

amended Pub. L. 91-609, title IX, §911(a)(2), Dec. 31, 1970, 84 Stat. 1812.)

Editorial Notes

AMENDMENTS

1970—Pub. L. 91-609 substituted “part” for “title”.

§ 694. Repealed. Pub. L. 100-590, title I, § 111(b), Nov. 3, 1988, 102 Stat. 2995

Section, Pub. L. 85-699, title IV, §403, as added Pub. L. 89-117, title III, §316(a), Aug. 10, 1965, 79 Stat. 484; amended Pub. L. 91-609, title IX, §911(a)(3), Dec. 31, 1970, 84 Stat. 1812; Pub. L. 93-386, §6(a)(2), Aug. 23, 1974, 88 Stat. 747; Pub. L. 94-305, title I, §103, June 4, 1976, 90 Stat. 665; Pub. L. 95-89, title I, §103, Aug. 4, 1977, 91 Stat. 556, provided for revolving fund for commercial or industrial lease guarantees.

Statutory Notes and Related Subsidiaries

TRANSFER OF REMAINING LEASE GUARANTEE FUND MONEYS

Pub. L. 100-590, title I, §111(b), Nov. 3, 1988, 102 Stat. 2995, provided in part that: “Any moneys remaining in the Lease Guarantee Fund on the date of enactment of this Act [Nov. 3, 1988] shall be transferred to the Small Business Administration’s business loan and investment fund.”

§ 694-1. Planning design or installation of pollution control facilities

(a) Definitions

For purposes of this section, the term—

(1) “pollution control facilities” means such property (both real and personal) as the Administration in its discretion determines is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste.

(2) “person” includes corporations, companies, associations, firms, partnerships, societies, joint stock companies, States, territories, and possessions of the United States, or subdivisions of any of the foregoing, and the District of Columbia, as well as individuals.

(3) “qualified contract” means a lease, sublease, loan agreement, installment sales contract, or similar instrument, entered into between a small business concern and any person.

(b) Financing disadvantage; guarantee of payment by Administration; restrictions and limitations

The Administration may, whenever it determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), guarantee the payment of rentals or other amounts due under qualified contracts. 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) Notwithstanding any other law, rule, or regulation or fiscal policy to the contrary, the guarantee authorized in the case of pollution control facilities or property shall be issued when such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax, and the Administration is expressly prohibited from denying such guarantee due to the property being so acquired.

(2) Any such guarantee shall be for the full amount of the payments due under such qualified contract and shall be a full faith and credit obligation of the United States.

(3) No guarantee shall be issued by the Administration 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 qualified contract.

(c) Uniform annual fees; processing fees; time and condition for payment; periodic review

The Administration shall fix a uniform annual fee for any guarantee issued under this section which shall be payable at such time and under such conditions as may be prescribed by the Administrator. The fee shall be set at an amount which the Administration deems reasonable and necessary and shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. In no case shall such amount be less than 1 per centum or more than 3½ per centum per annum of the minimum annual guaranteed rental payable under any qualified contract guaranteed under this section. 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.

(d) Requirements of Administration; escrow; default; discretionary provisions

In connection with the guarantee of rentals under any qualified contract 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 average annual payments for which a guarantee is issued under this section, 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 qualified contract, for application (with accrued interest) toward final payments of rental charges under the qualified contract;

(2) that upon occurrence of a default under the qualified contract, the lessor shall, as a