(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

(2) Effect

A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

(e) Express loan authority

A local development company designated as an accredited lender in accordance with subsection (b)—

(1) may—

(A) approve, authorize, close, and service covered loans that are funded with proceeds of a debenture issued by the company; and

(B) authorize the guarantee of a debenture described in subparagraph (A); and

(2) with respect to a covered loan, shall be subject to final approval as to eligibility of any guarantee by the Administration pursuant to section 697(a) of this title, but such final approval shall not include review of decisions by the lender involving creditworthiness, loan closing, or compliance with legal requirements imposed by law or regulation.

(f) Definitions

In this section—

(1) the term ''accredited lender certified company'' means a certified development company that meets the requirements under subsection (b), including a certified development company that the Administration has designated as an accredited lender under that subsection;

(2) the term ''covered loan''—

(A) means a loan made under section 696 of this title in an amount that is not more than $500,000; and

(B) does not include a loan made to a borrower that is in an industry that has a high rate of default, as annually determined by the Administrator and reported in rules of the Administration; and

(3) the term ''qualified State or local development company'' has the meaning given the term in section 697(e) of this title.

(Pub. L. 85–699, title V, §507, as added Pub. L. 103–403, title II, §212(a), Oct. 22, 1994, 108 Stat. 4183; amended Pub. L. 116–260, div. N, title III, §328(b), Dec. 27, 2020, 134 Stat. 2040.)

AMENDMENT OF SECTION

Pub. L. 116–260, div. N, title III, §328(b)(2), Dec. 27, 2020, 134 Stat. 2040, provided that, effective Sept. 30, 2023, this section is amended by striking subsections (e) and (f) and inserting the following:

(e) Definition

In this section, the term ''qualified State or local development company'' has the meaning given the term in section 697(e) of this title.

See 2020 Amendment note below.

AMENDMENTS

2020—Subsecs. (e), (f). Pub. L. 116–260, §328(b)(2), added subsec. (e) and struck out former subsec. (e), which related to express loan authority of a local development company designated as an accredited lender, and subsec. (f), which defined terms ''accredited lender certified company'', ''covered loan'', and ''qualified State or local development company'' in this section.

Pub. L. 116–260, §328(b)(1), added subsecs. (e) and (f) and struck out former subsec. (e) which defined ''qualified State or local development company'' for purposes of this section.

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–260, div. N, title III, §328(b)(2), Dec. 27, 2020, 134 Stat. 2040, provided in part that the amendment made by section 328(b)(2) is effective on Sept. 30, 2023.

Except as otherwise provided, amendment by Pub. L. 116–260 effective on Dec. 27, 2020, and applicable to loans and grants made on or after Dec. 27, 2020, see section 348 of Pub. L. 116–260, set out as a note under section 636 of this title.

REGULATIONS

Pub. L. 103–403, title II, §212(b), Oct. 22, 1994, 108 Stat. 4184, provided that: ''Not later than 120 days after the date of enactment of this Act [Oct. 22, 1994], the Administration shall promulgate final regulations to carry out this section [enacting this section and provisions set out below].''

REPORT ON IMPLEMENTATION OF PROGRAM

Pub. L. 103–403, title II, §212(c), Oct. 22, 1994, 108 Stat. 4184, provided that: ''Not later than 1 year after the effective date of regulations promulgated under subsection (b) [set out above], and biennially thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives [Committee on Small Business of Senate now Committee on Small Business and Entrepreneurship of Senate] on the implementation of this section [enacting this section and provisions set out above]. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.''

§ 697e. Premier Certified Lenders Program

(a) Establishment

The Administration may establish a Premier Certified Lenders Program for certified development companies that meet the requirements of subsection (b).

(b) Requirements

(1) Application

To be eligible to participate in the Premier Certified Lenders Program established under subsection (a), a certified development company shall prepare and submit to the Administration an application at such time, in such manner, and containing such information as the Administration may require.

(2) Designation

The Administration may designate a certified development company as a premier certified lender—

(A) if the company is an active certified development company in good standing and has been an active participant in the accredited lenders program during the entire 12-month period preceding the date on which the company submits an application under paragraph (1), except that the Administra-

tion may waive this requirement if the company is qualified to participate in the accredited lenders program;

(B) if the company has a history of—

(i) submitting to the Administration adequately analyzed debenture guarantee application packages; and

(ii) of properly closing section 504 [15 U.S.C. 697a] loans and servicing its loan portfolio;

(C) if the company agrees to assume and to reimburse the Administration for 10 percent of any loss sustained by the Administration as a result of default by the company in the payment of principal or interest on a debenture issued by such company and guaranteed by the Administration under this section (15 percent in the case of any such loss attributable to a debenture issued by the company during any period for which an election is in effect under subsection (c)(7) for such company); and

(D) the[1] Administrator determines, with respect to the company, that the loss reserve established in accordance with subsection (c) is sufficient for the company to meet its obligations to protect the Federal Government from risk of loss.

(3) Applicability of criteria after designation

The Administrator may revoke the designation of a certified development company as a premier certified lender under this section at any time, if the Administrator determines that the certified development company does not meet any requirement described in subparagraphs (A) through (D) of paragraph (2).

(c) Loss reserve

(1) Establishment

A company designated as a premier certified lender shall establish a loss reserve for financing approved pursuant to this section.

(2) Amount

The amount of each loss reserve established under paragraph (1) shall be 10 percent of the amount of the company's exposure, as determined under subsection (b)(2)(C).

(3) Assets

Each loss reserve established under paragraph (1) shall be comprised of—

(A) segregated funds on deposit in an account or accounts with a federally insured depository institution or institutions selected by the company, subject to a collateral assignment in favor of, and in a format acceptable to, the Administration;

(B) irrevocable letter or letters of credit, with a collateral assignment in favor of, and a commercially reasonable format acceptable to, the Administration; or

(C) any combination of the assets described in subparagraphs (A) and (B).

(4) Contributions

The company shall make contributions to the loss reserve, either cash or letters of credit as provided above, in the following amounts and at the following intervals:

(A) 50 percent when a debenture is closed.

(B) 25 percent additional not later than 1 year after a debenture is closed.

(C) 25 percent additional not later than 2 years after a debenture is closed.

(5) Replenishment

If a loss has been sustained by the Administration, any portion of the loss reserve, and other funds provided by the premier company as necessary, may be used to reimburse the Administration for the premier company's share of the loss as provided in subsection (b)(2)(C). If the company utilizes the reserve, within 30 days it shall replace an equivalent amount of funds.

(6) Disbursements

(A) In general

The Administration shall allow the certified development company to withdraw from the loss reserve amounts attributable to any debenture that has been repaid.

(B) Temporary reduction based on outstanding balance

Notwithstanding subparagraph (A), during the 2-year period beginning on the date that is 90 days after May 28, 2004, the Administration shall allow the certified development company to withdraw from the loss reserve such amounts as are in excess of 1 percent of the aggregate outstanding balances of debentures to which such loss reserve relates. The preceding sentence shall not apply with respect to any debenture before 100 percent of the contribution described in paragraph (4) with respect to such debenture has been made.

(7) Alternative loss reserve

(A) Election

With respect to any eligible calendar quarter, any qualified high loss reserve PCL may elect to have the requirements of this paragraph apply in lieu of the requirements of paragraphs (2) and (4) for such quarter.

(B) Contributions

(i) Ordinary rules inapplicable

Except as provided under clause (ii) and paragraph (5), a qualified high loss reserve PCL that makes the election described in subparagraph (A) with respect to a calendar quarter shall not be required to make contributions to its loss reserve during such quarter.

(ii) Based on loss

A qualified high loss reserve PCL that makes the election described in subparagraph (A) with respect to any calendar quarter shall, before the last day of such quarter, make such contributions to its loss reserve as are necessary to ensure that the amount of the loss reserve of the PCL is—

(I) not less than $100,000; and

(II) sufficient, as determined by a qualified independent auditor, for the PCL to meet its obligations to protect the Federal Government from risk of loss.

[1] So in original. Probably should be preceded by ''if''.

(iii) Certification

Before the end of any calendar quarter for which an election is in effect under subparagraph (A), the head of the PCL shall submit to the Administrator a certification that the loss reserve of the PCL is sufficient to meet such PCL's obligation to protect the Federal Government from risk of loss. Such certification shall be in such form and submitted in such manner as the Administrator may require and shall be signed by the head of such PCL and the auditor making the determination under clause (ii)(II).

(C) Disbursements

(i) Ordinary rule inapplicable

Paragraph (6) shall not apply with respect to any qualified high loss reserve PCL for any calendar quarter for which an election is in effect under subparagraph (A).

(ii) Excess funds

At the end of each calendar quarter for which an election is in effect under subparagraph (A), the Administration shall allow the qualified high loss reserve PCL to withdraw from its loss reserve the excess of—

(I) the amount of the loss reserve, over

(II) the greater of $100,000 or the amount which is determined under subparagraph (B)(ii) to be sufficient to meet the PCL's obligation to protect the Federal Government from risk of loss.

(D) Recontribution

If the requirements of this paragraph apply to a qualified high loss reserve PCL for any calendar quarter and cease to apply to such PCL for any subsequent calendar quarter, such PCL shall make a contribution to its loss reserve in such amount as the Administrator may determine provided that such amount does not exceed the amount which would result in the total amount in the loss reserve being equal to the amount which would have been in such loss reserve had this paragraph never applied to such PCL. The Administrator may require that such payment be made as a single payment or as a series of payments.

(E) Risk management

If a qualified high loss reserve PCL fails to meet the requirement of subparagraph (F)(iii) during any period for which an election is in effect under subparagraph (A) and such failure continues for 180 days, the requirements of paragraphs (2), (4), and (6) shall apply to such PCL as of the end of such 180-day period and such PCL shall make the contribution to its loss reserve described in subparagraph (D). The Administrator may waive the requirements of this subparagraph.

(F) Qualified high loss reserve PCL

The term ''qualified high loss reserve PCL'' means, with respect to any calendar year, any premier certified lender designated by the Administrator as a qualified high loss reserve PCL for such year. The Administrator shall not designate a company under the preceding sentence unless the Administrator determines that—

(i) the amount of the loss reserve of the company is not less than $100,000;

(ii) the company has established and is utilizing an appropriate and effective process for analyzing the risk of loss associated with its portfolio of PCLP loans and for grading each PCLP loan made by the company on the basis of the risk of loss associated with such loan; and

(iii) the company meets or exceeds 4 or more of the specified risk management benchmarks as of the most recent assessment by the Administration or the Administration has issued a waiver with respect to the requirement of this clause.

(G) Specified risk management benchmarks

For purposes of this paragraph, the term ''specified risk management benchmarks'' means the following rates, as determined by the Administrator:

(i) Currency rate.

(ii) Delinquency rate.

(iii) Default rate.

(iv) Liquidation rate.

(v) Loss rate.

(H) Qualified independent auditor

For purposes of this paragraph, the term ''qualified independent auditor'' means any auditor who—

(i) is compensated by the qualified high loss reserve PCL;

(ii) is independent of such PCL; and

(iii) has been approved by the Administrator during the preceding year.

(I) PCLP loan

For purposes of this paragraph, the term ''PCLP loan'' means any loan guaranteed under this section.

(J) Eligible calendar quarter

For purposes of this paragraph, the term ''eligible calendar quarter'' means—

(i) the first calendar quarter that begins after the end of the 90-day period beginning with May 28, 2004; and

(ii) the 7 succeeding calendar quarters.

(K) Calendar quarter

For purposes of this paragraph, the term ''calendar quarter'' means—

(i) the period which begins on January 1 and ends on March 31 of each year;

(ii) the period which begins on April 1 and ends on June 30 of each year;

(iii) the period which begins on July 1 and ends on September 30 of each year; and

(iv) the period which begins on October 1 and ends on December 31 of each year.

(L) Regulations

Not later than 45 days after May 28, 2004, the Administrator shall publish in the Federal Register and transmit to the Congress regulations to carry out this paragraph. Such regulations shall include provisions relating to—

(i) the approval of auditors under subparagraph (H); and

(ii) the designation of qualified high loss reserve PCLs under subparagraph (F), including the determination of whether a process for analyzing risk of loss is appropriate and effective for purposes of subparagraph (F)(ii).

(8) Bureau of PCLP Oversight

(A) Establishment

There is hereby established in the Small Business Administration a bureau to be known as the Bureau of PCLP Oversight.

(B) Purpose

The Bureau of PCLP Oversight shall carry out such functions of the Administration under this subsection as the Administrator may designate.

(C) Deadline

Not later than 90 days after May 28, 2004—

(i) the Administrator shall ensure that the Bureau of PCLP Oversight is prepared to carry out any functions designated under subparagraph (B), and

(ii) the Office of the Inspector General of the Administration shall report to the Congress on the preparedness of the Bureau of PCLP Oversight to carry out such functions.

(d) Sale of certain defaulted loans

(1) Notice

If, upon default in repayment, the Administration acquires a loan guaranteed under this section and identifies such loan for inclusion in a bulk asset sale of defaulted or repurchased loans or other financings, it shall give prior notice thereof to any certified development company which has a contingent liability under this section. The notice shall be given to the company as soon as possible after the financing is identified, but not less than 90 days before the date the Administration first makes any records on such financing available for examination by prospective purchasers prior to its offering in a package of loans for bulk sale.

(2) Limitations

The Administration shall not offer any loan described in paragraph (1) as part of a bulk sale unless it—

(A) provides prospective purchasers with the opportunity to examine the Administration's records with respect to such loan; and

(B) provides the notice required by paragraph (1).

(e) Loan approval authority

(1) In general

Notwithstanding section 697(b)(6) of this title, and subject to such terms and conditions as the Administration may establish, the Administration may permit a company designated as a premier certified lender under this section to approve, authorize, close, service, foreclose, litigate (except that the Administration may monitor the conduct of any such litigation to which a premier certified lender is a party), and liquidate loans that are funded with the proceeds of a debenture issued by such company and may authorize the guarantee of such debenture.

(2) Scope of review

The approval of a loan by a premier certified lender shall be subject to final approval as to eligibility of any guarantee by the Administration pursuant to section 697(a) of this title, but such final approval shall not include review of decisions by the lender involving creditworthiness, loan closing, or compliance with legal requirements imposed by law or regulation.

(f) Review

After the issuance and sale of debentures under this section, the Administration, at intervals not greater than 12 months, shall review the financings made by each premier certified lender. The review shall include the lender's credit decisions and general compliance with the eligibility requirements for each financing approved under the program authorized under this section. The Administration shall consider the findings of the review in carrying out its responsibilities under subsection (g), but such review shall not affect any outstanding debenture guarantee.

(g) Suspension or revocation

The designation of a certified development company as a premier certified lender may be suspended or revoked if the Administration determines that the company—

(1) has not continued to meet the criteria for eligibility under subsection (b);

(2) has not established or maintained the loss reserve required under subsection (c);

(3) is failing to adhere to the Administration's rules and regulations; or

(4) is violating any other applicable provision of law.

(h) Effect of suspension or revocation

A suspension or revocation under subsection (g) shall not affect any outstanding debenture guarantee.

(i) Program goals

Each certified development company participating in the program under this section shall establish a goal of processing a minimum of not less than 50 percent of the loan applications for assistance under section 697a of this title pursuant to the program authorized under this section.

(j) Report

Not later than 1 year after October 22, 1994, and annually thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Each report shall include—

(1) the number of certified development companies designated as premier certified lenders;

(2) the debenture guarantee volume of such companies;

(3) a comparison of the loss rate for premier certified lenders to the loss rate for accredited and other lenders, specifically comparing de-

fault rates and recovery rates on liquidations; and

(4) such other information as the Administration deems appropriate.

(Pub. L. 85–699, title V, §508, as added and amended Pub. L. 103–403, title II, §217, Oct. 22, 1994, 108 Stat. 4185; Pub. L. 105–135, title II, §223(a), Dec. 2, 1997, 111 Stat. 2604; Pub. L. 106–554, §1(a)(9) [title III, §§305, 306], Dec. 21, 2000, 114 Stat. 2763, 2763A–685; Pub. L. 108–232, §§2–3(c), May 28, 2004, 118 Stat. 649–652.)

CODIFICATION

May 28, 2004, referred to in subsec. (c)(8)(C), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 108–232, which enacted subsec. (c)(8), to reflect the probable intent of Congress.

October 22, 1994, referred to in subsec. (j), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 103–403, which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

2004—Subsec. (b)(2)(C). Pub. L. 108–232, §3(b), inserted ''(15 percent in the case of any such loss attributable to a debenture issued by the company during any period for which an election is in effect under subsection (c)(7) for such company)'' before ''; and''.

Subsec. (b)(2)(D). Pub. L. 108–232, §3(c)(1), substituted ''subsection (c)'' for ''subsection (c)(2)''.

Subsec. (c)(5). Pub. L. 108–232, §3(c)(2), struck out ''10 percent'' after ''the premier company's''.

Subsec. (c)(6). Pub. L. 108–232, §2, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (c)(7), (8). Pub. L. 108–232, §3(a), added pars. (7) and (8).

2000—Pub. L. 106–554, §1(a)(9) [title III, §305], repealed Pub. L. 103–403, §217(b). See 1994 Amendment note below.

Subsec. (a). Pub. L. 106–554, §1(a)(9) [title III, §306(1)], substituted ''The'' for ''On a pilot program basis, the''.

Subsecs. (d), (e). Pub. L. 106–554, §1(a)(9) [title III, §306(2), (5)], added heading and text of subsec. (d) and redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 106–554, §1(a)(9) [title III, §306(2), (3)], redesignated subsec. (e) as (f) and substituted ''subsection (g)'' for ''subsection (f)''. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 106–554, §1(a)(9) [title III, §306(2)], redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 106–554, §1(a)(9) [title III, §306(2), (4)], redesignated subsec. (g) as (h) and substituted ''subsection (g)'' for ''subsection (f)''. Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 106–554, §1(a)(9) [title III, §306(2)], redesignated subsecs. (h) and (i) as (i) and (j), respectively.

1997—Subsec. (a). Pub. L. 105–135, §223(a)(1), struck out ''not more than 15'' before ''certified development companies''.

Subsec. (b)(2). Pub. L. 105–135, §223(a)(2)(A)(i), struck out ''if such company'' after ''premier certified lender'' in introductory provisions.

Subsec. (b)(2)(A), (B). Pub. L. 105–135, §223(a)(2)(A)(ii), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

''(A) has been an active participant in the accredited lenders program during the 12-month period preceding the date on which the company submits an application under paragraph (1), except that, prior to January 1, 1996, the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

''(B) has a history of submitting to the Administration adequately analyzed debenture guarantee application packages; and''.

Subsec. (b)(2)(C). Pub. L. 105–135, §223(a)(2)(A)(iii), inserted ''if the company'' before ''agrees to assume'' and substituted ''; and'' for period at end.

Subsec. (b)(2)(D). Pub. L. 105–135, §223(a)(2)(A)(iv), added subpar. (D).

Subsec. (b)(3). Pub. L. 105–135, §223(a)(2)(B), added par. (3).

Subsec. (c). Pub. L. 105–135, §223(a)(3), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows:

''(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financings approved pursuant to this section.

''(2) AMOUNT.—The amount of the loss reserve shall be based upon the greater of—

''(A) the historic loss rate on debentures issued by such company; or

''(B) 10 percent of the amount of the company's exposure as determined under subsection (b)(2)(C) of this section.

''(3) ASSETS.—The loss reserve shall be comprised of segregated assets of the company which shall be securitized in favor of the Administration.

''(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve in the following amounts and at the following intervals:

''(A) 50 percent when a debenture is closed.

''(B) 25 percent not later than 1 year after a debenture is closed.

''(C) 25 percent not later than 2 years after a debenture is closed.''

Subsec. (d)(1). Pub. L. 105–135, §223(a)(4), substituted ''to approve, authorize, close, service, foreclose, litigate (except that the Administration may monitor the conduct of any such litigation to which a premier certified lender is a party), and liquidate loans'' for ''to approve loans''.

Subsec. (f). Pub. L. 105–135, §223(a)(5), substituted ''certified development company'' for ''State or local development company'' in introductory provisions.

Subsec. (g). Pub. L. 105–135, §223(a)(6), substituted ''revocation'' for ''designation'' in heading.

Subsec. (h). Pub. L. 105–135, §223(a)(7), added subsec. (h) and struck out heading and text of former subsec. (h). Text read as follows: ''Not later than 180 days after October 22, 1994, the Administration shall promulgate regulations to carry out this section.''

Subsec. (i)(3). Pub. L. 105–135, §223(a)(8), substituted ''other lenders, specifically comparing default rates and recovery rates on liquidations'' for ''other lenders''.

1994—Pub. L. 103–403, §217(b), which directed repeal of this section effective Oct. 1, 2000, and was repealed by section 1(a)(9) [title III, §305] of Pub. L. 106–554, was not executed to reflect the probable intent of Congress and the amendments to this section by section 1(a)(9) [title III, §306] of Pub. L. 106–554. See Termination Date note below.

CHANGE OF NAME

Committee on Small Business of Senate changed to Committee on Small Business and Entrepreneurship of Senate. See Senate Resolution No. 123, One Hundred Seventh Congress, June 29, 2001.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of this title.

TERMINATION DATE

Section 217(b) of Pub. L. 103–403, as amended by Pub. L. 105–135, title II, §223(c), Dec. 2, 1997, 111 Stat. 2606, which provided that this section was to be repealed effective Oct. 1, 2000, was repealed by Pub. L. 106–554, §1(a)(9) [title III, §305], Dec. 21, 2000, 114 Stat. 2763, 2763A–685.

REGULATIONS

Pub. L. 105–135, title II, § 223(b), Dec. 2, 1997, 111 Stat. 2606, provided that: ''The Administrator shall—

''(1) not later than 150 days after the date of enactment of this Act [Dec. 2, 1997], promulgate regulations to carry out the amendments made by subsection (a) [amending this section]; and

''(2) not later than 180 days after the date of enactment of this Act, issue program guidelines and fully implement the amendments made by subsection (a).''

§ 697f. Prepayment of development company debentures

(a) In general

(1) Prepayment authorized

Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under this chapter may, at the election of the borrower (in the case of a loan under section 697 of this title) or the issuer (in the case of a small business investment company) and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section.

(2) Procedure

(A) In general

In making a prepayment under paragraph (1)—

(i) the borrower (in the case of a loan under section 697 of this title) or the issuer (in the case of a small business investment company) shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

(B) Repurchase premium

(i) In general

For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

(I) the unpaid principal balance due on the debenture on the date of prepayment; and

(II) the applicable percentage rate, as determined in accordance with clauses (ii) and (iii).

(ii) Applicable percentage rate

For purposes of clause (i)(II), the applicable percentage rate means—

(I) with respect to a 10-year term loan, 8.5 percent;

(II) with respect to a 15-year term loan, 9.5 percent;

(III) with respect to a 20-year term loan, 10.5 percent; and

(IV) with respect to a 25-year term loan, 11.5 percent.

(iii) Adjustments to applicable percentage rate

The percentage rates described in clause (ii) shall be increased or decreased by the Administration by a factor not to exceed one-third, if the same factor is applied in each case and if the Administration determines that an adjustment is necessary, based on the number of borrowers having given notice of their intent to participate, in order to make the program (including the amounts appropriated for this purpose under Public Law 103–317) result in no substantial net gain or loss of revenue to the Federal Financing Bank or to the Administration. Amounts collected in excess of the amount necessary to ensure revenue neutrality shall be refunded to the borrowers.

(b) Requirements

For purposes of subsection (a), the requirements of this subsection are that—

(1) the debenture is outstanding and neither the loan that secures the debenture, if any, nor the debenture is in default on the date on which the prepayment is made;

(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) under the programs authorized by this subchapter, are used to prepay or roll over the debenture; and

(3) with respect to a debenture issued under section 697 of this title, the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

(c) No prepayment fees or penalties

No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

(d) Refinancing limitations

(1) In general

The refinancing of a debenture under sections 697a and 697b of this title, in accordance with subsection (b)(2)—

(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

(B) except as provided in paragraphs (2) and (3), shall be subject to the provisions of sections 697a and 697b of this title and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 697b of this title.

(2) Job creation

An applicant for refinancing under section 697a of this title of a loan made pursuant to section 697 of this title shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.