

amount determined under paragraph (3) prior to the obligations receiving an investment-grade rating; and “(B) the Secretary may fund the remaining portion of the secured loan only after the obligations have received an investment-grade rating by at least 1 rating agency”.

Subsec. (b)(2). Pub. L. 109-59, §1601(d)(3)(A), inserted “the lesser of” before “33 percent” and “or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations” before period at end.

Subsec. (b)(3)(A)(i). Pub. L. 109-59, §1601(d)(3)(B), inserted “that also secure the senior project obligations” after “sources”.

Subsec. (b)(4). Pub. L. 109-59, §1601(d)(3)(C), struck out “marketable” before “United States Treasury securities”.

Subsec. (b)(8). Pub. L. 109-59, §1602(b)(5), substituted “this chapter” for “this subchapter”.

Subsec. (c)(3) to (5). Pub. L. 109-59, §1601(d)(4), redesignated pars. (4) and (5) as (3) and (4), respectively, in par. (3)(A), struck out “during the 10 years” after “at any time”, in par. (3)(B)(ii), substituted “loan” for “loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1)”, and struck out heading and text of former par. (3). Text read as follows: “The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.”

§ 604. Lines of credit

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(2)(B), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account such letter.

(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the project’s senior obligations receiving an investment-grade rating from at least 1 rating agency.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities as of the date of execution of the line of credit agreement.

(5) SECURITY.—The line of credit—

(A) shall—

(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The full amount of the line of credit, to the extent not drawn upon, shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD-PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders’ behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 603 of an amount that, combined with the amount of the line of credit, exceeds 33 percent of eligible project costs.

(c) REPAYMENT.—

(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All repayments of principal or interest on a direct loan under this section shall be scheduled to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and to conclude, with full repayment of principal and interest, by the date that is 25 years after the

end of the period of availability specified in subsection (b)(6).

(Added Pub. L. 105-178, title I, §1503(a), June 9, 1998, 112 Stat. 247, §184; renumbered §604 and amended Pub. L. 109-59, title I, §§1601(e), 1602(b)(4), (d), Aug. 10, 2005, 119 Stat. 1241, 1247.)

AMENDMENTS

2005—Pub. L. 109-59, §1602(d), renumbered section 184 of this title as this section.

Subsec. (a)(1). Pub. L. 109-59, §1602(b)(4)(A), substituted “602” for “182”.

Subsec. (a)(3). Pub. L. 109-59, §1602(b)(4)(B), substituted “602(b)(2)(B)” for “182(b)(2)(B)”.

Subsec. (b)(2). Pub. L. 109-59, §1601(e)(1)(A), added par. (2) and struck out heading and text of former par. (2). Text read as follows:

“(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

“(B) 1-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.”

Subsec. (b)(3). Pub. L. 109-59, §1601(e)(1)(B), substituted “but not including reasonably required financing reserves” for “, any debt service reserve fund, and any other available reserve”.

Subsec. (b)(4). Pub. L. 109-59, §1601(e)(1)(C), struck out “marketable” before “United States Treasury securities” and substituted “date of execution of the line of credit agreement” for “date on which the line of credit is obligated”.

Subsec. (b)(5)(A)(i). Pub. L. 109-59, §1601(e)(1)(D), inserted “that also secure the senior project obligations” after “sources”.

Subsec. (b)(6). Pub. L. 109-59, §1601(e)(1)(E), substituted “The full amount of the line of credit, to the extent not drawn upon,” for “The line of credit”.

Subsec. (b)(10). Pub. L. 109-59, §1602(b)(4)(C), substituted “603” for “183”.

Subsec. (c)(2). Pub. L. 109-59, §1601(e)(2)(A), struck out “scheduled” before “repayments”, inserted “be scheduled to” after “shall”, and substituted “to conclude, with full repayment of principal and interest,” for “be fully repaid, with interest,”.

Subsec. (c)(3). Pub. L. 109-59, §1601(e)(2)(B), struck out heading and text of par. (3). Text read as follows: “The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.”

§ 605. Program administration

(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this chapter.

(b) FEES.—

(1) IN GENERAL.—The Secretary may collect and spend fees, contingent upon authority being provided in appropriations Acts, at a level that is sufficient to cover—

(A) the costs of services of expert firms retained pursuant to subsection (d); and

(B) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

(c) SERVICER.—

(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

(2) DUTIES.—The servicer shall act as the agent for the Secretary.

(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

(Added Pub. L. 105-178, title I, §1503(a), June 9, 1998, 112 Stat. 249, §185; renumbered §605 and amended Pub. L. 109-59, title I, §§1601(f), 1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1241, 1247.)

AMENDMENTS

2005—Pub. L. 109-59, §1602(d), renumbered section 185 of this title as this section.

Pub. L. 109-59, §1601(f), amended section catchline and text generally, substituting provisions relating to establishment by the Secretary of a uniform system to service the Federal credit instruments made available under this subchapter for provisions authorizing a State to identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this subchapter.

Subsec. (a). Pub. L. 109-59, §1602(b)(5), substituted “this chapter” for “this subchapter”.

§ 606. State and local permits

The provision of financial assistance under this chapter with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

(Added Pub. L. 105-178, title I, §1503(a), June 9, 1998, 112 Stat. 249, §186; renumbered §606 and amended Pub. L. 109-59, title I, §1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1247.)

AMENDMENTS

2005—Pub. L. 109-59, §1602(d), renumbered section 186 of this title as this section.

Pub. L. 109-59, §1602(b)(5), substituted “this chapter” for “this subchapter” in introductory provisions.

§ 607. Regulations

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter.

(Added Pub. L. 105-178, title I, §1503(a), June 9, 1998, 112 Stat. 249, §187; renumbered §607 and amended Pub. L. 109-59, title I, §1602(b)(5), (d), Aug. 10, 2005, 119 Stat. 1247.)

AMENDMENTS

2005—Pub. L. 109-59, §1602(d), renumbered section 187 of this title as this section.

Pub. L. 109-59, §1602(b)(5), substituted “this chapter” for “this subchapter”.

§ 608. Funding

(a) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter \$122,000,000 for each of fiscal years 2005 through 2009.