

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 $\frac{1}{8}$ 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 $\frac{1}{8}$ 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).

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

(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 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.