

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) 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 para-

graph (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.)