructuring and loan servicing

(a) In general

The Secretary shall modify delinquent farmer program loans made or insured under this chapter, or purchased from the lender or the Federal Deposit Insurance Corporation under section 1929b of this title, to the maximum extent possible—

(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan principal and interest (subject to subsections (d) and (e) of this section), and debt set-aside (subject to subsection (e) of this section), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

(2) to ensure that borrowers are able to continue farming or ranching operations.

(b) Eligibility

To be eligible to obtain assistance under subsection (a) of this section—

(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary, except that the regulations shall require that, if the value of the assets calculated under subsection (c)(2)(A)(ii) of this section that may be realized through liquidation or other methods would produce enough income to make the delinquent loan current, the borrower shall not be eligible for assistance under subsection (a) of this section;

(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

(3) the borrower must present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

(A) meet the necessary family living and farm operating expenses; and

(B) service all debts, including those of the loans restructured; and

(4) the loan, if restructured, must result in a net recovery to the Federal Government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal Government from an involuntary liquidation or foreclosure on the property securing the loan.

(c) Restructuring determinations

(1) Determination of net recovery

In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

(B) the value of the restructured loan, in accordance with paragraph (3).

(2) Recovery value

For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

(A)(i) the amount of the current appraised value of the interests of the borrower in the property securing the loan; plus

(ii) the value of the interests of the borrower in all other assets that are—

(I) not essential for necessary family living expenses;

(II) not essential to the operation of the farm; and

(III) not exempt from judgment creditors or in a bankruptcy action under Federal or State law; less

(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

(i) the payment of prior liens;

(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each calculated for the average holding period for the type of property involved;

(iii) resale expenses, such as repairs, commissions, and advertising; and

(iv) other administrative and attorney's costs; plus

(C) the value, as determined by the Secretary, of any property not included in subparagraph (A)(i) if the property is specified in any security agreement with respect to such loan and the Secretary determines that the value of such property should be included for purposes of this section.

(3) Value of the restructured loan

(A) In general

For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal Government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

(B) Present value

For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

(C) Cash flow margin

For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 110 percent of the amount indicated for payment of farm operating expenses, debt service obligations, and family living expenses.

(4) Notification

Within 90 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

(A) make the calculations specified in paragraphs (2) and (3);

(B) notify the borrower in writing of the results of such calculations; and

(C) provide documentation for the calculations.

(5) Restructuring of loans

If the value of the restructured loan is greater than or equal to the recovery value, the Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this chapter through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

(6) Termination of loan obligations

The obligations of a borrower to the Secretary under a loan shall terminate if—

(A) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b) of this section;

(B) the value of the restructured loan is less than the recovery value; and

(C) not later than 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the current market value.

(7) Negotiation of appraisal

(A) In general

In making a determination concerning restructuring under this subsection, the Secretary, at the request of the borrower, shall enter into negotiations concerning appraisals required under this subsection with the borrower.

(B) Independent appraisal

If the borrower, based on a separate current appraisal, objects to the decision of the Secretary regarding an appraisal, the borrower and the Secretary shall mutually agree, to the extent practicable, on an independent appraiser who shall conduct another appraisal of the borrower's property. The average of the two appraisals that are closest in value shall become the final appraisal under this paragraph. The borrower and the Secretary shall each pay one-half of the cost of the independent appraisal.

(d) Principal and interest write-down

(1) In general

(A) Priority consideration

In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be given first priority in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

(B) Failure of creditors to agree

Failure of creditors to agree to participate in the restructuring plan or mediation program shall not preclude the use of principal and interest write-down by the Secretary if the Secretary determines that this restructuring alternative results in the least cost to the Secretary.

(2) Participation of creditors

Before eliminating the option to use debt write-down in the case of a borrower, the Sec-

retary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

(e) Shared appreciation arrangements

(1) In general

As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

(2) Terms

Shared appreciation agreements shall have a term not to exceed 10 years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

(3) Percentage of recapture

The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

(4) Time of recapture

Recapture shall take place at the end of the term of the agreement, or sooner—

(A) on the conveyance of the real security property;

(B) on the repayment of the loans; or

(C) if the borrower ceases farming operations.

(5) Transfer of title

Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

(6) Notice of recapture

Beginning with fiscal year 2000 not later than 12 months before the end of the term of a shared appreciation arrangement, the Secretary shall notify the borrower involved of the provisions of the arrangement.

(7) Financing of recapture payment

(A) In general

The Secretary may amortize a recapture payment owed to the Secretary under this subsection.

(B) Term

The term of an amortization under this paragraph may not exceed 25 years.

(C) Interest rate

(i) In general

The interest rate applicable to an amortization under this paragraph may not exceed the rate applicable to a loan to reacquire homestead property less 100 basis points.

(ii) Existing amortizations and loans

The interest rate applicable to an amortization or loan made by the Secretary before October 28, 2000, to finance a recapture payment owed to the Secretary under this subsection may not exceed the rate applicable to a loan to reacquire homestead property less 100 basis points.

(D) Reamortization

(i) In general

The Secretary may modify the amortization of a recapture payment referred to in subparagraph (A) of this paragraph on which a payment has become delinquent by using loan service tools under section 1991(b)(3) of this title if—

(I) the default is due to circumstances beyond the control of the borrower; and

(II) the borrower acted in good faith (as determined by the Secretary) in attempting to repay the recapture amount.

(ii) Limitations

(I) Term of reamortization

The term of a reamortization under this subparagraph may not exceed 25 years from the date of the original amortization agreement.

(II) No reduction or principal or unpaid interest due

A reamortization of a recapture payment under this subparagraph may not provide for reducing the outstanding principal or unpaid interest due on the recapture payment.

(f) Determination to restructure

If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring recommendations, if any, of the appeals officer.

(g) Prerequisites to foreclosure or liquidation

No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

(1) until the borrower has been given the opportunity to appeal such decision; and

(2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

(h) Time limits for restructuring

Once an appeal has been filed under section 1983b[1] of this title, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

(i) Notice of ineligibility for restructuring

(1) In general

A notice of ineligibility for restructuring shall be sent to the borrower by registered or certified mail within 15 days after such determination.

(2) Contents

The notice required under paragraph (1) shall contain—

[1] See References in Text note below.

(A) the determination and the reasons for the determination;

(B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

(C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

(j) Independent appraisals

An appeal filed with the appeals division under section 1983b of this title may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

(k) Partial liquidations

If partial liquidations are performed (with the prior consent of the Secretary) as part of loan servicing by a guaranteed lender under this chapter, the Secretary shall not require full liquidation of a delinquent loan in order for the lender to be eligible to receive payment on losses.

(*l*) Disposition of normal income security

For purposes of subsection (b)(2) of this section, if a borrower—

(1) disposed of normal income security prior to October 14, 1988, without the consent of the Secretary; and

(2) demonstrates that—

(A) the proceeds were utilized to pay essential household and farm operating expenses; and

(B) the borrower would have been entitled to a release of income proceeds by the Secretary if the regulations in effect on November 28, 1990, had been in effect at the time of the disposition,

the Secretary shall not consider the borrower to have acted without good faith to the extent of the disposition.

(m) Only 1 write-down or net recovery buy-out per borrower for loan made after January 6, 1988

(1) In general

The Secretary may provide for any one borrower not more than 1 write-down or net recovery buy-out under this section with respect to all loans made to the borrower after January 6, 1988.

(2) Special rule

For purposes of paragraph (1), the Secretary shall treat any loan made on or before January 6, 1988, with respect to which a restructuring, write-down, or net recovery buy-out is provided under this section after such date, as a loan made after such date.

(n) Liquidation of assets

The Secretary may not use the authority provided by this section to reduce or terminate any portion of the debt of the borrower that the borrower could pay through the liquidation of assets (or through the payment of the loan value of the assets, if the loan value is greater than the liquidation value) described in subsection (c)(2)(A)(ii) of this section.

(*o*) Lifetime limitation on debt forgiveness per borrower

The Secretary may provide not more than $300,000 in principal and interest forgiveness under this section per borrower.

(Pub. L. 87–128, title III, § 353, as added Pub. L. 100–233, title VI, § 615(a), Jan. 6, 1988, 101 Stat. 1678; amended Pub. L. 101–624, title XVIII, § 1816(a)–(d), (f)–(h), Nov. 28, 1990, 104 Stat. 3826–3828; Pub. L. 102–237, title V, § 501(h), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 104–127, title VI, §§ 645, 661(j), Apr. 4, 1996, 110 Stat. 1103, 1107; Pub. L. 105–277, div. A, § 101(a) [title VIII, §§ 807, 808], Oct. 21, 1998, 112 Stat. 2681, 2681–40; Pub. L. 106–31, title III, § 3019(b), May 21, 1999, 113 Stat. 99; Pub. L. 106–387, § 1(a) [title VIII, § 818(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A–58; Pub. L. 107–171, title V, § 5314, May 13, 2002, 116 Stat. 347.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a), (c)(5), and (k), see note set out under section 1921 of this title.

Section 1983b of this title, referred to in subsec. (h), was repealed by Pub. L. 103–354, title II, § 281(c), Oct. 13, 1994, 108 Stat. 3233.

AMENDMENTS

2002—Subsec. (e)(7)(D). Pub. L. 107–171 added subpar. (D).

2000—Subsec. (e)(7). Pub. L. 106–387 added par. (7).

1999—Subsec. (c)(3)(C). Pub. L. 106–31 substituted ''110 percent'' for ''100 percent''.

1998—Subsec. (c)(3)(C). Pub. L. 105–277, § 101(a) [title VIII, § 808], substituted ''100 percent'' for ''110 percent''.

Subsec. (e)(6). Pub. L. 105–277, § 101(a) [title VIII, § 807], added par. (6).

1996—Subsec. (c)(3)(C). Pub. L. 104–127, § 645(1)(A), added subpar. (C) and struck out heading and text of former subpar. (C). Text read as follows:

''(i) ASSUMPTION.—For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 105 percent of the amount indicated for payment of debt obligations.

''(ii) AVAILABLE INCOME.—If an amount up to 105 percent of the debt payments of the borrower has been earmarked for such payments, the Secretary shall consider the income of the borrower to be adequate to meet the debt obligations of the borrower.''

Subsec. (c)(6). Pub. L. 104–127, § 645(1)(B), added par. (6) and struck out former par. (6), which specified required conditions for termination of loan obligations, limited applicability of good faith requirement, authorized recapture by requiring borrower to enter into agreement before terminating loan obligations, and provided for limitation on recapture amount and treatment of intrafamily transfers.

Subsec. (k). Pub. L. 104–127, § 645(2), (3), redesignated subsec. (*l*) as (k) and struck out heading and text of former subsec. (k). Text read as follows: ''The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are restructured under this section shall be determined without regard to such restructuring.''

Subsec. (*l*). Pub. L. 104–127, § 661(j), struck out ''and subparagraphs (A)(i) and (C)(i) of section 1985(e)(1) of this title,'' before ''if a borrower'' in introductory provisions.

Pub. L. 104–127, § 645(3), redesignated subsec. (m) as (*l*).

Subsecs. (m) to (p). Pub. L. 104–127, § 645(3), redesignated subsecs. (m) to (p) as (*l*) to (*o*), respectively.

1991—Subsec. (c)(6)(A)(ii). Pub. L. 102–237, § 501(h)(1), substituted ''November 28, 1990'' for ''the date of enactment of this paragraph''.

Subsec. (m). Pub. L. 102–237, § 501(h)(2), substituted ''section 1985(e)(1)'' for ''section 1985(e)(1)(A)''.

1990—Subsec. (b)(1). Pub. L. 101–624, § 1816(a), inserted before semicolon at end '', except that the regulations shall require that, if the value of the assets calculated under subsection (c)(2)(A)(ii) of this section that may be realized through liquidation or other methods would produce enough income to make the delinquent loan current, the borrower shall not be eligible for assistance under subsection (a) of this section''.

Subsec. (c)(2)(A). Pub. L. 101–624, § 1816(b)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the amount of the current appraised value of the property securing the loan; less''.

Subsec. (c)(2)(B)(iv). Pub. L. 101–624, § 1816(b)(2)(A), substituted ''costs; plus'' for ''costs.''

Subsec. (c)(2)(C). Pub. L. 101–624, § 1816(b)(2)(B), added subpar. (C).

Subsec. (c)(3)(C). Pub. L. 101–624, § 1816(c), added subpar. (C).

Subsec. (c)(4). Pub. L. 101–624, § 1816(d), substituted ''90'' for ''60'' in introductory provisions.

Subsec. (c)(6). Pub. L. 101–624, § 1816(f), amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''If the value of the restructured loan is less than the recovery value and if, within 45 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value, the obligations of the borrower to the Secretary under the loan shall terminate, except that the Secretary may require, as a condition of such termination of loan obligations, that the borrower enter into an agreement with the Secretary if the borrower sells or otherwise conveys the real property used to secure such loan within 2 years after the date of such agreement. Any such agreement shall provide for the recapture of part or all of the difference between the recovery value of the loan and the fair market value (on the date of such agreement) of the property securing the loan if the borrower realizes a gain on the sale or conveyance over the amount of the recovery value of the loan. In no event shall any such agreement provide for recapture of an amount that exceeds the difference between such recovery value and the fair market value of the property securing the loan on the date of such agreement.''

Subsec. (c)(7). Pub. L. 101–624, § 1816(g), added par. (7).

Subsecs. (*l*) to (p). Pub. L. 101–624, § 1816(h), added subsecs. (*l*) to (p).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 645(1) of Pub. L. 104–127 effective 90 days after Apr. 4, 1996, and amendment by sections 645(2), (3) and 661(j) of Pub. L. 104–127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104–127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1861 of title XVIII of Pub. L. 101–624 provided that:

''(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title [enacting sections 1981f and 2006a to 2006e of this title, section 2076a of Title 12, Banks and Banking, and section 494 of Title 25, Indians, amending this section, sections 1924, 1927, 1933, 1934, 1942, 1946, 1981, 1981d, 1982, 1983, 1983a, 1983b, 1985, 1991, 1997, 2003, and 5106 of this title, section 3132 of Title 5, Government Organization and Employees, sections 2019, 2075, 2077, 2218, 2252, 2254, 2277a–5, 2277a–9, 2277a–10, 2277a–14, 2278a–6, 2279aa, and 2279aa–11 of Title 12, and section 492 of Title 25, enacting provisions set out as notes under section 1981f of this title and section 2001 of Title 12, amending provisions set out as a note under section 1985 of this title, and repealing provisions set out as a note preceding section 1961 of this title] shall become effective on the date of enactment of this Act [Nov. 28, 1990].

''(b) NOTICE OF DEBT SETTLEMENT PROGRAMS.—The amendment made by section 1807(1) of this Act [amending section 1981d(b)(1) of this title] shall become effective 120 days after the date of enactment of this Act [Nov. 28, 1990].

''(c) DEBT RESTRUCTURING AND LOAN SERVICING.—

''(1) IN GENERAL.—Except as provided in section 353(c)(6)(A)(ii) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001(c)(6)(A)(iii)] (as added by section 1816(f) of this Act) and in paragraph (3) of this subsection, section 1816 of this Act and the amendments made by such section 1816 [amending this section and section 1985 of this title] shall apply to new applications submitted under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) on or after the date of enactment of this Act [Nov. 28, 1990].

''(2) DEFINITION OF NEW APPLICATION.—As used in paragraph (1), the term 'new application' means an application submitted by a borrower to initiate a debt restructuring consideration and not an application reconsidered after an appeal or revision of the original application.

''(3) LIQUIDATION OF ASSETS.—Section 353(*o*) of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001(*o*)] (as added by section 1816(h) of this Act) shall not apply until the Secretary of Agriculture has issued final regulations to carry out such section 353(*o*).

''(d) RESTORATION OF FIRST LIEN ON STOCK.—The amendment made by section 1833 of this Act [enacting section 2076a of Title 12 and amending section 2077 of Title 12] shall be effective as of January 7, 1988.

''(e) REGULATIONS.—As soon as practicable after the date of enactment of this Act [Nov. 28, 1990]—

''(1) the Secretary of Agriculture shall issue such regulations as are necessary to carry out subtitles A and C of this Act [probably means subtitles A (§§ 1801–1824) and C (§§ 1851–1854) of title XVIII of Pub. L. 101–624, enacting sections 1981f and 2006a to 2006e of this title and section 494 of Title 25, amending this section, sections 1924, 1927, 1933, 1934, 1942, 1946, 1981, 1981d, 1982, 1983, 1983a, 1983b, 1985, 1991, 1997, 2003, and 5106 of this title and section 492 of Title 25, enacting provisions set out as a note under section 1981f of this title, amending provisions set out as a note under section 1985 of this title, and repealing provisions set out as a note preceding section 1961 of this title] and the amendments made by such subtitles; and

''(2) the Farm Credit Administration shall issue such regulations as are necessary to carry out subtitle B of this Act [probably means subtitle B (§§ 1831–1843) of title XVIII of Pub. L. 101–624, enacting section 2076a of Title 12, amending section 3132 of Title 5 and sections 2019, 2075, 2077, 2218, 2252, 2254, 2277a–5, 2277a–9, 2277a–10, 2277a–14, 2278a–6, 2279aa, and 2279aa–11 of Title 12, and enacting provisions set out as a note under section 2001 of Title 12] and the amendments made by such subtitle.''

SUSPENSION OF COLLECTION ACTIVITIES DURING TRANSITION PERIOD

Section 615(d) of Pub. L. 100–233 provided that: ''The Secretary of Agriculture shall not initiate any acceleration, foreclosure, or liquidation in connection with

any delinquent farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by this section [enacting section 2001 of this title and amending sections 1927a and 1981 of this title]. The preceding sentence shall not prohibit the Secretary from taking any action with respect to waste, fraud, or abuse by the borrower.''

§ 2001a. Debt restructuring and loan servicing for community facility loans

The Secretary shall establish and implement a program that is similar to the program established under section 2001 of this title, except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 1926(a) of this title.

(Pub. L. 87–128, title III, § 353A, as added Pub. L. 101–624, title XXIII, § 2384(a), Nov. 28, 1990, 104 Stat. 4050.)

REGULATIONS

Section 2384(b) of Pub. L. 101–624 provided that: ''Not later than 120 days after the date of enactment of this Act [Nov. 28, 1990], the Secretary shall promulgate regulations, modeled after those promulgated under such section 353 [7 U.S.C. 2001], that implement the program established under section 353A of the Consolidated Farm and Rural Development Act [7 U.S.C. 2001a].''

§ 2002. Transfer of inventory lands

(a) In general

Subject to subsection (b) of this section, the Secretary may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

(1) with respect to which the rights of all prior owners and operators have expired;

(2) that is eligible to be disposed of in accordance with section 1985 of this title; and

(3) that—

(A) has marginal value for agricultural production;

(B) is environmentally sensitive; or

(C) has special management importance.

(b) Conditions

The Secretary may not transfer any property or interest in property under subsection (a) of this section unless—

(1) at least 2 public notices are given of the transfer;

(2) if requested, at least 1 public meeting is held prior to the transfer; and

(3) the Governor and at least 1 elected county official of the State and county where the property is located are consulted prior to the transfer.

(Pub. L. 87–128, title III, § 354, as added Pub. L. 100–233, title VI, § 616, Jan. 6, 1988, 101 Stat. 1682; amended Pub. L. 104–127, title VI, § 646, Apr. 4, 1996, 110 Stat. 1103.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be ''this title'' meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–127 designated existing provisions as subsec. (a), inserted heading, substituted ''Subject to subsection (b) of this section, the Secretary'' for ''The Secretary, without reimbursement,'' in introductory provisions, added par. (2) and struck out former par. (2) which read as follows: ''that is determined by the Secretary to be suitable or surplus; and'', and added subsec. (b).

§ 2003. Target participation rates

(a) Establishment

(1) In general

The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subchapter I of this chapter and will have the opportunity to purchase or lease inventory farmland.

(2) Group population

Except as provided in paragraph (3), in establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

(3) Gender

With respect to gender, target participation rates shall take into consideration the number of current and potential socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in the State.

(b) Reservation and allocation

(1) Reservation

The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subchapter I of this chapter, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a) of this section.

(2) Allocation

The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

(3) Indian reservations

In distributing loan funds in counties within the boundaries of an Indian reservation, the Secretary shall allocate the funds on a reservation-wide basis.

(c) Operating loans

(1) Establishment

The Secretary shall establish annual target participation rates, that shall ensure that so-

cially disadvantaged farmers or ranchers will receive loans made or insured under subchapter II of this chapter. In establishing such target rates, the Secretary shall consider the number of socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in that State.

(2) Reservation and allocation

The Secretary shall, to the greatest extent practicable, reserve and allocate the proportion of each State's loan funds made available under subchapter II of this chapter that is equal to that State's target participation rate for use by the socially disadvantaged farmers or ranchers in that State. The Secretary shall, to the extent practicable, distribute the total so derived on a county by county basis according to the number of socially disadvantaged farmers or ranchers in the county. Any funds reserved and allocated under this paragraph but not used within a State shall, to the extent necessary to satisfy pending applications under this chapter, be available for use by socially disadvantaged farmers and ranchers in other States, as determined by the Secretary, and any remaining funds shall be reallocated within the State.

(d) Report

The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

(e) Definitions

(1) Socially disadvantaged group

As used in this section, the term ''socially disadvantaged group'' means a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

(2) Socially disadvantaged farmer or rancher

As used in this section, the term ''socially disadvantaged farmer or rancher'' means a farmer or rancher who is a member of a socially disadvantaged group.

(f) Implementation consistent with Supreme Court holding

Not later than 180 days after April 4, 1996, the Secretary shall ensure that the implementation of this section is consistent with the holding of the Supreme Court in Adarand Constructors, Inc. v. Federico Pena, Secretary of Transportation, 115 S. Ct. 2097 (1995).

(Pub. L. 87–128, title III, § 355, as added Pub. L. 100–233, title VI, § 617, Jan. 6, 1988, 101 Stat. 1682; amended Pub. L. 101–624, title XVIII, § 1817, title XXV, § 2501(f), Nov. 28, 1990, 104 Stat. 3829, 4065; Pub. L. 102–554, § 21(a), (b), Oct. 28, 1992, 106 Stat. 4161; Pub. L. 104–127, title VI, § 647, Apr. 4, 1996, 110 Stat. 1104; Pub. L. 107–171, title V, § 5315, May 13, 2002, 116 Stat. 348.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (c)(2), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (c)(2). Pub. L. 107–171 substituted ''Any funds reserved and allocated under this paragraph but not used within a State shall, to the extent necessary to satisfy pending applications under this chapter, be available for use by socially disadvantaged farmers and ranchers in other States, as determined by the Secretary, and any remaining funds shall be reallocated within the State.'' for ''Any funds reserved and allocated for purposes of this paragraph, but not used shall be reallocated within such State.''

1996—Subsec. (f). Pub. L. 104–127 added subsec. (f).

1992—Subsec. (a)(2). Pub. L. 102–554, § 21(a)(1), substituted ''Except as provided in paragraph (3), in establishing'' for ''In establishing''.

Subsec. (a)(3). Pub. L. 102–554, § 21(a)(2), added par. (3).

Subsec. (e)(1). Pub. L. 102–554, § 21(b), substituted '', ethnic, or gender'' for ''or ethnic''.

1990—Subsec. (b)(3). Pub. L. 101–624, § 1817, added par. (3).

Subsecs. (c), (d). Pub. L. 101–624, § 2501(f)(1)–(3), added subsec. (c), redesignated former subsec. (c) as (d), and struck out former subsec. (d) which read as follows: ''As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.''

Subsec. (e). Pub. L. 101–624, § 2501(f)(4), added subsec. (e).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the report required by subsec. (d) of this section is listed on page 44), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 2004. Expedited clearing of title to inventory property

The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.

(Pub. L. 87–128, title III, § 356, as added Pub. L. 100–233, title VI, § 618, Jan. 6, 1988, 101 Stat. 1683.)

§ 2005. Payment of losses on guaranteed loans

(a) Payments to lenders

(1) Requirement

Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, for any borrower to whom a lender has made a loan guaranteed under this chapter, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

(2) Payment toward loan guarantee

Any amount paid to a lender under this subsection with respect to a loan guaranteed under this chapter shall be treated as payment towards satisfaction of the loan guarantee.

(b) Administration

(1) Loss by lender

If the lender of a guaranteed farmer program loan takes any action described in section

1981(b)(4) of this title with respect to the loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which—

(A) the outstanding balance of the loan immediately before such action, exceeds

(B) the outstanding balance of the loan immediately after such action.

(2) Net present value of loan

The Secretary shall approve the taking of an action described in section 1981(b)(4) of this title by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

(3) Construction of subsection

This subsection shall not be construed to limit the authority of the Secretary to enter into a shared appreciation arrangement with a borrower, or the terms and conditions which shall be required of a borrower, under section 2001(e) of this title.

(Pub. L. 87–128, title III, § 357, as added Pub. L. 100–233, title VI, § 619, Jan. 6, 1988, 101 Stat. 1683; amended Pub. L. 101–624, title XXIII, § 2388(d)(2), Nov. 28, 1990, 104 Stat. 4053.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (a), see note set out under section 1921 of this title.

AMENDMENTS

1990—Subsec. (b)(1), (2). Pub. L. 101–624 substituted ''1981(b)(4)'' for ''1981(d)''.

§ 2006. Waiver of mediation rights by borrowers

The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the mediation program of any State.

(Pub. L. 87–128, title III, § 358, as added Pub. L. 100–233, title V, § 512, Jan. 6, 1988, 101 Stat. 1664; amended Pub. L. 103–354, title II, § 282(f)(3), Oct. 13, 1994, 108 Stat. 3235.)

AMENDMENTS

1994—Pub. L. 103–354 struck out ''agricultural loan'' before ''mediation program''.

§ 2006a. Borrower training

(a) In general

The Secretary shall enter into contracts to provide educational training to all borrowers of farmer program direct loans made under this chapter in financial and farm management concepts associated with commercial farming.

(b) Contract

(1) In general

The Secretary may contract with State or private providers of farm management and credit counseling services (including a community college, the extension service of a State, a State department of agriculture, or a nonprofit organization) to carry out this section.

(2) Consultation

The Secretary may consult with the chief executive officer of a State concerning the identity of the contracting organization and the process for contracting.

(c) Eligibility for loans

(1) In general

Subject to paragraph (2), to be eligible to obtain a direct loan under this chapter, a borrower must obtain management assistance under this section, appropriate to the management ability of the borrower (as determined by the appropriate county committee during the determination of eligibility for the loan).

(2) Loan conditions

The need of a borrower who satisfies the criteria set out in section 1922(a)(2) or 1941(a)(2) of this title for management assistance under this section shall not be cause for denial of eligibility of the borrower for a direct loan under this chapter.

(d) Guidelines and curriculum

The Secretary shall issue regulations establishing guidelines and curriculum for the borrower training program established under this section.

(e) Payment

A borrower shall pay for training received under this section, and may use funds from operating loans made under subchapter II of this chapter to pay for the training.

(f) Waivers

(1) In general

The Secretary may waive the requirements of this section for an individual borrower if the Secretary determines that the borrower demonstrates adequate knowledge in areas described in this section.

(2) Criteria

The Secretary shall establish criteria providing for the application of paragraph (1) consistently in all counties nationwide.

(Pub. L. 87–128, title III, § 359, as added Pub. L. 101–624, title XVIII, § 1818(a), Nov. 28, 1990, 104 Stat. 3829; amended Pub. L. 105–277, div. A, § 101(a) [title VIII, § 805(3)], Oct. 21, 1998, 112 Stat. 2681, 2681–39; Pub. L. 107–171, title V, §§ 5316, 5501(c), May 13, 2002, 116 Stat. 348, 351.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a) and (c), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–171, § 5501(c), struck out ''established pursuant to section 1982 of this title,'' after ''appropriate county committee''.

Subsec. (f). Pub. L. 107–171, § 5316, added subsec. (f) and struck out heading and text of former subsec. (f). Text read as follows: ''The Secretary may waive the requirements of this section for an individual borrower on a determination by the county committee that the borrower demonstrates adequate knowledge in areas described in this section.''

1998—Subsec. (a). Pub. L. 105–277, § 101(a) [title VIII, § 805(3)(A)], struck out ''and guaranteed'' after ''direct''.

Subsec. (c). Pub. L. 105–277, § 101(a) [title VIII, § 805(3)(B)], struck out ''or guaranteed'' after ''direct'' in pars. (1) and (2).

§ 2006b. Loan assessments

(a) In general

The Secretary shall evaluate, in accordance with regulations issued by the Secretary, the farming plan and financial situation of each qualified farmer or rancher applicant.

(b) Determinations

In evaluating the farming plan and financial situation of an applicant under this section, the Secretary shall determine—

(1) the amount that the applicant will need to borrow to carry out the proposed farming plan;

(2) the rate of interest that the applicant would need to be able to cover expenses and build an adequate equity base;

(3) the goals of the proposed farming plan of the applicant;

(4) the financial viability of the plan and any changes that are necessary to make the plan viable; and

(5) whether assistance is necessary under this chapter and, if so, the amount of the assistance.

(c) Contract

The Secretary may contract with a third party (including those entities eligible to provide borrower training under section 2006a(b) of this title) to conduct loan assessments under this section.

(d) Review of loans

(1) In general

Loan assessments conducted under this section shall include annual review of direct loans, and periodic review (as determined necessary by the Secretary) of guaranteed loans, made under this chapter to assess the progress of a borrower in meeting the goals for the farm or ranch operation.

(2) Contracts

The Secretary may contract with an entity that is eligible to provide borrower training under section 2006a(b) of this title to conduct loan reviews under paragraph (1).

(3) Problem assessments

If a borrower is delinquent in payments on a direct or guaranteed loan made under this chapter, the Secretary or the contracting entity shall determine the cause of, and action necessary to correct, the delinquency.

(e) Guidelines

The Secretary shall issue regulations providing guidelines for loan assessments conducted under this section.

(Pub. L. 87–128, title III, § 360, as added Pub. L. 101–624, title XVIII, § 1819, Nov. 28, 1990, 104 Stat. 3830; amended Pub. L. 107–171, title V, §§ 5317, 5318, May 13, 2002, 116 Stat. 348.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsecs. (a), (b)(5), and (d)(1), (3), see note set out under section 1921 of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171, § 5317, substituted ''The Secretary'' for ''After an applicant is determined eligible for assistance under this chapter by the appropriate county committee established pursuant to section 1982 of this title, the Secretary''.

Subsec. (d)(1). Pub. L. 107–171, § 5318, substituted ''annual review'' for ''biannual review''.

§ 2006c. Supervised credit

The Secretary shall provide adequate training to employees of the Farmers Home Administration on credit analysis and financial and farm management to—

(1) better acquaint the employees with what constitutes adequate financial data on which to base a direct or guaranteed loan approval decision; and

(2) ensure proper supervision of farmer program loans.

(Pub. L. 87–128, title III, § 361, as added Pub. L. 101–624, title XVIII, § 1820, Nov. 28, 1990, 104 Stat. 3830.)

§ 2006d. Market placement

The Secretary shall establish a market placement program for qualified beginning farmers and ranchers and other borrowers of farmer program loans that the Secretary believes have a reasonable chance of qualifying for commercial credit with a guarantee provided under this chapter.

(Pub. L. 87–128, title III, § 362, as added Pub. L. 101–624, title XVIII, § 1821, Nov. 28, 1990, 104 Stat. 3831.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

§ 2006e. Prohibition on use of loans for certain purposes

The Secretary shall not approve any loan under this chapter to drain, dredge, fill, level, or otherwise manipulate a wetland (as defined in section 3801(a)(16)[1] of title 16), or to engage in any activity that results in impairing or reducing the flow, circulation, or reach of water, except in the case of activity related to the maintenance of previously converted wetlands, or in the case of such activity that is already commenced before November 28, 1990. This section

[1] See References in Text note below.

shall not apply to a loan made or guaranteed under this chapter for a utility line.

(Pub. L. 87–128, title III, § 363, as added Pub. L. 101–624, title XVIII, § 1824, Nov. 28, 1990, 104 Stat. 3831; amended Pub. L. 102–237, title V, § 501(i), Dec. 13, 1991, 105 Stat. 1868; Pub. L. 104–127, title VII, § 751, Apr. 4, 1996, 110 Stat. 1129.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

Section 3801(a) of title 16, referred to in text, was subsequently amended, and section 3801(a)(16) no longer defines the term ''wetland''. However, such term is defined elsewhere in that section.

AMENDMENTS

1996—Pub. L. 104–127 inserted at end ''This section shall not apply to a loan made or guaranteed under this chapter for a utility line.''

1991—Pub. L. 102–237 inserted a closing parenthesis after ''3801(a)(16) of title 16'' and substituted ''before November 28, 1990'' for ''prior to the date of enactment of this section''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–237 effective as if included in the provision of the Food, Agriculture, Conservation, and Trade Act of 1990, Pub. L. 101–624, to which the amendment relates, see section 1101(b)(3) of Pub. L. 102–237, set out as a note under section 1421 of this title.

§ 2006f. Rural development certified lenders program

(a) Certified lenders program

(1) In general

The Secretary may establish a program under which the Secretary may guarantee a loan for any rural development program that is made by a lender certified by the Secretary.

(2) Certification requirements

The Secretary may certify a lender if the lender meets such criteria as the Secretary may prescribe in regulations, including the ability of the lender to properly make, service, and liquidate the guaranteed loans of the lender.

(3) Condition of certification

As a condition of certification, the Secretary may require the lender to undertake to service the guaranteed loan using standards that are not less stringent than generally accepted banking standards concerning loan servicing that are used by prudent commercial or cooperative lenders.

(4) Guarantee

Notwithstanding any other provision of law, the Secretary may guarantee not more than 80 percent of a loan made by a certified lender described in paragraph (1), if the borrower of the loan meets the eligibility requirements and such other criteria for the loan guarantee that are established by the Secretary.

(5) Certifications

With respect to loans to be guaranteed, the Secretary may permit a certified lender to make appropriate certifications (as provided in regulations issued by the Secretary)—

(A) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of the operation; and

(B) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

(6) Relationship to other requirements

This subsection shall not affect the responsibility of the Secretary to determine eligibility, review financial information, and otherwise assess an application.

(b) Preferred certified lenders program

(1) In general

The Secretary may establish a preferred certified lenders program for lenders who establish their—

(A) knowledge of, and experience under, the program established under subsection (a) of this section;

(B) knowledge of the regulations concerning the particular guaranteed loan program; and

(C) proficiency related to the certified lender program requirements.

(2) Additional lending institutions

The Secretary may certify any lending institution as a preferred certified lender if the institution meets such additional criteria as the Secretary may prescribe by regulation.

(3) Revocation of designation

The designation of a lender as a preferred certified lender shall be revoked if the Secretary determines that the lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of the preferred certified lender are greater than other preferred certified lenders, except that the suspension or revocation shall not affect any outstanding guarantee.

(4) Condition of certification

As a condition of the preferred certification, the Secretary shall require the lender to undertake to service the loan guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of the certification are being met.

(5) Effect of preferred lender certification

Notwithstanding any other provision of law, the Secretary may—

(A) guarantee not more than 80 percent of any approved loan made by a preferred certified lender as described in this subsection, if the borrower meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary; and

(B) permit preferred certified lenders to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to creditworthiness, the closing, monitoring, collection, and liquidation of loans, and to accept appropriate certifications, as provided in regulations issued by the Secretary, that the borrower is in compliance with all requirements of law and regulations issued by the Secretary.

(Pub. L. 87–128, title III, § 364, as added Pub. L. 104–127, title VII, § 752, Apr. 4, 1996, 110 Stat. 1129.)

PRIOR PROVISIONS

A prior section 2006f, Pub. L. 87–128, title III, § 364, as added Pub. L. 101–624, title XXIII, § 2302(a)(1), Nov. 28, 1990, 104 Stat. 3979; amended Pub. L. 102–237, title VII, § 701(d), Dec. 13, 1991, 105 Stat. 1879; Pub. L. 103–129, § 4, Nov. 1, 1993, 107 Stat. 1366, established Rural Development Administration in Department of Agriculture and provided for the performance of specified functions, prior to repeal by Pub. L. 103–354, title II, § 231(f)(3), Oct. 13, 1994, 108 Stat. 3219. See section 6911 et seq. of this title.

§§ 2007 to 2007e. Repealed. Pub. L. 104–127, title VII, § 701, Apr. 4, 1996, 110 Stat. 1108

Section 2007, Pub. L. 101–624, title XXIII, § 2310, Nov. 28, 1990, 104 Stat. 3982, related to general provisions for programs under former sections 2007a to 2007e and 2008 to 2008c of this title, including applications, selection of States, duration of projects, and effective dates.

Section 2007a, Pub. L. 101–624, title XXIII, § 2311, Nov. 28, 1990, 104 Stat. 3982; Pub. L. 102–237, title VII, § 702(b), Dec. 13, 1991, 105 Stat. 1880, defined terms for purposes of former sections 2007a to 2007e of this title.

Section 2007b, Pub. L. 101–624, title XXIII, § 2312, Nov. 28, 1990, 104 Stat. 3984, related to establishment and powers of Rural Partnerships Investment Board.

Section 2007c, Pub. L. 101–624, title XXIII, § 2313, Nov. 28, 1990, 104 Stat. 3986; Pub. L. 102–237, title VII, § 702(c), Dec. 13, 1991, 105 Stat. 1880, established Rural Business Investment Fund.

Section 2007d, Pub. L. 101–624, title XXIII, § 2314, Nov. 28, 1990, 104 Stat. 3991; Pub. L. 102–237, title VII, § 702(d), Dec. 13, 1991, 105 Stat. 1880, related to establishment of local revolving funds.

Section 2007e, Pub. L. 101–624, title XXIII, § 2315, Nov. 28, 1990, 104 Stat. 3994; Pub. L. 102–237, title VII, § 702(e), Dec. 13, 1991, 105 Stat. 1880, related to compliance with and enforcement of former sections 2007a to 2007e of this title and regulations promulgated thereunder.

§ 2008. Rural development and farm loan program activities

The Secretary may not complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.

(Pub. L. 87–128, title III, § 365, as added Pub. L. 110–234, title V, § 5306, May 22, 2008, 122 Stat. 1153, and Pub. L. 110–246, § 4(a), title V, § 5306, June 18, 2008, 122 Stat. 1664, 1915.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 2008, Pub. L. 87–128, title III, § 365, as added Pub. L. 101–624, title XXIII, § 2316(a), Nov. 28, 1990, 104 Stat. 4000; amended Pub. L. 102–237, title VII, § 701(e), Dec. 13, 1991, 105 Stat. 1879, related to system for delivery of certain rural development programs, prior to repeal by Pub. L. 104–127, title VII, § 753(a), Apr. 4, 1996, 110 Stat. 1131.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

§§ 2008a to 2008c. Repealed. Pub. L. 104–127, title VII, §§ 754–756, Apr. 4, 1996, 110 Stat. 1131

Section 2008a, Pub. L. 87–128, title III, § 366, as added Pub. L. 101–624, title XXIII, § 2316(a), Nov. 28, 1990, 104 Stat. 4004; amended Pub. L. 102–237, title VII, § 701(f), Dec. 13, 1991, 105 Stat. 1879, related to State rural economic development review panel.

Section 2008b, Pub. L. 87–128, title III, § 367, as added Pub. L. 101–624, title XXIII, § 2317, Nov. 28, 1990, 104 Stat. 4008; amended Pub. L. 102–237, title VII, § 701(g), Dec. 13, 1991, 105 Stat. 1879, related to limited transfer authority of loan amounts.

Section 2008c, Pub. L. 87–128, title III, § 368, as added Pub. L. 101–624, title XXIII, § 2317, Nov. 28, 1990, 104 Stat. 4009, related to allocation and transfer of loan guarantee authority.

§ 2008d. Recordkeeping of loans by borrower's gender

The Secretary shall classify, by gender, records of applicants for loans and loan guarantees under this chapter.

(Pub. L. 87–128, title III, § 369, as added Pub. L. 102–554, § 21(c), Oct. 28, 1992, 106 Stat. 4161.)

REFERENCES IN TEXT

For definition of "this chapter", referred to in text, see note set out under section 1921 of this title.

§ 2008e. Prohibition under rural development programs

(a) Prohibition

Assistance under any rural development program administered by the Rural Development Administration, the Farmers Home Administration, the Rural Electrification Administration, or any other agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of such assistance accept or receive electric service from any particular utility, supplier, or cooperative.

(b) Ensuring compliance

The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under such rural development programs is not subject to such a condition. Such safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate, the prohibition in subsection (a) of this section.

(c) Regulations

Not later than 6 months after November 1, 1993, the Secretary shall issue interim final regulations to ensure compliance with subsection (a) of this section.

(Pub. L. 87–128, title III, § 370, as added Pub. L. 103–129, § 5, Nov. 1, 1993, 107 Stat. 1366.)

§ 2008f. Crop insurance requirement

(a) In general

As a condition of obtaining any benefit (including a direct loan, loan guarantee, or payment) described in subsection (b) of this section, a borrower must obtain at least catastrophic risk protection insurance coverage under sec-

tion 1508 of this title for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.

(b) Applicable benefits

Subsection (a) of this section shall apply to—

(1) a farm ownership loan (FO) under section 1923 of this title;

(2) an operating loan (OL) under section 1942 of this title; and

(3) an emergency loan (EM) under section 1961 of this title.

(Pub. L. 87–128, title III, § 371, as added Pub. L. 103–354, title I, § 119(b), Oct. 13, 1994, 108 Stat. 3208.)

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103–354, set out as an Effective Date of 1994 Amendment note under section 1502 of this title.

§ 2008g. Payment of interest as condition of loan servicing for borrowers

The Secretary may not reschedule or reamortize a loan for a borrower under this chapter who has not requested consideration under section 1981d(e) of this title unless the borrower pays a portion, as determined by the Secretary, of the interest due on the loan.

(Pub. L. 87–128, title III, § 372, as added Pub. L. 104–127, title VI, § 648(a), Apr. 4, 1996, 110 Stat. 1104.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

EFFECTIVE DATE

Section effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as an Effective Date of 1996 Amendment note under section 1922 of this title.

§ 2008h. Loan and loan servicing limitations

(a) Delinquent borrowers prohibited from obtaining direct operating loans

The Secretary may not make a direct operating loan under subchapter II of this chapter to a borrower who is delinquent on any loan made or guaranteed under this chapter.

(b) Prohibition of loans for borrowers that have received debt forgiveness

(1) Prohibitions

Except as provided in paragraph (2)—

(A) the Secretary may not make a loan under this chapter to a borrower that has received debt forgiveness on a loan made or guaranteed under this chapter; and

(B) the Secretary may not guarantee a loan under this chapter to a borrower that has received—

(i) debt forgiveness after April 4, 1996, on a loan made or guaranteed under this chapter; or

(ii) received debt forgiveness on more than 3 occasions on or before April 4, 1996.

(2) Exceptions

(A) In general

The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who—

(i) was restructured with a write-down under section 2001 of this title;

(ii) is current on payments under a confirmed reorganization plan under chapters[1] 11, 12, or 13 of title 11; or

(iii) received debt forgiveness on not more than 1 occasion resulting directly and primarily from a major disaster or emergency designated by the President on or after April 4, 1996, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(B) Emergency loans

The Secretary may make an emergency loan under section 1961 of this title to a borrower that—

(i) on or before April 4, 1996, received not more than 1 debt forgiveness on a loan made or guaranteed under this chapter; and

(ii) after April 4, 1996, has not received debt forgiveness on a loan made or guaranteed under this chapter.

(c) No more than 1 debt forgiveness for borrower on direct loan

The Secretary may not provide to a borrower debt forgiveness on a direct loan made under this chapter if the borrower has received debt forgiveness on another direct loan made under this chapter.

(Pub. L. 87–128, title III, § 373, as added Pub. L. 104–127, title VI, § 648(b), Apr. 4, 1996, 110 Stat. 1104; amended Pub. L. 105–277, div. A, § 101(a) [title VIII, § 801], Oct. 21, 1998, 112 Stat. 2681, 2681–37; Pub. L. 107–171, title V, § 5319, May 13, 2002, 116 Stat. 348.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(2)(A)(iii), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (b)(2)(A)(iii). Pub. L. 107–171 added cl. (iii).

1998—Subsec. (b). Pub. L. 105–277 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows:

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under this chapter to a borrower who received debt forgiveness on a loan made or guaranteed under this chapter.

''(2) EXCEPTION.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who was restructured with a write-down under section 2001 of this title.''

[1] So in original. Probably should be ''chapter''.

§ 2008i. Short form certification of farm program borrower compliance

The Secretary shall develop and utilize a consolidated short form for farm program borrowers to use in certifying compliance with any applicable provision of law (including a regulation) that serves as an eligibility prerequisite for a loan made under this chapter.

(Pub. L. 87–128, title III, § 374, as added Pub. L. 104–127, title VI, § 649, Apr. 4, 1996, 110 Stat. 1105.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

EFFECTIVE DATE

Section effective 90 days after Apr. 4, 1996, see section 663(b) of Pub. L. 104–127, set out as an Effective Date of 1996 Amendment note under section 1922 of this title.

§ 2008j. National Sheep Industry Improvement Center

(a) Definitions

In this section:

(1) Board

The term ''Board'' means the Board of Directors established under subsection (f) of this section.

(2) Center

The term ''Center'' means the National Sheep Industry Improvement Center established under subsection (b) of this section.

(3) Eligible entity

The term ''eligible entity'' means an entity that promotes the betterment of the United States sheep or goat industries and that is—

(A) a public, private, or cooperative organization;

(B) an association, including a corporation not operated for profit;

(C) a federally recognized Indian Tribe; or

(D) a public or quasi-public agency.

(4) Fund

The term ''Fund'' means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e) of this section.

(5) Intermediary

The term ''intermediary'' means a financial institution receiving Center funds for establishing a revolving fund and relending to an eligible entity.

(b) Establishment of Center

The Secretary shall establish a National Sheep Industry Improvement Center.

(c) Purposes

The purposes of the Center shall be to—

(1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;

(2) optimize the use of available human capital and resources within the sheep or goat industries;

(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

(d) Strategic plan

(1) In general

The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

(2) Requirements

A strategic plan shall identify—

(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

(C) funding priorities;

(D) selection criteria for funding; and

(E) a method of distributing funding.

(e) Revolving Fund

(1) Establishment

There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

(2) Contents of Fund

There shall be deposited in the Fund—

(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

(C) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

(E) donations or contributions accepted by the Center to support authorized programs and activities; and

(F) any other funds acquired by the Center.

(3) Use of Fund

(A) In general

The Center may use amounts in the Fund to make direct loans, loan guarantees, cooperative agreements, equity interests, invest-

ments, repayable grants, and grants to eligible entities, either directly or through an intermediary, in accordance with a strategic plan submitted under subsection (d) of this section.

(B) Continued existence

The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c) of this section. The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.

(C) Diverse area

The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

(D) Administration

The Center may not use more than 3 percent of the amounts in the portfolio of the Center for each fiscal year for the administration of the Center. The portfolio shall be calculated at the beginning of each fiscal year and shall include a total of—

(i) all outstanding loan balances;

(ii) the Fund balance;

(iii) the outstanding balance to intermediaries; and

(iv) the amount the Center paid for all equity interests.

(E) Influencing legislation

None of the amounts in the Fund may be used to influence legislation.

(F) Accounting

To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

(G) Uses of Fund

The Center may use amounts in the Fund to—

(i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d) of this section, including participation with several States in a regional effort;

(ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

(iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

(iv) accrue interest;

(v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan;

(vi) sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Center; or

(vii) purchase equity interests.

(4) Loans

(A) Rate

A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

(B) Term

The term of a loan may not exceed the shorter of—

(i) the useful life of the activity financed; or

(ii) 40 years.

(C) Source of repayment

The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

(D) Proceeds

All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

(5) Maintenance of effort

The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

(6) Funding

(A) Deposit of funds

All Federal and non-Federal amounts received by the Center to carry out this section shall be deposited in the Fund.

(B) Mandatory funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for fiscal year 2008, to remain available until expended.

(C) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.

(f) Board of Directors

(1) In general

The management of the Center shall be vested in a Board of Directors.

(2) Powers

The Board shall—

(A) be responsible for the general supervision of the Center;

(B) review any contract, direct loan, loan guarantee, cooperative agreement, equity interest, investment, repayable grant, and grant to be made or entered into by the Center and any financial assistance provided to the Center;

(C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

(D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

(3) Composition

The Board shall be composed of—

(A) 7 voting members, of whom—

(i) 4 members shall be active producers of sheep or goats in the United States;

(ii) 2 members shall have expertise in finance and management; and

(iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

(B) 2 nonvoting members, of whom—

(i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and

(ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

(4) Nomination

(A) Nominating body

The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

(B) National organizations

A national organization is described in this subparagraph if the organization—

(i) consists primarily of active sheep or goat producers in the United States; and

(ii) has as the primary interest of the organization the production of sheep or goats in the United States.

(5) Term of office

(A) In general

Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

(B) Staggered initial terms

The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

(C) Reappointment

A voting member may be reappointed for not more than one additional term.

(6) Vacancy

(A) In general

A vacancy on the Board shall be filled in the same manner as the original Board.

(B) Reappointment

A voting member appointed to fill a vacancy for an unexpired term may be reappointed for one full term.

(7) Chairperson

(A) In general

The Board shall select a chairperson from among the voting members of the Board.

(B) Term

The term of office of the chairperson shall be 2 years.

(8) Annual meeting

(A) In general

The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director appointed under subsection (g)(1) of this section.

(B) Location

The location of a meeting of the Board shall be established by the Board.

(9) Voting

(A) Quorum

A quorum of the Board shall consist of a majority of the voting members.

(B) Majority vote

A decision of the Board shall be made by a majority of the voting members of the Board.

(10) Conflicts of interest

(A) In general

Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

(i) the member;

(ii) any spouse of the member;

(iii) any child of the member;

(iv) any partner of the member;

(v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or

(vi) any person with whom the member is negotiating or has any arrangement concerning prospective employment or with whom the member has a financial interest.

(B) Removal

Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

(C) Validity of action

An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

(D) Disclosure

(i) In general

If a member of the Board makes a full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

(ii) Vote

A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

(E) Remands

(i) In general

The Secretary may vacate and remand to the Board for reconsideration any deci-

sion made pursuant to subsection (e)(3)(H) of this section if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

(ii) Reasons

In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

(iii) Conflicted members not to vote on remanded decisions

If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

(11) Compensation

(A) In general

A member of the Board shall not receive any compensation by reason of service on the Board.

(B) Expenses

A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

(12) Bylaws

The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

(13) Public hearings

Not later than 1 year after April 4, 1996, the Board shall hold public hearings on policy objectives of the program established under this section.

(14) Organizational system

The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

(15) Use of Department of Agriculture

The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

(g) Officers and employees

(1) Executive director

(A) In general

The Board shall appoint an executive director to be the chief executive officer of the Center.

(B) Tenure

The executive director shall serve at the pleasure of the Board.

(C) Compensation

Compensation for the executive director shall be established by the Board.

(2) Other officers and employees

The Board may select and appoint officers, attorneys, employees, and agents who shall be vested with such powers and duties as the Board may determine.

(3) Delegation

The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

(h) Consultation

To carry out this section, the Board may consult with—

(1) State departments of agriculture;

(2) Federal departments and agencies;

(3) nonprofit development corporations;

(4) colleges and universities;

(5) banking and other credit-related agencies;

(6) agriculture and agribusiness organizations; and

(7) regional planning and development organizations.

(i) Oversight

(1) In general

The Secretary shall review and monitor compliance by the Board and the Center with this section.

(2) Sanctions

If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

(A) cease making deposits to the Fund;

(B) suspend the authority of the Center to withdraw funds from the Fund; or

(C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

(3) Rescission of sanctions

The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.

(Pub. L. 87–128, title III, § 375, as added Pub. L. 104–127, title VII, § 759, Apr. 4, 1996, 110 Stat. 1132; amended Pub. L. 106–78, title VIII, § 816, Oct. 22, 1999, 113 Stat. 1182; Pub. L. 106–387, § 1(a) [title VII, § 756], Oct. 28, 2000, 114 Stat. 1549, 1549A–43; Pub. L. 107–76, title VII, § 731, Nov. 28, 2001, 115 Stat. 736; Pub. L. 108–7, div. A, title VII, § 728, Feb. 20, 2003, 117 Stat. 42; Pub. L. 108–199, div. A, title VII, § 726, Jan. 23, 2004, 118 Stat. 35; Pub. L. 108–447, div. A, title VII, § 725, Dec. 8, 2004, 118 Stat. 2842; Pub. L. 110–234, title XI, § 11009(a), (b)(1), May 22, 2008, 122 Stat. 1359; Pub. L. 110–246, § 4(a), title XI, § 11009(a), (b)(1), June 18, 2008, 122 Stat. 1664, 2120, 2121.)

REFERENCES IN TEXT

This Act, referred to in subsec. (i)(2)(C), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294. For classification of this Act to the Code, see

Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be ''this title'' meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

CODIFICATION

A former subsec. (j)(7) of this section provided for the repeal of this section on the date the Secretary published notice in the Federal Register that the transition plan to privatize the National Sheep Industry Improvement Center had been completed. Although such notice was published in the Federal Register on May 23, 2007, at 72 F.R. 28945, repeal of this section did not take effect because of amendment by Pub. L. 110–246, § 11009(b), repealing subsec. (j) of this section, effective May 1, 2007. See 2008 Amendment and Effective Date of 2008 Amendment notes below.

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. (e)(6)(B), (C). Pub. L. 110–246, § 11009(a), added subpars. (B) and (C) and struck out former subpar. (B) which provided for $27,998,000 out of moneys in the Treasury not otherwise appropriated to carry out this section and former subpar. (C) which authorized appropriation of an additional $30,000,000.

Subsec. (j). Pub. L. 110–246, § 11009(b)(1), struck out subsec. (j) which related to privatization of the National Sheep Industry Improvement Center and repeal of this section on the date that the Secretary published notice in the Federal Register that the transition plan for such privatization had been completed.

2004—Subsec. (e)(6)(B). Pub. L. 108–447 substituted ''$27,998,000'' for ''$26,998,000''.

Pub. L. 108–199 substituted ''$26,998,000'' for ''$26,499,000''.

2003—Subsec. (e)(6)(B). Pub. L. 108–7 substituted ''$26,499,000'' for ''$26,000,000''.

2001—Subsec. (e)(6)(B). Pub. L. 107–76 substituted ''$26,000,000'' for ''$25,000,000''.

2000—Subsec. (e)(6)(B). Pub. L. 106–387 substituted ''$25,000,000'' for ''$20,000,000''.

1999—Subsec. (a)(5). Pub. L. 106–78, § 816(a), added par. (5).

Subsec. (e)(3)(A). Pub. L. 106–78, § 816(b)(1)(A), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: ''The Center may use amounts in the Fund to make grants and loans to eligible entities in accordance with a strategic plan submitted under subsection (d) of this section.''

Subsec. (e)(3)(B). Pub. L. 106–78, § 816(b)(1)(B), inserted at end ''The Fund is intended to furnish the initial capital for a revolving fund that will eventually be privatized for the purposes of assisting the United States sheep and goat industries.''

Subsec. (e)(3)(D). Pub. L. 106–78, § 816(b)(1)(C), (F), redesignated subpar. (E) as (D) and struck out heading and text of former subpar. (D). Text read as follows: ''The Center shall, to the maximum extent practicable, use the Fund to provide a variety of grants and intermediate- and long-term loans.''

Subsec. (e)(3)(E). Pub. L. 106–78, § 816(b)(1)(F), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 106–78, § 816(b)(1)(D), added subpar. (E) and struck out heading and text of former subpar. (E). Text read as follows: ''The Center may not use more than 3 percent of the amounts in the Fund for a fiscal year for the administration of the Center.''

Subsec. (e)(3)(F) to (H). Pub. L. 106–78, § 816(b)(1)(F), redesignated subpars. (G) and (H) as (F) and (G), respectively. Former subpar. (F) redesignated (E).

Subsec. (e)(3)(H)(vii). Pub. L. 106–78, § 816(b)(1)(E), added cl. (vii).

Subsec. (e)(6)(D). Pub. L. 106–78, § 816(b)(2), struck out heading and text of subpar. (D). Text read as follows: ''No additional Federal funds shall be used to carry out this section beginning on the earlier of—

''(i) the date that is 10 years after April 4, 1996; or

''(ii) the day after a total of $50,000,000 has been made available under subparagraphs (B) and (C) to carry out this section.''

Subsec. (f)(2)(B). Pub. L. 106–78, § 816(c)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: ''review any grant, loan, contract, or cooperative agreement to be made or entered into by the Center and any financial assistance provided to the Center;''.

Subsec. (f)(5)(C). Pub. L. 106–78, § 816(c)(2), added subpar. (C) and struck out heading and text of former subpar. (C). Text read as follows: ''A voting member may be reelected for not more than 1 additional term.''

Subsec. (f)(6)(B). Pub. L. 106–78, § 816(c)(3), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: ''A member elected to fill a vacancy for an unexpired term may be reelected for 1 full term.''

Subsec. (j). Pub. L. 106–78, § 816(d), added subsec. (j).

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, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

Pub. L. 110–234, title XI, § 11009(b)(2), May 22, 2008, 122 Stat. 1359, and Pub. L. 110–246, § 4(a), title XI, § 11009(b)(2), June 18, 2008, 122 Stat. 1664, 2121, provided that: ''The amendment made by paragraph (1) [amending this section] takes effect on May 1, 2007.''

[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.]

§ 2008k. Making and servicing of loans by personnel of State, county, or area committees

The Secretary shall use personnel of a State, county or area committee established under section 590h(b)(5) of title 16 to make and service loans under this chapter to the extent the personnel have been trained to do so.

(Pub. L. 87–128, title III, § 376, as added Pub. L. 107–171, title V, § 5320, May 13, 2002, 116 Stat. 349.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in text, see note set out under section 1921 of this title.

§ 2008*l*. Eligibility of employees of State, county, or area committee for loans and loan guarantees

(a) In general

The Secretary shall not prohibit an employee of a State, county or area committee established under section 590h(b)(5) of title 16 or an employee of the Department of Agriculture from obtaining a loan or loan guarantee under subchapter I, II or III of this chapter.

(b) Approvals

(1) County or area office

In the case of a loan application from an employee in a county or area office, the Farm Service Agency State office shall be respon-

sible for reviewing and approving the application.

(2) State office

In the case of a loan application from an employee of a State office, the Farm Service Agency national office shall be responsible for reviewing and approving the application.

(Pub. L. 87–128, title III, § 377, as added Pub. L. 107–171, title V, § 5321, May 13, 2002, 116 Stat. 349.)

§ 2008m. National Rural Development Partnership

(a) Definitions

In this section:

(1) Agency with rural responsibilities

The term ''agency with rural responsibilities'' means any executive agency (as defined in section 105 of title 5) that implements a Federal law, or administers a program, targeted at or having a significant impact on rural areas.

(2) Coordinating Committee

The term ''Coordinating Committee'' means the National Rural Development Coordinating Committee established by subsection (c) of this section.

(3) Partnership

The term ''Partnership'' means the National Rural Development Partnership continued by subsection (b) of this section.

(4) State rural development council

The term ''State rural development council'' means a State rural development council that meets the requirements of subsection (d) of this section.

(b) Partnership

(1) In general

The Secretary shall continue the National Rural Development Partnership composed of—

(A) the Coordinating Committee; and

(B) State rural development councils.

(2) Purposes

The purposes of the Partnership are to empower and build the capacity of States and rural communities to design flexible and innovative responses to their own special rural development needs, with local determinations of progress and selection of projects and activities.

(3) Governing panel

(A) In general

A panel consisting of representatives of the Coordinating Committee and State rural development councils shall be established to lead and coordinate the strategic operation, policies, and practices of the Partnership.

(B) Annual reports

In conjunction with the Coordinating Committee and State rural development councils, the panel shall prepare and submit to Congress an annual report on the activities of the Partnership.

(4) Role of Federal Government

The role of the Federal Government in the Partnership may be that of a partner and facilitator, with Federal agencies authorized—

(A) to cooperate with States to implement the Partnership;

(B) to provide States with the technical and administrative support necessary to plan and implement tailored rural development strategies to meet local needs;

(C) to ensure that the head of each agency with rural responsibilities designates a senior-level agency official to represent the agency on the Coordinating Committee and directs appropriate field staff to participate fully with the State rural development council within the jurisdiction of the field staff; and

(D) to enter into cooperative agreements with, and to provide grants and other assistance to, the Coordinating Committee and State rural development councils.

(c) National Rural Development Coordinating Committee

(1) Establishment

The Secretary shall establish a National Rural Development Coordinating Committee within the Department of Agriculture.

(2) Composition

The Coordinating Committee shall be composed of—

(A) 1 representative of each agency with rural responsibilities; and

(B) representatives, approved by the Secretary, of—

(i) national associations of State, regional, local, and tribal governments and intergovernmental and multijurisdictional agencies and organizations;

(ii) national public interest groups;

(iii) other national nonprofit organizations that elect to participate in the activities of the Coordinating Committee; and

(iv) the private sector.

(3) Duties

The Coordinating Committee shall—

(A) support the work of the State rural development councils;

(B) facilitate coordination of rural development policies, programs, and activities among Federal agencies and with those of State, local, and tribal governments, the private sector, and nonprofit organizations;

(C) review and comment on policies, regulations, and proposed legislation that affect or would affect rural areas and gather and provide related information;

(D) develop and facilitate strategies to reduce or eliminate administrative and regulatory impediments; and

(E) require each State rural development council receiving funds under this section to submit an annual report on the use of the funds, including a description of strategic plans, goals, performance measures, and outcomes for the State rural development council of the State.

(4) Federal participation in Coordinating Committee

(A) In general

A Federal employee shall fully participate in the governance and operations of the Co-

ordinating Committee, including activities related to grants, contracts, and other agreements, in accordance with this section.

(B) Conflicts

Participation by a Federal employee in the Coordinating Committee in accordance with this paragraph shall not constitute a violation of section 205 or 208 of title 18.

(5) Administrative support

The Secretary may provide such administrative support for the Coordinating Committee as the Secretary determines is necessary to carry out the duties of the Coordinating Committee.

(6) Procedures

The Secretary may prescribe such regulations, bylaws, or other procedures as are necessary for the operation of the Coordinating Committee.

(d) State rural development councils

(1) Establishment

Notwithstanding chapter 63 of title 31, each State may elect to participate in the Partnership by entering into an agreement with the Secretary to recognize a State rural development council.

(2) Composition

A State rural development council shall—

(A) be composed of representatives of Federal, State, local, and tribal governments, nonprofit organizations, regional organizations, the private sector, and other entities committed to rural advancement; and

(B) have a nonpartisan and nondiscriminatory membership that—

(i) is broad and representative of the economic, social, and political diversity of the State; and

(ii) shall be responsible for the governance and operations of the State rural development council.

(3) Duties

A State rural development council shall—

(A) facilitate collaboration among Federal, State, local, and tribal governments and the private and nonprofit sectors in the planning and implementation of programs and policies that have an impact on rural areas of the State;

(B) monitor, report, and comment on policies and programs that address, or fail to address, the needs of the rural areas of the State;

(C) as part of the Partnership, in conjunction with the Coordinating Committee, facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of Federal, State, local, and tribal governments; and

(D)(i) provide to the Coordinating Committee an annual plan with goals and performance measures; and

(ii) submit to the Coordinating Committee an annual report on the progress of the State rural development council in meeting the goals and measures.

(4) Federal participation in State rural development councils

(A) In general

A State Director for Rural Development of the Department of Agriculture, other employees of the Department, and employees of other Federal agencies with rural responsibilities shall fully participate as voting members in the governance and operations of State rural development councils (including activities related to grants, contracts, and other agreements in accordance with this section) on an equal basis with other members of the State rural development councils.

(B) Conflicts

Participation by a Federal employee in a State rural development council in accordance with this paragraph shall not constitute a violation of section 205 or 208 of title 18.

(e) Administrative support of the Partnership

(1) Detail of employees

(A) In general

In order to provide experience in intergovernmental collaboration, the head of an agency with rural responsibilities that elects to participate in the Partnership may, and is encouraged to, detail to the Secretary for the support of the Partnership 1 or more employees of the agency with rural responsibilities without reimbursement for a period of up to 1 year.

(B) Civil service status

The detail shall be without interruption or loss of civil service status or privilege.

(2) Additional support

The Secretary may provide for any additional support staff to the Partnership as the Secretary determines to be necessary to carry out the duties of the Partnership.

(3) Intermediaries

The Secretary may enter into a contract with a qualified intermediary under which the intermediary shall be responsible for providing administrative and technical assistance to a State rural development council, including administering the financial assistance available to the State rural development council.

(f) Matching requirements for State rural development councils

(1) In general

Except as provided in paragraph (2), a State rural development council shall provide matching funds, or in-kind goods or services, to support the activities of the State rural development council in an amount that is not less than 33 percent of the amount of Federal funds received from a Federal agency under subsection (g)(2) of this section.

(2) Exceptions to matching requirement for certain Federal funds

Paragraph (1) shall not apply to funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or

technical assistance received by a State rural development council from a Federal agency that are used—

(A) to support 1 or more specific program or project activities; or

(B) to reimburse the State rural development council for services provided to the Federal agency providing the funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or technical assistance.

(3) Department's share

The Secretary shall develop a plan to decrease, over time, the share of the Department of Agriculture of the cost of the core operations of State rural development councils.

(g) Funding

(1) Authorization of appropriations

There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.

(2) Federal agencies

(A) In general

Notwithstanding any other provision of law limiting the ability of an agency, along with other agencies, to provide funds to the Coordinating Committee or a State rural development council in order to carry out the purposes of this section, a Federal agency may make grants, gifts, or contributions to, provide technical assistance to, or enter into contracts or cooperative agreements with, the Coordinating Committee or a State rural development council.

(B) Assistance

Federal agencies are encouraged to use funds made available for programs that have an impact on rural areas to provide assistance to, and enter into contracts with, the Coordinating Committee or a State rural development council, as described in subparagraph (A).

(3) Contributions

The Coordinating Committee and a State rural development council may accept private contributions.

(h) Termination

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

(Pub. L. 87–128, title III, § 378, as added Pub. L. 107–171, title VI, § 6021, May 13, 2002, 116 Stat. 363; amended Pub. L. 110–234, title VI, § 6019, May 22, 2008, 122 Stat. 1172; Pub. L. 110–246, § 4(a), title VI, § 6019, June 18, 2008, 122 Stat. 1664, 1933.)

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. (g)(1). Pub. L. 110–246, § 6019(1), substituted ''2008 through 2012'' for ''2003 through 2007''.

Subsec. (h). Pub. L. 110–246, § 6019(2), substituted ''September 30, 2012'' for ''the date that is 5 years after May 13, 2002''.

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.

§ 2008n. Rural telework

(a) Definitions

In this section:

(1) Eligible organization

The term ''eligible organization'' means a nonprofit entity, an educational institution, an Indian tribe (as defined in section 450b of title 25), or any other organization, in a rural area (except for the institute), that meets the requirements of this section and such other requirements as are established by the Secretary.

(2) Institute

The term ''institute'' means a rural telework institute established using a grant under subsection (b) of this section.

(3) Telework

The term ''telework'' means the use of telecommunications to perform work functions at a rural work center located outside the place of business of an employer.

(b) Rural telework institute

(1) In general

The Secretary shall make 1 or more grants to an eligible organization to pay the Federal share of the cost of establishing and operating a national rural telework institute to carry out projects described in paragraph (2).

(2) Projects

The institute shall use grant funds received under this subsection to carry out a 5-year project—

(A) to serve as a clearinghouse for telework research and development;

(B) to conduct outreach to rural communities and rural workers;

(C) to develop and share best practices in rural telework throughout the United States;

(D) to develop innovative, market-driven telework projects and joint ventures with the private sector that employ workers in rural areas in jobs that promote economic self-sufficiency;

(E) to share information about the design and implementation of telework arrangements;

(F) to support private sector businesses that are transitioning to telework;

(G) to support and assist telework projects and individuals at the State and local level; and

(H) to perform such other functions as the Secretary considers appropriate.

(3) Non-Federal share

(A) In general

As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application

of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to—

(i) during each of the first, second, and third years of a project, 30 percent of the amount of the grant; and

(ii) during each of the fourth and fifth years of the project, 50 percent of the amount of the grant.

(B) Indian tribes

Notwithstanding subparagraph (A), an Indian tribe may use any Federal funds made available to the Indian tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

(C) Form

The non-Federal contributions required under subparagraph (A) may be in the form of in-kind contributions, including office equipment, office space, computer software, consultant services, computer networking equipment, and related services.

(c) Telework grants

(1) In general

Subject to paragraphs (2) through (5), the Secretary shall make grants to eligible organizations to pay the Federal share of the cost of—

(A) obtaining equipment and facilities to establish or expand telework locations in rural areas; and

(B) operating telework locations in rural areas.

(2) Applications

To be eligible to receive a grant under this subsection, an eligible organization shall submit to the Secretary, and receive the approval of the Secretary of, an application for the grant that demonstrates that the eligible organization has adequate resources and capabilities to establish or expand a telework location in a rural area.

(3) Non-Federal share

(A) In general

As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to 50 percent of the amount of the grant.

(B) Indian tribes

Notwithstanding subparagraph (A), an Indian tribe may use Federal funds made available to the tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

(C) Sources

The non-Federal contributions required under subparagraph (A)—

(i) may be in the form of in-kind contributions, including office equipment, office space, computer software, consultant services, computer networking equipment, and related services; and

(ii) may not be made from funds made available for community development block grants under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(4) Duration

The Secretary may not provide a grant under this subsection to expand or operate a telework location in a rural area after the date that is 3 years after the establishment of the telework location.

(5) Amount

The amount of a grant provided to an eligible organization under this subsection shall be not less than $1,000,000 and not more than $2,000,000.

(d) Applicability of certain Federal law

An eligible organization that receives funds under this section shall be subject to the provisions of Federal law (including regulations) administered by the Secretary of Labor or the Equal Employment Opportunity Commission that govern the responsibilities of employers to employees.

(e) Regulations

Not later than 180 days after May 13, 2002, the Secretary shall promulgate regulations to carry out this section.

(f) Authorization of appropriation

There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2002 through 2007, of which $5,000,000 shall be provided to establish and support an institute under subsection (b) of this section.

(Pub. L. 87–128, title III, § 379, as added Pub. L. 107–171, title VI, § 6022, May 13, 2002, 116 Stat. 368.)

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsec. (c)(3)(C)(ii), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. Title I of the Act is classified principally to chapter 69 (§ 5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

§ 2008o. Historic barn preservation

(a) Definitions

In this section:

(1) Barn

The term ''barn'' means a building (other than a dwelling) on a farm, ranch, or other agricultural operation for—

(A) housing animals;

(B) storing or processing crops;

(C) storing and maintaining agricultural equipment; or

(D) serving an essential or useful purpose related to agricultural activities conducted on the adjacent land.

(2) Eligible applicant

The term ''eligible applicant'' means—

(A) a State department of agriculture (or a designee);

(B) a national or State nonprofit organization that—

(i) is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of title 26; and

(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, preservation, or protection of historic barns; and

(C) a State historic preservation office.

(3) Historic barn

The term ''historic barn'' means a barn that—

(A) is at least 50 years old;

(B) retains sufficient integrity of design, materials, and construction to clearly identify the barn as an agricultural building; and

(C) meets the criteria for listing on National, State, or local registers or inventories of historic structures.

(4) Secretary

The term ''Secretary'' means the Secretary, acting through the Under Secretary of Rural Development.

(b) Program

The Secretary shall establish a historic barn preservation program—

(1) to assist States in developing a list of historic barns;

(2) to collect and disseminate information on historic barns;

(3) to foster educational programs relating to the history, construction techniques, rehabilitation, and contribution to society of historic barns; and

(4) to sponsor and conduct research on—

(A) the history of barns; and

(B) best practices to protect and rehabilitate historic barns from the effects of decay, fire, arson, and natural disasters.

(c) Grants

(1) In general

The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to carry out an eligible project under paragraph (2).

(2) Eligible projects

A grant under this subsection may be made to an eligible applicant for a project—

(A) to rehabilitate or repair historic barns;

(B) to preserve historic barns through—

(i) the installation of a fire protection system, including fireproofing or fire detection system and sprinklers; and

(ii) the installation of a system to prevent vandalism; and

(C) to identify, document, and conduct research on historic barns (including surveys) to develop and evaluate appropriate techniques or best practices for protecting historic barns.

(3) Priority

In making grants under this subsection, the Secretary shall give the highest priority to funding projects described in paragraph (2)(C).

(4) Requirements

An eligible applicant that receives a grant for a project under this subsection shall comply with any standards established by the Secretary of the Interior for historic preservation projects.

(5) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, § 379A, as added Pub. L. 107–171, title VI, § 6023, May 13, 2002, 116 Stat. 370; amended Pub. L. 110–234, title VI, § 6020, May 22, 2008, 122 Stat. 1172; Pub. L. 110–246, § 4(a), title VI, § 6020, June 18, 2008, 122 Stat. 1664, 1934.)

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. (c)(2)(A), (B). Pub. L. 110–246, § 6020(a)(1)(A), substituted ''historic barns'' for ''a historic barn''.

Subsec. (c)(2)(C). Pub. L. 110–246, § 6020(a)(1)(B), substituted ''on historic barns (including surveys)'' for ''on a historic barn''.

Subsec. (c)(3) to (5). Pub. L. 110–246, § 6020(a)(2), (3), (b), added par. (3), redesignated former pars. (3) and (4) as (4) and (5), respectively, and, in par. (5), substituted ''2008 through 2012'' for ''2002 through 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.

§ 2008p. Grants for NOAA weather radio transmitters

(a) In general

The Secretary, acting through the Administrator of the Rural Utilities Service, may make grants to public and nonprofit entities, and borrowers of loans made by the Rural Utilities Service, for the Federal share of the cost of acquiring radio transmitters to increase coverage of rural areas by the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration.

(b) Eligibility

To be eligible for a grant under this section, an applicant shall provide to the Secretary—

(1) a binding commitment from a tower owner to place the transmitter on a tower; and

(2) a description of how the tower placement will increase coverage of a rural area by the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration.

(c) Federal share

A grant provided under this section shall be not more than 75 percent of the total cost of acquiring a radio transmitter, as described in subsection (a) of this section.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, § 379B, as added Pub. L. 107–171, title VI, § 6024, May 13, 2002, 116 Stat. 371; amended Pub. L. 110–234, title VI, § 6021, May 22, 2008, 122 Stat. 1172; Pub. L. 110–246, § 4(a), title VI, § 6021, June 18, 2008, 122 Stat. 1664, 1934.)

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. (d). Pub. L. 110–246, § 6021, substituted ''2008 through 2012'' for ''2002 through 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.

§ 2008q. Grants to train farm workers in new technologies and to train farm workers in specialized skills necessary for higher value crops

(a) In general

The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, agribusinesses, State and local governments, agricultural labor organizations, farmer or rancher cooperatives, and community-based organizations with the capacity to train farm workers.

(b) Use of funds

An entity to which a grant is made under this section shall use the grant to train farm workers to use new technologies and develop specialized skills for agricultural development.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2002 through 2007.

(Pub. L. 87–128, title III, § 379C, as added Pub. L. 107–171, title VI, § 6025, May 13, 2002, 116 Stat. 372.)

§ 2008q–1. Grants to improve supply, stability, safety, and training of agricultural labor force

(a) Definition of eligible entity

In this section, the term ''eligible entity'' means an entity described in section 2008q(a) of this title.

(b) Grants

(1) In general

To assist agricultural employers and farmworkers by improving the supply, stability, safety, and training of the agricultural labor force, the Secretary may provide grants to eligible entities for use in providing services to assist farmworkers who are citizens or otherwise legally present in the United States in securing, retaining, upgrading, or returning from agricultural jobs.

(2) Eligible services

The services referred to in paragraph (1) include—

(A) agricultural labor skills development;

(B) the provision of agricultural labor market information;

(C) transportation;

(D) short-term housing while in transit to an agricultural worksite;

(E) workplace literacy and assistance with English as a second language;

(F) health and safety instruction, including ways of safeguarding the food supply of the United States; and

(G) such other services as the Secretary determines to be appropriate.

(c) Limitation on administrative expenses

Not more than 15 percent of the funds made available to carry out this section for a fiscal year may be used to pay for administrative expenses.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

(Pub. L. 110–234, title XIV, § 14204, May 22, 2008, 122 Stat. 1459; Pub. L. 110–246, § 4(a), title XIV, § 14204, June 18, 2008, 122 Stat. 1664, 2221.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Consolidated Farm and Rural Development Act which comprises this chapter.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

DEFINITION OF ''SECRETARY''

''Secretary'' as meaning the Secretary of Agriculture, see section 8701 of this title.

§ 2008r. Delta region agricultural economic development

(a) In general

The Secretary may make grants to assist in the development of state-of-the-art technology in animal nutrition (including research and development of the technology) and value-added manufacturing to promote an economic platform for the Delta region (as defined in section 2009aa of this title) to relieve severe economic conditions.

(b) Authorization of appropriations

There are authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2002 through 2007.

(Pub. L. 87–128, title III, § 379D, as added Pub. L. 107–171, title VI, § 6027(i), May 13, 2002, 116 Stat. 374.)

§ 2008s. Rural microentrepreneur assistance program

(a) Definitions

In this section:

(1) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(2) Microentrepreneur

The term ''microentrepreneur'' means an owner and operator, or prospective owner and operator, of a rural microenterprise who is unable to obtain sufficient training, technical assistance, or credit other than under this section, as determined by the Secretary.

(3) Microenterprise development organization

The term ''microenterprise development organization'' means an organization that—

(A) is—

(i) a nonprofit entity;

(ii) an Indian tribe, the tribal government of which certifies to the Secretary that—

(I) no microenterprise development organization serves the Indian tribe; and

(II) no rural microentrepreneur assistance program exists under the jurisdiction of the Indian tribe; or

(iii) a public institution of higher education;

(B) provides training and technical assistance to rural microentrepreneurs;

(C) facilitates access to capital or another service described in subsection (b) for rural microenterprises; and

(D) has a demonstrated record of delivering services to rural microentrepreneurs, or an effective plan to develop a program to deliver services to rural microentrepreneurs, as determined by the Secretary.

(4) Microloan

The term ''microloan'' means a business loan of not more than $50,000 that is provided to a rural microenterprise.

(5) Program

The term ''program'' means the rural microentrepreneur assistance program established under subsection (b).

(6) Rural microenterprise

The term ''rural microenterprise'' means—

(A) a sole proprietorship located in a rural area; or

(B) a business entity with not more than 10 full-time-equivalent employees located in a rural area.

(b) Rural microentrepreneur assistance program

(1) Establishment

The Secretary shall establish a rural microentrepreneur assistance program to provide loans and grants to support microentrepreneurs in the development and ongoing success of rural microenterprises.

(2) Purpose

The purpose of the program is to provide microentrepreneurs with—

(A) the skills necessary to establish new rural microenterprises; and

(B) continuing technical and financial assistance related to the successful operation of rural microenterprises.

(3) Loans

(A) In general

The Secretary shall make loans to microenterprise development organizations for the purpose of providing fixed interest rate microloans to microentrepreneurs for start-up and growing rural microenterprises.

(B) Loan terms

A loan made by the Secretary to a microenterprise development organization under this paragraph shall—

(i) be for a term not to exceed 20 years; and

(ii) bear an annual interest rate of at least 1 percent.

(C) Loan loss reserve fund

The Secretary shall require each microenterprise development organization that receives a loan under this paragraph to—

(i) establish a loan loss reserve fund; and

(ii) maintain the reserve fund in an amount equal to at least 5 percent of the outstanding balance of such loans owed by the microenterprise development organization, until all obligations owed to the Secretary under this paragraph are repaid.

(D) Deferral of interest and principal

The Secretary may permit the deferral of payments on principal and interest due on a loan to a microenterprise development organization made under this paragraph for a 2-year period beginning on the date the loan is made.

(4) Grants

(A) Grants to support rural microenterprise development

(i) In general

The Secretary shall make grants to microenterprise development organizations to—

(I) provide training, operational support, business planning, and market development assistance, and other related services to rural microentrepreneurs; and

(II) carry out such other projects and activities as the Secretary determines appropriate to further the purposes of the program.

(ii) Selection

In making grants under clause (i), the Secretary shall—

(I) place an emphasis on microenterprise development organizations that serve microentrepreneurs that are located in rural areas that have suffered significant outward migration, as determined by the Secretary; and

(II) ensure, to the maximum extent practicable, that grant recipients include microenterprise development organizations—

(aa) of varying sizes; and

(bb) that serve racially and ethnically diverse populations.

(B) Grants to assist microentrepreneurs

(i) In general

The Secretary shall make grants to microenterprise development organizations to provide marketing, management, and other technical assistance to microentrepreneurs that—

(I) received a loan from the microenterprise development organization under paragraph (3); or

(II) are seeking a loan from the microenterprise development organization under paragraph (3).

(ii) Maximum amount of grant

A microenterprise development organization shall be eligible to receive an annual grant under this subparagraph in an amount equal to not more than 25 percent of the total outstanding balance of microloans made by the microenterprise development organization under paragraph (3), as of the date the grant is awarded.

(C) Administrative expenses

Not more than 10 percent of a grant received by a microenterprise development organization for a fiscal year under this paragraph may be used to pay administrative expenses.

(c) Administration

(1) Cost share

(A) Federal share

Subject to subparagraph (B), the Federal share of the cost of a project funded under this section shall not exceed 75 percent.

(B) Matching requirement

As a condition of any grant made under this subparagraph, the Secretary shall require the microenterprise development organization to match not less than 15 percent of the total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

(C) Form of non-Federal share

The non-Federal share of the cost of a project funded under this section may be provided—

(i) in cash (including through fees, grants (including community development block grants), and gifts); or

(ii) in the form of in-kind contributions.

(2) Oversight

At a minimum, not later than December 1 of each fiscal year, a microenterprise development organization that receives a loan or grant under this section shall provide to the Secretary such information as the Secretary may require to ensure that assistance provided under this section is used for the purposes for which the loan or grant was made.

(d) Funding

(1) Mandatory funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

(A) $4,000,000 for each of fiscal years 2009 through 2011; and

(B) $3,000,000 for fiscal year 2012.

(2) Discretionary funding

In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2009 through 2012.

(Pub. L. 87–128, title III, § 379E, as added Pub. L. 110–234, title VI, § 6022, May 22, 2008, 122 Stat. 1173, and Pub. L. 110–246, § 4(a), title VI, § 6022, June 18, 2008, 122 Stat. 1664, 1934.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

§ 2008t. Grants for expansion of employment opportunities for individuals with disabilities in rural areas

(a) Definitions

In this section:

(1) Individual with a disability

The term ''individual with a disability'' means an individual with a disability (as defined in section 12102 of title 42).

(2) Individuals with disabilities

The term ''individuals with disabilities'' means more than 1 individual with a disability.

(b) Grants

The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, to expand and enhance employment opportunities for individuals with disabilities in rural areas.

(c) Eligibility

To be eligible to receive a grant under this section, a nonprofit organization or consortium of nonprofit organizations shall have—

(1) a significant focus on serving the needs of individuals with disabilities;

(2) demonstrated knowledge and expertise in—

(A) employment of individuals with disabilities; and

(B) advising private entities on accessibility issues involving individuals with disabilities;

(3) expertise in removing barriers to employment for individuals with disabilities, including access to transportation, assistive technology, and other accommodations; and

(4) existing relationships with national organizations focused primarily on the needs of rural areas.

(d) Uses

A grant received under this section may be used only to expand or enhance—

(1) employment opportunities for individuals with disabilities in rural areas by developing national technical assistance and education resources to assist small businesses in a rural area to recruit, hire, accommodate, and employ individuals with disabilities; and

(2) self-employment and entrepreneurship opportunities for individuals with disabilities in a rural area.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, § 379F, as added Pub. L. 110–234, title VI, § 6023, May 22, 2008, 122 Stat. 1176, and Pub. L. 110–246, § 4(a), title VI, § 6023, June 18, 2008, 122 Stat. 1664, 1937.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

§ 2008u. Health care services

(a) Purpose

The purpose of this section is to address the continued unmet health needs in the Delta region through cooperation among health care professionals, institutions of higher education, research institutions, and other individuals and entities in the region.

(b) Definition of eligible entity

In this section, the term ''eligible entity'' means a consortium of regional institutions of higher education, academic health and research institutes, and economic development entities located in the Delta region that have experience in addressing the health care issues in the region.

(c) Grants

To carry out the purpose described in subsection (a), the Secretary may award a grant to an eligible entity for—

(1) the development of—

(A) health care services;

(B) health education programs; and

(C) health care job training programs; and

(2) the development and expansion of public health-related facilities in the Delta region to address longstanding and unmet health needs of the region.

(d) Use

As a condition of the receipt of the grant, the eligible entity shall use the grant to fund projects and activities described in subsection (c), based on input solicited from local governments, public health care providers, and other entities in the Delta region.

(e) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section, $3,000,000 for each of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, § 379G, as added Pub. L. 110–234, title VI, § 6024, May 22, 2008, 122 Stat. 1176, and Pub. L. 110–246, § 4(a), title VI, § 6024, June 18, 2008, 122 Stat. 1664, 1938.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

SUBCHAPTER V—RURAL COMMUNITY ADVANCEMENT PROGRAM

§ 2009. Definitions

In this subchapter:

(1) State

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Federated States of Micronesia.

(2) State director

The term ''State director'' means, with respect to a State, the Director of the Rural Economic and Community Development State Office.

(Pub. L. 87–128, title III, § 381A, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1139; amended Pub. L. 107–171, title VI, § 6020(b)(2), May 13, 2002, 116 Stat. 363.)

AMENDMENTS

2002—Pub. L. 107–171 redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out heading and text of former par. (1). Text read as follows: ''The terms 'rural' and 'rural area' mean, subject to section 1926(a)(7) of this title, a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.''

DEFINITION OF RURAL AREAS FOR CERTAIN BUSINESS AND COMMUNITY FACILITIES PROGRAMS

Pub. L. 106–78, title VII, § 730, Oct. 22, 1999, 113 Stat. 1164, provided that: ''Notwithstanding section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009), in fiscal year 2000 and thereafter, the definitions of rural areas for certain business programs administered by the Rural Business-Cooperative Service and the community facilities programs administered by the Rural Housing Service shall be those provided for in statute and regulations prior to the enactment of Public Law 104–127 [Apr. 4, 1996].''

Similar provisions were contained in Pub. L. 105–277, div. A, § 101(a) [title VII, § 735], Oct. 21, 1998, 112 Stat. 2681, 2681–29, prior to repeal by Pub. L. 107–171, title VI, § 6020(b)(3), May 13, 2002, 116 Stat. 363.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2009a. Establishment

The Secretary shall establish a rural community advancement program to provide grants, loans, loan guarantees, and other assistance to meet the rural development needs of local communities in States and federally recognized Indian tribes.

(Pub. L. 87–128, title III, § 381B, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1139.)

§ 2009b. National objectives

The national objectives of the program established under this subchapter shall be to—

(1) promote strategic development activities and collaborative efforts by State and local communities, and federally recognized Indian tribes, to maximize the impact of Federal assistance;

(2) optimize the use of resources;

(3) provide assistance in a manner that reflects the complexity of rural needs, including the needs for business development, health care, education, infrastructure, cultural resources, the environment, and housing;

(4) advance activities that empower, and build the capacity of, State and local communities to design unique responses to the special needs of the State and local communities, and federally recognized Indian tribes, for rural development assistance; and

(5) adopt flexible and innovative approaches to solving rural development problems.

(Pub. L. 87–128, title III, § 381C, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1139.)

§ 2009c. Strategic plans

(a) In general

The Secretary shall direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan—

(1) for each State for the delivery of assistance under this subchapter in the State; and

(2) for each federally recognized Indian tribe for the delivery of assistance under this subchapter to the Indian tribe.

(b) Assistance

(1) In general

Financial assistance for rural development provided under this subchapter for a State or a federally recognized Indian tribe shall be used only for orderly community development that is consistent with the strategic plan of the State or Indian tribe.

(2) Rural area

Assistance under this subchapter may only be provided in a rural area.

(3) Small communities

In carrying out this subchapter in a State, the Secretary shall give priority to communities with the smallest populations and lowest per capita income.

(c) Review

The Secretary shall review the strategic plan of each State and federally recognized Indian tribe not later than 60 days after receiving the plan, and at least once every 5 years thereafter.

(d) Contents

A strategic plan of a State or federally recognized Indian tribe under this section shall be a plan that—

(1) coordinates economic, human, and community development plans and related activities proposed for an affected area;

(2) provides that the State or federally recognized Indian tribe, as appropriate, and an affected community (including local institutions and organizations that have contributed to the planning process) shall act as full partners in the process of developing and implementing the plan;

(3) identifies goals, methods, and benchmarks for measuring the success of carrying out the plan and how the plan relates to local or regional ecosystems;

(4) in the case of a State, provides for the involvement, in the preparation of the plan, of State, local, private, and public persons, State rural development councils, federally recognized Indian tribes in the State, and community-based organizations;

(5) identifies the amount and source of Federal and non-Federal resources that are available for carrying out the plan; and

(6) includes such other information as may be required by the Secretary.

(Pub. L. 87–128, title III, § 381D, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1140.)

§ 2009d. Rural Development Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund which shall be known as the Rural Development Trust Fund (in this subchapter referred to as the ''Trust Fund'').

(b) Accounts

There are established in the Trust Fund the following accounts:

(1) The rural community facilities account.

(2) The rural utilities account.

(3) The rural business and cooperative development account.

(4) The federally recognized Indian tribe account.

(c) Deposits into accounts

Notwithstanding any other provision of law, each fiscal year—

(1) all amounts made available to carry out the authorities described in subsection (d)(1) of this section for the fiscal year shall be deposited into the rural community facilities account of the Trust Fund;

(2) all amounts made available to carry out the authorities described in subsection (d)(2) of this section for the fiscal year shall be deposited into the rural utilities account of the Trust Fund; and

(3) all amounts made available to carry out the authorities described in subsection (d)(3) of this section for the fiscal year shall be deposited into the rural business and cooperative development account of the Trust Fund.

(d) Function categories

The function categories described in this subsection are the following:

(1) Rural community facilities

The rural community development category consists of all amounts made available for—

(A) community facility direct and guaranteed loans under section 1926(a)(1) of this title; or

(B) community facility grants under paragraph (19), (20), or (21) of section 1926(a) of this title.

(2) Rural utilities

The rural utilities category consists of all amounts made available for—

(A) water or waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 1926(a) of this title;

(B) rural water or wastewater technical assistance and training grants under section 1926(a)(14) of this title;

(C) emergency community water assistance grants under section 1926a of this title; or

(D) solid waste management grants under section 1932(b) of this title.

(3) Rural business and cooperative development

The rural business and cooperative development category consists of all amounts made available for—

(A) rural business opportunity grants under section 1926(a)(11)(A) of this title;

(B) business and industry direct and guaranteed loans under section 1932(a)(2)(A) of this title; or

(C) rural business enterprise grants or rural educational network grants under section 1932(c) of this title.

(e) Federally recognized Indian tribe account

(1) Transfers into account

Each fiscal year, the Secretary shall transfer to the federally recognized Indian tribe account of the Trust Fund 3 percent of the amount deposited into the Trust Fund for the fiscal year under subsection (d) of this section.

(2) Use of funds

The Secretary shall make available to federally recognized Indian tribes the amounts in the federally recognized Indian tribe account for use pursuant to any authority described in subsection (d) of this section.

(f) Allocation among States

The Secretary shall allocate the amounts in each account specified in subsection (c) of this section among the States in a fair, reasonable, and appropriate manner that takes into consideration rural population, levels of income, unemployment, and other relevant factors, as determined by the Secretary.

(g) Availability of funds allocated for States

The Secretary shall make available to each State the total amount allocated for the State under subsection (f) of this section that remains after applying section 2009f of this title.

(Pub. L. 87–128, title III, § 381E, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1140; amended Pub. L. 105–86, title III, Nov. 18, 1997, 111 Stat. 2094; Pub. L. 106–472, title III, §§ 304(b), 305(b), Nov. 9, 2000, 114 Stat. 2071; Pub. L. 107–171, title VI, § 6026(a), May 13, 2002, 116 Stat. 372; Pub. L. 110–234, title VI, § 6012(b)(4), May 22, 2008, 122 Stat. 1165; Pub. L. 110–246, § 4(a), title VI, § 6012(b)(4), June 18, 2008, 122 Stat. 1664, 1927.)

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. (d)(3)(B). Pub. L. 110–246, § 6012(b)(4), substituted ''1932(a)(2)(A)'' for ''1932(a)(1)''.

2002—Subsec. (b)(4), (5). Pub. L. 107–171, § 6026(a)(1), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: ''The national reserve account.''

Subsec. (e). Pub. L. 107–171, § 6026(a)(2), (3), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e) which related to national reserve account.

Subsec. (f). Pub. L. 107–171, § 6026(a)(3), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsecs. (g), (h). Pub. L. 107–171, § 6026(a)(3), (4), redesignated subsec. (h) as (g) and substituted ''subsection (f) of this section'' for ''subsection (g) of this section''. Former subsec. (g) redesignated (f).

2000—Subsec. (d)(1)(B). Pub. L. 106–472, § 305(b), substituted ''paragraph (19), (20), or (21)'' for ''paragraph (19) or (20)''.

Pub. L. 106–472, § 304(b), substituted ''paragraph (19) or (20) of section 1926(a)'' for ''section 1926(a)(19)''.

1997—Subsec. (d)(3)(B). Pub. L. 105–86 inserted ''direct and'' after ''business and industry''.

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.

§ 2009e. Transfers of funds

(a) General authority

Subject to subsection (b) of this section, the State Director[1] of any State may, during any fiscal year, transfer from each account specified in section 2009d(c) of this title a total of not more than 25 percent of the amount in the account that is allocated for the State for the fiscal year to any other account in which amounts are allocated for the State for the fiscal year.

(b) Limitation

Except as provided in subsection (c) of this section, a transfer otherwise authorized by subsection (a) of this section to be made during a fiscal year may not be made to the extent that the sum of the amount to be transferred and all amounts so transferred by State directors under subsection (a) of this section during the fiscal year exceeds 10 percent of the total amount made available to carry out the authorities described in section 2009d(d) of this title for the fiscal year.

(c) Exceptions

Subsections (a) and (b) of this section shall not apply to a transfer of funds by a State direc-

[1] So in original. Probably should not be capitalized.

tor if the State director certifies to the Secretary that—

(1) there is an approved application for a project in the function category to which the funds are to be transferred but funds are not available for the project in the function category; and

(2)(A) there is no such approved application in the function category from which the funds are to be transferred; or

(B) the community that would benefit from the project has a smaller population and a lesser per capita income than any community that would benefit from a project in the function category from which the funds are to be transferred.

(Pub. L. 87–128, title III, § 381F, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1142.)

§ 2009f. Grants to States

(a) Simple grants

(1) Mandatory grant

The Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the total amount allocated for the State under section 2009d(f) of this title.

(2) Permissive grant

Before July 15 of each fiscal year, the Secretary may make a grant to any State to defray the cost of any subsidy associated with a guarantee provided by an eligible public entity of the State under section 2009g of this title in an amount that does not exceed 5 percent of the total amount allocated for the State under section 2009d(f) of this title.

(3) Source of funds

The Secretary shall make grants to a State under paragraphs (1) and (2) from amounts allocated for the State in the accounts specified in section 2009d(c) of this title, by reducing each such allocated amount by the same percentage.

(b) Matching grants

(1) In general

Subject to paragraph (2), the Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the amount allocated for the State for the fiscal year under section 2009d(g) of this title.

(2) Eligibility

A State shall be eligible for a grant under paragraph (1) if the State makes commitments to the Secretary to—

(A) expend from non-Federal sources in accordance with subsection (c) of this section an amount that is not less than 200 percent of the amount of the grant; and

(B) maintain the amounts paid to the State under this subsection and the amount referred to in subparagraph (A) in an account separate from all other State funds until expended in accordance with subsection (c) of this section.

(3) Source of funds

If the Secretary makes a grant under paragraph (1) before July 15 of the fiscal year, the grant shall be made from amounts allocated for the State in the accounts specified in section 2009d(c) of this title for the fiscal year, by reducing each allocated amount by the same percentage.

(c) Use of funds

A State to which funds are provided under this section shall use the funds in rural areas for any activity authorized under the authorities described in section 2009d(d) of this title in accordance with the State strategic plan referred to in section 2009c of this title.

(d) Maintenance of effort

The State shall provide assurances to the Secretary that funds provided to the State under this section will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for rural development assistance in the State.

(e) Appeals

The Secretary shall provide to a State an opportunity to appeal any action taken with respect to the State under this section.

(f) Administrative costs

Federal funds shall not be used for any administrative costs incurred by a State in carrying out this subchapter.

(g) Expenditure of funds by State

(1) In general

Payments to a State from a grant under this section for a fiscal year shall be obligated by the State in the fiscal year or in the succeeding fiscal year. A State shall obligate funds under this section to provide assistance to rural areas.

(2) Failure to obligate

If a State fails to obligate payments in accordance with paragraph (1), the Secretary shall make an equal reduction in the amount of payments provided to the State under this section for the immediately succeeding fiscal year.

(3) Noncompliance

(A) Review

The Secretary shall review and monitor State compliance with this section.

(B) Penalty

If the Secretary finds that there has been misuse of grant funds provided under this section, or noncompliance with any of the terms and conditions of a grant, after reasonable notice and opportunity for a hearing—

(i) the Secretary shall notify the State of the finding; and

(ii) no further payments to the State shall be made with respect to the programs funded under this section until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

(C) Other sanctions

In the case of a finding of noncompliance made pursuant to subparagraph (B), the Sec-

retary may, in addition to, or in lieu of, imposing the sanctions described in subparagraph (B), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

(h) No entitlement to contract, grant, or assistance

Nothing in this subchapter—

(1) entitles any person to assistance or a contract or grant; or

(2) limits the right of a State to impose additional limitations or conditions on assistance or a contract or grant under this section.

(Pub. L. 87–128, title III, § 381G, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1143; amended Pub. L. 107–171, title VI, § 6026(c), May 13, 2002, 116 Stat. 372.)

AMENDMENTS

2002—Subsec. (a)(1), (2). Pub. L. 107–171, § 6026(c)(1), substituted ''section 2009d(f) of this title'' for ''section 2009d(g) of this title''.

Subsec. (b)(1). Pub. L. 107–171, § 6026(c)(2), substituted ''section 2009d(g) of this title'' for ''section 2009d(h) of this title''.

§ 2009g. Guarantee and commitment to guarantee loans

(a) "Eligible public entity" defined

In this section, the term ''eligible public entity'' means any unit of general local government.

(b) Guarantee and commitment

The Secretary, on such terms and conditions as the Secretary may prescribe, may guarantee and make commitments to guarantee notes or other obligations issued by eligible public entities, or by public agencies designated by the eligible public entities, for the purposes of financing rural development activities authorized and funded under section 2009f of this title.

(c) Limitation

The Secretary may not make a guarantee or commitment to guarantee with respect to a note or other obligation if the total amount of outstanding notes or obligations guaranteed under this section (excluding any amount repaid under the contract entered into under subsection (e)(1)(A) of this section) for issuers in the State would exceed an amount equal to 5 times the sum of the total amount of grants made to the State under section 2009f of this title.

(d) Payment of principal, interest, and costs

Notwithstanding any other provision of this subchapter, a State to which a grant is made under section 2009f of this title may use the grant (including program income derived from the grant) to pay principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on any note or other obligation guaranteed under this section.

(e) Repayment contract; security

(1) In general

To ensure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the issuer to—

(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

(B) pledge any grant for which the issuer may become eligible under this subchapter; and

(C) furnish, at the discretion of the Secretary, such other security as may be considered appropriate by the Secretary in making the guarantees.

(2) Security

To assist in ensuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this subchapter as security for notes or other obligations and charges issued under this section by any eligible public entity in the State.

(f) Pledged grants for repayments

Notwithstanding any other provision of this subchapter, the Secretary may apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (e) of this section to any repayments due the United States as a result of the guarantees.

(g) Outstanding obligations

The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (b) of this section shall not at any time exceed such amount as may be authorized to be appropriated for such purpose for any fiscal year.

(h) Purchase of guaranteed obligations by Federal Financing Bank

Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

(i) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

(Pub. L. 87–128, title III, § 381H, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1145.)

§ 2009h. Local involvement

An application for assistance under this subchapter shall include evidence of significant community support for the project for which the assistance is requested. In the case of assistance for a community facilities or infrastructure project, the evidence shall be in the form of a certification of support for the project from each affected general purpose local government.

(Pub. L. 87–128, title III, § 381I, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009i. Interstate collaboration

The Secretary shall permit the establishment of voluntary pooling arrangements among States, and regional fund-sharing agreements, to carry out projects receiving assistance under this subchapter.

(Pub. L. 87–128, title III, § 381J, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009j. Annual report

(a) In general

The Secretary, in collaboration with State, local, public, and private entities, State rural development councils, and community-based organizations, shall prepare an annual report that contains evaluations, assessments, and performance outcomes concerning the rural community advancement programs carried out under this subchapter.

(b) Submission

Not later than March 1 of each year, the Secretary shall—

(1) submit the report required by subsection (a) of this section to Congress and the chief executives of the States participating in the program established under this subchapter; and

(2) make the report available to State and local participants.

(Pub. L. 87–128, title III, § 381K, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009k. Rural development interagency working group

(a) In general

The Secretary shall provide leadership within the Executive branch for, and assume responsibility for, establishing an interagency working group chaired by the Secretary.

(b) Duties

The working group shall establish policy for, coordinate, make recommendations with respect to, and evaluate the performance of, all Federal rural development efforts.

(Pub. L. 87–128, title III, § 381L, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009*l*. Duties of Rural Economic and Community Development State Offices

In carrying out this subchapter, the Director of a Rural Economic and Community Development State Office shall—

(1) to the maximum extent practicable, ensure that the State strategic plan referred to in section 2009c of this title is implemented;

(2) coordinate community development objectives within the State;

(3) establish links between local, State, and field office program administrators of the Department of Agriculture;

(4) ensure that recipient communities comply with applicable Federal and State laws and requirements; and

(5) integrate State development programs with assistance under this subchapter.

(Pub. L. 87–128, title III, § 381M, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1146.)

§ 2009m. Electronic transfer

The Secretary shall transfer funds in accordance with this subchapter through electronic transfer as soon as practicable after April 4, 1996.

(Pub. L. 87–128, title III, § 381N, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1147.)

§ 2009n. Repealed. Pub. L. 107–171, title VI, § 6026(b), May 13, 2002, 116 Stat. 372

Section, Pub. L. 87–128, title III, § 381O, as added Pub. L. 104–127, title VII, § 761, Apr. 4, 1996, 110 Stat. 1147, related to rural venture capital demonstration program.

SUBCHAPTER VI—DELTA REGIONAL AUTHORITY

§ 2009aa. Definitions

In this subchapter:

(1) Authority

The term ''Authority'' means the Delta Regional Authority established by section 2009aa–1 of this title.

(2) Region

The term ''region'' means the Lower Mississippi (as defined in section 4 of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460)).

(3) Federal grant program

The term ''Federal grant program'' means a Federal grant program to provide assistance in—

(A) acquiring or developing land;

(B) constructing or equipping a highway, road, bridge, or facility; or

(C) carrying out other economic development activities.

(4) Alabama as participating State

Notwithstanding any other provision of law, the State of Alabama shall be a full member of the Delta Regional Authority and shall be entitled to all rights and privileges that said membership affords to all other participating States in the Delta Regional Authority.

(Pub. L. 87–128, title III, § 382A, as added and amended Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 153(b), title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–252, 2763A–269.)

REFERENCES IN TEXT

The Delta Development Act, referred to in par. (2), is S. 2836 of the 100th Congress, as introduced on Sept. 27, 1988, and incorporated by reference by, and made a part of, Pub. L. 100–460, title II, Oct. 1, 1988, 102 Stat. 2246, as amended. Section 4 of the Delta Development Act, which was set out in a note under section 3121 of Title 42, The Public Health and Welfare, was omitted from the Code. See Lower Mississippi Delta Development Commission note under section 3121 of Title 42 and Tables.

AMENDMENTS

2000—Par. (4). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 153(b)], added par. (4).

FINDINGS AND PURPOSES

Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 502], Dec. 21, 2000, 114 Stat. 2763, 2763A–268, provided that:

''(a) FINDINGS.—Congress finds that—

''(1) the lower Mississippi River region (referred to in this title [enacting this subchapter and amending provisions classified as a note under section 3121 of Title 42, The Public Health and Welfare] as the 'region'), though rich in natural and human resources, lags behind the rest of the United States in economic growth and prosperity;

''(2) the region suffers from a greater proportion of measurable poverty and unemployment than any other region of the United States;

''(3) the greatest hope for economic growth and revitalization in the region lies in the development of transportation infrastructure, creation of jobs, expansion of businesses, and development of entrepreneurial local economies;

''(4) the economic progress of the region requires an adequate transportation and physical infrastructure, a skilled and trained workforce, and greater opportunities for enterprise development and entrepreneurship;

''(5) a concerted and coordinated effort among Federal, State, and local agencies, the private sector, and nonprofit groups is needed if the region is to achieve its full potential for economic development;

''(6) economic development planning on a regional or multicounty basis offers the best prospect for achieving the maximum benefit from public and private investments; and

''(7) improving the economy of the region requires a special emphasis on areas of the region that are most economically distressed.

''(b) PURPOSES.—The purposes of this title are—

''(1) to promote and encourage the economic development of the region—

''(A) to ensure that the communities and people in the region have the opportunity for economic development; and

''(B) to ensure that the economy of the region reaches economic parity with that of the rest of the United States;

''(2) to establish a formal framework for joint Federal-State collaboration in meeting and focusing national attention on the economic development needs of the region;

''(3) to assist the region in obtaining the transportation and basic infrastructure, skills training, and opportunities for economic development that are essential for strong local economies;

''(4) to foster coordination among all levels of government, the private sector, and nonprofit groups in crafting common regional strategies that will lead to broader economic growth;

''(5) to strengthen efforts that emphasize regional approaches to economic development and planning;

''(6) to encourage the participation of interested citizens, public officials, agencies, and others in developing and implementing local and regional plans for broad-based economic and community development; and

''(7) to focus special attention on areas of the region that suffer from the greatest economic distress.''

§ 2009aa–1. Delta Regional Authority

(a) Establishment

(1) In general

There is established the Delta Regional Authority.

(2) Composition

The Authority shall be composed of—

(A) a Federal member, to be appointed by the President, with the advice and consent of the Senate; and

(B) the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority.

(3) Cochairpersons

The Authority shall be headed by—

(A) the Federal member, who shall serve—

(i) as the Federal cochairperson; and

(ii) as a liaison between the Federal Government and the Authority; and

(B) a State cochairperson, who—

(i) shall be a Governor of a participating State in the region; and

(ii) shall be elected by the State members for a term of not less than 1 year.

(b) Alternate members

(1) State alternates

The State member of a participating State may have a single alternate, who shall be—

(A) a resident of that State; and

(B) appointed by the Governor of the State.

(2) Alternate Federal cochairperson

The President shall appoint an alternate Federal cochairperson.

(3) Quorum

A State alternate shall not be counted toward the establishment of a quorum of the Authority in any instance in which a quorum of the State members is required to be present.

(4) Delegation of power

No power or responsibility of the Authority specified in paragraphs (2) and (3) of subsection (c) of this section, and no voting right of any Authority member, shall be delegated to any person—

(A) who is not an Authority member; or

(B) who is not entitled to vote in Authority meetings.

(c) Voting

(1) In general—voting

A decision by the Authority shall require the affirmative vote of the Federal cochairperson and a majority of the State members (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.

(2) Quorum

A quorum of State members shall be required to be present for the Authority to make any policy decision, including—

(A) a modification or revision of an Authority policy decision;

(B) approval of a State or regional development plan; and

(C) any allocation of funds among the States.

(3) Project and grant proposals

The approval of project and grant proposals shall be—

(A) a responsibility of the Authority; and

(B) conducted in accordance with section 2009aa–8 of this title.

(4) Voting by alternate members

An alternate member shall vote in the case of the absence, death, disability, removal, or

resignation of the Federal or State representative for which the alternate member is an alternate.

(d) Duties

The Authority shall—

(1) develop, on a continuing basis, comprehensive and coordinated plans and programs to establish priorities and approve grants for the economic development of the region, giving due consideration to other Federal, State, and local planning and development activities in the region;

(2) not later than 220 days after December 21, 2000, establish priorities in a development plan for the region (including 5-year regional outcome targets);

(3) assess the needs and assets of the region based on available research, demonstrations, investigations, assessments, and evaluations of the region prepared by Federal, State, and local agencies, universities, local development districts, and other nonprofit groups;

(4) formulate and recommend to the Governors and legislatures of States that participate in the Authority forms of interstate cooperation;

(5) work with State and local agencies in developing appropriate model legislation;

(6)(A) enhance the capacity of, and provide support for, local development districts in the region; or

(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

(7) encourage private investment in industrial, commercial, and other economic development projects in the region; and

(8) cooperate with and assist State governments with economic development programs of participating States.

(e) Administration

In carrying out subsection (d) of this section, the Authority may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Authority as the Authority considers appropriate;

(2) authorize, through the Federal or State cochairperson or any other member of the Authority designated by the Authority, the administration of oaths if the Authority determines that testimony should be taken or evidence received under oath;

(3) request from any Federal, State, or local department or agency such information as may be available to or procurable by the department or agency that may be of use to the Authority in carrying out duties of the Authority;

(4) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of Authority business and the performance of Authority duties;

(5) request the head of any Federal department or agency to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

(6) request the head of any State department or agency or local government to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

(7) provide for coverage of Authority employees in a suitable retirement and employee benefit system by—

(A) making arrangements or entering into contracts with any participating State government; or

(B) otherwise providing retirement and other employee benefit coverage;

(8) accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property;

(9) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out Authority duties, including any contracts, leases, or cooperative agreements with—

(A) any department, agency, or instrumentality of the United States;

(B) any State (including a political subdivision, agency, or instrumentality of the State); or

(C) any person, firm, association, or corporation; and

(10) establish and maintain a central office and field offices at such locations as the Authority may select.

(f) Federal agency cooperation

A Federal agency shall—

(1) cooperate with the Authority; and

(2) provide, on request of the Federal cochairperson, appropriate assistance in carrying out this subchapter, in accordance with applicable Federal laws (including regulations).

(g) Administrative expenses

(1) In general

Administrative expenses of the Authority (except for the expenses of the Federal cochairperson, including expenses of the alternate and staff of the Federal cochairperson, which shall be paid solely by the Federal Government) shall be paid—

(A) by the Federal Government, in an amount equal to 50 percent of the administrative expenses; and

(B) by the States in the region participating in the Authority, in an amount equal to 50 percent of the administrative expenses.

(2) State share

(A) In general

The share of administrative expenses of the Authority to be paid by each State shall be determined by the Authority.

(B) No Federal participation

The Federal cochairperson shall not participate or vote in any decision under subparagraph (A).

(C) Delinquent States

If a State is delinquent in payment of the State's share of administrative expenses of the Authority under this subsection—

(i) no assistance under this subchapter shall be furnished to the State (including assistance to a political subdivision or a resident of the State); and

(ii) no member of the Authority from the State shall participate or vote in any action by the Authority.

(h) Compensation

(1) Federal cochairperson

The Federal cochairperson shall be compensated by the Federal Government at level III of the Executive Schedule in subchapter II of chapter 53 of title 5.

(2) Alternate Federal cochairperson

The alternate Federal cochairperson—

(A) shall be compensated by the Federal Government at level V of the Executive Schedule described in paragraph (1); and

(B) when not actively serving as an alternate for the Federal cochairperson, shall perform such functions and duties as are delegated by the Federal cochairperson.

(3) State members and alternates

(A) In general

A State shall compensate each member and alternate representing the State on the Authority at the rate established by law of the State.

(B) No additional compensation

No State member or alternate member shall receive any salary, or any contribution to or supplementation of salary from any source other than the State for services provided by the member or alternate to the Authority.

(4) Detailed employees

(A) In general

No person detailed to serve the Authority under subsection (e)(6) of this section shall receive any salary or any contribution to or supplementation of salary for services provided to the Authority from—

(i) any source other than the State, local, or intergovernmental department or agency from which the person was detailed; or

(ii) the Authority.

(B) Violation

Any person that violates this paragraph shall be fined not more than $5,000, imprisoned not more than 1 year, or both.

(C) Applicable law

The Federal cochairperson, the alternate Federal cochairperson, and any Federal officer or employee detailed to duty on the Authority under subsection (e)(5) of this section shall not be subject to subparagraph (A), but shall remain subject to sections 202 through 209 of title 18.

(5) Additional personnel

(A) Compensation

(i) In general

The Authority may appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Authority to carry out the duties of the Authority.

(ii) Exception

Compensation under clause (i) shall not exceed the maximum rate for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

(B) Executive director

The executive director shall be responsible for—

(i) the carrying out of the administrative duties of the Authority;

(ii) direction of the Authority staff; and

(iii) such other duties as the Authority may assign.

(C) No Federal employee status

No member, alternate, officer, or employee of the Authority (except the Federal cochairperson of the Authority, the alternate and staff for the Federal cochairperson, and any Federal employee detailed to the Authority under subsection (e)(5) of this section) shall be considered to be a Federal employee for any purpose.

(i) Conflicts of interest

(1) In general

Except as provided under paragraph (2), no State member, alternate, officer, or employee of the Authority shall participate personally and substantially as a member, alternate, officer, or employee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other matter in which, to knowledge of the member, alternate, officer, or employee—

(A) the member, alternate, officer, or employee;

(B) the spouse, minor child, partner, or organization (other than a State or political subdivision of the State) of the member, alternate, officer, or employee, in which the member, alternate, officer, or employee is serving as officer, director, trustee, partner, or employee; or

(C) any person or organization with whom the member, alternate, officer, or employee is negotiating or has any arrangement concerning prospective employment;

has a financial interest.

(2) Disclosure

Paragraph (1) shall not apply if the State member, alternate, officer, or employee—

(A) immediately advises the Authority of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter presenting a potential conflict of interest;

(B) makes full disclosure of the financial interest; and

(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the Authority that the interest is not so substantial as to be likely to affect the integrity of the services that the Authority may expect from the State member, alternate, officer, or employee.

(3) Violation

Any person that violates this subsection shall be fined not more than $10,000, imprisoned not more than 2 years, or both.

(j) Validity of contracts, loans, and grants

The Authority may declare void any contract, loan, or grant of or by the Authority in relation to which the Authority determines that there has been a violation of any provision under subsection (h)(4) of this section, subsection (i) of this section, or sections 202 through 209 of title 18.

(Pub. L. 87–128, title III, § 382B, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–269; amended Pub. L. 107–171, title VI, § 6027(a), (b), May 13, 2002, 116 Stat. 373; Pub. L. 108–447, div. C, title V, § 506, Dec. 8, 2004, 118 Stat. 2963; Pub. L. 111–85, title IV, § 402, Oct. 28, 2009, 123 Stat. 2878.)

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111–85, which directed amendment of section 382B(c) of the Delta Regional Authority Act of 2000 by adding par. (1) and striking out former par. (1), was executed to this section, which is section 382B of the Consolidated Farm and Rural Development Act, to reflect the probable intent of Congress. Prior to amendment, text read as follows:

''(A) TEMPORARY METHOD.—During the period beginning on May 13, 2002, and ending on December 31, 2008, a decision by the Authority shall require the affirmative vote of the Federal cochairperson and a majority of the State members (not including any member representing a State that is delinquent under subsection (g)(2)(C) of this section) to be effective.

''(B) PERMANENT METHOD.—Effective beginning on January 1, 2009, a decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(C) of this section) to be effective.''

2004—Subsec. (c)(1)(A). Pub. L. 108–447, § 506(1), substituted ''2008'' for ''2004''.

Subsec. (c)(1)(B). Pub. L. 108–447, § 506(2), substituted ''2009'' for ''2005''.

2002—Subsec. (c)(1). Pub. L. 107–171, § 6027(a), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''A decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(C) of this section) to be effective.''

Subsec. (e)(4). Pub. L. 107–171, § 6027(b), substituted '', rules, and regulations'' for ''and rules''.

§ 2009aa–2. Economic and community development grants

(a) In general

The Authority may approve grants to States and public and nonprofit entities for projects, approved in accordance with section 2009aa–8 of this title—

(1) to develop the transportation infrastructure of the region for the purpose of facilitating economic development in the region (except that grants for this purpose may only be made to a State or local government);

(2) to assist the region in obtaining the job training, employment-related education, and business development (with an emphasis on entrepreneurship) that are needed to build and maintain strong local economies;

(3) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for improving basic public services;

(4) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for equipping industrial parks and related facilities; and

(5) to otherwise achieve the purposes of this subchapter.

(b) Funding

(1) In general

Funds for grants under subsection (a) of this section may be provided—

(A) entirely from appropriations to carry out this section;

(B) in combination with funds available under another Federal or Federal grant program; or

(C) from any other source.

(2) Priority of funding

To best build the foundations for long-term economic development and to complement other Federal and State resources in the region, Federal funds available under this subchapter shall be focused on the activities in the following order or priority:

(A) Basic public infrastructure in distressed counties and isolated areas of distress.

(B) Transportation infrastructure for the purpose of facilitating economic development in the region.

(C) Business development, with emphasis on entrepreneurship.

(D) Job training or employment-related education, with emphasis on use of existing public educational institutions located in the region.

(Pub. L. 87–128, title III, § 382C, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–274; amended Pub. L. 107–171, title VI, § 6027(c), May 13, 2002, 116 Stat. 373.)

AMENDMENTS

2002—Subsec. (b)(3). Pub. L. 107–171 struck out heading and text of par. (3). Text read as follows: ''Notwithstanding any provision of law limiting the Federal share in any grant program, funds appropriated to carry out this section may be used to increase a Federal share in a grant program, as the Authority determines appropriate.''

§ 2009aa–3. Supplements to Federal grant programs

(a) Finding

Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for

which the States and communities are eligible because—

(1) the States or communities lack the economic resources to provide the required matching share; or

(2) there are insufficient funds available under the applicable Federal law authorizing the Federal grant program to meet pressing needs of the region.

(b) Federal grant program funding

Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations of any Federal grant program, and in accordance with subsection (c) of this section, the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region—

(1) may increase the Federal share of the costs of a project under the Federal grant program to not more than 90 percent (except as provided in section 2009aa–5(b) of this title); and

(2) shall use amounts made available to carry out this subchapter to pay the increased Federal share.

(c) Certifications

(1) In general

In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

(A) meets (except as provided in subsection (b) of this section) the applicable requirements of the applicable Federal grant program; and

(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

(2) Certification by Authority

(A) In general

The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 2009aa–8 of this title—

(i) shall be controlling; and

(ii) shall be accepted by the Federal agencies.

(B) Acceptance by Federal cochairperson

In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.

(Pub. L. 87–128, title III, § 382D, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–275; amended Pub. L. 107–171, title VI, § 6027(d), May 13, 2002, 116 Stat. 373.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(2)(A), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be ''this title'' meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

AMENDMENTS

2002—Pub. L. 107–171 reenacted section catchline without change and amended text generally to clarify provisions relating to supplements to Federal grant programs.

§ 2009aa–4. Local development districts; certification and administrative expenses

(a) Definition of local development district

In this section, the term ''local development district'' means an entity that—

(1) is—

(A) a planning district in existence on December 21, 2000, that is recognized by the Economic Development Administration of the Department of Commerce; or

(B) where an entity described in subparagraph (A) does not exist—

(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

(ii) governed by a policy board with at least a simple majority of members consisting of elected officials or employees of a general purpose unit of local government who have been appointed to represent the government;

(iii) certified to the Authority as having a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region—

(I) by the Governor of each State in which the entity is located; or

(II) by the State officer designated by the appropriate State law to make the certification; and

(iv)(I) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

(II) a nonprofit agency or instrumentality of a State or local government;

(III) a public organization established before December 21, 2000, under State law for creation of multi-jurisdictional, area-wide planning organizations; or

(IV) a nonprofit association or combination of bodies, agencies, and instrumentalities described in subclauses (I) through (III); and

(2) has not, as certified by the Federal cochairperson—

(A) inappropriately used Federal grant funds from any Federal source; or

(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

(b) Grants to local development districts

(1) In general

The Authority shall make grants for administrative expenses under this section.

(2) Conditions for grants

(A) Maximum amount

The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the local development district receiving the grant.

(B) Maximum period

No grant described in paragraph (1) shall be awarded to a State agency certified as a local development district for a period greater than 3 years.

(C) Local share

The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

(c) Duties of local development districts

A local development district shall—

(1) operate as a lead organization serving multicounty areas in the region at the local level; and

(2) serve as a liaison between State and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens that—

(A) are involved in multijurisdictional planning;

(B) provide technical assistance to local jurisdictions and potential grantees; and

(C) provide leadership and civic development assistance.

(Pub. L. 87–128, title III, § 382E, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–276; amended Pub. L. 107–171, title VI, § 6027(e), May 13, 2002, 116 Stat. 374.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–171 substituted ''Authority shall'' for ''Authority may''.

§ 2009aa–5. Distressed counties and areas and nondistressed counties

(a) Designations

Not later than 90 days after December 21, 2000, and annually thereafter, the Authority, in accordance with such criteria as the Authority may establish, shall designate—

(1) as distressed counties, counties in the region that are the most severely and persistently distressed and underdeveloped and have high rates of poverty or unemployment;

(2) as nondistressed counties, counties in the region that are not designated as distressed counties under paragraph (1); and

(3) as isolated areas of distress, areas located in nondistressed counties (as designated under paragraph (2)) that have high rates of poverty or unemployment.

(b) Distressed counties

(1) In general

The Authority shall allocate at least 75 percent of the appropriations made available under section 2009aa–12 of this title for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

(2) Funding limitations

The funding limitations under section 2009aa–3(b) of this title shall not apply to a project providing transportation or basic public services to residents of one or more distressed counties or isolated areas of distress in the region.

(c) Nondistressed counties

(1) In general

Except as provided in this subsection, no funds shall be provided under this subchapter for a project located in a county designated as a nondistressed county under subsection (a)(2) of this section.

(2) Exceptions

(A) In general

The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 2009aa–4(b) of this title.

(B) Multicounty projects

The Authority may waive the application of the funding prohibition under paragraph (1) to—

(i) a multicounty project that includes participation by a nondistressed county; or

(ii) any other type of project;

if the Authority determines that the project could bring significant benefits to areas of the region outside a nondistressed county.

(C) Isolated areas of distress

For a designation of an isolated area of distress for assistance to be effective, the designation shall be supported—

(i) by the most recent Federal data available; or

(ii) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

(d) Transportation and basic public infrastructure

The Authority shall allocate at least 50 percent of any funds made available under section 2009aa–12 of this title for transportation and basic public infrastructure projects authorized under paragraphs (1) and (3) of section 2009aa–2(a) of this title.

(Pub. L. 87–128, title III, § 382F, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–277.)

§ 2009aa–6. Development planning process

(a) State development plan

In accordance with policies established by the Authority, each State member shall submit a development plan for the area of the region represented by the State member.

(b) Content of plan

A State development plan submitted under subsection (a) of this section shall reflect the goals, objectives, and priorities identified in the regional development plan developed under section 2009aa–1(d)(2) of this title.

(c) Consultation with interested local parties

In carrying out the development planning process (including the selection of programs and projects for assistance), a State may—

(1) consult with—

(A) local development districts; and

(B) local units of government; and

(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

(d) Public participation

(1) In general

The Authority and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subchapter.

(2) Regulations

The Authority shall develop guidelines for providing public participation described in paragraph (1), including public hearings.

(Pub. L. 87–128, title III, § 382G, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–278.)

§ 2009aa–7. Program development criteria

(a) In general

In considering programs and projects to be provided assistance under this subchapter, and in establishing a priority ranking of the requests for assistance provided by the Authority, the Authority shall follow procedures that ensure, to the maximum extent practicable, consideration of—

(1) the relationship of the project or class of projects to overall regional development;

(2) the per capita income and poverty and unemployment rates in an area;

(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same funds;

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area served by the project; and

(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

(b) No relocation assistance

No financial assistance authorized by this subchapter shall be used to assist a person or entity in relocating from one area to another, except that financial assistance may be used as otherwise authorized by this chapter to attract businesses from outside the region to the region.

(c) Reduction of funds

Funds may be provided for a program or project in a State under this subchapter only if the Authority determines that the level of Federal or State financial assistance provided under a law other than this subchapter, for the same type of program or project in the same area of the State within the region, will not be reduced as a result of funds made available by this subchapter.

(Pub. L. 87–128, title III, § 382H, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–279.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b), see note set out under section 1921 of this title.

§ 2009aa–8. Approval of development plans and projects

(a) In general

A State or regional development plan or any multistate subregional plan that is proposed for development under this subchapter shall be reviewed and approved by the Authority.

(b) Evaluation by State member

An application for a grant or any other assistance for a project under this subchapter shall be made through and evaluated for approval by the State member of the Authority representing the applicant.

(c) Certification

An application for a grant or other assistance for a project shall be approved only on certification by the State member that the application for the project—

(1) describes ways in which the project complies with any applicable State development plan;

(2) meets applicable criteria under section 2009aa–7 of this title;

(3) provides adequate assurance that the proposed project will be properly administered, operated, and maintained; and

(4) otherwise meets the requirements of this subchapter.

(d) Approval of grant applications

On certification by a State member of the Authority of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Authority under section 2009aa–1(c) of this title shall be required for approval of the application.

(Pub. L. 87–128, title III, § 382I, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21,

2000, 114 Stat. 2763, 2763A–279; amended Pub. L. 107–171, title VI, § 6027(f), May 13, 2002, 116 Stat. 374.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171, § 6027(f)(1), inserted ''and approved'' after ''reviewed''.

Subsec. (d). Pub. L. 107–171, § 6027(f)(2), substituted ''Approval of grant applications'' for ''Votes for decisions'' in heading.

§ 2009aa–9. Consent of States

Nothing in this subchapter requires any State to engage in or accept any program under this subchapter without the consent of the State.

(Pub. L. 87–128, title III, § 382J, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–280.)

§ 2009aa–10. Records

(a) Records of the Authority

(1) In general

The Authority shall maintain accurate and complete records of all transactions and activities of the Authority.

(2) Availability

All records of the Authority shall be available for audit and examination by the Comptroller General of the United States and the Inspector General of the Department of Agriculture (including authorized representatives of the Comptroller General and the Inspector General of the Department of Agriculture).

(b) Records of recipients of Federal assistance

(1) In general

A recipient of Federal funds under this subchapter shall, as required by the Authority, maintain accurate and complete records of transactions and activities financed with Federal funds and report on the transactions and activities to the Authority.

(2) Availability

All records required under paragraph (1) shall be available for audit by the Comptroller General of the United States, the Inspector General of the Department of Agriculture, and the Authority (including authorized representatives of the Comptroller General, the Inspector General of the Department of Agriculture, and the Authority).

(Pub. L. 87–128, title III, § 382K, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–280; amended Pub. L. 111–8, div. A, title VII, § 733, Mar. 11, 2009, 123 Stat. 558.)

AMENDMENTS

2009—Pub. L. 111–8 struck out subsec. (c). Text read as follows: ''The Inspector General of the Department of Agriculture shall audit the activities, transactions, and records of the Authority on an annual basis.''

§ 2009aa–11. Annual report

Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subchapter.

(Pub. L. 87–128, title III, § 382L, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–280.)

§ 2009aa–12. Authorization of appropriations

(a) In general

There is authorized to be appropriated to the Authority to carry out this subchapter $30,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

(b) Administrative expenses

Not more than 5 percent of the amount appropriated under subsection (a) of this section for a fiscal year shall be used for administrative expenses of the Authority.

(Pub. L. 87–128, title III, § 382M, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–280; amended Pub. L. 107–171, title VI, § 6027(g), May 13, 2002, 116 Stat. 374; Pub. L. 110–234, title VI, § 6025(a), May 22, 2008, 122 Stat. 1177; Pub. L. 110–246, § 4(a), title VI, § 6025(a), June 18, 2008, 122 Stat. 1664, 1938.)

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. (a). Pub. L. 110–246, § 6025(a), substituted ''2008 through 2012'' for ''2001 through 2007''.

2002—Subsec. (a). Pub. L. 107–171 substituted ''2007'' for ''2002''.

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.

§ 2009aa–13. Termination of authority

This subchapter and the authority provided under this subchapter expire on October 1, 2012.

(Pub. L. 87–128, title III, § 382N, as added Pub. L. 106–554, § 1(a)(4) [div. B, title V, § 503], Dec. 21, 2000, 114 Stat. 2763, 2763A–281; amended Pub. L. 107–171, title VI, § 6027(h), May 13, 2002, 116 Stat. 374; Pub. L. 110–234, title VI, 6025(b), May 22, 2008, 122 Stat. 1177; Pub. L. 110–246, § 4(a), title VI, § 6025(b), June 18, 2008, 122 Stat. 1664, 1939.)

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—Pub. L. 110–246, § 6025(b), substituted ''2012'' for ''2007''.

2002—Pub. L. 107–171 substituted ''2007'' for ''2002''.

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.

SUBCHAPTER VII—NORTHERN GREAT PLAINS REGIONAL AUTHORITY

§ 2009bb. Definitions

In this subchapter:

(1) Authority

The term ''Authority'' means the Northern Great Plains Regional Authority established by section 2009bb–1 of this title.

(2) Federal grant program

The term ''Federal grant program'' means a Federal grant program to provide assistance in—

(A) implementing the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great Plains Rural Development Act (7 U.S.C. 2661 note; Public Law 103–318);

(B) acquiring or developing land;

(C) constructing or equipping a highway, road, bridge, or facility;

(D) carrying out other economic development activities; or

(E) conducting research activities related to the activities described in subparagraphs (A) through (D).

(3) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(4) Region

The term ''region'' means the States of Iowa, Minnesota, Missouri (other than counties included in the Delta Regional Authority), Nebraska, North Dakota, and South Dakota.

(Pub. L. 87–128, title III, § 383A, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 375; amended Pub. L. 110–234, title VI, § 6026(a), May 22, 2008, 122 Stat. 1177; Pub. L. 110–246, § 4(a), title VI, § 6026(a), June 18, 2008, 122 Stat. 1664, 1939.)

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—Par. (4). Pub. L. 110–246, § 6026(a), inserted ''Missouri (other than counties included in the Delta Regional Authority),'' after ''Minnesota,''.

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.

§ 2009bb–1. Northern Great Plains Regional Authority

(a) Establishment

(1) In general

There is established the Northern Great Plains Regional Authority.

(2) Composition

The Authority shall be composed of—

(A) a Federal member, to be appointed by the President, by and with the advice and consent of the Senate;

(B) the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority; and

(C) a member of an Indian tribe, who shall be a chairperson of an Indian tribe in the region or a designee of such a chairperson, to be appointed by the President, by and with the advice and consent of the Senate.

(3) Cochairpersons

The Authority shall be headed by—

(A) the Federal member, who shall serve—

(i) as the Federal cochairperson; and

(ii) as a liaison between the Federal Government and the Authority;

(B) a State cochairperson, who—

(i) shall be a Governor of a participating State in the region; and

(ii) shall be elected by the State members for a term of not less than 1 year; and

(C) the member of an Indian tribe, who shall serve—

(i) as the tribal cochairperson; and

(ii) as a liaison between the governments of Indian tribes in the region and the Authority.

(4) Failure to confirm

(A) Federal member

Notwithstanding any other provision of this section, if a Federal member described in paragraph (2)(A) has not been confirmed by the Senate by not later than 180 days after the date of enactment of this paragraph, the Authority may organize and operate without the Federal member.

(B) Indian Chairperson

In the case of the Indian Chairperson, if no Indian Chairperson is confirmed by the Senate, the regional authority shall consult and coordinate with the leaders of Indian tribes in the region concerning the activities of the Authority, as appropriate.

(b) Alternate members

(1) Alternate Federal cochairperson

The President shall appoint an alternate Federal cochairperson.

(2) State alternates

(A) In general

The State member of a participating State may have a single alternate, who shall be—

(i) a resident of that State; and

(ii) appointed by the Governor of the State.

(B) Quorum

A State alternate member shall not be counted toward the establishment of a quorum of the members of the Authority in any case in which a quorum of the State members is required to be present.

(3) Alternate tribal cochairperson

The President shall appoint an alternate tribal cochairperson, by and with the advice and consent of the Senate.

(4) Delegation of power

No power or responsibility of the Authority specified in paragraphs (2) and (3) of subsection (c) of this section, and no voting right of any member of the Authority, shall be delegated to any person who is not—

(A) a member of the Authority; or

(B) entitled to vote in Authority meetings.

(c) Voting

(1) In general

A decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(D) of this section) to be effective.

(2) Quorum

A quorum of State members shall be required to be present for the Authority to make any policy decision, including—

(A) a modification or revision of an Authority policy decision;

(B) approval of a State or regional development plan; and

(C) any allocation of funds among the States.

(3) Project and grant proposals

The approval of project and grant proposals shall be—

(A) a responsibility of the Authority; and

(B) conducted in accordance with section 2009bb–8 of this title.

(4) Voting by alternate members

An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal, State, or Indian tribe member for whom the alternate member is an alternate.

(d) Duties

The Authority shall—

(1) develop, on a continuing basis, comprehensive and coordinated plans and programs for multistate cooperation to advance the economic and social well-being of the region and to approve grants for the economic development of the region, giving due consideration to other Federal, State, tribal, and local planning and development activities in the region;

(2) not later than 220 days after May 13, 2002, establish priorities in a development plan for the region (including 5-year regional outcome targets);

(3) assess the needs and assets of the region based on available research, demonstrations, investigations, assessments, and evaluations of the region prepared by Federal, State, tribal, and local agencies, universities, regional and local development districts or organizations, regional boards established under subchapter IX, and other nonprofit groups;

(4) formulate and recommend to the Governors and legislatures of States that participate in the Authority forms of interstate cooperation for—

(i) renewable energy development and transmission;

(ii) transportation planning and economic development;

(iii) information technology;

(iv) movement of freight and individuals within the region;

(v) federally-funded research at institutions of higher education; and

(vi) conservation land management;

(5) work with State, tribal, and local agencies in developing appropriate model legislation;

(6) enhance the capacity of, and provide support for, multistate development and research organizations, local development organizations and districts, and resource conservation districts in the region;

(7) encourage private investment in industrial, commercial, renewable energy, and other economic development projects in the region; and

(8) cooperate with and assist State governments with economic development programs of participating States.

(e) Administration

In carrying out subsection (d) of this section, the Authority may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Authority as the Authority considers appropriate;

(2) authorize, through the Federal, State, or tribal cochairperson or any other member of the Authority designated by the Authority, the administration of oaths if the Authority determines that testimony should be taken or evidence received under oath;

(3) request from any Federal, State, tribal, or local agency such information as may be available to or procurable by the agency that may be of use to the Authority in carrying out the duties of the Authority;

(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties of the Authority;

(5) request the head of any Federal agency to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

(6) request the head of any State agency, tribal government, or local government to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

(7) provide for coverage of Authority employees in a suitable retirement and employee benefit system by—

(A) making arrangements or entering into contracts with any participating State government or tribal government; or

(B) otherwise providing retirement and other employee benefit coverage;

(8) accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property;

(9) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary to carry out Author-

ity duties, including any contracts, leases, or cooperative agreements with—

(A) any department, agency, or instrumentality of the United States;

(B) any State (including a political subdivision, agency, or instrumentality of the State);

(C) any Indian tribe in the region; or

(D) any person, firm, association, or corporation; and

(10) establish and maintain a central office and field offices at such locations as the Authority may select.

(f) Federal agency cooperation

A Federal agency shall—

(1) cooperate with the Authority; and

(2) provide, on request of a cochairperson, appropriate assistance in carrying out this subchapter, in accordance with applicable Federal laws (including regulations).

(g) Administrative expenses

(1) Federal share

The Federal share of the administrative expenses of the Authority shall be—

(A) for each of fiscal years 2008 and 2009, 100 percent;

(B) for fiscal year 2010, 75 percent; and

(C) for fiscal year 2011 and each fiscal year thereafter, 50 percent.

(2) Non-Federal share

(A) In general

The non-Federal share of the administrative expenses of the Authority shall be paid by non-Federal sources in the States that participate in the Authority.

(B) Share paid by each State

The share of administrative expenses of the Authority to be paid by non-Federal sources in each State shall be determined by the Authority.

(C) No Federal participation

The Federal cochairperson shall not participate or vote in any decision under subparagraph (B).

(D) Delinquent States

If a State is delinquent in payment of the State's share of administrative expenses of the Authority under this subsection—

(i) no assistance under this subchapter shall be provided to the State (including assistance to a political subdivision or a resident of the State); and

(ii) no member of the Authority from the State shall participate or vote in any action by the Authority.

(h) Compensation

(1) Federal and tribal cochairpersons

The Federal cochairperson and the tribal cochairperson shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level III of the Executive Schedule in subchapter II of chapter 53 of title 5.

(2) Alternate Federal and tribal cochairpersons

The alternate Federal cochairperson and the alternate tribal cochairperson—

(A) shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level V of the Executive Schedule described in paragraph (1); and

(B) when not actively serving as an alternate, shall perform such functions and duties as are delegated by the Federal cochairperson or the tribal cochairperson, respectively.

(3) State members and alternates

(A) In general

A State shall compensate each member and alternate representing the State on the Authority at the rate established by State law.

(B) No additional compensation

No State member or alternate member shall receive any salary, or any contribution to or supplementation of salary from any source other than the State for services provided by the member or alternate member to the Authority.

(4) Detailed employees

(A) In general

No person detailed to serve the Authority under subsection (e)(6) of this section shall receive any salary or any contribution to or supplementation of salary for services provided to the Authority from—

(i) any source other than the State, tribal, local, or intergovernmental agency from which the person was detailed; or

(ii) the Authority.

(B) Violation

Any person that violates this paragraph shall be fined not more than $5,000, imprisoned not more than 1 year, or both.

(C) Applicable law

The Federal cochairperson, the alternate Federal cochairperson, and any Federal officer or employee detailed to duty on the Authority under subsection (e)(5) of this section shall not be subject to subparagraph (A), but shall remain subject to sections 202 through 209 of title 18.

(5) Additional personnel

(A) Compensation

(i) In general

The Authority may appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Authority to carry out the duties of the Authority.

(ii) Exception

Compensation under clause (i) shall not exceed the maximum rate for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

(B) Executive director

The executive director shall be responsible for—

(i) the carrying out of the administrative duties of the Authority;

(ii) direction of the Authority staff; and

(iii) such other duties as the Authority may assign.

(C) No Federal employee status

No member, alternate, officer, or employee of the Authority (except the Federal cochairperson of the Authority, the alternate and staff for the Federal cochairperson, and any Federal employee detailed to the Authority under subsection (e)(5) of this section) shall be considered to be a Federal employee for any purpose.

(i) Conflicts of interest

(1) In general

Except as provided under paragraph (2), no State member, Indian tribe member, State alternate, officer, or employee of the Authority shall participate personally and substantially as a member, alternate, officer, or employee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other matter in which, to knowledge of the member, alternate, officer, or employee—

(A) the member, alternate, officer, or employee;

(B) the spouse, minor child, partner, or organization (other than a State or political subdivision of the State or the Indian tribe) of the member, alternate, officer, or employee, in which the member, alternate, officer, or employee is serving as officer, director, trustee, partner, or employee; or

(C) any person or organization with whom the member, alternate, officer, or employee is negotiating or has any arrangement concerning prospective employment;

has a financial interest.

(2) Disclosure

Paragraph (1) shall not apply if the State member, Indian tribe member, alternate, officer, or employee—

(A) immediately advises the Authority of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter presenting a potential conflict of interest;

(B) makes full disclosure of the financial interest; and

(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the Authority that the interest is not so substantial as to be likely to affect the integrity of the services that the Authority may expect from the State member, Indian tribe member, alternate, officer, or employee.

(3) Violation

Any person that violates this subsection shall be fined not more than $10,000, imprisoned not more than 2 years, or both.

(j) Validity of contracts, loans, and grants

The Authority may declare void any contract, loan, or grant of or by the Authority in relation to which the Authority determines that there has been a violation of any provision under subsection (h)(4) or subsection (i) of this subtitle[1], or sections 202 through 209 of title 18.

(Pub. L. 87–128, title III, § 383B, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 375; amended Pub. L. 110–234, title VI, § 6026(b), (c)(2)(A), May 22, 2008, 122 Stat. 1177, 1179; Pub. L. 110–246, § 4(a), title VI, § 6026(b), (c)(2)(A), June 18, 2008, 122 Stat. 1664, 1939, 1940.)

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (a)(4)(A), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

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. (a)(4). Pub. L. 110–246, § 6026(b)(1), added par. (4).

Subsec. (c)(3)(B). Pub. L. 110–246, § 6026(c)(2)(A), made technical amendment to reference in original act which appears in text as reference to section 2009bb–8 of this title.

Subsec. (d)(1). Pub. L. 110–246, § 6026(b)(2)(A), substituted ''programs for multistate cooperation to advance the economic and social well-being of the region and to'' for ''programs to establish priorities and''.

Subsec. (d)(3). Pub. L. 110–246, § 6026(b)(2)(B), substituted ''regional and local development districts or organizations, regional boards established under subchapter IX,'' for ''local development districts,''.

Subsec. (d)(4). Pub. L. 110–246, § 6026(b)(2)(C), substituted ''cooperation for—'' for ''cooperation;'' in introductory provisions and added cls. (i) to (vi).

Subsec. (d)(6). Pub. L. 110–246, § 6026(b)(2)(D), added par. (6) and struck out former par. (6) which read as follows:

''(A) enhance the capacity of, and provide support for, local development districts in the region; or

''(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;''.

Subsec. (d)(7). Pub. L. 110–246, § 6026(b)(2)(E), inserted ''renewable energy,'' after ''commercial,''.

Subsec. (f)(2). Pub. L. 110–246, § 6026(b)(3), substituted ''a cochairperson'' for ''the Federal cochairperson''.

Subsec. (g)(1). Pub. L. 110–246, § 6026(b)(4), added subpars. (A) to (C) and struck out former subpars. (A) to (C) which read as follows:

''(A) for fiscal year 2002, 100 percent;

''(B) for fiscal year 2003, 75 percent; and

''(C) for fiscal year 2004 and each fiscal year thereafter, 50 percent.''

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.

§ 2009bb–1a. Interstate cooperation for economic opportunity and efficiency

(a) In general

The Authority shall provide assistance to States in developing regional plans to address multistate economic issues, including plans—

[1] So in original. Probably should be ''section''.

(1) to develop a regional transmission system for movement of renewable energy to markets outside the region;

(2) to address regional transportation concerns, including the establishment of a Northern Great Plains Regional Transportation Working Group;

(3) to encourage and support interstate collaboration on federally-funded research that is in the national interest; and

(4) to establish a Regional Working Group on Agriculture Development and Transportation.

(b) Economic issues

The multistate economic issues referred to in subsection (a) shall include—

(1) renewable energy development and transmission;

(2) transportation planning and economic development;

(3) information technology;

(4) movement of freight and individuals within the region;

(5) federally-funded research at institutions of higher education; and

(6) conservation land management.

(Pub. L. 87–128, title III, § 383C, as added Pub. L. 110–234, title VI, § 6026(c)(1)(B), May 22, 2008, 122 Stat. 1178, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(B), June 18, 2008, 122 Stat. 1664, 1940.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

§ 2009bb–2. Economic and community development grants

(a) In general

The Authority may approve grants to States, Indian tribes, local governments, and public and nonprofit organizations for projects, approved in accordance with section 2009bb–8 of this title—

(1) to assist the region in obtaining the job training, employment-related education, and business development (with an emphasis on entrepreneurship) that are needed to build and maintain strong local economies;

(2) to develop the transportation, renewable energy transmission, and telecommunication infrastructure of the region for the purpose of facilitating economic development in the region (except that grants for this purpose may be made only to States, Indian tribes, local governments, and nonprofit organizations);

(3) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for improving basic public services;

(4) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for equipping industrial parks and related facilities; and

(5) to otherwise achieve the purposes of this subchapter.

(b) Funding

(1) In general

Funds for grants under subsection (a) of this section may be provided—

(A) entirely from appropriations to carry out this section;

(B) in combination with funds available under another Federal grant program; or

(C) from any other source.

(2) Priority of funding

To best build the foundations for long-term economic development and to complement other Federal, State, and tribal resources in the region, Federal funds available under this subchapter shall be focused on the following activities:

(A) Basic public infrastructure in distressed counties and isolated areas of distress.

(B) Transportation and telecommunication infrastructure for the purpose of facilitating economic development in the region.

(C) Business development, with emphasis on entrepreneurship.

(D) Job training or employment-related education, with emphasis on use of existing public educational institutions located in the region.

(Pub. L. 87–128, title III, § 383D, formerly § 383C, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 380; renumbered § 383D and amended Pub. L. 110–234, title VI, § 6026(c)(1)(A), (2)(B), (d), May 22, 2008, 122 Stat. 1178, 1179, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (2)(B), (d), June 18, 2008, 122 Stat. 1664, 1940, 1941.)

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.

PRIOR PROVISIONS

A prior section 383D of Pub. L. 87–128, title III, was renumbered section 383E and is classified to section 2009bb–3 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 6026(c)(2)(B), made technical amendment to reference in original act which appears in introductory provisions as reference to section 2009bb–8 of this title.

Subsec. (a)(1), (2). Pub. L. 110–246, § 6026(d)(1), redesignated pars. (2) and (1) as (1) and (2), respectively, and, in par. (2), substituted ''transportation, renewable energy transmission, and telecommunication'' for ''transportation and telecommunication''.

Subsec. (b)(2). Pub. L. 110–246, § 6026(d)(2), substituted ''the following activities'' for ''the activities in the following order or priority'' in introductory provisions.

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.

§ 2009bb–3. Supplements to Federal grant programs

(a) Finding

Congress finds that certain States and local communities of the region may be unable to

take maximum advantage of Federal grant programs for which the States and communities are eligible because—

(1) they lack the economic resources to provide the required matching share; or

(2) there are insufficient funds available under the applicable Federal law authorizing the Federal grant program to meet pressing needs of the region.

(b) Federal grant program funding

Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations, under any Federal grant program, and in accordance with subsection (c) of this section, the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region—

(1) may increase the Federal share of the costs of a project under any Federal grant program to not more than 90 percent (except as provided in section 2009bb–5(b) of this title); and

(2) shall use amounts made available to carry out this subchapter to pay the increased Federal share.

(c) Certifications

(1) In general

In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

(A) meets (except as provided in subsection (b) of this section) the applicable requirements of the applicable Federal grant program; and

(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

(2) Certification by Authority

(A) In general

The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 2009bb–8 of this title—

(i) shall be controlling; and

(ii) shall be accepted by the Federal agencies.

(B) Acceptance by Federal cochairperson

In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.

(Pub. L. 87–128, title III, § 383E, formerly § 383D, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 381; renumbered § 383E and amended Pub. L. 110–234, title VI, § 6026(c)(1)(A), (2)(C), (e), May 22, 2008, 122 Stat. 1178–1180, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (2)(C), (e), June 18, 2008, 122 Stat. 1664, 1940, 1941.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(2)(A), refers to the Agricultural Act of 1961, Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 294, as amended. For classification of this Act to the Code, see Short Title note set out under section 1911 of this title and Tables. However, the reference was probably intended to be ''this title'' meaning the Consolidated Farm and Rural Development Act, title III of Pub. L. 87–128, as amended, which is classified principally to this chapter. For classification of this title to the Code, see Short Title note set out under section 1921 of this title and Tables.

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.

PRIOR PROVISIONS

A prior section 383E of Pub. L. 87–128, title III, was renumbered section 383F and is classified to section 2009bb–4 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 6026(e), struck out '', including local development districts,'' after ''region'' in introductory provisions.

Subsec. (b)(1). Pub. L. 110–246, § 6026(c)(2)(C)(i), made technical amendment to reference in original act which appears in text as reference to section 2009bb–5(b) of this title.

Subsec. (c)(2)(A). Pub. L. 110–246, § 6026(c)(2)(C)(ii), made technical amendment to reference in original act which appears in introductory provisions as reference to section 2009bb–8 of this title.

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.

§ 2009bb–4. Multistate and local development districts and organizations and Northern Great Plains Inc.

(a) Definition of multistate and local development district or organization

In this section, the term ''multistate and local development district or organization'' means an entity—

(1) that—

(A) is a planning district in existence on May 13, 2002, that is recognized by the Economic Development Administration of the Department of Commerce; or

(B) is—

(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

(ii) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

(iii) a nonprofit agency or instrumentality of a State or local government;

(iv) a public organization established before May 13, 2002, under State law for creation of multijurisdictional, area-wide planning organizations;

(v) a nonprofit agency or instrumentality of a State that was established for the purpose of assisting with multistate cooperation; or

(vi) a nonprofit association or combination of bodies, agencies, and instrumentalities described in clauses (ii) through (v); and

(2) that has not, as certified by the Authority (in consultation with the Federal cochairperson or Secretary, as appropriate)—

(A) inappropriately used Federal grant funds from any Federal source; or

(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

(b) Grants to multistate, local, or regional development districts and organizations

(1) In general

The Authority may make grants for administrative expenses under this section to multistate, local, and regional development districts and organizations.

(2) Conditions for grants

(A) Maximum amount

The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the multistate, local, or regional development district or organization receiving the grant.

(B) Maximum period

No grant described in paragraph (1) shall be awarded for a period greater than 3 years.

(3) Local share

The contributions of a multistate, local, or regional development district or organization for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

(c) Duties

(1) In general

Except as provided in paragraph (2), a local development district shall operate as a lead organization serving multicounty areas in the region at the local level.

(2) Designation

The Federal cochairperson may designate an Indian tribe or multijurisdictional organization to serve as a lead organization in such cases as the Federal cochairperson or Secretary, as appropriate, determines appropriate.

(d) Northern Great Plains Inc.

Northern Great Plains Inc., a nonprofit corporation incorporated in the State of Minnesota to implement the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great Plains Rural Development Act (7 U.S.C. 2661 note; Public Law 103–318)—

(1) shall serve as an independent, primary resource for the Authority on issues of concern to the region;

(2) shall advise the Authority on development of international trade;

(3) may provide research, education, training, and other support to the Authority; and

(4) may carry out other activities on its own behalf or on behalf of other entities.

(Pub. L. 87–128, title III, § 383F, formerly § 383E, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 382; renumbered § 383F and amended Pub. L. 110–234, title VI, § 6026(c)(1)(A), (f), May 22, 2008, 122 Stat. 1178, 1180, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (f), June 18, 2008, 122 Stat. 1664, 1940, 1941.)

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.

PRIOR PROVISIONS

A prior section 383F of Pub. L. 87–128, title III, was renumbered section 383G and is classified to section 2009bb–5 of this title.

AMENDMENTS

2008—Pub. L. 110–246, § 6026(f)(1), substituted ''Multistate and local'' for ''Local'' in section catchline.

Subsecs. (a) to (c). Pub. L. 110–246, § 6026(f)(2), added subsecs. (a) to (c) and struck out former subsecs. (a) to (c) which related to definition of local development district, grants to local development districts, and duties of local development districts, respectively.

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.

§ 2009bb–5. Distressed counties and areas and nondistressed counties

(a) Designations

Not later than 90 days after May 13, 2002, and annually thereafter, the Authority, in accordance with such criteria as the Authority may establish, shall designate—

(1) as distressed counties, counties in the region that are the most severely and persistently distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration;

(2) as nondistressed counties, counties in the region that are not designated as distressed counties under paragraph (1); and

(3) as isolated areas of distress, areas located in nondistressed counties (as designated under paragraph (2)) that have high rates of poverty, unemployment, or outmigration.

(b) Distressed counties

(1) In general

The Authority shall allocate at least 50 percent of the appropriations made available under section 2009bb–12 of this title for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

(2) Funding limitations

The funding limitations under section 2009bb–3(b) of this title shall not apply to a project to provide transportation or telecommunication or basic public services to residents of 1 or more distressed counties or isolated areas of distress in the region.

(c) Transportation, telecommunication[1] renewable energy,,[1] and basic public infrastructure

The Authority shall allocate at least 50 percent of any funds made available under section 2009bb–12 of this title for transportation, telecommunication,,[1] renewable energy, and basic public infrastructure projects authorized under paragraphs (1) and (3) of section 2009bb–2(a) of this title.

(Pub. L. 87–128, title III, § 383G, formerly § 383F, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 384; renumbered § 383G and amended Pub. L. 110–234, title VI, § 6026(c)(1)(A), (2)(D), (g), May 22, 2008, 122 Stat. 1178, 1179, 1181, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (2)(D), (g), June 18, 2008, 122 Stat. 1664, 1940–1942.)

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.

PRIOR PROVISIONS

A prior section 383G of Pub. L. 87–128, title III, was renumbered section 383H and is classified to section 2009bb–6 of this title.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–246, § 6026(g)(1), substituted ''50'' for ''75''.

Pub. L. 110–246, § 6026(c)(2)(D)(i)(I), made technical amendment to reference in original act which appears in text as reference to section 2009bb–12 of this title.

Subsec. (b)(2). Pub. L. 110–246, § 6026(c)(2)(D)(i)(II), made technical amendment to reference in original act which appears in text as reference to section 2009bb–3(b) of this title.

Subsec. (c). Pub. L. 110–246, § 6026(g)(2)–(4), redesignated subsec. (d) as (c), inserted ''renewable energy,'' after ''telecommunication'' in heading and '', renewable energy,'' after ''telecommunication,'' in text, and struck out former subsec. (c) which prohibited provision of funds for a project located in a county designated as a nondistressed county.

Subsec. (c)(2)(A). Pub. L. 110–246, § 6026(c)(2)(D)(ii), made technical amendment to reference in original act which appears in text as reference to section 2009bb–4(b) of this title.

Subsec. (d). Pub. L. 110–246, § 6026(g)(3), redesignated subsec. (d) as (c).

Pub. L. 110–246, § 6026(c)(2)(D)(iii), made technical amendments to references in original act which appear in text as references to section 2009bb–12 of this title and section 2009bb–2(a) of this title.

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.

§ 2009bb–6. Development planning process

(a) State development plan

In accordance with policies established by the Authority, each State member shall submit a development plan for the area of the region represented by the State member.

(b) Content of plan

A State development plan submitted under subsection (a) of this section shall reflect the goals, objectives, and priorities identified in the regional development plan developed under section 2009bb–1(d)(2) of this title.

(c) Consultation with interested local parties

In carrying out the development planning process (including the selection of programs and projects for assistance), a State may—

(1) consult with—

(A) multistate, regional, and local development districts and organizations; and

(B) local units of government; and

(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

(d) Public participation

(1) In general

The Authority and applicable multistate, regional, and local development districts and organizations shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subchapter.

(2) Regulations

The Authority shall develop guidelines for providing public participation described in paragraph (1), including public hearings.

(Pub. L. 87–128, title III, § 383H, formerly § 383G, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 385; renumbered § 383H and amended Pub. L. 110–234, title VI, § 6026(c)(1)(A), (h), May 22, 2008, 122 Stat. 1178, 1181, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (h), June 18, 2008, 122 Stat. 1664, 1940, 1943.)

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.

PRIOR PROVISIONS

A prior section 383H of Pub. L. 87–128, title III, was renumbered section 383I and is classified to section 2009bb–7 of this title.

AMENDMENTS

2008—Subsec. (c)(1)(A). Pub. L. 110–246, § 6026(h)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: ''local development districts; and''.

Subsec. (d)(1). Pub. L. 110–246, § 6026(h)(2), substituted ''multistate, regional, and local development districts and organizations'' for ''State and local development districts''.

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.

§ 2009bb–7. Program development criteria

(a) In general

In considering programs and projects to be provided assistance under this subchapter, and

[1] So in original.

in establishing a priority ranking of the requests for assistance provided to the Authority, the Authority shall follow procedures that ensure, to the maximum extent practicable, consideration of—

(1) the relationship of the project or class of projects to overall multistate or regional development;

(2) the per capita income and poverty and unemployment and outmigration rates in an area;

(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same funds;

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and

(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

(b) No relocation assistance

No financial assistance authorized by this subchapter shall be used to assist a person or entity in relocating from one area to another, except that financial assistance may be used as otherwise authorized by this chapter to attract businesses from outside the region to the region.

(c) Maintenance of effort

Funds may be provided for a program or project in a State under this subchapter only if the Authority determines that the level of Federal or State financial assistance provided under a law other than this subchapter, for the same type of program or project in the same area of the State within the region, will not be reduced as a result of funds made available by this subchapter.

(Pub. L. 87–128, title III, § 383I, formerly § 383H, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 385; renumbered § 383I and amended Pub. L. 110–234, title VI, § 6026(c)(1)(A), (i), May 22, 2008, 122 Stat. 1178, 1181, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (i), June 18, 2008, 122 Stat. 1664, 1940, 1943.)

REFERENCES IN TEXT

For definition of ''this chapter'', referred to in subsec. (b), see note set out under section 1921 of this title.

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.

PRIOR PROVISIONS

A prior section 383I of Pub. L. 87–128, title III, was renumbered section 383J and is classified to section 2009bb–8 of this title.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–246, § 6026(i), inserted ''multistate or'' before ''regional''.

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.

§ 2009bb–8. Approval of development plans and projects

(a) In general

A State or regional development plan or any multistate subregional plan that is proposed for development under this subchapter shall be reviewed by the Authority.

(b) Evaluation by State member

An application for a grant or any other assistance for a project under this subchapter shall be made through and evaluated for approval by the State member of the Authority representing the applicant.

(c) Certification

An application for a grant or other assistance for a project shall be approved only on certification by the State member that the application for the project—

(1) describes ways in which the project complies with any applicable State development plan;

(2) meets applicable criteria under section 2009bb–7 of this title;

(3) provides adequate assurance that the proposed project will be properly administered, operated, and maintained; and

(4) otherwise meets the requirements of this subchapter.

(d) Votes for decisions

On certification by a State member of the Authority of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Authority under section 2009bb–1(c) of this title shall be required for approval of the application.

(Pub. L. 87–128, title III, § 383J, formerly § 383I, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 386; renumbered § 383J and amended Pub. L. 110–234, title VI, § 6026(c)(1)(A), (2)(E), May 22, 2008, 122 Stat. 1178, 1179, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (2)(E), June 18, 2008, 122 Stat. 1664, 1940, 1941.)

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.

PRIOR PROVISIONS

A prior section 383J of Pub. L. 87–128, title III, was renumbered section 383K and is classified to section 2009bb–9 of this title.

AMENDMENTS

2008—Subsec. (c)(2). Pub. L. 110–246, § 6026(c)(2)(E), made technical amendment to reference in original act which appears in text as reference to section 2009bb–7 of this title.

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.

§ 2009bb–9. Consent of States

Nothing in this subchapter requires any State to engage in or accept any program under this subchapter without the consent of the State.

(Pub. L. 87–128, title III, § 383K, formerly § 383J, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 386; renumbered § 383K, Pub. L. 110–234, title VI, § 6026(c)(1)(A), May 22, 2008, 122 Stat. 1178, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), June 18, 2008, 122 Stat. 1664, 1940.)

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.

PRIOR PROVISIONS

A prior section 383K of Pub. L. 87–128, title III, was renumbered section 383L and is classified to section 2009bb–10 of this title.

§ 2009bb–10. Records

(a) Records of the Authority

(1) In general

The Authority shall maintain accurate and complete records of all transactions and activities of the Authority.

(2) Availability

All records of the Authority shall be available for audit and examination by the Comptroller General of the United States and the Inspector General of the Department of Agriculture (including authorized representatives of the Comptroller General and the Inspector General of the Department of Agriculture).

(b) Records of recipients of Federal assistance

(1) In general

A recipient of Federal funds under this subchapter shall, as required by the Authority, maintain accurate and complete records of transactions and activities financed with Federal funds and report to the Authority on the transactions and activities to the Authority.

(2) Availability

All records required under paragraph (1) shall be available for audit by the Comptroller General of the United States, the Inspector General of the Department of Agriculture, and the Authority (including authorized representatives of the Comptroller General, the Inspector General of the Department of Agriculture, and the Authority).

(c) Annual audit

The Inspector General of the Department of Agriculture shall audit the activities, transactions, and records of the Authority on an annual basis.

(Pub. L. 87–128, title III, § 383L, formerly § 383K, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 386; renumbered § 383L, Pub. L. 110–234, title VI, § 6026(c)(1)(A), May 22, 2008, 122 Stat. 1178, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), June 18, 2008, 122 Stat. 1664, 1940.)

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.

PRIOR PROVISIONS

A prior section 383L of Pub. L. 87–128, title III, was renumbered section 383M and is classified to section 2009bb–11 of this title.

§ 2009bb–11. Annual report

Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subchapter.

(Pub. L. 87–128, title III, § 383M, formerly § 383L, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 387; renumbered § 383M, Pub. L. 110–234, title VI, § 6026(c)(1)(A), May 22, 2008, 122 Stat. 1178, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), June 18, 2008, 122 Stat. 1664, 1940.)

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.

PRIOR PROVISIONS

A prior section 383M of Pub. L. 87–128, title III, was renumbered section 383N and is classified to section 2009bb–12 of this title.

§ 2009bb–12. Authorization of appropriations

(a) In general

There is authorized to be appropriated to the Authority to carry out this subchapter $30,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

(b) Administrative expenses

Not more than 5 percent of the amount appropriated under subsection (a) of this section for a fiscal year shall be used for administrative expenses of the Authority.

(c) Minimum State share of grants

Notwithstanding any other provision of this subchapter, for any fiscal year, the aggregate amount of grants received by a State and all persons or entities in the State under this subchapter shall be not less than ⅓ of the product obtained by multiplying—

(1) the aggregate amount of grants under this subchapter for the fiscal year; and

(2) the ratio that—

(A) the population of the State (as determined by the Secretary of Commerce based on the most recent decennial census for which data are available); bears to

(B) the population of the region (as so determined).

(Pub. L. 87–128, title III, § 383N, formerly § 383M, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 387; renumbered § 383N and amend-

ed Pub. L. 110–234, title VI, § 6026(c)(1)(A), (j), May 22, 2008, 122 Stat. 1178, 1182, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (j), June 18, 2008, 122 Stat. 1664, 1940, 1943.)

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.

PRIOR PROVISIONS

A prior section 383N of Pub. L. 87–128, title III, was renumbered section 383O and is classified to section 2009bb–13 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 6026(j), substituted ''2008 through 2012'' for ''2002 through 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.

§ 2009bb–13. Termination of authority

The authority provided by this subchapter terminates effective October 1, 2012.

(Pub. L. 87–128, title III, § 383O, formerly § 383N, as added Pub. L. 107–171, title VI, § 6028, May 13, 2002, 116 Stat. 387; renumbered § 383O and amended Pub. L. 110–234, title VI, § 6026(c)(1)(A), (k), May 22, 2008, 122 Stat. 1178, 1182, and Pub. L. 110–246, § 4(a), title VI, § 6026(c)(1)(A), (k), June 18, 2008, 122 Stat. 1664, 1940, 1943.)

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—Pub. L. 110–246, § 6026(k), 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.

SUBCHAPTER VIII—RURAL BUSINESS INVESTMENT PROGRAM

§ 2009cc. Definitions

In this subchapter:

(1) Articles

The term ''articles'' means articles of incorporation for an incorporated body or the functional equivalent or other similar documents specified by the Secretary for other business entities.

(2) Developmental venture capital

The term ''developmental venture capital'' means capital in the form of equity capital investments in rural business investment companies with an objective of fostering economic development in rural areas.

(3) Employee welfare benefit plan; pension plan

(A) In general

The terms ''employee welfare benefit plan'' and ''pension plan'' have the meanings given the terms in section 1002 of title 29.

(B) Inclusions

The terms ''employee welfare benefit plan'' and ''pension plan'' include—

(i) public and private pension or retirement plans subject to this subchapter; and

(ii) similar plans not covered by this subchapter that have been established, and that are maintained, by the Federal Government or any State (including by a political subdivision, agency, or instrumentality of the Federal Government or a State) for the benefit of employees.

(4) Equity capital

The term ''equity capital'' means common or preferred stock or a similar instrument, including subordinated debt with equity features.

(5) Leverage

The term ''leverage'' includes—

(A) debentures purchased or guaranteed by the Secretary;

(B) participating securities purchased or guaranteed by the Secretary; and

(C) preferred securities outstanding as of May 13, 2002.

(6) License

The term ''license'' means a license issued by the Secretary as provided in section 2009cc–3(e) of this title.

(7) Limited liability company

The term ''limited liability company'' means a business entity that is organized and operating in accordance with a State limited liability company law approved by the Secretary.

(8) Member

The term ''member'' means, with respect to a rural business investment company that is a limited liability company, a holder of an ownership interest or a person otherwise admitted to membership in the limited liability company.

(9) Operational assistance

The term ''operational assistance'' means management, marketing, and other technical assistance that assists a rural business concern with business development.

(10) Participation agreement

The term ''participation agreement'' means an agreement, between the Secretary and a rural business investment company granted final approval under section 2009cc–3(e) of this title, that requires the rural business investment company to make investments in smaller enterprises in rural areas.

(11) Private capital

(A) In general

The term ''private capital'' means the total of—

(i)(I) the paid-in capital and paid-in surplus of a corporate rural business investment company;

(II) the contributed capital of the partners of a partnership rural business investment company; or

(III) the equity investment of the members of a limited liability company rural business investment company; and

(ii) unfunded binding commitments from investors that meet criteria established by the Secretary to contribute capital to the rural business investment company, except that—

(I) unfunded commitments may be counted as private capital for purposes of approval by the Secretary of any request for leverage; but

(II) leverage shall not be funded based on the commitments.

(B) Exclusions

The term ''private capital'' does not include—

(i) any funds borrowed by a rural business investment company from any source;

(ii) any funds obtained through the issuance of leverage; or

(iii) any funds obtained directly or indirectly from the Federal Government or any State (including by a political subdivision, agency, or instrumentality of the Federal Government or a State), except for—

(I) funds obtained from the business revenues (excluding any governmental appropriation) of any federally chartered or government-sponsored enterprise established prior to May 13, 2002;

(II) funds invested by an employee welfare benefit plan or pension plan; and

(III) any qualified nonprivate funds (if the investors of the qualified nonprivate funds do not control, directly or indirectly, the management, board of directors, general partners, or members of the rural business investment company).

(12) Qualified nonprivate funds

The term ''qualified nonprivate funds'' means any—

(A) funds directly or indirectly invested in any applicant or rural business investment company on or before May 13, 2002, by any Federal agency, other than the Department of Agriculture, under a provision of law explicitly mandating the inclusion of those funds in the definition of the term ''private capital''; and

(B) funds invested in any applicant or rural business investment company by 1 or more entities of any State (including by a political subdivision, agency, or instrumentality of the State and including any guarantee extended by those entities) in an aggregate amount that does not exceed 33 percent of the private capital of the applicant or rural business investment company.

(13) Rural business concern

The term ''rural business concern'' means—

(A) a public, private, or cooperative for-profit or nonprofit organization;

(B) a for-profit or nonprofit business controlled by an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group; or

(C) any other person or entity;

that primarily operates in a rural area, as determined by the Secretary.

(14) Rural business investment company

The term ''rural business investment company'' means a company that—

(A) has been granted final approval by the Secretary under section 2009cc–3(e) of this title; and

(B) has entered into a participation agreement with the Secretary.

(15) Smaller enterprise

The term ''smaller enterprise'' means any rural business concern that, together with its affiliates—

(A) has—

(i) a net financial worth of not more than $6,000,000, as of the date on which assistance is provided under this subchapter to the rural business concern; and

(ii) an average net income for the 2-year period preceding the date on which assistance is provided under this subchapter to the rural business concern, of not more than $2,000,000, after Federal income taxes (excluding any carryover losses), except that, for purposes of this clause, if the rural business concern is not required by law to pay Federal income taxes at the enterprise level, but is required to pass income through to the shareholders, partners, beneficiaries, or other equitable owners of the business concern, the net income of the business concern shall be determined by allowing a deduction in an amount equal to the total of—

(I) if the rural business concern is not required by law to pay State (and local, if any) income taxes at the enterprise level, the net income (determined without regard to this clause), multiplied by the marginal State income tax rate (or by the combined State and local income tax rates, as applicable) that would have applied if the business concern were a corporation; and

(II) the net income (so determined) less any deduction for State (and local) income taxes calculated under subclause (I), multiplied by the marginal Federal income tax rate that would have applied if the rural business concern were a corporation; or

(B) satisfies the standard industrial classification size standards established by the Administrator of the Small Business Administration for the industry in which the rural business concern is primarily engaged.

(Pub. L. 87–128, title III, § 384A, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 388.)

§ 2009cc–1. Purposes

The purposes of the Rural Business Investment Program established under this subchapter are—

(1) to promote economic development and the creation of wealth and job opportunities in rural areas and among individuals living in those areas by encouraging developmental venture capital investments in smaller enterprises primarily located in rural areas; and

(2) to establish a developmental venture capital program, with the mission of addressing the unmet equity investment needs of small enterprises located in rural areas, by authorizing the Secretary—

(A) to enter into participation agreements with rural business investment companies;

(B) to guarantee debentures of rural business investment companies to enable each rural business investment company to make developmental venture capital investments in smaller enterprises in rural areas; and

(C) to make grants to rural business investment companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by rural business investment companies.

(Pub. L. 87–128, title III, § 384B, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 391.)

§ 2009cc–2. Establishment

In accordance with this subchapter, the Secretary shall establish a Rural Business Investment Program, under which the Secretary may—

(1) enter into participation agreements with companies granted final approval under section 2009cc–3(e) of this title for the purposes set forth in section 2009cc–1 of this title;

(2) guarantee the debentures issued by rural business investment companies as provided in section 2009cc–4 of this title; and

(3) make grants to rural business investment companies, and to other entities, under section 2009cc–7 of this title.

(Pub. L. 87–128, title III, § 384C, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 391.)

§ 2009cc–3. Selection of rural business investment companies

(a) Eligibility

A company shall be eligible to apply to participate, as a rural business investment company, in the program established under this subchapter if—

(1) the company is a newly formed for-profit entity or a newly formed for-profit subsidiary of such an entity;

(2) the company has a management team with experience in community development financing or relevant venture capital financing; and

(3) the company will invest in enterprises that will create wealth and job opportunities in rural areas, with an emphasis on smaller enterprises.

(b) Application

To participate, as a rural business investment company, in the program established under this subchapter, a company meeting the eligibility requirements of subsection (a) of this section shall submit an application to the Secretary that includes—

(1) a business plan describing how the company intends to make successful developmental venture capital investments in identified rural areas;

(2) information regarding the community development finance or relevant venture capital qualifications and general reputation of the management of the company;

(3) a description of how the company intends to work with community-based organizations and local entities (including local economic development companies, local lenders, and local investors) and to seek to address the unmet equity capital needs of the communities served;

(4) a proposal describing how the company intends to use the grant funds provided under this subchapter to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company intends to use licensed professionals, as necessary, on the staff of the company or from an outside entity;

(5) with respect to binding commitments to be made to the company under this subchapter, an estimate of the ratio of cash to in-kind contributions;

(6) a description of the criteria to be used to evaluate whether and to what extent the company meets the purposes of the program established under this subchapter;

(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the business plan of the company; and

(8) such other information as the Secretary may require.

(c) Status

Not later than 90 days after the initial receipt by the Secretary of an application under this section, the Secretary shall provide to the applicant a written report describing the status of the application and any requirements remaining for completion of the application.

(d) Matters considered

In reviewing and processing any application under this section, the Secretary—

(1) shall determine whether—

(A) the applicant meets the requirements of subsection (e) of this section; and

(B) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this subchapter;

(2) shall take into consideration—

(A) the need for and availability of financing for rural business concerns in the geographic area in which the applicant is to commence business;

(B) the general business reputation of the owners and management of the applicant; and

(C) the probability of successful operations of the applicant, including adequate profitability and financial soundness; and

(3) shall not take into consideration any projected shortage or unavailability of grant funds or leverage.

(e) Approval; license

(1) In general

Except as provided in paragraph (2), the Secretary may approve an applicant to operate as a rural business investment company under this subchapter and license the applicant as a rural business investment company, if—

(A) the Secretary determines that the application satisfies the requirements of subsection (b) of this section;

(B) the area in which the rural business investment company is to conduct its operations, and establishment of branch offices or agencies (if authorized by the articles), are approved by the Secretary; and

(C) the applicant enters into a participation agreement with the Secretary.

(2) Capital requirements

(A) In general

Notwithstanding any other provision of this subchapter, the Secretary may approve an applicant to operate as a rural business investment company under this subchapter and designate the applicant as a rural business investment company, if the Secretary determines that the applicant—

(i) has private capital of more than $2,500,000;

(ii) would otherwise be approved under this subchapter, except that the applicant does not satisfy the requirements of section 2009cc–8(c) of this title; and

(iii) has a viable business plan that—

(I) reasonably projects profitable operations; and

(II) has a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 2009cc–8(c) of this title.

(B) Leverage

An applicant approved under subparagraph (A) shall not be eligible to receive leverage under this subchapter until the applicant satisfies the requirements of section 2009cc–8(c) of this title.

(C) Grants

An applicant approved under subparagraph (A) shall be eligible for grants under section 2009cc–7 of this title in proportion to the private capital of the applicant, as determined by the Secretary.

(Pub. L. 87–128, title III, § 384D, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 391.)

§ 2009cc–4. Debentures

(a) In general

The Secretary may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any rural business investment company.

(b) Terms and conditions

The Secretary may make guarantees under this section on such terms and conditions as the Secretary considers appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

(c) Full faith and credit of the United States

Section 2009g(i) of this title shall apply to any guarantee under this section.

(d) Maximum guarantee

Under this section, the Secretary may—

(1) guarantee the debentures issued by a rural business investment company only to the extent that the total face amount of outstanding guaranteed debentures of the rural business investment company does not exceed the lesser of—

(A) 300 percent of the private capital of the rural business investment company; or

(B) $105,000,000; and

(2) provide for the use of discounted debentures.

(Pub. L. 87–128, title III, § 384E, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 393.)

§ 2009cc–5. Issuance and guarantee of trust certificates

(a) Issuance

The Secretary may issue trust certificates representing ownership of all or a fractional part of debentures issued by a rural business investment company and guaranteed by the Secretary under this subchapter, if the certificates are based on and backed by a trust or pool approved by the Secretary and composed solely of guaranteed debentures.

(b) Guarantee

(1) In general

The Secretary may, under such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Secretary or agents of the Secretary for purposes of this section.

(2) Limitation

Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

(3) Prepayment or default

(A) In general

(i) Authority to prepay

A debenture may be prepaid at any time without penalty.

(ii) Reduction of guarantee

Subject to clause (i), if a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest the prepaid debenture represents in the trust or pool.

(B) Interest

Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the

Secretary only through the date of payment of the guarantee.

(C) Redemption

At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

(c) Full faith and credit of the United States

Section 2009g(i) of this title shall apply to any guarantee of a trust certificate issued by the Secretary under this section.

(d) Subrogation and ownership rights

(1) Subrogation

If the Secretary pays a claim under a guarantee issued under this section, the claim shall be subrogated fully to the rights satisfied by the payment.

(2) Ownership rights

No Federal, State, or local law shall preclude or limit the exercise by the Secretary of the ownership rights of the Secretary in a debenture residing in a trust or pool against which 1 or more trust certificates are issued under this section.

(e) Management and administration

(1) Registration

The Secretary shall provide for a central registration of all trust certificates issued under this section.

(2) Creation of pools

The Secretary may—

(A) maintain such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this subchapter; and

(B) issue trust certificates to facilitate the creation of those trusts or pools.

(3) Fidelity bond or insurance requirement

Any agent performing functions on behalf of the Secretary under this paragraph shall provide a fidelity bond or insurance in such amount as the Secretary considers to be necessary to fully protect the interests of the United States.

(4) Regulation of brokers and dealers

The Secretary may regulate brokers and dealers in trust certificates issued under this section.

(5) Electronic registration

Nothing in this subsection prohibits the use of a book-entry or other electronic form of registration for trust certificates issued under this section.

(Pub. L. 87–128, title III, § 384F, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 393; amended Pub. L. 110–234, title VI, § 6027(a), May 22, 2008, 122 Stat. 1182; Pub. L. 110–246, § 4(a), title VI, § 6027(a), June 18, 2008, 122 Stat. 1664, 1943.)

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)(3)(A). Pub. L. 110–246, § 6027(a), added cl. (i), designated existing provisions as cl. (ii), inserted heading, and substituted ''Subject to clause (i), if'' for ''In the event''.

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.

§ 2009cc–6. Fees

(a) In general

The Secretary may charge a fee that does not exceed $500 with respect to any guarantee or grant issued under this subchapter.

(b) Trust certificate

Notwithstanding subsection (a) of this section, the Secretary shall not collect a fee for any guarantee of a trust certificate under section 2009cc–5 of this title, except that any agent of the Secretary may collect a fee that does not exceed $500 for the functions described in section 2009cc–5(e)(2) of this title.

(c) License

(1) In general

Except as provided in paragraph (3), the Secretary may prescribe fees to be paid by each applicant for a license to operate as a rural business investment company under this subchapter.

(2) Use of amounts

Fees collected under this subsection—

(A) shall be deposited in the account for salaries and expenses of the Secretary;

(B) are authorized to be appropriated solely to cover the costs of licensing examinations; and

(C) shall not exceed $500 for any fee collected under this subsection.

(3) Prohibition on collection of certain fees

In the case of a license described in paragraph (1) that was approved before July 1, 2007, the Secretary shall not collect any fees due on or after the date of enactment of this paragraph.

(Pub. L. 87–128, title III, § 384G, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 395; amended Pub. L. 110–234, title VI, § 6027(b), May 22, 2008, 122 Stat. 1182; Pub. L. 110–246, § 4(a), title VI, § 6027(b), June 18, 2008, 122 Stat. 1664, 1943.)

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (c)(3), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

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. (a). Pub. L. 110–246, § 6027(b)(1), substituted ''a fee that does not exceed $500'' for ''such fees as the Secretary considers appropriate''.

Subsec. (b). Pub. L. 110–246, § 6027(b)(2), substituted ''that does not exceed $500'' for ''approved by the Secretary''.

Subsec. (c)(1). Pub. L. 110–246, § 6027(b)(3)(A), substituted ''Except as provided in paragraph (3), the'' for ''The''.

Subsec. (c)(2)(C). Pub. L. 110–246, § 6027(b)(3)(B), added subpar. (C).

Subsec. (c)(3). Pub. L. 110–246, § 6027(b)(3)(C), added par. (3).

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.

§ 2009cc–7. Operational assistance grants

(a) In general

In accordance with this section, the Secretary may make grants to rural business investment companies and to other entities, as authorized by this subchapter, to provide operational assistance to smaller enterprises financed, or expected to be financed, by the entities.

(b) Terms

Grants made under this section shall be made over a multiyear period (not to exceed 10 years) under such terms as the Secretary may require.

(c) Use of funds

The proceeds of a grant made under this section may be used by the rural business investment company receiving the grant only to provide operational assistance in connection with an equity or prospective equity investment in a business located in a rural area.

(d) Submission of plans

A rural business investment company shall be eligible for a grant under this section only if the rural business investment company submits to the Secretary, in such form and manner as the Secretary may require, a plan for use of the grant.

(e) Grant amount

(1) Rural business investment companies

The amount of a grant made under this section to a rural business investment company shall be equal to the lesser of—

(A) 10 percent of the private capital raised by the rural business investment company; or

(B) $1,000,000.

(2) Other entities

The amount of a grant made under this section to any entity other than a rural business investment company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to rural business investment companies under this subchapter.

(Pub. L. 87–128, title III, § 384H, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 395.)

§ 2009cc–8. Rural business investment companies

(a) Organization

For the purpose of this subchapter, a rural business investment company shall—

(1) be an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities authorized by this subchapter;

(2)(A) if incorporated, have succession for a period of not less than 30 years unless earlier dissolved by the shareholders of the rural business investment company; and

(B) if a limited partnership or a limited liability company, have succession for a period of not less than 10 years; and

(3) possess the powers reasonably necessary to perform the functions and conduct the activities.

(b) Articles

The articles of any rural business investment company—

(1) shall specify in general terms—

(A) the purposes for which the rural business investment company is formed;

(B) the name of the rural business investment company;

(C) the area or areas in which the operations of the rural business investment company are to be carried out;

(D) the place where the principal office of the rural business investment company is to be located; and

(E) the amount and classes of the shares of capital stock of the rural business investment company;

(2) may contain any other provisions consistent with this subchapter that the rural business investment company may determine appropriate to adopt for the regulation of the business of the rural business investment company and the conduct of the affairs of the rural business investment company; and

(3) shall be subject to the approval of the Secretary.

(c) Capital requirements

(1) In general

Except as provided in paragraph (2), the private capital of each rural business investment company shall be not less than—

(A) $5,000,000; or

(B) $10,000,000, with respect to each rural business investment company authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Secretary under this subchapter.

(2) Exception

The Secretary may, in the discretion of the Secretary and based on a showing of special circumstances and good cause, permit the private capital of a rural business investment company described in paragraph (1)(B) to be less than $10,000,000, but not less than $5,000,000, if the Secretary determines that the action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

(3) Time frame

Each rural business investment company shall have a period of 2 years to meet the capital requirements of this subsection.

(4) Adequacy

In addition to the requirements of paragraph (1), the Secretary shall—

(A) determine whether the private capital of each rural business investment company is adequate to ensure a reasonable prospect that the rural business investment company will be operated soundly and profitably, and managed actively and prudently in accordance with the articles of the rural business investment company;

(B) determine that the rural business investment company will be able to comply with the requirements of this subchapter;

(C) require that at least 75 percent of the capital of each rural business investment company is invested in rural business concerns and not more than 10 percent of the investments shall be made in an area containing a city of over 150,000 in the last decennial census and the Census Bureau defined urbanized area containing or adjacent to that city;

(D) ensure that the rural business investment company is designed primarily to meet equity capital needs of the businesses in which the rural business investment company invests and not to compete with traditional small business financing by commercial lenders; and

(E) require that the rural business investment company makes short-term non-equity investments of less than 5 years only to the extent necessary to preserve an existing investment.

(d) Diversification of ownership

The Secretary shall ensure that the management of each rural business investment company licensed after May 13, 2002, is sufficiently diversified from and unaffiliated with the ownership of the rural business investment company so as to ensure independence and objectivity in the financial management and oversight of the investments and operations of the rural business investment company.

(Pub. L. 87–128, title III, § 384I, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 396; amended Pub. L. 110–234, title VI, § 6027(c), May 22, 2008, 122 Stat. 1182; Pub. L. 110–246, § 4(a), title VI, § 6027(c), June 18, 2008, 122 Stat. 1664, 1944.)

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. (c)(3), (4). Pub. L. 110–246, § 6027(c), added par. (3) and redesignated former par. (3) as (4).

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.

§ 2009cc–9. Financial institution investments

(a) In general

Except as otherwise provided in this section and notwithstanding any other provision of law, the following banks, associations, and institutions are eligible both to establish and invest in any rural business investment company or in any entity established to invest solely in rural business investment companies:

(1) Any bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), including an investment pool created entirely by such bank or savings association.

(2) Any Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)).

(b) Limitation

No bank, association, or institution described in subsection (a) of this section may make investments described in subsection (a) of this section that are greater than 5 percent of the capital and surplus of the bank, association, or institution.

(c) Limitation on rural business investment companies controlled by Farm Credit System institutions

If a Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)) holds more than 25 percent of the shares of a rural business investment company, either alone or in conjunction with other System institutions (or affiliates), the rural business investment company shall not provide equity investments in, or provide other financial assistance to, entities that are not otherwise eligible to receive financing from the Farm Credit System under that Act (12 U.S.C. 2001 et seq.).

(Pub. L. 87–128, title III, § 384J, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 397; amended Pub. L. 110–234, title VI, § 6027(d), May 22, 2008, 122 Stat. 1182; Pub. L. 110–246, § 4(a), title VI, § 6027(d), June 18, 2008, 122 Stat. 1664, 1944.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a)(1), is act Sept. 21, 1950, ch. 967, § 2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§ 1811 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of Title 12 and Tables.

The Farm Credit Act of 1971, referred to in subsec. (c), is Pub. L. 92–181, Dec. 10, 1971, 85 Stat. 583, as amended, which is classified generally to chapter 23 (§ 2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

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. (a)(1). Pub. L. 110–246, § 6027(d)(1), inserted ‘‘, including an investment pool created entirely by such bank or savings association’’ before period at end.

Subsec. (c). Pub. L. 110–246, § 6027(d)(2), substituted ‘‘25’’ for ‘‘15’’.

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.

§ 2009cc–10. Reporting requirements

(a) Rural business investment companies

Each rural business investment company that participates in the program established under this subchapter shall provide to the Secretary such information as the Secretary may require, including—

(1) information relating to the measurement criteria that the rural business investment company proposed in the program application of the rural business investment company; and

(2) in each case in which the rural business investment company under this subchapter makes an investment in, or a loan or grant to, a business that is not located in a rural area, a report on the number and percentage of employees of the business who reside in those areas.

(b) Public reports

(1) In general

The Secretary shall prepare and make available to the public an annual report on the program established under this subchapter, including detailed information on—

(A) the number of rural business investment companies licensed by the Secretary during the previous fiscal year;

(B) the aggregate amount of leverage that rural business investment companies have received from the Federal Government during the previous fiscal year;

(C) the aggregate number of each type of leveraged instruments used by rural business investment companies during the previous fiscal year and how each number compares to previous fiscal years;

(D) the number of rural business investment company licenses surrendered and the number of rural business investment companies placed in liquidation during the previous fiscal year, identifying the amount of leverage each rural business investment company has received from the Federal Government and the type of leverage instruments each rural business investment company has used;

(E) the amount of losses sustained by the Federal Government as a result of operations under this subchapter during the previous fiscal year and an estimate of the total losses that the Federal Government can reasonably expect to incur as a result of the operations during the current fiscal year;

(F) actions taken by the Secretary to maximize recoupment of funds of the Federal Government expended to implement and administer the Rural Business Investment Program under this subchapter during the previous fiscal year and to ensure compliance with the requirements of this subchapter (including regulations);

(G) the amount of Federal Government leverage that each licensee received in the previous fiscal year and the types of leverage instruments each licensee used;

(H) for each type of financing instrument, the sizes, types of geographic locations, and other characteristics of the small business investment companies using the instrument during the previous fiscal year, including the extent to which the investment companies have used the leverage from each instrument to make loans or equity investments in rural areas; and

(I) the actions of the Secretary to carry out this subchapter.

(2) Prohibition

In compiling the report required under paragraph (1), the Secretary may not—

(A) compile the report in a manner that permits identification of any particular type of investment by an individual rural business investment company or small business concern in which a rural business investment company invests; and

(B) may not release any information that is prohibited under section 1905 of title 18.

(Pub. L. 87–128, title III, § 384K, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 398.)

§ 2009cc–11. Examinations

(a) In general

Each rural business investment company that participates in the program established under this subchapter shall be subject to examinations made at the direction of the Secretary in accordance with this section.

(b) Assistance of private sector entities

An examination under this section may be conducted with the assistance of a private sector entity that has the qualifications and the expertise necessary to conduct such an examination.

(c) Costs

(1) In general

The Secretary may assess the cost of an examination under this section, including compensation of the examiners, against the rural business investment company examined.

(2) Payment

Any rural business investment company against which the Secretary assesses costs under this paragraph shall pay the costs.

(d) Deposit of funds

Funds collected under this section shall—

(1) be deposited in the account that incurred the costs for carrying out this section;

(2) be made available to the Secretary to carry out this section, without further appropriation; and

(3) remain available until expended.

(Pub. L. 87–128, title III, § 384L, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 399.)

§ 2009cc–12. Injunctions and other orders

(a) In general

(1) Application by Secretary

Whenever, in the judgment of the Secretary, a rural business investment company or any other person has engaged or is about to engage

in any act or practice that constitutes or will constitute a violation of a provision of this subchapter (including any rule, regulation, order, or participation agreement under this subchapter), the Secretary may apply to the appropriate district court of the United States for an order enjoining the act or practice, or for an order enforcing compliance with the provision, rule, regulation, order, or participation agreement.

(2) Jurisdiction; relief

The court shall have jurisdiction over the action and, on a showing by the Secretary that the rural business investment company or other person has engaged or is about to engage in an act or practice described in paragraph (1), a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

(b) Jurisdiction

(1) In general

In any proceeding under subsection (a) of this section, the court as a court of equity may, to such extent as the court considers necessary, take exclusive jurisdiction over the rural business investment company and the assets of the rural business investment company, wherever located.

(2) Trustee or receiver

The court shall have jurisdiction in any proceeding described in paragraph (1) to appoint a trustee or receiver to hold or administer the assets.

(c) Secretary as trustee or receiver

(1) Authority

The Secretary may act as trustee or receiver of a rural business investment company.

(2) Appointment

On the request of the Secretary, the court shall appoint the Secretary to act as a trustee or receiver of a rural business investment company unless the court considers the appointment inequitable or otherwise inappropriate by reason of any special circumstances involved.

(Pub. L. 87–128, title III, § 384M, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 399.)

§ 2009cc–13. Additional penalties for noncompliance

(a) In general

With respect to any rural business investment company that violates or fails to comply with this subchapter (including any rule, regulation, order, or participation agreement under this subchapter), the Secretary may, in accordance with this section—

(1) void the participation agreement between the Secretary and the rural business investment company; and

(2) cause the rural business investment company to forfeit all of the rights and privileges derived by the rural business investment company under this subchapter.

(b) Adjudication of noncompliance

(1) In general

Before the Secretary may cause a rural business investment company to forfeit rights or privileges under subsection (a) of this section, a court of the United States of competent jurisdiction must find that the rural business investment company committed a violation, or failed to comply, in a cause of action brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of the rural business investment company is located.

(2) Parties authorized to file causes of action

Each cause of action brought by the United States under this subsection shall be brought by the Secretary or by the Attorney General.

(Pub. L. 87–128, title III, § 384N, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 400.)

§ 2009cc–14. Unlawful acts and omissions; breach of fiduciary duty

(a) Parties deemed to commit a violation

Whenever any rural business investment company violates this subchapter (including any rule, regulation, order, or participation agreement under this subchapter), by reason of the failure of the rural business investment company to comply with this subchapter or by reason of its engaging in any act or practice that constitutes or will constitute a violation of this subchapter, the violation shall also be deemed to be a violation and an unlawful act committed by any person that, directly or indirectly, authorizes, orders, participates in, causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions that constitute or will constitute, in whole or in part, the violation.

(b) Fiduciary duties

It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of a rural business investment company to engage in any act or practice, or to omit any act or practice, in breach of the fiduciary duty of the officer, director, employee, agent, or participant if, as a result of the act or practice, the rural business investment company suffers or is in imminent danger of suffering financial loss or other damage.

(c) Unlawful acts

Except with the written consent of the Secretary, it shall be unlawful—

(1) for any person to take office as an officer, director, or employee of any rural business investment company, or to become an agent or participant in the conduct of the affairs or management of a rural business investment company, if the person—

(A) has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(B) has been found liable in a civil action for damages, or has been permanently or

temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust; and

(2) for any person to continue to serve in any of the capacities described in paragraph (1), if—

(A) the person is convicted of a felony or any other criminal offense involving dishonesty or breach of trust; or

(B) the person is found liable in a civil action for damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

(Pub. L. 87–128, title III, § 384O, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 400.)

§ 2009cc–15. Removal or suspension of directors or officers

Using the procedures established by the Secretary for removing or suspending a director or an officer of a rural business investment company, the Secretary may remove or suspend any director or officer of any rural business investment company.

(Pub. L. 87–128, title III, § 384P, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 401.)

§ 2009cc–16. Repealed. Pub. L. 110–234, title VI, § 6027(e), May 22, 2008, 122 Stat. 1183, and Pub. L. 110–246, § 4(a), title VI, § 6027(e), June 18, 2008, 122 Stat. 1664, 1944

Section, Pub. L. 87–128, title III, § 384Q, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 401, related to interagency agreement to carry out day-to-day management and operation of the program.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 repealed this section. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE OF REPEAL

Repeal 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.

§ 2009cc–17. Regulations

The Secretary may promulgate such regulations as the Secretary considers necessary to carry out this subchapter.

(Pub. L. 87–128, title III, § 384R, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 401.)

§ 2009cc–18. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter $50,000,000 for the period of fiscal years 2008 through 2012.

(Pub. L. 87–128, title III, § 384S, as added Pub. L. 110–234, title VI, § 6027(f), May 22, 2008, 122 Stat. 1183, and Pub. L. 110–246, § 4(a), title VI, § 6027(f), June 18, 2008, 122 Stat. 1664, 1944.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

PRIOR PROVISIONS

A prior section 2009cc–18, Pub. L. 87–128, title III, § 384S, as added Pub. L. 107–171, title VI, § 6029, May 13, 2002, 116 Stat. 402; amended Pub. L. 109–171, title I, § 1403(a), Feb. 8, 2006, 120 Stat. 6, related to subchapter funding through fiscal year 2006, prior to repeal by Pub. L. 110–234, title VI, § 6027(f), May 22, 2008, 122 Stat. 1183, and Pub. L. 110–246, § 4, title VI, § 6027(f), June 18, 2008, 122 Stat. 1664, 1944, effective May 22, 2008.

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

SUBCHAPTER IX—RURAL COLLABORATIVE INVESTMENT PROGRAM

§ 2009dd. Purpose

The purpose of this subchapter is to establish a regional rural collaborative investment program—

(1) to provide rural regions with a flexible investment vehicle, allowing for local control with Federal oversight, assistance, and accountability;

(2) to provide rural regions with incentives and resources to develop and implement comprehensive strategies for achieving regional competitiveness, innovation, and prosperity;

(3) to foster multisector community and economic development collaborations that will optimize the asset-based competitive advantages of rural regions with particular emphasis on innovation, entrepreneurship, and the creation of quality jobs;

(4) to foster collaborations necessary to provide the professional technical expertise, institutional capacity, and economies of scale that are essential for the long-term competitiveness of rural regions; and

(5) to better use Department of Agriculture and other Federal, State, and local governmental resources, and to leverage those resources with private, nonprofit, and philanthropic investments, in order to achieve measurable community and economic prosperity, growth, and sustainability.

(Pub. L. 87–128, title III, § 385A, as added Pub. L. 107–171, title VI, § 6030, May 13, 2002, 116 Stat. 402; amended Pub. L. 110–234, title VI, § 6028, May 22, 2008, 122 Stat. 1183; Pub. L. 110–246, § 4(a), title VI, § 6028, June 18, 2008, 122 Stat. 1664, 1944.)

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—Pub. L. 110–246, § 6028, amended section generally. Prior to amendment, section related to purpose of this subchapter.

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.

§ 2009dd–1. Definitions

In this subchapter:

(1) Benchmark

The term ''benchmark'' means an annual set of goals and performance measures established for the purpose of assessing performance in meeting a regional investment strategy of a Regional Board.

(2) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(3) National Board

The term ''National Board'' means the National Rural Investment Board established under section 2009dd–2(c) of this title.

(4) National Institute

The term ''National Institute'' means the National Institute on Regional Rural Competitiveness and Entrepreneurship established under section 2009dd–2(b)(2) of this title.

(5) Regional Board

The term ''Regional Board'' means a Regional Rural Investment Board described in section 2009dd–3(a) of this title.

(6) Regional innovation grant

The term ''regional innovation grant'' means a grant made by the Secretary to a certified Regional Board under section 2009dd–5 of this title.

(7) Regional investment strategy grant

The term ''regional investment strategy grant'' means a grant made by the Secretary to a certified Regional Board under section 2009dd–4 of this title.

(8) Rural heritage

(A) In general

The term ''rural heritage'' means historic sites, structures, and districts.

(B) Inclusions

The term ''rural heritage'' includes historic rural downtown areas and main streets, neighborhoods, farmsteads, scenic and historic trails, heritage areas, and historic landscapes.

(Pub. L. 87–128, title III, § 385B, as added Pub. L. 107–171, title VI, § 6030, May 13, 2002, 116 Stat. 402; amended Pub. L. 110–234, title VI, § 6028, May 22, 2008, 122 Stat. 1183; Pub. L. 110–246, § 4(a), title VI, § 6028, June 18, 2008, 122 Stat. 1664, 1945.)

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—Pub. L. 110–246, § 6028, amended section generally. Prior to amendment, section defined terms for this subchapter.

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.

§ 2009dd–2. Establishment and administration of Rural Collaborative Investment Program

(a) Establishment

The Secretary shall establish a Rural Collaborative Investment Program to support comprehensive regional investment strategies for achieving rural competitiveness.

(b) Duties of Secretary

In carrying out this subchapter, the Secretary shall—

(1) appoint and provide administrative and program support to the National Board;

(2) establish a national institute, to be known as the ''National Institute on Regional Rural Competitiveness and Entrepreneurship'', to provide technical assistance to the Secretary and the National Board regarding regional competitiveness and rural entrepreneurship, including technical assistance for—

(A) the development of rigorous analytic programs to assist Regional Boards in determining the challenges and opportunities that need to be addressed to receive the greatest regional competitive advantage;

(B) the provision of support for best practices developed by the Regional Boards;

(C) the establishment of programs to support the development of appropriate governance and leadership skills in the applicable regions; and

(D) the evaluation of the progress and performance of the Regional Boards in achieving benchmarks established in a regional investment strategy;

(3) work with the National Board to develop a national rural investment plan that shall—

(A) create a framework to encourage and support a more collaborative and targeted rural investment portfolio in the United States;

(B) establish a Rural Philanthropic Initiative, to work with rural communities to create and enhance the pool of permanent philanthropic resources committed to rural community and economic development;

(C) cooperate with the Regional Boards and State and local governments, organizations, and entities to ensure investment strategies are developed that take into consideration existing rural assets; and

(D) encourage the organization of Regional Boards;

(4) certify the eligibility of Regional Boards to receive regional investment strategy grants and regional innovation grants;

(5) provide grants for Regional Boards to develop and implement regional investment strategies;

(6) provide technical assistance to Regional Boards on issues, best practices, and emerging trends relating to rural development, in cooperation with the National Rural Investment Board; and

(7) provide analytic and programmatic support for regional rural competitiveness through the National Institute, including—

(A) programs to assist Regional Boards in determining the challenges and opportunities that must be addressed to receive the greatest regional competitive advantage;

(B) support for best practices development by the regional investment boards;

(C) programs to support the development of appropriate governance and leadership skills in the region; and

(D) a review and evaluation of the performance of the Regional Boards (including progress in achieving benchmarks established in a regional investment strategy) in an annual report submitted to—

(i) the Committee on Agriculture of the House of Representatives; and

(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) National Rural Investment Board

The Secretary shall establish within the Department of Agriculture a board to be known as the ''National Rural Investment Board''.

(d) Duties of National Board

The National Board shall—

(1) not later than 180 days after the date of establishment of the National Board, develop rules relating to the operation of the National Board; and

(2) provide advice to—

(A) the Secretary and subsequently review the design, development, and execution of the National Rural Investment Plan;

(B) Regional Boards on issues, best practices, and emerging trends relating to rural development; and

(C) the Secretary and the National Institute on the development and execution of the program under this subchapter.

(e) Membership

(1) In general

The National Board shall consist of 14 members appointed by the Secretary not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008.

(2) Supervision

The National Board shall be subject to the general supervision and direction of the Secretary.

(3) Sectors represented

The National Board shall consist of representatives from each of—

(A) nationally recognized entrepreneurship organizations;

(B) regional strategy and development organizations;

(C) community-based organizations;

(D) elected members of local governments;

(E) members of State legislatures;

(F) primary, secondary, and higher education, job skills training, and workforce development institutions;

(G) the rural philanthropic community;

(H) financial, lending, venture capital, entrepreneurship, and other related institutions;

(I) private sector business organizations, including chambers of commerce and other for-profit business interests;

(J) Indian tribes; and

(K) cooperative organizations.

(4) Selection of members

(A) In general

In selecting members of the National Board, the Secretary shall consider recommendations made by—

(i) the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(ii) the Majority Leader and Minority Leader of the Senate; and

(iii) the Speaker and Minority Leader of the House of Representatives.

(B) Ex-officio members

In consultation with the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary may appoint not more than 3 other officers or employees of the Executive Branch to serve as ex-officio, nonvoting members of the National Board.

(5) Term of office

(A) In general

Subject to subparagraph (B), the term of office of a member of the National Board appointed under paragraph (1)(A)[1] shall be for a period of not more than 4 years.

(B) Staggered terms

The members of the National Board shall be appointed to serve staggered terms.

(6) Initial appointments

Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall appoint the initial members of the National Board.

(7) Vacancies

A vacancy on the National Board shall be filled in the same manner as the original appointment.

(8) Compensation

A member of the National Board shall receive no compensation for service on the National Board, but shall be reimbursed for related travel and other expenses incurred in carrying out the duties of the member of the National Board in accordance with section 5702 and 5703 of title 5.

(9) Chairperson

The National Board shall select a chairperson from among the members of the National Board.

(10) Federal status

For purposes of Federal law, a member of the National Board shall be considered a special Government employee (as defined in section 202(a) of title 18).

(f) Administrative support

The Secretary, on a reimbursable basis from funds made available under section 2009dd–7 of

[1] So in original. Probably should be ''paragraph (1)''.

this title, may provide such administrative support to the National Board as the Secretary determines is necessary.

(Pub. L. 87–128, title III, § 385C, as added Pub. L. 107–171, title VI, § 6030, May 13, 2002, 116 Stat. 403; amended Pub. L. 110–234, title VI, § 6028, May 22, 2008, 122 Stat. 1184; Pub. L. 110–246, § 4(a), title VI, § 6028, June 18, 2008, 122 Stat. 1664, 1945.)

REFERENCES IN TEXT

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (e)(1), (6), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

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—Pub. L. 110–246, § 6028, amended section generally. Prior to amendment, section provided for certification of Regional Investment Boards.

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.

§ 2009dd–3. Regional Rural Investment Boards

(a) In general

A Regional Rural Investment Board shall be a multijurisdictional and multisectoral group that—

(1) represents the long-term economic, community, and cultural interests of a region;

(2) is certified by the Secretary to establish a rural investment strategy and compete for regional innovation grants;

(3) is composed of residents of a region that are broadly representative of diverse public, nonprofit, and private sector interests in investment in the region, including (to the maximum extent practicable) representatives of—

(A) units of local, multijurisdictional, or State government, including not more than 1 representative from each State in the region;

(B) nonprofit community-based development organizations, including community development financial institutions and community development corporations;

(C) agricultural, natural resource, and other asset-based related industries;

(D) in the case of regions with federally recognized Indian tribes, Indian tribes;

(E) regional development organizations;

(F) private business organizations, including chambers of commerce;

(G)(i) institutions of higher education (as defined in section 1001(a) of title 20);

(ii) tribally controlled colleges or universities (as defined in section 1801(a) of title 25); and

(iii) tribal technical institutions;

(H) workforce and job training organizations;

(I) other entities and organizations, as determined by the Regional Board;

(J) cooperatives; and

(K) consortia of entities and organizations described in subparagraphs (A) through (J);

(4) represents a region inhabited by—

(A) more than 25,000 individuals, as determined in the latest available decennial census conducted under section 141(a) of title 13; or

(B) in the case of a region with a population density of less than 2 individuals per square mile, at least 10,000 individuals, as determined in that latest available decennial census;

(5) has a membership of which not less than 25 percent, nor more than 40 percent, represents—

(A) units of local government and Indian tribes described in subparagraphs (A) and (D) of paragraph (3);

(B) nonprofit community and economic development organizations and institutions of higher education described in subparagraphs (B) and (G) of paragraph (3); or

(C) private business (including chambers of commerce and cooperatives) and agricultural, natural resource, and other asset-based related industries described in subparagraphs (C) and (F) of paragraph (3);

(6) has a membership that may include an officer or employee of a Federal agency, serving as an ex-officio, nonvoting member of the Regional Board to represent the agency; and

(7) has organizational documents that demonstrate that the Regional Board will—

(A) create a collaborative public-private strategy process;

(B) develop, and submit to the Secretary for approval, a regional investment strategy that meets the requirements of section 2009dd–4 of this title, with benchmarks—

(i) to promote investment in rural areas through the use of grants made available under this subchapter; and

(ii) to provide financial and technical assistance to promote a broad-based regional development program aimed at increasing and diversifying economic growth, improved community facilities, and improved quality of life;

(C) implement the approved regional investment strategy;

(D) provide annual reports to the Secretary and the National Board on progress made in achieving the benchmarks of the regional investment strategy, including an annual financial statement; and

(E) select a non-Federal organization (such as a regional development organization) in the local area served by the Regional Board that has previous experience in the management of Federal funds to serve as fiscal manager of any funds of the Regional Board.

(b) Urban areas

A resident of an urban area may serve as an ex-officio member of a Regional Board.

(c) Duties

A Regional Board shall—

(1) create a collaborative planning process for public-private investment within a region;

(2) develop, and submit to the Secretary for approval, a regional investment strategy;

(3) develop approaches that will create permanent resources for philanthropic giving in the region, to the maximum extent practicable;

(4) implement an approved strategy; and

(5) provide annual reports to the Secretary and the National Board on progress made in achieving the strategy, including an annual financial statement.

(Pub. L. 87–128, title III, § 385D, as added Pub. L. 107–171, title VI, § 6030, May 13, 2002, 116 Stat. 405; amended Pub. L. 110–234, title VI, § 6028, May 22, 2008, 122 Stat. 1187; Pub. L. 110–246, § 4(a), title VI, § 6028, June 18, 2008, 122 Stat. 1664, 1948.)

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—Pub. L. 110–246, § 6028, amended section generally. Prior to amendment, section related to establishment of National Board on Rural America.

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.

§ 2009dd–4. Regional investment strategy grants

(a) In general

The Secretary shall make regional investment strategy grants available to Regional Boards for use in developing, implementing, and maintaining regional investment strategies.

(b) Regional investment strategy

A regional investment strategy shall provide—

(1) an assessment of the competitive advantage of a region, including—

(A) an analysis of the economic conditions of the region;

(B) an assessment of the current economic performance of the region;

(C) an overview of the population, geography, workforce, transportation system, resources, environment, and infrastructure needs of the region; and

(D) such other pertinent information as the Secretary may request;

(2) an analysis of regional economic and community development challenges and opportunities, including—

(A) incorporation of relevant material from other government-sponsored or supported plans and consistency with applicable State, regional, and local workforce investment strategies or comprehensive economic development plans; and

(B) an identification of past, present, and projected Federal and State economic and community development investments in the region;

(3) a section describing goals and objectives necessary to solve regional competitiveness challenges and meet the potential of the region;

(4) an overview of resources available in the region for use in—

(A) establishing regional goals and objectives;

(B) developing and implementing a regional action strategy;

(C) identifying investment priorities and funding sources; and

(D) identifying lead organizations to execute portions of the strategy;

(5) an analysis of the current state of collaborative public, private, and nonprofit participation and investment, and of the strategic roles of public, private, and nonprofit entities in the development and implementation of the regional investment strategy;

(6) a section identifying and prioritizing vital projects, programs, and activities for consideration by the Secretary, including—

(A) other potential funding sources; and

(B) recommendations for leveraging past and potential investments;

(7) a plan of action to implement the goals and objectives of the regional investment strategy;

(8) a list of performance measures to be used to evaluate implementation of the regional investment strategy, including—

(A) the number and quality of jobs, including self-employment, created during implementation of the regional rural investment strategy;

(B) the number and types of investments made in the region;

(C) the growth in public, private, and nonprofit investment in the human, community, and economic assets of the region;

(D) changes in per capita income and the rate of unemployment; and

(E) other changes in the economic environment of the region;

(9) a section outlining the methodology for use in integrating the regional investment strategy with the economic priorities of the State; and

(10) such other information as the Secretary determines to be appropriate.

(c) Maximum amount of grant

A regional investment strategy grant shall not exceed $150,000.

(d) Cost sharing

(1) In general

Subject to paragraph (2), of the share of the costs of developing, maintaining, evaluating, implementing, and reporting with respect to a regional investment strategy funded by a grant under this section—

(A) not more than 40 percent may be paid using funds from the grant; and

(B) the remaining share shall be provided by the applicable Regional Board or other eligible grantee.

(2) Form

A Regional Board or other eligible grantee shall pay the share described in paragraph

(1)(B) in the form of cash, services, materials, or other in-kind contributions, on the condition that not more than 50 percent of that share is provided in the form of services, materials, and other in-kind contributions.

(Pub. L. 87–128, title III, § 385E, as added Pub. L. 107–171, title VI, § 6030, May 13, 2002, 116 Stat. 407; amended Pub. L. 110–234, title VI, § 6028, May 22, 2008, 122 Stat. 1189; Pub. L. 110–246, § 4(a), title VI, § 6028, June 18, 2008, 122 Stat. 1664, 1950.)

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—Pub. L. 110–246, § 6028, amended section generally. Prior to amendment, section related to rural strategic investment program.

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.

§ 2009dd–5. Regional innovation grants program

(a) Grants

(1) In general

The Secretary shall provide, on a competitive basis, regional innovation grants to Regional Boards for use in implementing projects and initiatives that are identified in a regional rural investment strategy approved under section 2009dd–4 of this title.

(2) Timing

After October 1, 2008, the Secretary shall provide awards under this section on a quarterly funding cycle.

(b) Eligibility

To be eligible to receive a regional innovation grant, a Regional Board shall demonstrate to the Secretary that—

(1) the regional rural investment strategy of a Regional Board has been reviewed by the National Board prior to approval by the Secretary;

(2) the management and organizational structure of the Regional Board is sufficient to oversee grant projects, including management of Federal funds; and

(3) the Regional Board has a plan to achieve, to the maximum extent practicable, the performance-based benchmarks of the project in the regional rural investment strategy.

(c) Limitations

(1) Amount received

A Regional Board may not receive more than $6,000,000 in regional innovation grants under this section during any 5-year period.

(2) Determination of amount

The Secretary shall determine the amount of a regional innovation grant based on—

(A) the needs of the region being addressed by the applicable regional rural investment strategy consistent with the purposes described in subsection (f)(2); and

(B) the size of the geographical area of the region.

(3) Geographic diversity

The Secretary shall ensure that not more than 10 percent of funding made available under this section is provided to Regional Boards in any State.

(d) Cost-sharing

(1) Limitation

Subject to paragraph (2), the amount of a grant made under this section shall not exceed 50 percent of the cost of the project.

(2) Waiver of grantee share

The Secretary may waive the limitation in paragraph (1) under special circumstances, as determined by the Secretary, including—

(A) a sudden or severe economic dislocation;

(B) significant chronic unemployment or poverty;

(C) a natural disaster; or

(D) other severe economic, social, or cultural duress.

(3) Other Federal assistance

For the purpose of determining cost-share limitations for any other Federal program, funds provided under this section shall be considered to be non-Federal funds.

(e) Preferences

In providing regional innovation grants under this section, the Secretary shall give—

(1) a high priority to strategies that demonstrate significant leverage of capital and quality job creation; and

(2) a preference to an application proposing projects and initiatives that would—

(A) advance the overall regional competitiveness of a region;

(B) address the priorities of a regional rural investment strategy, including priorities that—

(i) promote cross-sector collaboration, public-private partnerships, or the provision of interim financing or seed capital for program implementation;

(ii) exhibit collaborative innovation and entrepreneurship, particularly within a public-private partnership; and

(iii) represent a broad coalition of interests described in section 2009dd–3(a) of this title;

(C) include a strategy to leverage public non-Federal and private funds and existing assets, including agricultural, natural resource, and public infrastructure assets, with substantial emphasis placed on the existence of real financial commitments to leverage available funds;

(D) create quality jobs;

(E) enhance the role, relevance, and leveraging potential of community and regional foundations in support of regional investment strategies;

(F) demonstrate a history, or involve organizations with a history, of successful lever-

aging of capital for economic development and public purposes;

(G) address gaps in existing basic services, including technology, within a region;

(H) address economic diversification, including agricultural and non-agriculturally based economies, within a regional framework;

(I) improve the overall quality of life in the region;

(J) enhance the potential to expand economic development successes across diverse stakeholder groups within the region;

(K) include an effective working relationship with 1 or more institutions of higher education, tribally controlled colleges or universities, or tribal technical institutions;

(L) help to meet the other regional competitiveness needs identified by a Regional Board; or

(M) protect and promote rural heritage.

(f) Uses

(1) Leverage

A Regional Board shall prioritize projects and initiatives carried out using funds from a regional innovation grant provided under this section, based in part on the degree to which members of the Regional Board are able to leverage additional funds for the implementation of the projects.

(2) Purposes

A Regional Board may use a regional innovation grant—

(A) to support the development of critical infrastructure (including technology deployment and services) necessary to facilitate the competitiveness of a region;

(B) to provide assistance to entities within the region that provide essential public and community services;

(C) to enhance the value-added production, marketing, and use of agricultural and natural resources within the region, including activities relating to renewable and alternative energy production and usage;

(D) to assist with entrepreneurship, job training, workforce development, housing, educational, or other quality of life services or needs, relating to the development and maintenance of strong local and regional economies;

(E) to assist in the development of unique new collaborations that link public, private, and philanthropic resources, including community foundations;

(F) to provide support for business and entrepreneurial investment, strategy, expansion, and development, including feasibility strategies, technical assistance, peer networks, business development funds, and other activities to strengthen the economic competitiveness of the region;

(G) to provide matching funds to enable community foundations located within the region to build endowments which provide permanent philanthropic resources to implement a regional investment strategy; and

(H) to preserve and promote rural heritage.

(3) Availability of funds

The funds made available to a Regional Board or any other eligible grantee through a regional innovation grant shall remain available for the 7-year period beginning on the date on which the award is provided, on the condition that the Regional Board or other grantee continues to be certified by the Secretary as making adequate progress toward achieving established benchmarks.

(g) Cost sharing

(1) Waiver of grantee share

The Secretary may waive the share of a grantee of the costs of a project funded by a regional innovation grant under this section if the Secretary determines that such a waiver is appropriate, including with respect to special circumstances within tribal regions, in the event an area experiences—

(A) a sudden or severe economic dislocation;

(B) significant chronic unemployment or poverty;

(C) a natural disaster; or

(D) other severe economic, social, or cultural duress.

(2) Other Federal programs

For the purpose of determining cost-sharing requirements for any other Federal program, funds provided as a regional innovation grant under this section shall be considered to be non-Federal funds.

(h) Noncompliance

If a Regional Board or other eligible grantee fails to comply with any requirement relating to the use of funds provided under this section, the Secretary may—

(1) take such actions as are necessary to obtain reimbursement of unused grant funds; and

(2) reprogram the recaptured funds for purposes relating to implementation of this subchapter.

(i) Priority to areas with awards and approved strategies

(1) In general

Subject to paragraph (3), in providing rural development assistance under other programs, the Secretary shall give a high priority to areas that receive innovation grants under this section.

(2) Consultation

The Secretary shall consult with the heads of other Federal agencies to promote the development of priorities similar to those described in paragraph (1).

(3) Exclusion of certain programs

Paragraph (1) shall not apply to the provision of rural development assistance under any program relating to basic health, safety, or infrastructure, including broadband deployment or minimum environmental needs.

(Pub. L. 87–128, title III, § 385F, as added Pub. L. 107–171, title VI, § 6030, May 13, 2002, 116 Stat. 407; amended Pub. L. 110–234, title VI, § 6028, May 22, 2008, 122 Stat. 1190; Pub. L. 110–246, § 4(a), title VI, § 6028, June 18, 2008, 122 Stat. 1664, 1951.)

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—Pub. L. 110–246, § 6028, amended section generally. Prior to amendment, section provided regional strategic investment planning grants to Regional Boards.

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.

§ 2009dd–6. Rural endowment loans program

(a) In general

The Secretary may provide long-term loans to eligible community foundations to assist in the implementation of regional investment strategies.

(b) Eligible community foundations

To be eligible to receive a loan under this section, a community foundation shall—

(1) be located in an area that is covered by a regional investment strategy;

(2) match the amount of the loan with an amount that is at least 250 percent of the amount of the loan; and

(3) use the loan and the matching amount to carry out the regional investment strategy in a manner that is targeted to community and economic development, including through the development of community foundation endowments.

(c) Terms

A loan made under this section shall—

(1) have a term of not less than 10, nor more than 20, years;

(2) bear an interest rate of 1 percent per annum; and

(3) be subject to such other terms and conditions as are determined appropriate by the Secretary.

(Pub. L. 87–128, title III, § 385G, as added Pub. L. 107–171, title VI, § 6030, May 13, 2002, 116 Stat. 408; amended Pub. L. 110–234, title VI, § 6028, May 22, 2008, 122 Stat. 1193; Pub. L. 110–246, § 4(a), title VI, § 6028, June 18, 2008, 122 Stat. 1664, 1955.)

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—Pub. L. 110–246, § 6028, amended section generally. Prior to amendment, section provided for competitive innovation grants to be made to Regional Boards.

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.

§ 2009dd–7. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter $135,000,000 for the period of fiscal years 2009 through 2012.

(Pub. L. 87–128, title III, § 385H, as added Pub. L. 107–171, title VI, § 6030, May 13, 2002, 116 Stat. 411; amended Pub. L. 110–234, title VI, § 6028, May 22, 2008, 122 Stat. 1194; Pub. L. 110–246, § 4(a), title VI, § 6028, June 18, 2008, 122 Stat. 1664, 1955.)

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—Pub. L. 110–246, § 6028, amended section generally. Prior to amendment, section related to National Conference on Rural America.

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.

SUBCHAPTER X—SEARCH GRANTS FOR SMALL COMMUNITIES

§§ 2009ee to 2009ee–3. Repealed. Pub. L. 110–234, title VI, § 6002(b), May 22, 2008, 122 Stat. 1162, and Pub. L. 110–246, § 4(a), title VI, § 6002(b), June 18, 2008, 122 Stat. 1664, 1923

Section 2009ee, Pub. L. 107–171, title VI, § 6301, May 13, 2002, 116 Stat. 421, defined terms.

Section 2009ee–1, Pub. L. 107–171, title VI, § 6302, May 13, 2002, 116 Stat. 422, related to SEARCH grant program. See section 1926 of this title.

Section 2009ee–2, Pub. L. 107–171, title VI, § 6303, May 13, 2002, 116 Stat. 424, related to annual report on projects.

Section 2009ee–3, Pub. L. 107–171, title VI, § 6304, May 13, 2002, 116 Stat. 424, related to funding.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 repealed this subchapter. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

EFFECTIVE DATE OF REPEAL

Repeal of this subchapter 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.

CHAPTER 51—SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

Sec.
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