

“(B) Subject to spending authority provided in appropriations Acts, pursuant to section 661c(b) of title 2, the Corporation is authorized—

“(i) to transfer \$9,800,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 2194 of this title of \$650,000,000 for fiscal year 1993; and

“(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 2194 of this title of \$350,000,000 for fiscal year 1994.”

Subsec. (a)(3). Pub. L. 103-392, §103, substituted “1996” for “1994”.

Subsec. (g). Pub. L. 103-392, §104, struck out heading and text of subsec. (g). Text read as follows: “Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

“(1) \$8,128,000 for fiscal year 1993; and

“(2) \$11,000,000 for fiscal year 1994.”

1992—Pub. L. 102-549, §104(a)(1), amended section catchline.

Subsec. (a). Pub. L. 102-549, §104(a)(2), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

“(1) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 2194(a) of this title shall not exceed \$7,500,000,000.

“(2) The maximum contingent liability outstanding at any one time pursuant to guaranties issued under section 2194(b) of this title shall not exceed in the aggregate \$1,500,000,000. Commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

“(3) The Corporation shall not make any commitment to issue any guaranty which would result in a reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 2194(b) of this title or similar predecessor guaranty authority.

“(4) The Congress, in considering the budget programs transmitted by the President for the Corporation, pursuant to section 9104 of title 31, may limit the obligations and contingent liabilities to be undertaken under section 2194(a) and (b) of this title as well as the use of funds for operating and administrative expenses.

“(5) Subject to paragraphs (2), (3), and (4), the Corporation shall issue guaranties under section 2194(b) of this title having an aggregate contingent liability with respect to principal of not less than \$200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation’s criteria for such guaranties.

“(6) The authority of section 2194(a) and (b) of this title shall continue until September 30, 1992.”

Subsec. (b). Pub. L. 102-549, §104(a)(3), struck out subsec. (b) which provided for establishment of a revolving fund, known as the Direct Investment Fund, to be held by the Corporation.

Subsec. (g). Pub. L. 102-549, §104(b), added subsec. (g). 1988—Subsec. (a)(2). Pub. L. 100-461 substituted “\$1,500,000,000” for “\$1,000,000,000”.

Pub. L. 100-418, §2203(b)(1)(A), substituted “\$1,000,000,000” for “\$750,000,000”.

Subsec. (a)(5). Pub. L. 100-418, §2203(b)(1)(C), added par. (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 100-461 substituted “1992” for “1988”.

Pub. L. 100-418, §2203(b)(1)(B), redesignated par. (5) as (6).

Subsec. (b). Pub. L. 100-418, §2203(b)(2), in cl. (2), substituted “1981.” for “1981,” and in closing provisions substituted “The Corporation shall make loans under

section 2194(c) of this title in an aggregate amount of not less than \$25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation’s criteria for such loans” for “and the Corporation shall use the funds so transferred to make loans under section 2194(c) of this title to the extent that there are eligible projects which meet the Corporation’s criteria for funding”.

1985—Subsec. (a)(5). Pub. L. 99-204, §10, substituted “1988” for “1985”.

Subsec. (c). Pub. L. 99-204, §17(b)(1), substituted references to subsecs. (d), (e), and (f) of this section for references to sections 2195(d), 2194(e), and 2195(f), respectively, of this title.

Subsec. (d). Pub. L. 99-204, §9(b)(1), substituted “, under similar predecessor guaranty authority, or under section 2194b of this title” for “or under similar predecessor guaranty authority”.

Pub. L. 99-204, §17(b)(2), substituted reference to subsec. (f) of this section for reference to section 2195(f) of this title wherever appearing.

1981—Subsec. (a)(2). Pub. L. 97-65, §5(a)(1), substituted provisions that commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts for provisions that the Corporation not make any commitment to issue any guaranty which would result in a fractional reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 2194(b) of this title or similar predecessor guaranty authority. See par. (3).

Subsec. (a)(3). Pub. L. 97-65, §5(a)(2), added par. (3) which consisted of provisions formerly contained in par. (2). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 97-65, §5(a)(2)(A), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 97-65, §5(a)(2)(A), (b)(1), redesignated former par. (4) as (5) and substituted “September 30, 1985” for “September 30, 1981”.

Subsec. (b). Pub. L. 97-65, §5(c), inserted provisions relating to the transfer to the Fund of certain moneys in fiscal year 1982 and in each fiscal year thereafter and the making of loans from those moneys under section 2194(c) of this title to the extent that there are eligible projects which meet the Corporation’s criteria for funding.

1978—Subsec. (a)(2). Pub. L. 95-268, §4(1), struck out limitation on guaranties by credit unions of not to exceed \$1,250,000.

Subsec. (a)(4). Pub. L. 95-268, §4(2), substituted “September 30, 1981” for “December 31, 1977”.

1974—Subsec. (a)(4). Pub. L. 93-390, §2(3)(A), substituted “December 31, 1977” for “December 31, 1974”.

Subsec. (d). Pub. L. 93-390, §2(3)(B), substituted “insurance or reinsurance issued under section 2194 of this title” for “insurance issued under section 2194(a) of this title”.

Subsec. (f). Pub. L. 93-390, §2(3)(C), inserted provisions authorizing appropriations to discharge liabilities under reinsurance or obligations of the Corporation purchased by the Secretary of the Treasury, provisions relating to appropriations to augment the Insurance Reserve, and provisions relating to the issuance, sale, etc., of notes, debentures, bonds, or other obligations by the Corporation for purchase by the Secretary of the Treasury.

1973—Subsec. (a)(4). Pub. L. 93-189 substituted “December 31, 1974” for “June 30, 1974”.

#### EXTENSION OF PERIOD UNDER SUBSECTION (a)(2)

For delayed applicability of subsec. (a)(2), see section 7079(c) of Pub. L. 111-117, set out as a note under section 2194 of this title.

### § 2196. Income and revenues

In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever

source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 2195 of this title, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

(Pub. L. 87-195, pt. I, §236, as added Pub. L. 91-175, pt. I, §105, Dec. 30, 1969, 83 Stat. 814.)

**§ 2197. General provisions relating to insurance, guaranty, financing, and reinsurance programs**

**(a) Scope**

Insurance, guaranties, and reinsurance issued under this subpart shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for insurance, guaranties, or reinsurance.

**(b) Protection of interest**

The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or reinsurance issued under this subpart, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

**(c) Guaranties as obligations backed by full faith and credit of United States**

All guaranties issued prior to July 1, 1956, all guaranties issued under sections 1872(b)<sup>1</sup> and 1933(b)<sup>1</sup> of this title, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance, reinsurance and guaranties issued pursuant to this subpart shall constitute obligations, in accordance with the terms of such insurance, reinsurance or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

**(d) Fees**

**(1) In general**

Fees may be charged for providing insurance, reinsurance, financing, and other services under this subpart in amounts to be determined by the Corporation. In the event fees

charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guaranties issued under predecessor guaranty authority may be reduced.

**(2) Credit transaction costs**

Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act [2 U.S.C. 661d(b)].

**(3) Noncredit transaction costs**

Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 2194 of this title (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

**(e) Maximum term of obligation**

No insurance, guaranty, or reinsurance of any equity investment shall extend beyond twenty years from the date of issuance.

**(f) Limitations on amounts**

Compensation for insurance, reinsurance, or guaranties issued under this subpart shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide that (1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, (2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss, and (3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost. Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 2194 or 2194b of this title so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that such limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

**(g) Fraud or misrepresentation**

No payment may be made under any guaranty, insurance, or reinsurance issued pursuant to

<sup>1</sup> See References in Text note below.