

the costs of examinations under section 690l of this title and for the costs of other oversight activities with respect to the program established under this part.

(Pub. L. 85-699, title III, §397, as added Pub. L. 110-140, title XII, §1207, Dec. 19, 2007, 121 Stat. 1783.)

§ 690q. Termination

The program under this part shall terminate at the end of the second full fiscal year after the date that the Administrator establishes the program under this part.

(Pub. L. 85-699, title III, §398, as added Pub. L. 110-140, title XII, §1207, Dec. 19, 2007, 121 Stat. 1783.)

SUBCHAPTER IV—STATE CHARTERED INVESTMENT COMPANIES AND STATE DEVELOPMENT COMPANIES

§ 691. Repealed. Pub. L. 87-341, §11(f), Oct. 3, 1961, 75 Stat. 756

Section, Pub. L. 85-699, title IV, §401, Aug. 21, 1958, 72 Stat. 696, related to conversion of any investment company, or any State development company, into a small business investment company.

SUBCHAPTER IV—A—GUARANTEES

PART A—COMMERCIAL OR INDUSTRIAL LEASE AND QUALIFIED CONTRACT GUARANTEES

§ 692. Authority of Administration to guarantee payment of rentals by small business concerns under leases of commercial and industrial property

(a) Nonavailability of guarantees from other sources; participation with qualified sureties

The Administration may, whenever it determines such action to be necessary or desirable, and upon such terms and conditions as it may prescribe, guarantee the payment of rentals under leases of commercial and industrial property entered into by small business concerns to enable such concerns to obtain such leases. Any such guarantee may be made or effected either directly or in cooperation with any qualified surety company or other qualified company through a participation agreement with such company. The foregoing powers shall be subject, however, to the following restrictions and limitations:

(1) No guarantee shall be issued by the Administration (A) if a guarantee meeting the requirements of the applicant is otherwise available on reasonable terms, and (B) unless the Administration determines that there exists a reasonable expectation that the small business concern in behalf of which the guarantee is issued will perform the covenants and conditions of the lease.

(2) The Administration shall, to the greatest extent practicable, exercise the powers conferred by this section in cooperation with qualified surety or other companies on a participation basis.

(b) Uniform annual fee; processing fees

The Administration shall fix a uniform annual fee for its share of any guarantee under this sec-

tion which shall be payable in advance at such time as may be prescribed by the Administrator. The amount of any such fee shall be determined in accordance with sound actuarial practices and procedures, to the extent practicable, but in no case shall such amount exceed, on the Administration's share of any guarantee made under this part, 2½ per centum per annum of the minimum annual guaranteed rental payable under any guaranteed lease: *Provided*, That the Administration shall fix the lowest fee that experience under the program established hereby has shown to be justified. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as the Administrator determines are reasonable and necessary to pay the administrative expenses that are incurred in connection therewith.

(c) Escrow; default; additional discretionary provisions

In connection with the guarantee of rentals under any lease pursuant to authority conferred by this section, the Administrator may require, in order to minimize the financial risk assumed under such guarantee—

(1) that the lessee pay an amount, not to exceed one-fourth of the minimum guaranteed annual rental required under the lease, which shall be held in escrow and shall be available (A) to meet rental charges accruing in any month for which the lessee is in default, or (B) if no default occurs during the term of the lease, for application (with accrued interest) toward final payments of rental charges under the lease;

(2) that upon occurrence of a default under the lease, the lessor shall, as a condition precedent to enforcing any claim under the lease guarantee, utilize the entire period, for which there are funds available in escrow for payment of rentals, in reasonably diligent efforts to eliminate or minimize losses, by releasing the commercial or industrial property covered by the lease to another qualified tenant, and no claim shall be made or paid under the guarantee until such effort has been made and such escrow funds have been exhausted;

(3) that any guarantor of the lease will become a successor of the lessor for the purpose of collecting from a lessee in default rentals which are in arrears and with respect to which the lessor has received payment under a guarantee made pursuant to this section; and

(4) such other provisions, not inconsistent with the purposes of this part, as the Administrator may in his discretion require.

(Pub. L. 85-699, title IV, §401, as added Pub. L. 89-117, title III, §316(a), Aug. 10, 1965, 79 Stat. 482; amended Pub. L. 90-104, title II, §209, Oct. 11, 1967, 81 Stat. 271; Pub. L. 91-609, title IX, §911(a)(2), Dec. 31, 1970, 84 Stat. 1812.)

AMENDMENTS

1970—Subsecs. (b), (c)(4). Pub. L. 91-609 substituted “part” for “title”.

1967—Subsec. (a). Pub. L. 90-104 struck out from introductory text “that are (1) eligible for loans under section 636(b)(3) of this title, or (2) eligible for loans under subchapter IV of chapter 34 of Title 42,” after “small business concerns”.