

participation agreement and continue to be a participating State, such State shall submit such amendment for review by the Fund in accordance with subsection (b)(4). Any such amendment shall become effective only after it has been approved by the Fund.

(Pub. L. 103-325, title II, § 253, Sept. 23, 1994, 108 Stat. 2205.)

REFERENCES IN TEXT

Section 4747 of this title, referred to in subsec. (c)(2)(A), was in the original "section 237" and was translated as reading "section 257" meaning section 257 of Pub. L. 103-325, to reflect the probable intent of Congress. Pub. L. 103-325 does not contain a section 237.

§ 4744. Participation agreements

(a) In general

A participating State may enter into a participation agreement with any financial institution determined by the participating State, after consultation with the appropriate Federal banking agency, to have sufficient commercial lending experience and financial and managerial capacity to participate in the Program. The determination by the State shall not be reviewable by the Fund.

(b) Participating financial institutions

Upon entering into the participation agreement with the participating State, the financial institution shall become a participating financial institution eligible to enroll loans under the Program.

(Pub. L. 103-325, title II, § 254, Sept. 23, 1994, 108 Stat. 2207.)

§ 4745. Terms of participation agreements

(a) In general

The participation agreement to be entered into by a participating State and a participating financial institution shall include all provisions required by this section, and shall not include any provisions inconsistent with the provisions of this section.

(b) Establishment of separate reserve funds

A separate reserve fund shall be established by the participating State for each participating financial institution. All funds credited to a reserve fund shall be the exclusive property of the participating State. Each reserve fund shall be an administrative account for the purposes of—

- (1) receiving all required premium charges to be paid by the borrower and participating financial institution and contributions by the participating State; and
- (2) disbursing funds, either to cover losses sustained by the participating financial institution in connection with loans made under the Program, or as contemplated by subsections (d) and (r).

(c) Investment authority

Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the participating financial institution in the name of the participating State. In the event that funds in the reserve

fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(d) Earned income and interest

Interest or income earned on the funds credited to a reserve fund shall be deemed to be part of the reserve fund, except that a participating State may, as further specified in the participation agreement, provide authority for the participating State to withdraw some or all of such interest or income earned.

(e) Loan terms and conditions

(1) In general

A loan to be filed for enrollment under the Program may be made with such interest rate, fees, and other terms and conditions as agreed upon by the participating financial institution and the borrower, consistent with applicable law.

(2) Lines of credit

If a loan to be filed for enrollment is in the form of a line of credit, the amount of the loan shall be considered to be the maximum amount that can be drawn by the borrower against the line of credit.

(f) Enrollment process

(1) Filing

(A) In general

A participating financial institution shall file each loan made under the Program for enrollment by completing and submitting to the participating State a form prescribed by the participating State.

(B) Form

The form referred to in subparagraph (A) shall include a representation by the participating financial institution that it has complied with the participation agreement in enrolling the loan with the State.

(C) Premium charges

Accompanying the completed form shall be the nonrefundable premium charges paid by the borrower and the participating financial institution, or evidence that such premium charges have been deposited into the deposit account containing the reserve fund, if applicable.

(D) Submission

The participation agreement shall require that the items required by this subsection shall be submitted to the participating State by the participating financial institutions not later than 10 calendar days after a loan is made.

(2) Enrollment by State

Upon receipt by the participating State of the filing submitted in accordance with paragraph (1), the participating State shall promptly enroll the loan and make a matching contribution to the reserve fund in accordance with subsection (j), unless the information submitted indicates that the participating financial institution has not complied with the participation agreement in enrolling the loan.

(g) Coverage amount

In filing a loan for enrollment under the Program, the participating financial institution