

**(5) Nonsubordination**

An obligation shall be subject to the condition that the obligation is not subordinate to other financing.

**(c) Prepayment and refinancing**

Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

(Pub. L. 109-451, title II, §204, Dec. 22, 2006, 120 Stat. 3358.)

**§ 2424. Defaults****(a) Payments by Secretary****(1) In general**

If a borrower defaults on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

**(2) Payment required**

By such date as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on, and unpaid principal of, the obligation with respect to which the borrower has defaulted, unless the Secretary finds that there was not default by the borrower in the payment of interest or principal or that the default has been remedied.

**(3) Forbearance**

Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the non-Federal borrower that may be agreed on by the parties to the obligation and approved by the Secretary.

**(b) Subrogation****(1) In general**

If the Secretary makes a payment under subsection (a), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the loan guarantee or related agreements, including, as appropriate, the authority (notwithstanding any other provision of law) to—

(A) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to the loan guarantee or related agreements; or

(B) permit the non-Federal borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines the purposes to be in the public interest.

**(2) Superiority of rights**

The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreement, shall be superior to the rights of any other person with respect to the property.

**(c) Payment of principal and interest by Secretary**

With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the non-Federal bor-

rower, from funds appropriated for that purpose, the principal and interest payments that become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(1)(A) the non-Federal borrower is unable to meet the payments and is not in default;

(B) it is in the public interest to permit the non-Federal borrower to continue to pursue the purposes of the project; and

(C) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(2) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the non-Federal borrower is obligated to pay under the agreement being guaranteed; and

(3) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

**(d) Action by Attorney General****(1) Notification**

If the non-Federal borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

**(2) Recovery**

On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(A) such assets of the defaulting non-Federal borrower as are associated with the obligation; or

(B) any other security pledged to secure the obligation.

(Pub. L. 109-451, title II, §205, Dec. 22, 2006, 120 Stat. 3358.)

**§ 2425. Operations, maintenance, and replacement costs****(a) In general**

The non-Federal share of operations, maintenance, and replacement costs for a project receiving Federal assistance under this subchapter shall be 100 percent.

**(b) Plan**

On request of the non-Federal borrower, the Secretary may assist in the development of an operation, maintenance, and replacement plan to provide the necessary framework to assist the non-Federal borrower in establishing rates and fees for project beneficiaries.

(Pub. L. 109-451, title II, §206, Dec. 22, 2006, 120 Stat. 3360.)

**§ 2426. Title to newly constructed facilities****(a) New projects and facilities**

All new projects or facilities constructed in accordance with this subchapter shall remain under the jurisdiction and control of the non-Federal borrower subject to the terms of the repayment agreement.

**(b) Existing projects and facilities**

Nothing in this subchapter affects the title of—