

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-552, title V, §516(e)(2), Oct. 28, 1992, 106 Stat. 4137, provided that: "The amendment 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."

§ 1935. Down payment loan program**(a) In general****(1) Establishment**

Notwithstanding any other section of this subchapter, the Secretary shall establish, within the farm ownership loan program established under this subchapter, a program under which loans shall be made under this section to qualified beginning farmers or ranchers and socially disadvantaged farmers or ranchers for down payments on farm ownership loans.

(2) Administration

The Secretary shall be the primary coordinator of credit supervision for the down payment loan program established under this section, in consultation with the commercial or cooperative lender and, if applicable, the contracting credit counseling service selected under section 2006b(c) of this title.

(b) Loan terms**(1) Principal**

Each loan made under this section shall be in an amount that does not exceed 45 percent of the least of—

- (A) the purchase price of the farm or ranch to be acquired;
- (B) the appraised value of the farm or ranch to be acquired; or
- (C) \$500,000.

(2)¹ Interest rate

The interest rate on any loan made by the Secretary under this section shall be a rate equal to the greater of—

- (A) the difference obtained by subtracting 4 percent from the interest rate for farm ownership loans under this subchapter; or
- (B) 1.5 percent.

(2)¹ Interest rate

The interest rate on any loan made by the Secretary under this section shall be 4 percent.

(3) Duration

Each loan under this section shall be made for a period of 20 years or less, at the option of the borrower.

(4) Repayment

Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

(5) Nature of retained security interest

The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section that shall—

(A) be secured by the farm or ranch;

(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person (including a lender) from whom the borrower obtained a loan used to acquire the farm or ranch; and

(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

(c) Limitations**(1) Borrowers required to make minimum down payment**

The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 5 percent of the purchase price of the farm or ranch.

(2) Prohibited types of financing

The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing that contains any of the following conditions:

(A) The financing is to be amortized over a period of less than 30 years.

(B) A balloon payment will be due on the financing during the 20-year period beginning on the date the loan is to be made by the Secretary.

(d) Administration

In carrying out this section, the Secretary shall, to the maximum extent practicable—

(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subchapter;

(2) make efforts to widely publicize the availability of loans under this section among—

(A) potentially eligible recipients of the loans;

(B) retiring farmers and ranchers; and

(C) applicants for farm ownership loans under this subchapter;

(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to qualified beginning farmers and ranchers and socially disadvantaged farmers or ranchers by providing seller financing;

(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers or ranchers or socially disadvantaged farmers or ranchers; and

(5) establish annual performance goals to promote the use of the down payment loan program and other joint financing arrangements as the preferred choice for direct real estate loans made by any lender to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher.

(e) Socially disadvantaged farmer or rancher defined

In this section, the term "socially disadvantaged farmer or rancher" has the meaning given that term in section 2003(e)(2) of this title.

¹ So in original. Two pars. (2) have been enacted.

(Pub. L. 87-128, title III, §310E, as added Pub. L. 102-554, §7(a), Oct. 28, 1992, 106 Stat. 4144; amended Pub. L. 107-171, title V, §5005, May 13, 2002, 116 Stat. 342; Pub. L. 110-234, title V, §5004, May 22, 2008, 122 Stat. 1144; Pub. L. 110-246, §4(a), title V, §5004, June 18, 2008, 122 Stat. 1664, 1905.)

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)(1). Pub. L. 110-246, §5004(1), substituted “or ranchers and socially disadvantaged farmers or ranchers” for “and ranchers”.

Subsec. (b)(1), (2). Pub. L. 110-246, §5004(2)(A), added par. (1) and par. (2) consisting of subpars. (A) and (B) and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: “Each loan made under this section shall be in an amount equal to 40 percent of the purchase price or appraisal value, whichever is lower, of the farm or ranch to be acquired, unless the borrower requests a lesser amount.”

Subsec. (b)(3). Pub. L. 110-246, §5004(2)(B), substituted “20” for “15”.

Subsec. (c)(1). Pub. L. 110-246, §5004(3)(A), substituted “5” for “10”.

Subsec. (c)(2), (3). Pub. L. 110-246, §5004(3)(B), (C), redesignated par. (3) as (2), in subpar. (B), substituted “20-year” for “15-year”, and struck out former par. (2). Prior to amendment, text read as follows: “The Secretary shall not make a loan under this section with respect to a farm or ranch for which the purchase price or appraisal value, whichever is lower, exceeds \$250,000.”

Subsec. (d)(3). Pub. L. 110-246, §5004(4)(A)(ii), struck out “and” at end.

Pub. L. 110-246, §5004(4)(A)(i), which directed the insertion of “and socially disadvantaged farmers or ranchers” after “ranchers”, was executed by making the insertion after “ranchers” the second place it appeared to reflect the probable intent of Congress.

Subsec. (d)(4). Pub. L. 110-246, §5004(4)(B), substituted “or ranchers or socially disadvantaged farmers or ranchers; and” for “and ranchers.”

Subsec. (d)(5). Pub. L. 110-246, §5004(4)(C), added par. (5).

Subsec. (e). Pub. L. 110-246, §5004(5), added subsec. (e). 2002—Subsec. (b)(1). Pub. L. 107-171, §5005(1)(A), substituted “40 percent” for “30 percent”.

Subsec. (b)(3). Pub. L. 107-171, §5005(1)(B), substituted “15 years” for “10 years”.

Subsec. (c)(3)(B). Pub. L. 107-171, §5005(2), substituted “15-year” for “10-year”.

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.

§ 1936. Beginning farmer or rancher and socially disadvantaged farmer or rancher contract land sales program

(a) In general

The Secretary shall, in accordance with this section, guarantee a loan made by a private seller of a farm or ranch to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher (as defined in section 2003(e)(2) of this title) on a contract land sales basis.

(b) Eligibility

In order to be eligible for a loan guarantee under subsection (a)—

(1) the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher shall—

(A) on the date the contract land sale that is subject of the loan is complete, own and operate the farm or ranch that is the subject of the contract land sale;

(B) have a credit history that—

(i) includes a record of satisfactory debt repayment, as determined by the Secretary; and

(ii) is acceptable to the Secretary; and

(C) demonstrate to the Secretary that the farmer or rancher, as the case may be, is unable to obtain sufficient credit without a guarantee to finance any actual need of the farmer or rancher, as the case may be, at a reasonable rate or term; and

(2) the loan shall meet applicable underwriting criteria, as determined by the Secretary.

(c) Limitations

(1) Down payment

The Secretary shall not provide a loan guarantee under subsection (a) if the contribution of the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher to the down payment for the farm or ranch that is the subject of the contract land sale would be less than 5 percent of the purchase price of the farm or ranch.

(2) Maximum purchase price

The Secretary shall not provide a loan guarantee under subsection (a) if the purchase price or the appraisal value of the farm or ranch that is the subject of the contract land sale is greater than \$500,000.

(d) Period of guarantee

The period during which a loan guarantee under this section is in effect shall be the 10-year period beginning with the date the guarantee is provided.

(e) Guarantee plan

(1) Selection of plan

A private seller of a farm or ranch who makes a loan that is guaranteed by the Secretary under subsection (a) may select—

(A) a prompt payment guarantee plan, which shall cover—

(i) 3 amortized annual installments; or

(ii) an amount equal to 3 annual installments (including an amount equal to the total cost of any tax and insurance incurred during the period covered by the annual installments); or

(B) a standard guarantee plan, which shall cover an amount equal to 90 percent of the outstanding principal of the loan.

(2) Eligibility¹ for standard guarantee plan

In order for a private seller to be eligible for a standard guarantee plan referred to in paragraph (1)(B), the private seller shall—

(A) secure a commercial lending institution or similar entity, as determined by the Secretary, to serve as an escrow agent; or

¹ So in original. Probably should be “Eligibility”.