

(b) Contestability

A contract of insurance or guarantee executed by the Secretary under this chapter shall be incontestable except for fraud or misrepresentation that the lender or any holder—

- (1) has actual knowledge of at the time the contract or guarantee is executed; or
- (2) participates in or condones.

(Pub. L. 87-128, title III, §308, Aug. 8, 1961, 75 Stat. 308; Pub. L. 87-798, Oct. 11, 1962, 76 Stat. 908; Pub. L. 89-240, §2(a), Oct. 7, 1965, 79 Stat. 932; Pub. L. 90-488, §6, Aug. 15, 1968, 82 Stat. 770; Pub. L. 92-133, Oct. 5, 1971, 85 Stat. 364; Pub. L. 101-624, title XXIII, §2388(a), Nov. 28, 1990, 104 Stat. 4052; Pub. L. 104-127, title VI, §605, Apr. 4, 1996, 110 Stat. 1086.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 1921 of this title.

AMENDMENTS

1996—Pub. L. 104-127 amended section generally. Prior to amendment, section read as follows: “Loans under this subchapter may be insured by the Secretary whenever funds are advanced or a loan is purchased by a lender other than the United States. In connection with insurance of loans, the Secretary—

“(1) is authorized to make agreements with respect to the servicing of loans insured hereunder and to purchase such loans on such terms and conditions as he may prescribe; and

“(2) may retain out of payments by the borrower a charge at a rate specified in the insurance agreement applicable to the loan.

Any contract of insurance executed by the Secretary under this subchapter shall be an obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.”

1990—Pub. L. 101-624 redesignated pars. (a) and (b) as pars. (1) and (2), respectively, and in par. (1), substituted “prescribe;” for “prescribe;”.

1971—Pub. L. 92-133 eliminated October 1, 1971, as time limitation for insurance of loans.

1968—Pub. L. 90-488 authorized insurance of loans until Oct. 1, 1971, without the \$450,000,000 limitation on aggregate amount in any one year.

1965—Pub. L. 89-240 substituted “\$450,000,000” for “\$200,000,000”, “may retain” for “shall retain”, and “specified in the insurance agreement applicable to the loan” for “determined by the Secretary from time to time equivalent to not less than one-half of 1 per centum per annum on the principal unpaid balance of the loan”, and struck out “except that no agreement shall provide for purchase by the Secretary at a date sooner than three years from the date of the note” after “he may prescribe”.

1962—Pub. L. 87-798 increased aggregate amount of loans that may be insured in any one year from \$150,000,000 to \$200,000,000.

§ 1929. Agricultural Credit Insurance Fund**(a) Revolving fund**

The fund established pursuant to section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended, shall hereafter be called the Agricultural Credit Insurance Fund and is hereinafter in this subchapter referred to as the “fund”. The fund shall remain available as a revolving fund for the discharge of the obligations of the Secretary under agreements insuring loans under this subchapter and loans and mortgages insured under prior authority.

(b) Deposits of funds; investments; purchase of notes

Moneys in the fund not needed for current operations shall be deposited in the Treasury of the United States to the credit of the fund or invested in direct obligations of the United States or obligations guaranteed by the United States. The Secretary may purchase with money in the fund any notes issued by the Secretary to the Secretary of the Treasury for the purpose of obtaining money for the fund.

(c) Notes; form and denominations; maturities; terms and conditions; interest rate; purchase by Treasury; public debt transaction

The Secretary is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under this section and for authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Secretary under this subchapter. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which such securities may be issued under such chapter are extended to include the purchase of notes issued by the Secretary. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

(d) Notes and security as part of fund; collection or sale of notes; deposit of net proceeds in fund

Notes and security acquired by the Secretary in connection with loans insured under this subchapter and under prior authority shall become a part of the fund. Notes may be held in the fund and collected in accordance with their terms or may be sold by the Secretary with or without agreements for insurance thereof at the balance due thereon, or on such other basis as the Secretary may determine from time to time. All net proceeds from such collections, including sales of notes or property, shall be deposited in and become a part of the fund.

(e) Deposit in fund of portion of charge on outstanding principal obligations; availability of remainder of charge, and merger with appropriations, for administrative expenses

The Secretary shall deposit in the fund all or a portion, not to exceed one-half of 1 per centum of the unpaid principal balance of the loan, of any charge collected in connection with the insurance of loans; and any remainder of any such charge shall be available for administrative expenses of the Farmers Home Administration and

the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency, to be transferred annually and become merged with any appropriation for administrative expenses for such agency.

(f) Utilization of fund

The Secretary may utilize the fund—

(1) to pay amounts to which the holder of the note is entitled on loans heretofore or hereafter insured accruing between the date of any payments made by the borrower and the date of transmittal of any such payments to the lender. In the discretion of the Secretary, payments other than final payments need not be remitted to the holder until due or until the next agreed annual or semiannual remittance date;

(2) to pay to the holder of the notes any deferred or defaulted installment or, upon assignment of the note to the Secretary at the Secretary's request, the entire balance due on the loan;

(3) to purchase notes in accordance with agreements previously entered into;

(4) to pay for contract services, taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections and other expenses and advances authorized in connection with insured loans, including the difference between interest payable by borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance;

(5) to pay the Secretary's costs of administration necessary to insure, make grants, service, and otherwise carry out the programs under this chapter not specifically covered by the Rural Development Insurance Fund of section 1929a of this title, including costs of the Secretary incidental to guaranteeing loans under this chapter, either directly from the Fund or by transfers from the Fund to, and merger with, any appropriations for administrative expenses.

(g) Transfer of funds from Farmers Home Administration direct loan account and Emergency Credit Revolving Fund; abolition of such account and fund; payments from Agricultural Credit Insurance Fund; interest

(1) The assets and liabilities of, and authorizations applicable to, the Farmers Home Administration direct loan account created by section 1988(c) of this title (before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996) and the Emergency Credit Revolving Fund referred to in section 1966 of this title are hereby transferred to the fund, and such account and such revolving fund are hereby abolished. Such assets and their proceeds, including loans made out of the fund pursuant to this section, shall be subject to the provisions of this section, the last sentence of section 1926(a)(1), and the last sentence of section 1927 of this title.

(2) From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellane-

ous receipts interest on the value as determined by the Secretary, with the approval of the Comptroller General, of the Government's equity transferred to the fund pursuant to the first sentence of this subsection plus the cumulative amount of appropriations made available after enactment of this provision as capital and for administration of the programs financed from the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of loans made or insured from the fund, adjusted to the nearest one-eighth of 1 per centum. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

(h) Guaranteed loans; interest rate for loans sold into secondary market; loan fees

(1) The Secretary may provide financial assistance to borrowers for purposes provided in this chapter by guaranteeing loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, or other legally organized lending agency.

(2) The interest rate payable by a borrower on the portion of a guaranteed loan that is sold by a lender to the secondary market under this chapter may be lower than the interest rate charged on the portion retained by the lender, but shall not exceed the average interest rate charged by the lender on loans made to farm and ranch borrowers.

(3) With regard to any loan guarantee on a loan made by a commercial or cooperative lender related to a loan made by the Secretary under section 1935 of this title—

(A) the Secretary shall not charge a fee to any person (including a lender); and

(B) a lender may charge a loan origination and servicing fee in an amount not to exceed 1 percent of the amount of the loan.

(4) **MAXIMUM GUARANTEE OF 90 PERCENT.**—Except as provided in paragraphs (5), (6), and (7), a loan guarantee under this chapter shall be for not more than 90 percent of the principal and interest due on the loan.

(5) **REFINANCED LOANS GUARANTEED AT 95 PERCENT.**—The Secretary shall guarantee 95 percent of—

(A) in the case of a loan that solely refinances a direct loan made under this chapter, the principal and interest due on the loan on the date of the refinancing; or

(B) in the case of a loan that is used for multiple purposes, the portion of the loan that refinances the principal and interest due on a direct loan made under this chapter that is outstanding on the date the loan is guaranteed.

(6) **BEGINNING FARMER LOANS GUARANTEED UP TO 95 PERCENT.**—The Secretary may guarantee not more than 95 percent of—

(A) a farm ownership loan for acquiring a farm or ranch to a borrower who is participating in the down payment loan program under section 1935 of this title; or

(B) an operating loan to a borrower who is participating in the down payment loan program under section 1935 of this title that is made during the period that the borrower has a direct loan outstanding under this subchapter for acquiring a farm or ranch.

(7) AMOUNT OF GUARANTEE OF LOANS FOR FARM OPERATIONS ON TRIBAL LANDS.—In the case of an operating loan made to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction of an Indian tribe, the Secretary shall guarantee 95 percent of the loan.

(i) Coordination of assistance for qualified beginning farmers and ranchers

(1) Not later than 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to qualified beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding that shall govern the coordination of the provision of the financial assistance by the State and the Secretary.

(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide a qualified beginning farmer or rancher with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds provide the farmer or rancher with a down payment loan under section 1935 of this title or a guarantee of the financing provided by the State program, or both.

(3) The Secretary shall not charge any person (including a lender) any fee with respect to the provision of any guarantee under this subsection.

(4) The Secretary shall notify each State of the provisions of this subsection.

(5) As used in paragraph (1), the term “State beginning farmer program” means any program that is—

(A) carried out by, or under contract with, a State; and

(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.

(j) Guarantee of loans made under State beginning farmer or rancher programs

The Secretary may guarantee under this chapter a loan made under a State beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond for land or property described in section 144(a)(12)(B)(ii) of title 26.

(Pub. L. 87-128, title III, §309, Aug. 8, 1961, 75 Stat. 309; Pub. L. 87-703, title IV, §401(3), Sept. 27, 1962, 76 Stat. 632; Pub. L. 89-240, §2(b), (c), Oct. 7, 1965, 79 Stat. 932; Pub. L. 89-633, Oct. 8, 1966, 80 Stat. 879; Pub. L. 90-488, §7, Aug. 15, 1968,

82 Stat. 771; Pub. L. 92-419, title I, §115, Aug. 30, 1972, 86 Stat. 660; Pub. L. 95-113, title XV, §1510(a), Sept. 29, 1977, 91 Stat. 1022; Pub. L. 95-334, title I, §109(a), Aug. 4, 1978, 92 Stat. 423; Pub. L. 101-624, title XXIII, §2302(a)(2), Nov. 28, 1990, 104 Stat. 3980; Pub. L. 102-554, §§4, 5(a), Oct. 28, 1992, 106 Stat. 4143; Pub. L. 104-127, title VI, §§606, 661(b), title VII, §§744, 749(b)(1), Apr. 4, 1996, 110 Stat. 1086, 1106, 1125, 1129; Pub. L. 107-171, title V, §§5003, 5004, May 13, 2002, 116 Stat. 342.)

REFERENCES IN TEXT

Section 11(a) of the Bankhead-Jones Farm Tenant Act, as amended, referred to in subsec. (a), refers to section 11(a) of act July 22, 1937, ch. 517, title I, as added Aug. 14, 1946, ch. 964, §5, 60 Stat. 1072, which was classified to section 1005a of this title and was repealed by section 341(a) of Pub. L. 87-128.

For definition of “this chapter”, referred to in subsecs. (f)(5), (h)(1), (2), (4), (5), and (j), see note set out under section 1921 of this title.

Section 1988(c) of this title (before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996), referred to in subsec. (g)(1), means subsec. (c) of section 1988 of this title prior to repeal by section 749(a)(1) of Pub. L. 104-127.

CODIFICATION

In subsec. (c), “chapter 31 of title 31” and “such chapter” substituted for “the Second Liberty Bond Act, as amended” and “such Act, as amended,” respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2002—Subsec. (h)(4). Pub. L. 107-171, §5003(1), substituted “paragraphs (5), (6), and (7)” for “paragraphs (5) and (6)”.

Subsec. (h)(7). Pub. L. 107-171, §5003(2), added par. (7).

Subsec. (j). Pub. L. 107-171, §5004, added subsec. (j).

1996—Subsec. (f). Pub. L. 104-127, §744, redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out former par. (1) which read as follows: “to make loans which could be insured under this subchapter whenever the Secretary has reasonable assurance that they can be sold without undue delay, and may sell and insure such loans;”.

Subsec. (g)(1). Pub. L. 104-127, §749(b)(1), inserted “(before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996)” after “section 1988(c) of this title”.

Pub. L. 104-127, §661(b), struck out “section 1928,” after “provisions of this section,”.

Subsec. (h)(4) to (6). Pub. L. 104-127, §606, added pars. (4) to (6).

1992—Subsec. (h). Pub. L. 102-554, §4, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (i). Pub. L. 102-554, §5(a), added subsec. (i).

1990—Subsec. (e). Pub. L. 101-624 inserted “and the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency” and substituted “expenses for such agency” for “expenses”.

1978—Subsec. (f)(1), (6). Pub. L. 95-334 in par. (1) struck out provisions limiting amount of loans outstanding at any one time, and added par. (6).

1977—Subsec. (f)(3). Pub. L. 95-113 substituted “any deferred or defaulted installment” for “any defaulted installment”.

1972—Subsec. (f)(1). Pub. L. 92-419, §115(a)(1), substituted “\$500,000,000” for “\$100,000,000”.

Subsec. (f)(2). Pub. L. 92-419, §115(a)(2), substituted “amounts” for “the interest” and “payments” for “prepayments” in three places and inserted “or until the next agreed annual or semi-annual remittance date” after “until due”.

Subsec. (f)(5). Pub. L. 92-419, §115(a)(3), (4), substituted “connection with insured loans, including the difference between interest payable to borrowers and interest to which insured lenders or insured holders are entitled under agreements with the Secretary included in contracts of insurance” for “section 1985(a) of this title in connection with insured loans,” and provided payment for contract services.

Subsecs. (g), (h). Pub. L. 92-419, §115(b), added subsecs. (g) and (h).

1968—Subsec. (f)(1). Pub. L. 90-488 increased from \$50,000,000 to \$100,000,000 the aggregate amount of loans to be sold and insured and undisposed of at any one time.

1966—Subsec. (f)(2). Pub. L. 89-633 substituted “until due” for “until the due date of the annual installment”.

1965—Subsec. (e). Pub. L. 89-240, §2(b), substituted “all or a portion, not to exceed one-half of 1 per centum of the unpaid principal balance of the loan of any charge collected in connection with the insurance of loans; and any remainder of any such charge” for “such portion of the charge collected in connection with the insurance of loans at least equal to a rate of one-half of 1 per centum per annum on the outstanding principal obligations and the remainder of such charge”.

Subsec. (f)(1). Pub. L. 89-240, §2(c), substituted “\$50,000,000” for “\$25,000,000”.

1962—Subsec. (f)(1). Pub. L. 87-703 increased from \$10,000,000 to \$25,000,000 the aggregate amount of loans to be sold and insured and undisposed of at any one time.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 606 of Pub. L. 104-127 effective 90 days after Apr. 4, 1996, and amendment by section 661(b) of Pub. L. 104-127 effective Apr. 4, 1996, see section 663(a), (b) of Pub. L. 104-127, set out as a note under section 1922 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

ADVISORY COMMITTEE ON BEGINNING FARMERS AND RANCHERS

Pub. L. 102-554, §5(b), Oct. 28, 1992, 106 Stat. 4143, as amended by Pub. L. 110-234, title VII, §7511(c)(4), May 22, 2008, 122 Stat. 1267; Pub. L. 110-246, §4(a), title VII, §7511(c)(4), June 18, 2008, 122 Stat. 1664, 2029, provided that:

“(1) ESTABLISHMENT; PURPOSE.—Not later than 18 months after the date of enactment of this Act [Oct. 28, 1992], the Secretary of Agriculture shall establish an advisory committee, to be known as the ‘Advisory Committee on Beginning Farmers and Ranchers’, which shall provide advice to the Secretary on—

“(A) the development of the program of coordinated assistance to qualified beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act [7 U.S.C. 1929(i)] (as added by subsection (a) of this section);

“(B) methods of maximizing the number of new farming and ranching opportunities created through the program;

“(C) methods of encouraging States to participate in the program;

“(D) the administration of the program; and

“(E) other methods of creating new farming or ranching opportunities.

“(2) MEMBERSHIP.—The Secretary shall appoint the members of the Advisory Committee. The Advisory Committee shall include representatives from the following:

“(A) The Farmers Home Administration.

“(B) State beginning farmer programs (as defined in section 309(i)(5) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section)).

“(C) Commercial lenders.

“(D) Private nonprofit organizations with active beginning farmer or rancher programs.

“(E) The National Institute of Food and Agriculture.

“(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

“(G) Other entities or persons providing lending or technical assistance for qualified beginning farmers or ranchers.”

LIMITATION ON SALES FROM AGRICULTURAL CREDIT INSURANCE FUND

Pub. L. 99-509, title I, §1002, Oct. 21, 1986, 100 Stat. 1875, provided that: “During fiscal years 1987 through 1989, no note shall be sold out of the Agricultural Credit Insurance Fund, except in connection with transactions with the Secretary of the Treasury, without prior approval by Congress.”

LOANS TO INDIANS

Authority of the Secretary of Agriculture to make loans to Indian tribes and tribal corporations to acquire land within reservations, see sections 488 to 492 of Title 25, Indians.

§ 1929-1. Level of loan programs under Agricultural Credit Insurance Fund

On and after October 28, 1991, no funds in this Act or any other Act shall be available to carry out loan programs under the Agricultural Credit Insurance Fund at levels other than those provided for in advance in appropriations Acts.

(Pub. L. 102-142, title III, Oct. 28, 1991, 105 Stat. 899.)

CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992, and not as part of the Consolidated Farm and Rural Development Act which comprises this chapter.

§ 1929a. Rural Development Insurance Fund

(a) Creation; revolving fund; rural development loans

There is hereby created the Rural Development Insurance Fund (hereinafter in this section referred to as the “Insurance Fund”) which shall be used by the Secretary as a revolving fund for the discharge of the obligations of the Secretary under contracts guaranteeing or insuring rural development loans. For the purpose of this section “rural development loans” shall be those provided for by sections 1926(a)(1) and 1932 of this title, except loans (other than for water systems and waste disposal facilities) of a type authorized by section 1926(a)(1) of this title prior to its amendment by the Rural Development Act of 1972.

(b) Transfer of assets and liabilities

The assets and liabilities of the Agricultural Credit Insurance Fund referred to in section 1929(a) of this title applicable to loans for water systems and waste disposal facilities under section 1926(a)(1) of this title are hereby transferred to the Insurance Fund. Such assets (including the proceeds thereof) and liabilities and rural development loans guaranteed or insured pursuant to this chapter shall be subject to the provisions of this section.