

## REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (h), was amended generally by Pub. L. 94-22, §4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

## AMENDMENTS

1981—Subsec. (a). Pub. L. 97-35, §393(a), substituted provisions relating to composition, term of office, and removal by the President, for provisions relating to composition, appointment, eligibility, removal, and vacancies.

Subsec. (b). Pub. L. 97-35, §393(a), substituted provisions relating to appointment by the President, and election by the stockholders, for provisions relating to resignation and termination of terms of Presidential appointees, shareholder directorships, resignation of remaining Presidential appointees on Final Government Equity Redemption Date, and continuation of Presidential appointment power.

Subsec. (c). Pub. L. 97-35, §393(a), substituted provisions relating to resignations, continuances, completion of term, and committee representation, for provisions relating to nominating criteria for appointment or election, and representational limitations.

Subsec. (d). Pub. L. 97-35, §393(a), substituted provisions relating to nominations by cooperative classes, vacancies, and representational requirements for elections, for provisions relating to rules governing election of successors to resigned Presidential appointees and successors to shareholder directors.

Subsec. (h). Pub. L. 97-35, §393(b), inserted provisions relating to compensation of members elected by holders of class B and C stock, and provisions relating to payment of compensation and expenses by the Bank, and substituted provisions relating to members appointed under subsec. (b)(1)(C) of this section, for provisions relating to Final Government Equity Redemption Date, and members elected by holders of class B and C stock.

1979—Subsec. (a). Pub. L. 96-149, §1(a), inserted provisions respecting appointment of a member from among proprietors of small business concerns, and substituted “fifteen” for “thirteen”, “eight” for “seven”, and “this section” for “this section 104”, which for purposes of codification had been editorially translated as “section 3014 of this title”.

Subsec. (b). Pub. L. 96-149, §1(b), substituted provisions respecting criteria for resignations of initial two additional Board members and the additional Board member, for provisions respecting criteria for resignation of an additional Board member, and substituted “Five of the” for “Five”.

Subsec. (d). Pub. L. 96-149, §1(c), substituted “five of the” for “all five”.

Subsec. (h). Pub. L. 96-149, §1(d), inserted provisions relating to Board member appointed from among proprietors of small businesses.

## EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §393(c), Aug. 13, 1981, 95 Stat. 436, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981].” For definition of “Final Government Equity Redemption Date”, see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

## REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

## § 3014. Capitalization

**(a) Subscriptions for capital; authorization of appropriations**

The capital of the Bank shall consist of capital subscribed by borrowers from the Bank, by cooperatives eligible to become borrowers, by organizations owned and controlled by such borrowers, by foundations, trust or charitable funds, by public bodies, by other public or private investors, and by the United States. There are authorized to be appropriated not to exceed \$47,000,000 for fiscal year 1982 for purposes of purchasing class A stock.

**(b) Classes of stock; general requirements respecting rights, powers, privileges, and preferences**

The capital stock of the Bank shall include class B and class C stock and such other classes with such rights, powers, privileges, and preferences of the separate classes as may be specified, not inconsistent with law, in the bylaws of the Bank. Class A notes which are held by the United States shall have first preference with respect to assets and interest payments over all classes of stock issued by the Bank. So long as any class A notes are outstanding, the Bank shall not pay any dividend on any class of stock at a rate greater than the statutory interest rate payable on class A notes. Class B and class C stock shall be common stock with voting rights as provided for herein and shall be issued only to eligible borrowers and organizations controlled by such borrowers or organizations eligible to borrow, and shall be transferable only on the books of the Bank and then only to another eligible borrower. No holder of voting stock of the Bank shall be entitled to more than one vote regardless of the number of shares of stock of other classes held, except as provided in subsection (g) of this section.

**(c) Class A notes; interest payments; redemption, etc.**

The holder of class A notes shall be entitled to interest at a rate or rates determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable terms and conditions as of the last day of the month preceding each issuance of such class A notes to the Secretary of the Treasury, except that, until October 1, 1990, interest payments shall not exceed 25 percent of gross revenues for the year, less necessary operating expenses including a reserve for possible losses. From time to time, the Bank may, with the approval of the Secretary of the Treasury and consistent with the terms of this chapter, issue replacement class A notes upon terms and conditions to be agreed upon by the Bank and the Secretary, bearing interest as provided in this subsection, in substitution for those class A notes previously issued. Any such interest payment may be deferred by the Board of Directors with the approval of the Secretary of the Treasury, except that any interest payment so deferred shall bear interest at a rate equal to the rate determined pursuant to the first sentence of this subsection. Without the approval of the Secretary of the Treasury, the Bank shall not

pay any dividend or distribution on, or make any redemption or repurchase of, any class of stock at any time when the deferred interest payments on class A notes shall not have been paid in full, together with any unpaid interest on such notes. Upon any liquidation or dissolution of the Bank, the holder of class A notes shall be entitled to receive out of the assets of the Bank available for distribution to its stockholders, prior to any payment to the holders of any class of stock of the Bank, an amount not less than the aggregate face value of all class A notes outstanding, plus all accrued and unpaid interest payments accrued thereon to and including the date of payment (together with all unpaid interest thereon). The class A notes shall be redeemed and retired as soon as practicable consistent with the purposes of this chapter (such redemption to be at a price equal to the face value of the class A notes so redeemed plus interest payments accrued thereon to the date of redemption), except that beginning on October 1, 1990, there shall be redeemed as a minimum with respect to each fiscal year a number of class A notes having an aggregate face value equal to the aggregate consideration received by the Bank for the issue of its class B and class C stock during that fiscal year. Each such redemption shall take place not later than ninety days after the close of each fiscal year. All class A notes shall be redeemed by the Bank no later than October 31, 2020.

**(d) Class B stock; ownership requirements, etc.**

Class B stock shall be held only by recipients of loans under section 3015 of this title, and such borrowers shall be required to own class B stock in an amount not less than 1 per centum of the face amount of the loan at the time the loan is made. Such borrowers may be required by the Bank to own additional class B or class C stock at the time the loan is made, but not to exceed an amount equal to 10 per centum of the face amount of the loan, or from time to time, as the Bank may determine. Such additional stock ownership requirements may be on the basis of the face amount of the loan, the outstanding balances, or on a percentage of interest payable during any year or any quarter thereof, as the Bank may determine will provide adequate capital for the operation of the Bank and equitable ownership thereof among borrowers.

**(e) Class C stock; purchase, dividends, etc.**

Class C stock shall be available for purchase and shall be held only by borrowers or by organizations eligible to borrow under section 3015 of this title or by organizations controlled by such borrowers, and shall be entitled to dividends in the manner specified in the bylaws of the Bank. Such dividends shall be payable only from income, and, until all class A notes has<sup>1</sup> been retired, the rate of such dividends shall not exceed the rate of the statutory interest payment on class A notes.

**(f) Nonvoting stock of other classifications and priorities; issuance, etc.**

Nonvoting stock of other classifications and other priorities may be issued at the discretion

of the Board, to other investors, except that so long as any class A notes are outstanding, the Board shall not authorize or issue any class of stock, whether voting or nonvoting, that would rank prior or equal to the class A notes as to dividends, interest payments, or upon liquidation or dissolution.

**(g) Voting requirements of bylaws**

(1) The bylaws of the Bank may provide for more than one vote on the basis of—

(A) the amount of class B stock, class C stock, or both classes held, with such limitations as will encourage investments in class C stock;

(B) the amount of patronage of the Bank; and

(C) number of members in the cooperative.

(2) Such bylaws shall avoid—

(A) voting control of the Bank from becoming concentrated with the larger affluent or smaller less affluent organizations;

(B) a disproportionately larger vote in one or more of the groups of cooperatives referred to in section 3013(d)(2)(A) of this title; and

(C) the concentration of more than 5 per centum of the total voting control in any one class B or class C stockholder.

**(h) Acceptance by Bank of nonreturnable capital contributions**

The Bank may accept nonreturnable capital contributions on which no interest, dividend, or patronage refund shall be payable from associations, foundations, or funds or public bodies or agencies at the discretion of the Board.

**(i) Patronage refunds**

After payment of all operating expenses of the Bank, including interest on its obligations, and after setting aside appropriate funds for reserves for losses, for interest payments on class A notes and dividends on class C stock and for any redemption of class A notes in accordance with subsection (c), the Bank shall annually set aside the remaining earnings of the Bank for patronage refunds in the form of class B or C stock or allocated surplus in accordance with the bylaws of the Bank. After ten years from the date of issue of any such stock, or at such earlier time as all the Government-held stock is retired, patronage refunds may be made in cash, or partly in stock and partly in cash.

(Pub. L. 95-351, title I, §104, Aug. 20, 1978, 92 Stat. 503; Pub. L. 97-35, title III, §§394(c)(1), 395(b)(2), 396(c), Aug. 13, 1981, 95 Stat. 436, 439; Pub. L. 101-206, §2, Dec. 7, 1989, 103 Stat. 1832.)

AMENDMENTS

1989—Subsec. (c). Pub. L. 101-206 substituted “The holder of class A notes shall be entitled to interest at a rate or rates determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable terms and conditions as of the last day of the month preceding each issuance of such class A notes to the Secretary of the Treasury, except that, until October 1, 1990, interest payments shall not exceed 25 percent of gross revenues for the year, less necessary operating expenses including a reserve for possible losses. From time to time, the Bank may, with the approval of the Secretary of the Treasury and consistent with the terms of this chapter, issue replace-

<sup>1</sup> So in original. Probably should be “have”.

ment class A notes upon terms and conditions to be agreed upon by the Bank and the Secretary, bearing interest as provided in this subsection, in substitution for those class A notes previously issued.” for “The holder of class A notes shall be entitled to interest payments at a rate determined by the Secretary of the Treasury taking into consideration the average market yield, during the month preceding the close of each fiscal year, on outstanding marketable obligations of the United States of comparable maturity, except that until October 1, 1990, such interest payments shall not exceed 25 per centum of gross revenues for the year less necessary operating expenses, including a reserve for possible losses. Such interest payments shall be payable annually into miscellaneous receipts of the Treasury and shall be cumulative.” and inserted at end “All class A notes shall be redeemed by the Bank no later than October 31, 2020.”

1981—Subsec. (a). Pub. L. 97-35, §§394(c)(1), 395(b)(2), inserted “by other public or private investors,” after “public bodies,” and substituted provisions authorizing appropriations for fiscal year 1982, for provisions authorizing appropriations beginning with the fiscal year ending Sept. 30, 1979, and authorizing use of amounts authorized but not appropriated.

Subsec. (b). Pub. L. 97-35, §396(c)(1), substituted “class B” for “class A, class B,” and substituted provisions relating to class A notes, for provisions relating to class A preferred stock.

Subsec. (c). Pub. L. 97-35, §396(c)(2), substituted provisions relating to interest payments, redemption, etc., of class A notes, for provisions relating to issuance, dividends, etc., of class A stock.

Subsec. (e). Pub. L. 97-35, §396(c)(3), substituted provisions relating to class A notes, for provisions relating to class A stock.

Subsec. (f). Pub. L. 97-35, §396(c)(4), substituted provisions relating to class A notes, for provisions relating to class A stock.

Subsec. (g)(2)(B). Pub. L. 97-35, §396(c)(5), substituted “3013(d)(2)(A)” for “3013(c)”.

Subsec. (h). Pub. L. 97-35, §396(c)(6), struck out provision respecting treatment of the Bank as a governmental unit within section 170(b)(1)(A)(v) of title 26.

Subsec. (i). Pub. L. 97-35, §396(c)(7), substituted provisions relating to class A notes, for provisions relating to class A stock.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title III, §394(c)(2), Aug. 13, 1981, 95 Stat. 436, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on the day after the Final Government Equity Redemption Date [Dec. 31, 1981].” For definition of “Final Government Equity Redemption Date”, see section 396(a) of Pub. L. 97-35, set out as a note under section 3012 of this title.

Pub. L. 97-35, title III, §395(b)(3), Aug. 13, 1981, 95 Stat. 439, provided that: “The amendments made by paragraphs (1) [amending section 3042 of this title] and (2) [amending this section] shall take effect on October 1, 1981.”

Amendment by section 396(c) of Pub. L. 97-35 effective on the day after the Final Government Equity Redemption Date (Dec. 31, 1981), see section 396(i) of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 3011 of this title.

### § 3015. Eligibility of cooperatives

#### (a) General requirements

For the purpose of all subchapters of this chapter, subject to the limitations of subsection (d) of this section, an eligible cooperative is an organization chartered or operated on a cooperative, not-for-profit basis for producing or furnishing goods, services or facilities, primarily for the benefit of its members or voting stockholders who are ultimate consumers of such

goods, services, or facilities, or a legally chartered entity primarily owned and controlled by any such organization or organizations, if it—

(1) makes such goods, services or facilities directly or indirectly available to its members or voting stockholders on a not-for-profit basis;

(2) does not pay dividends on voting stock or membership capital in excess of such percentage per annum as may be approved under the bylaws of the Bank;

(3) provides that its net savings shall be allocated or distributed to all members or patrons, in proportion to their patronage, or shall be retained for the actual or potential expansion of its services or the reduction of its charges to the patrons, or for such other purposes as may be authorized by its membership not inconsistent with its purposes;

(4) makes membership available on a voluntary basis, without any social, political, racial, or religious discrimination and without any discrimination on the basis of age, sex, or marital status, to all persons who can make use of its services and are willing to accept the responsibilities of membership, subject only to limitations under applicable Federal or State laws or regulations;

(5) in the case of primary cooperative organizations restricts its voting control to members or voting stockholders on a one vote per person basis (except that this requirement shall not apply to any housing cooperative in existence on March 21, 1980, which did not meet such requirement on such date) and takes positive steps to insure economic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case of organizations owned by groups of cooperatives, provides positive protections to insure economic democracy; and

(6) is not a credit union, mutual savings bank, or mutual savings and loan association.

#### (b) Primary producers

No organization shall be ineligible because it produces, markets, or furnishes goods, services, or facilities on behalf of its members as primary producers, unless the dollar volume of loans made by the Bank to such organizations exceeds 10 per centum of the gross assets of the Bank.

#### (c) “Net savings” defined

As used in this section, the term “net savings” means, for any period, the borrower’s gross receipts, less the operating and other expenses deductible therefrom in accordance with generally accepted accounting principles, including, without limitation, contributions to allowable reserves, and after deducting the amounts of any dividends on its capital stock or other membership capital payable during, or within forty-five days after, the close of such period.

#### (d) Cooperatives eligible for other Federal credit assistance

An eligible cooperative which also has been determined to be eligible for credit assistance from the Rural Electrification Administration, the National Rural Utilities Cooperative Finance Corporation, the Banks for Cooperatives