

103^D CONGRESS
2^D SESSION

H. R. 4445

To amend the Housing Act of 1949 to authorize the Secretary of Agriculture to guarantee the repayment of loans made by private lenders for the development costs of multifamily rental housing for low- and moderate-income families in rural areas.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 1994

Mr. BEREUTER introduced the following bill; which was referred to the
Committee on Banking, Finance and Urban Affairs

A BILL

To amend the Housing Act of 1949 to authorize the Secretary of Agriculture to guarantee the repayment of loans made by private lenders for the development costs of multifamily rental housing for low- and moderate-income families in rural areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural Multifamily
5 Rental Housing Loan Guarantee Demonstration Act”.

1 **SEC. 2. LOAN GUARANTEES FOR MULTIFAMILY RENTAL**
2 **HOUSING IN RURAL AREAS.**

3 Title V of the Housing Act of 1949 is amended by
4 adding at the end the following new section:

5 **“SEC. 543. LOAN GUARANTEES FOR MULTIFAMILY RENTAL**
6 **HOUSING IN RURAL AREAS.**

7 “(a) **AUTHORITY.**—The Secretary may make commit-
8 ments to guarantee eligible loans for the development costs
9 of eligible housing and related facilities, and may guaran-
10 tee such eligible loans, in accordance with this section.

11 “(b) **EXTENT OF GUARANTEE.**—A guarantee made
12 under this section shall guarantee repayment of an
13 amount not exceeding 90 percent of the unpaid principal
14 and interest of the loan for which the guarantee is made.
15 The liability of the United States under any guarantee
16 under this section shall decrease or increase pro rata with
17 any decrease or increase of the amount of the unpaid por-
18 tion of the obligation.

19 “(c) **ELIGIBLE BORROWERS.**—A loan guaranteed
20 under this section may be made to a nonprofit organiza-
21 tion, an agency or body of any State government or politi-
22 cal subdivision thereof, or a private entity.

23 “(d) **ELIGIBLE HOUSING.**—A loan may be guaran-
24 teed under this section only if the loan is used for the
25 development costs of housing and related facilities (as
26 such terms are defined in section 515(e)) that—

1 “(1) consists of 5 or more adequate dwellings;

2 “(2) is available for occupancy only by low or
3 moderate income families or persons, whose incomes
4 at the time of initial occupancy do not exceed 115
5 percent of the median income of the area, as deter-
6 mined by the Secretary;

7 “(3) will remain available as provided in para-
8 graph (2), according to such binding commitments
9 as the Secretary may require, for the period of the
10 original term of the loan guaranteed, unless the Sec-
11 retary waives the applicability of such requirement
12 for the loan; and

13 “(4) is located in a rural area.

14 A low-income housing tax credit under section 42 of the
15 Internal Revenue Code of 1986 may be provided in con-
16 nection with housing developed using amounts from a loan
17 guaranteed under this section, but only if such housing
18 complies with the requirements under such Code for such
19 a credit.

20 “(e) ELIGIBLE LENDERS.—

21 “(1) REQUIREMENT.—A loan may be guaran-
22 teed under this subsection only if the loan is made
23 by a lender that the Secretary determines—

24 “(A) meets the qualifications, and has been
25 approved by the Secretary of Housing and

1 Urban Development, to make loans for multi-
2 family housing that are to be insured under the
3 National Housing Act;

4 “(B) meets the qualifications, and has
5 been approved by the Federal National Mort-
6 gage Association, to make loans for multifamily
7 housing that are to be sold to such corporation;

8 “(C) meets the qualifications, and has been
9 approved by the Federal Home Loan Mortgage
10 Corporation, to make loans for multifamily
11 housing that are to be sold to such Corporation;

12 or

13 “(D) meets any qualifications that the Sec-
14 retary may, by regulation, establish for partici-
15 pation of lenders in the loan guarantee program
16 under this section.

17 “(2) ELIGIBILITY LIST AND ANNUAL AUDIT.—

18 The Secretary shall establish a list of eligible lenders
19 and shall annually conduct an audit of each lender
20 included in the list for purposes of determining
21 whether such lender continues to be an eligible lend-
22 er.

23 “(f) LOAN TERMS.—Each loan guaranteed pursuant
24 to this subsection shall—

1 “(1) provide for complete amortization by peri-
2 odic payments to be made for a term not to exceed
3 40 years;

4 “(2) involve a rate of interest agreed upon by
5 the borrower and the lender that does not exceed the
6 maximum allowable rate established by the Secretary
7 for purposes of this section and is fixed over the
8 term of the loan;

9 “(3) involve a principal obligation (including
10 initial service charges, appraisal, inspection, and
11 other fees as the Secretary may approve) not to ex-
12 ceed—

13 “(A) in the case of a borrower that is a
14 nonprofit organization or an agency or body of
15 any State or local government, 97 percent of
16 the development costs of the housing and relat-
17 ed facilities or the value of the housing and fa-
18 cilities, whichever is less;

19 “(B) in the case of a borrower that is a
20 for-profit entity not referred to in subparagraph
21 (A), 90 percent of the development costs of the
22 housing and related facilities or the value of the
23 housing and facilities, whichever is less; and

24 “(C) in the case of any borrower, for such
25 part of the property as may be attributable to

1 dwelling use, the applicable maximum per unit
2 dollar amount limitations under section 207(c)
3 of the National Housing Act; and

4 “(4) be secured by a first mortgage on the
5 housing and related facilities for which the loan is
6 made, or otherwise, as the Secretary may determine
7 necessary to ensure repayment of the obligation.

8 “(g) GUARANTEE FEE.—At the time of issuance of
9 a loan guaranteed under this section, the Secretary may
10 collect from the lender a fee equal to not more than 1
11 percent of the principal obligation of the loan.

12 “(h) AUTHORITY FOR LENDERS TO ISSUE CERTIFI-
13 CATES OF GUARANTEE.—The Secretary may authorize
14 certain eligible lenders to determine whether a loan meets
15 the requirements for guarantee under this section and,
16 subject to the availability of authority to enter into guar-
17 antees under this section, execute a firm commitment for
18 a guarantee binding upon the Secretary and issue a certifi-
19 cate of guarantee evidencing a guarantee, without review
20 and approval by the Secretary of the specific loan. The
21 Secretary may establish standards for approving eligible
22 lenders for a delegation of authority under this subsection.

23 “(i) PAYMENT UNDER GUARANTEE.—

24 “(1) NOTICE OF DEFAULT.—In the event of de-
25 fault by the borrower on a loan guaranteed under

1 this section, the holder of the guarantee certificate
2 for the loan shall provide written notice of the de-
3 fault to the Secretary.

4 “(2) FORECLOSURE.—After receiving notice
5 under paragraph (1) and providing written notice of
6 action under this paragraph to the Secretary, the
7 holder of the guarantee certificate for the loan may
8 initiate foreclosure proceedings for the loan in a
9 court of competent jurisdiction, in accordance with
10 regulations issued by the Secretary, to obtain posses-
11 sion of the security property. After the court issues
12 a final order authorizing foreclosure on the property,
13 the holder of the certificate shall be entitled to pay-
14 ment by the Secretary under the guarantee (in the
15 amount provided under subsection (b)) upon (A)
16 conveyance to the Secretary of title to the security
17 property, (B) submission to the Secretary of a claim
18 for payment under the guarantee, and (C) assign-
19 ment to the Secretary of all the claims of the holder
20 of the guarantee against the borrower or others aris-
21 ing out of the loan transaction or foreclosure pro-
22 ceedings, except claims released with the consent of
23 the Secretary.

24 “(3) ASSIGNMENT BY SECRETARY.—After re-
25 ceiving notice under paragraph (1), the Secretary

1 may accept assignment of the loan if the Secretary
2 determines that the assignment is in the best inter-
3 ests of the United States. Assignment of a loan
4 under this paragraph shall include conveyance to the
5 Secretary of title to the security property, assign-
6 ment to the Secretary of all rights and interests
7 arising under the loan, and assignment to the Sec-
8 retary of all claims against the borrower or others
9 arising out of the loan transaction. Upon assignment
10 of a loan under this paragraph, the holder of a guar-
11 antee certificate for the loan shall be entitled to pay-
12 ment by the Secretary under the guarantee (in the
13 amount provided under subsection (b)).

14 “(4) REQUIREMENTS.—Before any payment
15 under a guarantee is made under paragraph (2) or
16 (3), the holder of the guarantee certificate shall ex-
17 haust all reasonable possibilities of collection on the
18 loan guaranteed. Upon payment, in whole or in part,
19 to the holder, the note or judgment evidencing the
20 debt shall be assigned to the United States and the
21 holder shall have no further claim against the bor-
22 rower or the United States. The Secretary shall then
23 take such action to collect as the Secretary deter-
24 mines appropriate.

1 “(j) VIOLATION OF GUARANTEE REQUIREMENTS BY
2 LENDERS ISSUING GUARANTEES.—

3 “(1) INDEMNIFICATION.—If the Secretary de-
4 termines that a loan guaranteed by an eligible lender
5 pursuant to delegation of authority under subsection
6 (h) was not originated in accordance with the re-
7 quirements under this section and the Secretary
8 pays a claim under the guarantee for the loan, the
9 Secretary may require the eligible lender authorized
10 under subsection (h) to issue the guarantee certifi-
11 cate for the loan—

12 “(A) to indemnify the Secretary for the
13 loss, if the payment under the guarantee was
14 made within a reasonable period specified by
15 the Secretary; or

16 “(B) to indemnify the Secretary for the
17 loss regardless of when payment under the
18 guarantee was made, if the Secretary deter-
19 mines that fraud or misrepresentation was in-
20 volved in connection with the origination of the
21 loan.

22 “(2) TERMINATION OF AUTHORITY TO ISSUE
23 GUARANTEES.—The Secretary may cancel a delega-
24 tion of authority under subsection (h) to an eligible
25 lender if the Secretary determines that the lender

1 has violated the requirements and procedures for
2 guaranteed loans under this section or for other
3 good cause. Any such cancellation shall be made by
4 giving notice to the eligible lender and shall take ef-
5 fect upon receipt of the notice by the mortgagee or
6 at a later date, as the Secretary may provide. A de-
7 cision by the Secretary to cancel a delegation shall
8 be final and conclusive and shall not be subject to
9 judicial review.

10 “(k) REFINANCING.—Any loan guaranteed under this
11 section may be refinanced and extended in accordance
12 with terms and conditions that the Secretary shall pre-
13 scribe, but in no event for an additional amount or term
14 that exceeds the limitations under subsection (f).

15 “(l) NONASSUMPTION.—The borrower under a loan
16 that is guaranteed under this section and under which any
17 portion of the principal obligation or interest remains out-
18 standing may not be relieved of liability with respect to
19 the loan, notwithstanding the transfer of property for
20 which the loan was made.

21 “(m) GEOGRAPHICAL TARGETING.—

22 “(1) STUDY.—The Secretary shall provide for
23 an independent entity to conduct a study to deter-
24 mine the extent to which borrowers in the United
25 States will utilize loan guarantees under this section

1 and the rural areas in the United States in which
2 borrowers can best utilize and most need loans guar-
3 anteed under this section. The Secretary shall re-
4 quire the independent entity conducting the study to
5 submit a report to the Secretary and to the Con-
6 gress describing the results of the study not later
7 than the expiration of the 90-day period beginning
8 on the date of the enactment of the Rural Multifam-
9 ily Rental Housing Loan Guarantee Demonstration
10 Act.

11 “(2) TARGETING.—In providing loan guaran-
12 tees under this section, the Secretary shall establish
13 standards to target and give priority to rural areas
14 in which borrowers can best utilize and most need
15 loans guaranteed under this section, as determined
16 by the Secretary based on the results of the study
17 under paragraph (1) and any other information the
18 Secretary considers appropriate.

19 “(n) INAPPLICABILITY OF CREDIT-ELSEWHERE
20 TEST.—Section 501(c) shall not apply to guarantees, or
21 loans guaranteed, under this section.

22 “(o) HOUSING STANDARDS.—The standards estab-
23 lished under section 515(m) for housing and related facili-
24 ties assisted under section 515 shall apply to housing and
25 related facilities the development costs of which are fi-

1 nanced in whole or in part with a loan guaranteed under
2 this section.

3 “(p) LIMITATION ON COMMITMENTS TO GUARANTEE
4 LOANS.—

5 “(1) REQUIREMENT OF APPROPRIATIONS.—The
6 authority of the Secretary to enter into commit-
7 ments to guarantee loans under this section, and to
8 guarantee loans, shall be effective for any fiscal year
9 only to the extent or in such amounts as are or have
10 been provided in appropriations Acts for such fiscal
11 year.

12 “(2) LIMITATION ON OUTSTANDING AGGREGATE
13 PRINCIPAL AMOUNT.—Subject to the limitation in
14 paragraph (1), the Secretary may enter into commit-
15 ments to guarantee loans under this section having
16 an aggregate outstanding principal amount not ex-
17 ceeding \$200,000,000 in each of fiscal years 1995
18 and 1996.

19 “(q) REPORT.—

20 “(1) IN GENERAL.—The Secretary shall submit
21 a report to the Congress, not later than the expira-
22 tion of the 2-year period beginning on the date of
23 the enactment of the Rural Multifamily Rental
24 Housing Loan Guarantee Demonstration Act, de-

1 scribing the program under this section for guaran-
2 teeing loans.

3 “(2) CONTENTS.—The report shall—

4 “(A) describe the types of borrowers pro-
5 viding housing with loans guaranteed under this
6 section, the areas served by the housing pro-
7 vided and the geographical distribution of the
8 housing, the levels of income of the residents of
9 the housing, the number of dwelling units pro-
10 vided, the extent to which borrowers under such
11 loans have obtained other financial assistance
12 for development costs of housing provided with
13 the loans, and the extent to which borrowers
14 under such loans have used low-income housing
15 tax credits provided under section 42 of the In-
16 ternal Revenue Code of 1986 in connection with
17 the housing provided with the loans;

18 “(B) analyze the financial viability of the
19 housing provided with loans guaranteed under
20 this section and the need for project-based rent-
21 al assistance for such housing;

22 “(C) include any recommendations of the
23 Secretary for expanding or improving the pro-
24 gram under this section for guaranteeing loans;
25 and

1 “(D) include any other information regard-
2 ing the program for guaranteeing loans under
3 this section that the Secretary considers appro-
4 priate.

5 “(r) DEFINITIONS.—For purposes of this subsection,
6 the following definitions shall apply:

7 “(1) The term ‘development cost’ has the mean-
8 ing given the term in section 515(e).

9 “(2) The term ‘eligible lender’ means a lender
10 determined by the Secretary to meet the require-
11 ments of subparagraph (A), (B), (C), or (D) of sub-
12 section (e)(1).

13 “(3) The terms ‘housing’ and ‘related facilities’
14 have the meanings given such terms in section
15 515(e).

16 “(s) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated for fiscal years 1995
18 and 1996 such sums as may be necessary for costs (as
19 such term is defined in section 502 of the Congressional
20 Budget Act of 1974) of loan guarantees made under this
21 section.

22 “(t) TERMINATION DATE.—A loan may not be guar-
23 anteed under this section after September 30, 1996.”.

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