

114TH CONGRESS
1ST SESSION

S. 797

To amend the Railroad Revitalization and Regulatory Reform Act of 1976,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 2015

Mr. BOOKER introduced the following bill; which was read twice and referred
to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Railroad Revitalization and Regulatory Reform
Act of 1976, and for other purposes.

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; REFERENCES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Railroad Infrastructure Financing Improvement Act”.

6 (b) **REFERENCES TO THE RAILROAD REVITALIZA-**
7 **TION AND REGULATORY REFORM ACT OF 1976.**—Except
8 as otherwise expressly provided, wherever in this Act an
9 amendment or repeal is expressed in terms of an amend-
10 ment to, or repeal of, a section or other provision, the ref-

1 erence shall be considered to be made to a section or other
2 provision of the Railroad Revitalization and Regulatory
3 Reform Act of 1976 (45 U.S.C. 801 et seq.).

4 **SEC. 2. DEFINITIONS.**

5 Section 501 (45 U.S.C. 821) is amended—

6 (1) by redesignating paragraph (8) as para-
7 graph (10);

8 (2) by redesignating paragraphs (6) and (7) as
9 paragraphs (7) and (8), respectively;

10 (3) by inserting after paragraph (5) the fol-
11 lowing:

12 “(6) The term ‘investment-grade rating’ means
13 a rating of BBB minus, Baa 3, bbb minus,
14 BBB(low), or higher assigned by a rating agency.”;

15 (4) by inserting after paragraph (8), as redesi-
16 gnated, the following:

17 “(9) The term ‘master credit agreement’ means
18 an agreement to make 1 or more direct loans or loan
19 guarantees at future dates for a program of related
20 projects secured by a common security pledge on
21 terms acceptable to the Secretary.”; and

22 (5) by adding at the end the following:

23 “(11) The term ‘project obligation’ means as
24 note, bond, debenture, or other debt obligation
25 issued by a borrower in connection with the financ-

1 ing of a project, other than a direct loan or loan
2 guarantee under this title.

3 “(12) The term ‘railroad’ has the meaning
4 given the term ‘railroad carrier’ in section 20102 of
5 title 49, United States Code.

6 “(13) The term ‘rating agency’ means a credit
7 rating agency registered with the Securities and Ex-
8 change Commission as a nationally recognized statis-
9 tical rating organization (as defined in section 3(a)
10 of the Securities Exchange Act of 1934 (15 U.S.C.
11 78c(a))).

12 “(14) The term ‘substantial completion’
13 means—

14 “(A) the opening of a project to passenger
15 or freight traffic; or

16 “(B) a comparable event, as determined by
17 the Secretary and specified in the direct loan.”.

18 **SEC. 3. ELIGIBLE APPLICANTS.**

19 Section 502(a) (45 U.S.C. 822(a)) is amended—

20 (1) in paragraph (5), by striking “one railroad;
21 and” and inserting “1 of the entities described in
22 paragraph (1), (2), (3), (4), or (6);”;

23 (2) by amending paragraph (6) to read as fol-
24 lows:

1 “(6) solely for the purpose of constructing a
2 rail connection between a plant or facility and a rail
3 carrier, limited option freight shippers that own or
4 operate a plant or other facility; and”;

5 (3) by adding at the end the following:

6 “(7) any obligor, as designated by an entity
7 otherwise eligible to receive a direct loan or loan
8 guarantee under this section, including a special
9 purpose entity receiving user fees or other payments
10 or revenues from dedicated sources for debt service
11 and maintenance of the equipment or facilities to be
12 acquired or improved; and

13 “(8) solely for a project described in subsection
14 (b)(1)(D), a public-private partnership, private enti-
15 ty, or consortium that specializes in real estate de-
16 velopment.”.

17 **SEC. 4. ELIGIBLE PURPOSES.**

18 Section 502(b)(1) (45 U.S.C. 822(b)(1)) is amend-
19 ed—

20 (1) in subparagraph (A), by inserting “, and in-
21 cluding costs related to these activities and excluding
22 operating expenses” after “shops”;

23 (2) in subparagraph (B), by striking “subpara-
24 graph (A); or” and inserting “subparagraph (A) or
25 (C);”;

1 (3) in subparagraph (C), by striking the period
2 at the end and inserting “; or”; and

3 (4) by adding at the end the following:

4 “(D) finance economic development, in-
5 cluding commercial and residential development,
6 and related infrastructure and activities, that—

7 “(i) incorporates private investment;

8 “(ii) is physically or functionally re-
9 lated to a passenger rail station or
10 multimodal station; and

11 “(iii) is likely to increase ridership at
12 that station.”.

13 **SEC. 5. PROGRAM ADMINISTRATION.**

14 (a) APPLICATION PROCESSING PROCEDURES.—Sec-
15 tion 502(i) (45 U.S.C. 822(i)) is amended to read as fol-
16 lows:

17 “(i) APPLICATION PROCESSING PROCEDURES.—

18 “(1) APPLICATION STATUS NOTICES.—Not later
19 than 30 days after the date that the Secretary re-
20 ceives an application under this section, the Sec-
21 retary shall provide the applicant written notice as
22 to whether the application is complete or incomplete.

23 “(2) INCOMPLETE APPLICATIONS.—If the Sec-
24 retary determines that an application is incomplete,
25 the Secretary shall—

1 “(A) provide the applicant with a descrip-
2 tion of all of the specific information or mate-
3 rial that is needed to complete the application;
4 and

5 “(B) allow the applicant to resubmit the
6 information and material described under sub-
7 paragraph (A) to complete the application with-
8 out prejudice.

9 “(3) APPLICATION APPROVALS AND DIS-
10 APPROVALS.—Not later than 60 days after the date
11 the Secretary notifies an applicant that an applica-
12 tion is complete under paragraph (1), the Secretary
13 shall provide the applicant written notice as to
14 whether the Secretary has approved or disapproved
15 the application.

16 “(4) EXPEDITED PROCESSING.—The Secretary
17 shall implement procedures and measures to econo-
18 mize the time and cost involved in obtaining an ap-
19 proval or a disapproval of credit assistance under
20 this title.”.

21 (b) ADMINISTRATION OF DIRECT LOANS AND LOAN
22 GUARANTEES.—Section 503 (45 U.S.C. 823) is amend-
23 ed—

24 (1) in subsection (a), by striking the period at
25 the end and inserting “, including a program guide

1 and standard term sheet, application deadlines, and
2 specific timetables.”;

3 (2) by redesignating subsections (c) through (l)
4 as subsections (d) through (m), respectively;

5 (3) by striking “(b) ASSIGNMENT OF LOAN
6 GUARANTEES.—” and inserting “(c) ASSIGNMENT
7 OF LOAN GUARANTEES.—”;

8 (4) in subsection (d), as redesignated—

9 (A) in paragraph (1), by striking “; and”
10 and inserting a semicolon;

11 (B) in paragraph (2), by striking the pe-
12 riod at the end and inserting “; and”; and

13 (C) by adding at the end the following:

14 “(3) the modification cost has been covered
15 under section 502(f).”; and

16 (5) by amending subsection (l), as redesignated,
17 to read as follows:

18 “(l) CHARGES.—

19 “(1) PURPOSES.—The Secretary may collect
20 from each applicant a reasonable charge for—

21 “(A) the cost of evaluating the application,
22 amendments, modifications, and waivers, in-
23 cluding appraisal of the value of the equipment
24 or facilities for which the direct loan or loan

1 guarantee is sought, and for making necessary
2 determinations and findings;

3 “(B) the cost of award management and
4 project management oversight;

5 “(C) the cost of services from expert firms,
6 including counsel, in the field of railroad, mu-
7 nicipal, and project finance, to assist in the un-
8 derwriting, auditing, servicing, and exercise of
9 rights with respect to direct loans and loan
10 guarantees; and

11 “(D) the cost of all other expenses in-
12 curred as a result of a breach of any term or
13 condition or any event of default on a direct
14 loan or loan guarantee.

15 “(2) STANDARDS.—The Secretary shall pre-
16 scribe standards for applying a charge under this
17 subsection to ensure that it does not prevent an ap-
18 plicant from having adequate access to direct loans
19 and loan guarantees under this title.

20 “(3) SAFETY AND OPERATIONS ACCOUNT.—
21 Amounts collected under this subsection shall be
22 credited directly to the Safety and Operations ac-
23 count of the Federal Railroad Administration, and
24 shall remain available until expended to pay for the
25 costs described in this subsection.”.

1 **SEC. 6. LOAN TERMS AND REPAYMENT.**

2 (a) PREREQUISITES FOR ASSISTANCE.—Section
3 502(g)(1) (45 U.S.C. 822(g)(1)) is amended by striking
4 “35 years from the date of its execution” and inserting
5 “the lesser of 50 years or 90 percent of the estimated use-
6 ful life of the rail equipment or facilities to be acquired,
7 rehabilitated, improved, developed, or established”.

8 (b) REPAYMENT SCHEDULES.—Section 502(j) (45
9 U.S.C. 822(j)) is amended—

10 (1) in paragraph (1), by striking “the sixth an-
11 niversary date of the original loan disbursement”
12 and inserting “5 years after the date of substantial
13 completion”; and

14 (2) by adding at the end the following:

15 “(3) DEFERRED PAYMENTS.—

16 “(A) IN GENERAL.—If at any time after
17 the date of substantial completion the project is
18 unable to generate sufficient revenues to pay
19 the scheduled loan repayments of principal and
20 interest on the direct loan, the Secretary, sub-
21 ject to subparagraph (B), may allow the obligor
22 to add unpaid principal and interest to the out-
23 standing balance of the direct loan.

24 “(B) INTEREST.—A payment deferred
25 under subparagraph (A) shall—

1 “(i) continue to accrue interest under
2 paragraph (2) until the loan is fully repaid;
3 and

4 “(ii) be scheduled to be amortized
5 over the remaining term of the loan.

6 “(4) PREPAYMENTS.—

7 “(A) USE OF EXCESS REVENUES.—Any
8 excess revenues that remain after satisfying
9 scheduled debt service requirements on the
10 project obligations and direct loan and all de-
11 posit requirements under the terms of any trust
12 agreement, bond resolution, or similar agree-
13 ment securing project obligations may be ap-
14 plied annually to prepay the direct loan without
15 penalty.

16 “(B) USE OF PROCEEDS OF REFI-
17 NANCING.—The direct loan may be prepaid at
18 any time without penalty from the proceeds of
19 refinancing from non-Federal funding
20 sources.”.

21 **SEC. 7. CREDIT RISK PREMIUMS.**

22 Section 502(f) (45 U.S.C. 822(f)) is amended—

23 (1) in paragraph (1), by amending the first sen-
24 tence to read as follows: “In lieu of or in combina-
25 tion with appropriations of budget authority to cover

1 the costs of direct loans and loan guarantees as re-
2 quired under section 504(b)(1) of the Federal Credit
3 Reform Act of 1990 (2 U.S.C. 661c(b)(1)), includ-
4 ing the cost of a modification thereof, the Secretary
5 may accept on behalf of an applicant for assistance
6 under this section a commitment from a non-Federal
7 source, including a State or local government or
8 agency thereof, to fund in whole or in part credit
9 risk premiums and modification costs with respect to
10 the loan that is the subject of the application or
11 modification.”;

12 (2) in paragraph (2)—

13 (A) in subparagraph (D), by adding “and”
14 after the semicolon;

15 (B) by striking subparagraph (E); and

16 (C) by redesignating subparagraph (F) as
17 subparagraph (E);

18 (3) by striking paragraph (4);

19 (4) by redesignating paragraph (3) as para-
20 graph (4);

21 (5) by inserting after paragraph (2) the fol-
22 lowing:

23 “(3) CREDITWORTHINESS.—An applicant may
24 propose and the Secretary may accept as a basis for
25 determining the amount of the credit risk premium

1 under paragraph (2) any of the following in lieu of
2 the value of any tangible asset as collateral under
3 paragraph (2)(A):

4 “(A) A rate covenant, if applicable.

5 “(B) Adequate coverage requirements to
6 ensure repayment, on a non-recourse basis,
7 from cash flows generated by the project or any
8 other dedicated revenue source, including—

9 “(i) tolls;

10 “(ii) user fees; or

11 “(iii) payments owing to the obligor
12 under a public-private partnership.

13 “(C) An investment-grade rating on debt
14 senior to the direct loan or loan guarantee.

15 “(D) A rating on the direct loan or loan
16 guarantee, as applicable.”;

17 (6) in paragraph (4), as redesignated, by strik-
18 ing “amounts” and inserting “amounts (and in the
19 case of a modification, before the modification is ex-
20 ecuted), to the extent appropriations are not avail-
21 able to the Secretary to meet the costs of direct
22 loans and loan guarantees, including costs of modi-
23 fications thereof”; and

24 (7) by adding at the end the following:

1 “(5) USE OF OTHER FEDERAL FUNDS.—Not-
 2 withstanding any other provision of law, an appli-
 3 cant may use other Federal funds to pay part or all
 4 of a credit risk premium under this subsection.”.

5 **SEC. 8. MASTER CREDIT AGREEMENTS.**

6 Section 502 (45 U.S.C. 822) is amended by adding
 7 at the end the following:

8 “(k) MASTER CREDIT AGREEMENTS.—

9 “(1) IN GENERAL.—Subject to section 502(d)
 10 and paragraph (2) of this subsection, the Secretary
 11 may enter into a master credit agreement if—

12 “(A) the common security pledge receives
 13 an investment-grade rating from a rating agen-
 14 cy prior to the Secretary entering into the mas-
 15 ter credit agreement; and

16 “(B) all of the conditions for the provision
 17 of direct loans or loan guarantees, as applica-
 18 ble, under this title are satisfied.

19 “(2) CONDITIONS.—Each master credit agree-
 20 ment shall—

21 “(A) establish the maximum amount and
 22 general terms and conditions of each applicable
 23 direct loan or loan guarantee;

24 “(B) identify 1 or more dedicated non-
 25 Federal revenue sources that will secure the re-

1 payment of each applicable direct loan or loan
2 guarantee;

3 “(C) provide for the obligation of funds for
4 the direct loans or loan guarantees after all re-
5 quirements have been met for the projects sub-
6 ject to the master credit agreement; and

7 “(D) unless otherwise extended by the Sec-
8 retary, require that each applicable direct loan
9 and loan guarantee results in a financial close
10 and obligation of assistance, or release of the
11 master credit agreement, not later than 3 years
12 after the date of entry by the Secretary into the
13 agreement.

14 “(I) NON-FEDERAL SHARE.—The proceeds of a di-
15 rect loan under this title may be used for any non-Federal
16 share of project costs required under chapter 244 of title
17 49, United States Code, if the loan is repayable from non-
18 Federal funds.”.

19 **SEC. 9. MISCELLANEOUS PROVISIONS.**

20 (a) PRIORITY PROJECTS.—Section 502(c)(5) (45
21 U.S.C. 822(c)(5)) is amended by inserting “or chapter
22 227 of title 49” after “section 135 of title 23”.

23 (b) CONDITIONS OF ASSISTANCE.—Section 502(h)
24 (45 U.S.C. 822(h)) is amended—

1 (1) in paragraph (2), by inserting “, if applica-
2 ble” after “project”; and

3 (2) by adding at the end the following:

4 “(4) For a project described in subsection
5 (b)(1)(D), the Secretary shall require the applicant
6 to pay, in addition to the interest required under
7 subsection (e), a fee or payment in an amount deter-
8 mined appropriate by the Secretary to provide an eq-
9 uitable share of revenue to support capital or oper-
10 ating costs of routes serving the passenger rail sta-
11 tion or multimodal station where the development is
12 located.”.

13 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

14 There is authorized to be appropriated for each of
15 fiscal years 2015 through 2020 \$100,000,000, to remain
16 available until expended, for the cost of direct loans and
17 loan guarantees under sections 502 through 504 of the
18 Railroad Revitalization and Regulatory Reform Act of
19 1976 (45 U.S.C. 801 et seq.).

20 **SEC. 11. SAVINGS PROVISION.**

21 This Act, and the amendments made by this Act,
22 shall not affect any direct loan (or direct loan obligation)
23 or an outstanding loan guarantee (or loan guarantee com-
24 mitment) that was in effect prior to the date of enactment
25 of this Act. Any such transaction entered into before the

- 1 date of enactment of this Act shall be administered until
- 2 completion under its terms as if this Act were not enacted.

○