

pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 percent of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which subsection (b) of this section applies, the amount determined under subsection (b) of this section.”

Subsec. (e)(3), (4). Pub. L. 100-590, §203(c), added pars. (3) and (4).

Subsec. (g). Pub. L. 100-590, §204, amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “The Administration may at all reasonable times audit in the offices of a participating surety all documents, files, books, records, and other material relevant to the Administration’s guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section.”

1986—Subsecs. (a), (e)(2). Pub. L. 99-272 substituted “\$1,250,000” for “\$1,000,000”.

1980—Subsec. (c). Pub. L. 96-302 struck out “to or on behalf of the obligee, or to labor and materialmen, in fulfilling the terms of the contract” after “paid by the surety” in cl. (1).

1978—Subsec. (a). Pub. L. 95-507 amended subsec. (a) generally, striking out requirement that the Administration consult with the Secretary of Housing and Urban Development, and inserting authority to vary the terms and conditions of guarantees on the basis of experience with a particular surety and authority to guarantee bonds ancillary and conterminous with the other named bonds.

Subsec. (b). Pub. L. 95-507 substituted provisions relating to indemnification of a surety against loss sustained in attempting to avoid or avoiding breach for provisions relating to the extent of liability of the Administration for loss incurred by a surety.

Subsec. (c). Pub. L. 95-507 substituted provisions relating to the limitation of the Administration’s guarantee liability for provisions relating to the administration of the program and a study and report to Congress regarding the economic soundness of the program.

Subsec. (d). Pub. L. 95-507 substituted provisions relating to regulations for participating sureties for provisions relating to the application of section 693 of this title in the administration of this section.

Subsecs. (e) to (i). Pub. L. 95-507 added subsecs. (e) to (i).

1974—Subsec. (a). Pub. L. 93-386, §6(a)(3), substituted “\$1,000,000” for “\$500,000”.

Subsec. (c). Pub. L. 93-386, §11, inserted provisions relating to the administration of the program on a prudent and economically justifiable basis and provisions requiring the Administration to publish the cost of the program to the Administration, to conduct a study of the program in order to determine what must be done to make the program economically sound, and to transmit a report to Congress of the findings, conclusions, and recommendations of the study.

TERMINATION DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 to remain in effect until Sept. 30, 2010, see section 508(f) of Pub. L. 111-5, set out as a note under section 694a of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-135 effective Oct. 1, 1997, see section 3 of Pub. L. 105-135, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. D, title II, §206(b), Sept. 30, 1996, 110 Stat. 3009-739, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to applications received (or pending substantive evaluation) on or after October 1, 1995.”

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Pub. L. 100-590, title II, §207, Nov. 3, 1988, 102 Stat. 3009, as amended by Pub. L. 101-574, title II, §216(a),

Nov. 15, 1990, 104 Stat. 2822; Pub. L. 103-403, title III, §302, Oct. 22, 1994, 108 Stat. 4188; Pub. L. 104-36, §7, Oct. 12, 1995, 109 Stat. 297; Pub. L. 105-135, title V, §503, Dec. 2, 1997, 111 Stat. 2624; Pub. L. 106-554, §1(a)(9) [title VIII, §805(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-706, which provided that the provisions contained in section 694b(a)(3) of this title would cease to be effective after Sept. 30, 2003, was repealed by Pub. L. 108-447, div. K, title II, §203(c), Dec. 8, 2004, 118 Stat. 3466.

Pub. L. 100-590, title II, §209, Nov. 3, 1988, 102 Stat. 3010, provided that: “Except as otherwise provided in this title, the provisions of this title [amending this section and section 694c of this title and enacting provisions set out as notes under this section], shall become effective upon expiration of one hundred and eighty days after the date of its enactment [Nov. 3, 1988].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-302 effective Oct. 1, 1980, see section 507 of Pub. L. 96-302, set out as a note under section 631 of this title.

REGULATIONS

Pub. L. 100-590, title II, §205, Nov. 3, 1988, 102 Stat. 3009, provided that: “The Administration shall promulgate final regulations to implement the amendments made by this title [amending this section and section 694c of this title] not later than one hundred and eighty days after the date of the enactment of this Act [Nov. 3, 1988].”

SMALL BUSINESS ACCESS TO SURETY BONDING SURVEY

Pub. L. 102-366, title III, subtitle A, Sept. 4, 1992, 106 Stat. 1002-1005, known as the Small Business Access to Surety Bonding Survey Act of 1992, directed Comptroller General to conduct a comprehensive survey of business firms, from a statistically valid sample of business firms developed from the most recent list of construction firms maintained by Dun and Bradstreet Company and using a questionnaire with specifically designated questions, to obtain data on the experiences of such firms, and especially the experiences of small business concerns, in obtaining surety bonds from corporate surety firms and to submit a report to Congress, not later than 18 months after Sept. 4, 1992, which report was to contain a summary of responses of business firms to the survey and a description of any trends found by Comptroller General in such responses, which specific information on responses and trends of small business concerns, small business concerns owned and controlled by women, and small business concerns owned and controlled by socially and economically disadvantaged individuals.

EVALUATION OF PREFERRED SURETY BOND GUARANTEE PROGRAM; REPORT

Pub. L. 100-590, title II, §206, Nov. 3, 1988, 102 Stat. 3009, as amended by Pub. L. 101-574, title II, §216(b), Nov. 15, 1990, 104 Stat. 2823, directed Comptroller General, not later than 3 years after Nov. 3, 1988, to transmit a report to Congress evaluating the preferred surety bond guarantee program, with such report to be transmitted not later than Mar. 1, 1994, and cover the period Oct. 1, 1990, through Sept. 30, 1993.

§ 694c. Revolving fund for surety bond guarantees

(a) There is created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purposes of this part. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with this part, shall be deposited in the fund. All expenses and payments, excluding administrative expenses, pursuant to operations of

the Administrator under this part shall be paid from the fund.

(b) Such sums as may be appropriated to the Fund to carry out the programs authorized by this part shall be without fiscal year limitation.

(Pub. L. 85-699, title IV, §412, as added Pub. L. 93-386, §6(a)(4), Aug. 23, 1974, 88 Stat. 747; amended Pub. L. 94-305, title I, §113, June 4, 1976, 90 Stat. 667; Pub. L. 95-14, §4, Mar. 24, 1977, 91 Stat. 25; Pub. L. 95-89, title I, §105, Aug. 4, 1977, 91 Stat. 556; Pub. L. 96-302, title I, §111, July 2, 1980, 94 Stat. 837; Pub. L. 100-590, title II, §208, Nov. 3, 1988, 102 Stat. 3009.)

AMENDMENTS

1988—Pub. L. 100-590 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96-302 repealed investment of idle funds provision, which is covered in section 694-2 of this title.

1977—Pub. L. 95-89 prohibited payment of administrative expenses from the fund and deleted provisions which authorized: a \$110,000,000 appropriation of capital for the fund; and payment during the fiscal year into the Treasury as miscellaneous receipts, from the fund, of interest on the cumulative amount of appropriations available as capital to the fund less the average undisbursed cash balance in the fund during the year.

Pub. L. 95-14 substituted “\$110,000,000” for “\$56,500,000”.

1976—Pub. L. 94-305 substituted “\$56,500,000” for “\$35,000,000”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-590 effective on expiration of 180 days after Nov. 3, 1988, see section 209 of Pub. L. 100-590, set out as an Effective and Termination Dates of 1988 Amendment note under section 694b of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-302 effective Oct. 1, 1980, see section 507 of Pub. L. 96-302, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-89 effective Oct. 1, 1977, see section 106 of Pub. L. 95-89, set out as a note under section 633 of this title.

SUBCHAPTER V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

§ 695. State development companies

(a) Congressional finding and declaration of purpose

The Congress hereby finds and declares that the purpose of this subchapter is to foster economic development and to create or preserve job opportunities in both urban and rural areas by providing long-term financing for small business concerns through the development company program authorized by this subchapter.

(b) Loans; obligations of development companies

The Administration is authorized to make loans to State development companies to assist in carrying out the purposes of this chapter. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources.

(c) Maximum loans to development companies

The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State development company shall not exceed the total amount borrowed by it from all other sources. Funds advanced to a State development company under this section shall be treated on an equal basis with those funds borrowed by such company after August 21, 1958, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator.

(d) Eligibility for assistance

In order to qualify for assistance under this subchapter, the development company must demonstrate that the project to be funded is directed toward at least one of the following economic development objectives—

(1) the creation of job opportunities within two years of the completion of the project or the preservation or retention of jobs attributable to the project;

(2) improving the economy of the locality, such as stimulating other business development in the community, bringing new income into the area, or assisting the community in diversifying and stabilizing its economy; or

(3) the achievement of one or more of the following public policy goals:

(A) business district revitalization,

(B) expansion of exports,

(C) expansion of minority business development or women-owned business development,

(D) rural development,

(E) expansion of small business concerns owned and controlled by veterans, as defined in section 632(q) of this title, especially service-disabled veterans, as defined in such section 632(q) of this title,

(F) enhanced economic competition, including the advancement of technology, plan retooling, conversion to robotics, or competition with imports,

(G) changes necessitated by Federal budget cutbacks, including defense related industries,

(H) business restructuring arising from Federally mandated standards or policies affecting the environment or the safety and health of employees,

(I) reduction of energy consumption by at least 10 percent,

(J) increased use of sustainable design, including designs that reduce the use of greenhouse gas emitting fossil fuels, or low-impact design to produce buildings that reduce the use of non-renewable resources and minimize environmental impact,

(K) plant, equipment and process upgrades of renewable energy sources such as the small-scale production of energy for individual buildings or communities consumption, commonly known as micropower, or renewable fuels producers including biodiesel and ethanol producers, or

(L) reduction of rates of unemployment in labor surplus areas, as such areas are determined by the Secretary of Labor.