

Subsec. (b)(2)(B) to (G). Pub. L. 105-368, § 602(e)(1)(F)(iii), redesignated subpars. (C) to (G) as (B) to (F), respectively, in subpar. (B), substituted "section 3729(a)(3)" for "subsections (a)(3) and (c)(2) of section 3729", and struck out former subpar. (B) which read as follows: "Federal Government contributions made under clauses (A) and (B) of section 3725(c)(2) of this title."

Subsec. (c). Pub. L. 105-368, § 602(d), added subsec. (c). 1991—Pub. L. 102-83, § 5(a), renumbered section 1834 of this title as this section.

Subsec. (b)(2). Pub. L. 102-83, § 5(c)(1), substituted "3729(a)" for "1829(a)" and "3729(b)" for "1829(b)" in subpar. (A), "3725(c)(2)" for "1825(c)(2)" in subpar. (B), and "3729" for "1829" in subpar. (C).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

### [§ 3735. Renumbered § 2041]

#### § 3736. Reporting requirements

The annual report required by section 529 of this title shall include a discussion of the activities under this chapter. Beginning with the report submitted at the close of fiscal year 1996, and every second year thereafter, this discussion shall include information regarding the following:

- (1) Loans made to veterans whose only qualifying service was in the Selected Reserve.
- (2) Interest rates and discount points which were negotiated between the lender and the veteran pursuant to section 3703(c)(4)(A)(i) of this title.
- (3) The determination of reasonable value by lenders pursuant to section 3731(f) of this title.
- (4) Loans that include funds for energy efficiency improvements pursuant to section 3710(a)(10) of this title.
- (5) Direct loans to Native American veterans made pursuant to subchapter V of this chapter.

(Added Pub. L. 104-110, title II, § 201(a)(1), Feb. 13, 1996, 110 Stat. 770.)

#### SUBCHAPTER IV—SMALL BUSINESS LOANS

##### § 3741. Definitions

For the purposes of this subchapter—

(1) The term "disabled veteran" means (A) a veteran who is entitled to compensation under laws administered by the Secretary for a disability rated at 30 percent or more, or (B) a veteran whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

(2) The term "veteran of the Vietnam era" means a person (A) who served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and who was discharged or released therefrom with other than a dishonorable discharge, or (B) who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era.

(Added Pub. L. 97-72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1055, § 1841; amended Pub. L. 99-576, title VII, § 702(9), Oct. 28, 1986, 100 Stat. 3302; re-

numbered § 3741 and amended Pub. L. 102-83, §§ 4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

#### AMENDMENTS

1991—Pub. L. 102-83, § 5(a), renumbered section 1841 of this title as this section.

Par. (1). Pub. L. 102-83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

1986—Pub. L. 99-576 substituted "percent" for "per centum" in par. (1) and "180" for "one hundred and eighty" in par. (2).

#### EFFECTIVE DATE

Pub. L. 97-72, title III, § 305, Nov. 3, 1981, 95 Stat. 1060, provided that: "The amendments made by this title [see Tables for classification] shall take effect at the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act [Nov. 3, 1981], except that the authority of the Administrator of Veterans' Affairs to promulgate regulations under subchapter IV of chapter 37 of title 38, United States Code (as added by section 302), shall take effect on such date of enactment."

#### SHORT TITLE

For short title of title III of Pub. L. 97-72, which enacted this subchapter, as the "Veterans' Small Business Loan Act of 1981", see section 301 of Pub. L. 97-72, set out as a Short Title of 1981 Amendments note under section 101 of this title.

#### AUTHORIZATION OF APPROPRIATIONS

Pub. L. 97-72, title III, § 304, Nov. 3, 1981, 95 Stat. 1060, authorized to be appropriated a total of \$750,000 for fiscal years 1982 through 1986 for use by Administrator of Veterans' Affairs for expenses incidental to establishment of small business loan program authorized by subchapter IV of this chapter.

##### § 3742. Small business loan program

(a)(1) Subject to subsection (b) of this section, the Secretary may provide financial assistance to veterans' small business concerns for the purpose of (A) financing plant construction, conversion, or expansion (including the acquisition of land), (B) financing the acquisition of equipment, facilities, machinery, supplies, or materials, or (C) supplying such concerns with working capital.

(2) Subject to paragraph (3)(A) of this subsection, financial assistance under this section may be provided in the form of (A) loan guarantees, or (B) direct loans.

(3) The Secretary shall specify in regulations the criteria to be met for a business concern to qualify as a veterans' small business concern for the purposes of this subchapter. Such regulations shall include requirements—

(A) that at least 51 percent of a business concern must be owned by individuals who are veterans of the Vietnam era or disabled veterans in order for such concern to qualify for a loan guaranty and that at least 51 percent of a business concern must be owned by disabled veterans in order for such concern to qualify for a direct loan; and

(B) that the management and daily business operations of the concern must be directed by one or more of the veterans whose ownership interest is part of the majority ownership for the purposes of meeting the requirement in clause (A) of this paragraph.

(b) The availability of financial assistance under subsection (a) of this section is subject to the following limitations:

(1) The Secretary may not make a direct loan under this section unless the veterans' small business concern applying for the loan shows to the satisfaction of the Secretary that the concern is unable to obtain a loan guaranteed by the Department under this section or made or guaranteed by the Small Business Administration.

(2) The Secretary may not guarantee a loan under this section if the loan bears a rate of interest in excess of the maximum rate of interest prescribed under section 3745 of this title.

(3) The Secretary may not make or guarantee a loan under this section for an amount in excess of \$200,000.

(4) The original liability of the Secretary on any loan guaranteed under this section may not exceed 90 percent of the amount of the loan, and such liability shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the loan, but such liability may not exceed the amount of the original guaranty.

(c) Each loan made or guaranteed under this subchapter shall be of such sound value, taking into account the creditworthiness of the veterans' small business concern (and the individual owners) applying for such loan, or so secured as reasonably to assure payment.

(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not make or guarantee a loan under this subchapter to a veterans' small business concern in which an ownership interest is held by a veteran who also has an ownership interest in another small business concern if such ownership interest was considered in qualifying that other concern for an outstanding loan made or guaranteed under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(2) Paragraph (1) of this subsection shall not apply if 51 percent or more of the business concern seeking a direct or guaranteed loan under this subchapter is owned by veterans of the Vietnam era or disabled veterans without including the ownership interest of the veteran whose ownership interest in another small business concern was previously considered in qualifying that other concern for an outstanding guaranteed or direct business loan under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(e)(1) In order to protect the interest of the United States, upon application by a veterans' small business concern which is the recipient of a loan guaranteed under this subchapter, the Secretary (subject to the provisions of this subsection) may undertake the veterans' small business concern's obligation to make payments under such loan or, if the loan was a direct loan made by the Secretary, may suspend such obligation. While such payments are being made by the Secretary pursuant to the undertaking of such obligation or while such obligation is suspended, no such payment with respect to the loan may be required from the concern.

(2) The Secretary may undertake or suspend a veterans' small business concern's obligation under this subsection only if—

(A) such undertaking or suspension of the obligation is, in the judgment of the Sec-

retary, necessary to protect the interest of the United States;

(B) with the undertaking or suspension of the obligation, the small business concern would, in the judgment of the Secretary, become or remain a viable small business entity; and

(C) the small business concern executes an agreement in writing satisfactory to the Secretary as provided by paragraph (4) of this subsection.

(3) The period of time for which the Secretary undertakes or suspends the obligation on a loan under this subsection may not exceed five years. The Secretary may extend the maturity of any loan on which the Secretary undertakes or suspends the obligation under this subsection for a corresponding period of time.

(4)(A) Before the Secretary may undertake or suspend a veterans' small business concern's obligation under this subsection, the Secretary shall require the small business concern to execute an agreement to repay the aggregate amount of the payments which were required under the loan during the period for which the obligation was undertaken or suspended—

(i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period,

(ii) pursuant to a repayment schedule agreed upon by the Secretary and the small business concern, or

(iii) by a combination of the method of payments described in clauses (i) and (ii) of this subparagraph.

(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A) of this paragraph, the Secretary shall, before the undertaking or suspension of the obligation, take such action and require the small business concern to take such action as the Secretary considers appropriate in the circumstances, including the provision of such security as the Secretary considers necessary or appropriate, to assure that the rights and interest of the United States and any lender will be safeguarded adequately during and after the period in which such obligation is so undertaken or suspended.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1055, §1842; amended Pub. L. 99-576, title VII, §702(10), Oct. 28, 1986, 100 Stat. 3302; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3742 and amended Pub. L. 102-83, §§4(a)(3), (4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404, 406.)

#### REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (d), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

#### AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1842 of this title as this section.

Subsec. (b)(1). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (b)(2). Pub. L. 102-83, §5(c)(1), substituted "3745" for "1845".

1989—Subsecs. (a), (b), (d), (e). Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1986—Subsecs. (a)(3)(A), (b)(4), (d)(2). Pub. L. 99-576 substituted “percent” for “per centum” wherever appearing.

#### § 3743. Liability on loans

Each individual who has an ownership interest in a veterans' small business concern that is provided a direct loan under this subchapter, or that obtains a loan guaranteed under this subchapter, shall execute a note or other document evidencing the direct or guaranteed business loan, and such individuals shall be jointly and severally liable to the United States for the amount of such direct loan or, in the case of a guaranteed loan, for any amount paid by the Secretary on account of such loan.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1057, §1843; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3743, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

##### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1843 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator”.

#### § 3744. Approval of loans by the Secretary

(a) Except as provided in subsection (b) of this section, a loan may not be guaranteed under this subchapter unless, before the closing of the loan, it is submitted to the Secretary for approval and the Secretary grants approval.

(b) The Secretary may exempt any lender of a class of lenders listed in section 3702(d) of this title from the prior approval requirement in subsection (a) of this section if the Secretary determines that the experience of such lender or class of lenders warrants such exemption.

(c) The Secretary may at any time upon thirty days' notice require loans to be made by any lender or class of lenders under this subchapter to be submitted to the Secretary for prior approval. No guaranty shall exist with respect to any such loan unless evidence of the guaranty is issued by the Secretary.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1057, §1844; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3744 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

##### AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1844 of this title as this section.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3702(d)” for “1802(d)”.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” in section catchline and wherever appearing in text.

#### § 3745. Interest on loans

(a) Loans guaranteed under this subchapter shall bear interest not in excess of such rate as the Secretary may from time to time find the loan market demands. In establishing the rate of interest that shall be applicable to such

loans, the Secretary shall consult with the Administrator of the Small Business Administration.

(b) The rate of interest on any direct loan made by the Secretary under this subchapter may not exceed the maximum rate in effect under subsection (a) of this section at the time the direct loan is made.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1058, §1845; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3745 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 103-446, title XII, §1201(a)(3), Nov. 2, 1994, 108 Stat. 4682.)

##### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-446 substituted “Administrator” for “Secretary” before “of the Small Business Administration”.

1991—Pub. L. 102-83, §5(a), renumbered section 1845 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” before “of the Small Business Administration”.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing other than third place it appears in subsec. (a).

#### § 3746. Maturity of loans

The maturity of a loan made or guaranteed under this subchapter that is used in whole or in part for the construction, conversion, or expansion of facilities or for acquisition of real property may not exceed twenty years plus such additional reasonable time as the Secretary may determine, at the time the loan is made, is required to complete the construction, acquisition, or expansion of such facilities. The maturity of any other loan made or guaranteed under this subchapter may not exceed ten years.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1058, §1846; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3746, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

##### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1846 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator”.

#### § 3747. Eligible financial institutions

The Secretary may not guarantee under this subchapter a loan made by an entity not subject to examination and supervision by an agency of the United States or of a State.

(Added Pub. L. 97-72, title III, §302(a), Nov. 3, 1981, 95 Stat. 1058, §1847; amended Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3747, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

##### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1847 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator”.

#### § 3748. Preference for disabled veterans

In the extension of financial assistance under this subchapter, the Secretary shall give pref-