

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.

§ 2009cc-7. Operational assistance grants**(a) In general**

In accordance with this section, the Secretary may make grants to rural business investment companies and to other entities, as authorized by this subchapter, to provide operational assistance to smaller enterprises financed, or expected to be financed, by the entities.

(b) Terms

Grants made under this section shall be made over a multiyear period (not to exceed 10 years) under such terms as the Secretary may require.

(c) Use of funds

The proceeds of a grant made under this section may be used by the rural business investment company receiving the grant only to provide operational assistance in connection with an equity or prospective equity investment in a business located in a rural area.

(d) Submission of plans

A rural business investment company shall be eligible for a grant under this section only if the rural business investment company submits to the Secretary, in such form and manner as the Secretary may require, a plan for use of the grant.

(e) Grant amount**(1) Rural business investment companies**

The amount of a grant made under this section to a rural business investment company shall be equal to the lesser of—

- (A) 10 percent of the private capital raised by the rural business investment company; or
- (B) \$1,000,000.

(2) Other entities

The amount of a grant made under this section to any entity other than a rural business investment company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to rural business investment companies under this subchapter.

(Pub. L. 87-128, title III, §384H, as added Pub. L. 107-171, title VI, §6029, May 13, 2002, 116 Stat. 395.)

§ 2009cc-8. Rural business investment companies**(a) Organization**

For the purpose of this subchapter, a rural business investment company shall—

- (1) be an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities authorized by this subchapter;
- (2)(A) if incorporated, have succession for a period of not less than 30 years unless earlier

dissolved by the shareholders of the rural business investment company; and

(B) if a limited partnership or a limited liability company, have succession for a period of not less than 10 years; and

(3) possess the powers reasonably necessary to perform the functions and conduct the activities.

(b) Articles

The articles of any rural business investment company—

(1) shall specify in general terms—

(A) the purposes for which the rural business investment company is formed;

(B) the name of the rural business investment company;

(C) the area or areas in which the operations of the rural business investment company are to be carried out;

(D) the place where the principal office of the rural business investment company is to be located; and

(E) the amount and classes of the shares of capital stock of the rural business investment company;

(2) may contain any other provisions consistent with this subchapter that the rural business investment company may determine appropriate to adopt for the regulation of the business of the rural business investment company and the conduct of the affairs of the rural business investment company; and

(3) shall be subject to the approval of the Secretary.

(c) Capital requirements**(1) In general**

Except as provided in paragraph (2), the private capital of each rural business investment company shall be not less than—

(A) \$5,000,000; or

(B) \$10,000,000, with respect to each rural business investment company authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Secretary under this subchapter.

(2) Exception

The Secretary may, in the discretion of the Secretary and based on a showing of special circumstances and good cause, permit the private capital of a rural business investment company described in paragraph (1)(B) to be less than \$10,000,000, but not less than \$5,000,000, if the Secretary determines that the action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

(3) Time frame

Each rural business investment company shall have a period of 2 years to meet the capital requirements of this subsection.

(4) Adequacy

In addition to the requirements of paragraph (1), the Secretary shall—

- (A) determine whether the private capital of each rural business investment company is adequate to ensure a reasonable prospect that the rural business investment company

will be operated soundly and profitably, and managed actively and prudently in accordance with the articles of the rural business investment company;

(B) determine that the rural business investment company will be able to comply with the requirements of this subchapter;

(C) require that at least 75 percent of the capital of each rural business investment company is invested in rural business concerns and not more than 10 percent of the investments shall be made in an area containing a city of over 150,000 in the last decennial census and the Census Bureau defined urbanized area containing or adjacent to that city;

(D) ensure that the rural business investment company is designed primarily to meet equity capital needs of the businesses in which the rural business investment company invests and not to compete with traditional small business financing by commercial lenders; and

(E) require that the rural business investment company makes short-term non-equity investments of less than 5 years only to the extent necessary to preserve an existing investment.

(d) Diversification of ownership

The Secretary shall ensure that the management of each rural business investment company licensed after May 13, 2002, is sufficiently diversified from and unaffiliated with the ownership of the rural business investment company so as to ensure independence and objectivity in the financial management and oversight of the investments and operations of the rural business investment company.

(Pub. L. 87-128, title III, §384I, as added Pub. L. 107-171, title VI, §6029, May 13, 2002, 116 Stat. 396; amended Pub. L. 110-234, title VI, §6027(c), May 22, 2008, 122 Stat. 1182; Pub. L. 110-246, §4(a), title VI, §6027(c), June 18, 2008, 122 Stat. 1664, 1944.)

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. (c)(3), (4). Pub. L. 110-246, §6027(c), added par. (3) and redesignated former par. (3) as (4).

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§ 2009cc-9. Financial institution investments

(a) In general

Except as otherwise provided in this section and notwithstanding any other provision of law, the following banks, associations, and institutions are eligible both to establish and invest in any rural business investment company or in any entity established to invest solely in rural business investment companies:

(1) Any bank or savings association the deposits of which are insured under the Federal

Deposit Insurance Act (12 U.S.C. 1811 et seq.), including an investment pool created entirely by such bank or savings association.

(2) Any Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)).

(b) Limitation

No bank, association, or institution described in subsection (a) may make investments described in subsection (a) that are greater than 5 percent of the capital and surplus of the bank, association, or institution.

(c) Limitation on rural business investment companies controlled by Farm Credit System institutions

If a Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)) holds more than 25 percent of the shares of a rural business investment company, either alone or in conjunction with other System institutions (or affiliates), the rural business investment company shall not provide equity investments in, or provide other financial assistance to, entities that are not otherwise eligible to receive financing from the Farm Credit System under that Act (12 U.S.C. 2001 et seq.).

(Pub. L. 87-128, title III, §384J, as added Pub. L. 107-171, title VI, §6029, May 13, 2002, 116 Stat. 397; amended Pub. L. 110-234, title VI, §6027(d), May 22, 2008, 122 Stat. 1182; Pub. L. 110-246, §4(a), title VI, §6027(d), June 18, 2008, 122 Stat. 1664, 1944.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a)(1), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, which is classified generally to chapter 16 (§1811 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of Title 12 and Tables.

The Farm Credit Act of 1971, referred to in subsec. (c), is Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 583, as amended, which is classified generally to chapter 23 (§2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

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, §6027(d)(1), inserted “, including an investment pool created entirely by such bank or savings association” before period at end.

Subsec. (c). Pub. L. 110-246, §6027(d)(2), substituted “25” for “15”.

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§ 2009cc-10. Reporting requirements

(a) Rural business investment companies

Each rural business investment company that participates in the program established under