

subsec. (e) to reflect the probable intent of Congress and the intervening redesignation of subsec. (d) as (e) by Pub. L. 100-590, § 112(c)(1).

Pub. L. 100-590, § 112(c)(A), formerly § 112(c)(1)(A), as amended by Pub. L. 103-403, redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-306, § 2, Sept. 24, 2004, 118 Stat. 1131, provided in part that: "The amendment made by the preceding sentence [amending section 2 of Pub. L. 108-205, which amended this section] shall take effect as if included in the enactment of the section to which it relates."

EFFECTIVE DATE OF 2001 AMENDMENT; USE OF FUNDS

Pub. L. 107-100, § 6(d), (e), Dec. 21, 2001, 115 Stat. 972, provided that:

"(d) USE OF FUNDS.—The amendments made by this section to section 503 of the Small Business Investment Act of 1958 [15 U.S.C. 697], shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 [2 U.S.C. 661a]) of such amendments.

"(e) EFFECTIVE DATE.—The amendments made by this section [amending this section and section 636 of this title] shall become effective on October 1, 2002."

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

Amendment by Pub. L. 104-208 effective Oct. 1, 1996, see section 3 of Pub. L. 104-208, set out as a note under section 633 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-36 inapplicable to loans made or guaranteed under Small Business Act or Small Business Investment Act of 1958 before Oct. 12, 1995, unless such loans are refinanced, extended, restructured, or renewed on or after Oct. 12, 1995, see section 8 of Pub. L. 104-36, set out as a note under section 634 of this title.

TERMINATION DATE OF 1988 AMENDMENT

Pub. L. 100-590, title I, § 112(c), Nov. 3, 1988, 102 Stat. 2996, as amended by Pub. L. 101-515, title V, § 3, Nov. 5, 1990, 104 Stat. 2140; Pub. L. 103-317, title IV, Aug. 26, 1994, 108 Stat. 1755, which provided that the amendment made by paragraph (1), amending this section, was to be repealed on Oct. 1, 1997, was repealed by Pub. L. 103-403, title II, § 213(2), Oct. 22, 1994, 108 Stat. 4184.

EFFECTIVE DATE

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

§ 697a. Private debenture sales

(a) Notwithstanding any other law, rule, or regulation, the Administration shall sell to investors, either publicly or by private placement, debentures pursuant to section 697 of this title as follows:

(1) Of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed \$200,000,000.

(2) Of the program levels otherwise authorized by law for each of fiscal years 1987 and 1988, an amount not to exceed \$425,000,000.

(3) All of the program levels authorized for fiscal year 1989 and subsequent fiscal years.

(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 697 of this title and which is being sold pursuant to the provisions of the program authorized in this section;

(2) any obligation which is an interest in any obligation described in paragraph (1); or

(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).

(Pub. L. 85-699, title V, § 504, as added Pub. L. 99-272, title XVIII, § 18008(a), Apr. 7, 1986, 100 Stat. 366; amended Pub. L. 100-72, § 2 July 11, 1987, 101 Stat. 477; Pub. L. 100-590, title I, § 112(a), Nov. 3, 1988, 102 Stat. 2996.)

AMENDMENTS

1988—Pub. L. 100-590 inserted "Private debenture sales" as section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) Notwithstanding any other law, rule, or regulation, the Administration shall conduct a pilot program involving the sale to investors, either publicly or by private placement, of debentures guaranteed pursuant to section 697 of this title as follows—

"(1) of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed \$200,000,000;

"(2) of the program levels otherwise authorized by law for fiscal year 1987, an amount not to exceed \$425,000,000; and

"(3) of the program levels otherwise authorized by law for fiscal year 1988, an amount not to exceed \$425,000,000.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 697 of this title and which is being sold pursuant to the provisions of the pilot program authorized in this section,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2)."

1987—Subsec. (a). Pub. L. 100-72 struck out "and" at end of par. (1), substituted "\$425,000,000; and" for "\$295,000,000." in par. (2), and added par. (3).

REGULATIONS

Small Business Administration to promulgate final rules and regulations to implement this section within 60 days of Apr. 7, 1986, see section 18008(d)(2) of Pub. L. 99-272, set out as a note under section 697b of this title.

PILOT PROGRAM REPORT

Pub. L. 99-272, title XVIII, § 18008(b), Apr. 7, 1986, 100 Stat. 367, required the Small Business Administration to report to the President and Congress on the pilot program under former 15 U.S.C. 697a involving debenture sales to investors not later than 90 days after the date of the last debenture sale in each fiscal year, and unless a report was made by Oct. 1 of 1986 and 1987, the Administration was to make an interim report by such dates.

§ 697b. Pooling of debentures

(a) Issuance; debentures composing trust or pool

The Administration is authorized to issue trust certificates representing ownership of all

or a fractional part of debentures issued by State or local development companies and guaranteed by the Administration under this chapter: *Provided*, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

(b) Terms and conditions of guarantee; payment of principal and interest

The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures constituting the pool.

(c) Full faith and credit of United States

The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

(d) Collection of fees

The Administration shall not collect any fee for any guarantee under this section: *Provided*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

(e) Subrogation rights; ownership rights in debentures

(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures constituting the trust or pool against which the trust certificates are issued.

(f) Central registration requirements; regulation of brokers and dealers; electronic registration

(1) The Administration shall—

(A) provide for a central registration of all trust certificates sold pursuant to this section;

(B) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government;

(C) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

(D) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.

(2) Nothing in this subsection shall prohibit the utilization of a book-entry or other electronic form of registration for trust certificates.

(Pub. L. 85-699, title V, §505, as added Pub. L. 99-272, title XVIII, §18008(c), Apr. 7, 1986, 100 Stat. 367; amended Pub. L. 100-590, title I, §111(d)(1), (2), Nov. 3, 1988, 102 Stat. 2995; Pub. L. 104-208, div. D, title II, §205(c), Sept. 30, 1996, 110 Stat. 3009-738.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (a), see References in Text note set out under section 661 of this title.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104-208 designated existing provisions as par. (1), redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (1), in subpar. (A) substituted “provide for a central registration of all trust certificates sold pursuant to this section;” for “provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;”, and added par. (2).

1988—Pub. L. 100-590, §111(d)(2), inserted “Pooling of debentures” as section catchline.

Subsec. (a). Pub. L. 100-590, §111(d)(1), substituted “all or a” for “all of a”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Oct. 1, 1996, see section 3 of Pub. L. 104-208, set out as a note under section 633 of this title.

RULES AND REGULATIONS FOR IMPLEMENTATION OF CENTRAL REGISTRATION, PILOT PROGRAM AND TRUST CERTIFICATE PROVISIONS; CONSULTATION

Pub. L. 99-272, title XVIII, §18008(d), Apr. 7, 1986, 100 Stat. 368, provided that:

“(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of enactment of this Act [Apr. 7, 1986], the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 505(f)(1) of the Small Business Investment Act [15 U.S.C. 697b(f)(1)], and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in section 505(f)(2) of such Act.

“(2) Notwithstanding any law, rule or regulation, within 60 days after the date of enactment of this Act [Apr. 7, 1986], the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement sections 504 and 505 of the Small Business Investment Act [15 U.S.C. 697a, 697b].”

§ 697c. Restrictions on development company assistance

NOTWITHSTANDING ANY OTHER PROVISION OF LAW: (1) on or after May 1, 1991, no development company may accept funding from any source, including but not limited to any department or agency of the United States Government, if such funding includes any conditions, priorities or restrictions upon the types of small businesses to which they may provide financial assistance under this subchapter or if it includes any conditions or imposes any requirements, directly or indirectly, upon any recipient of assistance under this subchapter; and (2) before such date, no department or agency of the United States Government which provides funding to any development company shall impose any condition, priority or restriction upon the type of small business which receives financing under this subchapter nor shall it include any condition or impose any requirement, directly or indirectly, upon any recipient of assistance under this subchapter: *Provided*, That the foregoing shall not affect any such conditions, priorities or restrictions if the department or agency also provides all of the financial assistance to be delivered by the development company to the small business and such conditions, priorities or restrictions are limited solely to the financial assistance so provided.

(Pub. L. 85-699, title V, §506, as added Pub. L. 100-590, title I, §117(b), Nov. 3, 1988, 102 Stat. 2998.)

§ 697d. Accredited Lenders Program

(a) Establishment

The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b) of this section.

(b) Requirements

The Administration may designate a qualified State or local development company as an accredited lender if such company—

(1) has been an active participant in the Development Company Program authorized by sections 696, 697, and 697a of this title for not less than the preceding 12 months;

(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

(4) has a loss rate on the company's debentures that is reasonable and acceptable to the Administration;

(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program.

(c) Expedited processing of loan applications

The Administration shall develop an expedited procedure for processing a loan application or

servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b) of this section.

(d) Suspension or revocation of designation

(1) In general

The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

(A) the development company has not continued to meet the criteria for eligibility under subsection (b) of this section; or

(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

(2) Effect

A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

(e) "Qualified State or local development company" defined

For purposes of this section, the term "qualified State or local development company" has the same meaning as in section 697(e) of this title.

(Pub. L. 85-699, title V, §507, as added Pub. L. 103-403, title II, §212(a), Oct. 22, 1994, 108 Stat. 4183.)

REGULATIONS

Pub. L. 103-403, title II, §212(b), Oct. 22, 1994, 108 Stat. 4184, provided that: "Not later than 120 days after the date of enactment of this Act [Oct. 22, 1994], the Administration shall promulgate final regulations to carry out this section [enacting this section and provisions set out below]."

REPORT ON IMPLEMENTATION OF PROGRAM

Pub. L. 103-403, title II, §212(c), Oct. 22, 1994, 108 Stat. 4184, provided that: "Not later than 1 year after the effective date of regulations promulgated under subsection (b) [set out above], and biennially thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives [Committee on Small Business of Senate now Committee on Small Business and Entrepreneurship of Senate] on the implementation of this section [enacting this section and provisions set out above]. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate."

§ 697e. Premier Certified Lenders Program

(a) Establishment

The Administration may establish a Premier Certified Lenders Program for certified development companies that meet the requirements of subsection (b) of this section.

(b) Requirements

(1) Application

To be eligible to participate in the Premier Certified Lenders Program established under subsection (a) of this section, a certified development company shall prepare and submit to