

lating to loan guarantee authority for payment of principal and interest on loans for approved projects, their duration, and payments for reduction of interest rate in subsec. (a)(2) of this section.

1977—Subsecs. (a), (b)(1). Pub. L. 95-83 substituted “September 30, 1978” for “September 30, 1977”.

1976—Subsecs. (a), (b)(1). Pub. L. 94-273 substituted “September” for “June”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-79, title II, §204, Oct. 4, 1979, 93 Stat. 636, provided that: “The amendments made by this title [enacting sections 300s, 300s-1, and 300s-6, amending this section and sections 201, 300q-2, 300r, 300s-1a, 300s-3, and 300s-5, and repealing sections 300o to 300o-3, 300p to 300p-3, 300q-1, and 300s of this title] shall take effect October 1, 1979, except that the amendments made by section 201(b) [amending this section and section 300q-2 of this title] respecting the payment of an interest subsidy for a loan or loan guarantee made under part A of title XVI of the Public Health Service Act [42 U.S.C. 300q et seq.] shall apply only with respect to loans and loan guarantees made after October 1, 1979, and with respect to loans and loan guarantees made under such part before such date the Secretary shall continue to pay the interest subsidy authorized for such loans and loan guarantees before such date.”

§ 300q-1. Repealed. Pub. L. 96-79, title II, § 203(a)(1), Oct. 4, 1979, 93 Stat. 635

Section, act July 1, 1944, ch. 373, title XVI, §1621, as added Jan. 4, 1975, Pub. L. 93-641, §4, 88 Stat. 2265, related to allocation among States of total amount of principal, criteria, availability of unobligated amounts, and reallocations.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 204 of Pub. L. 96-79, set out as an Effective Date of 1979 Amendment note under section 300q of this title.

§ 300q-2. General provisions

(a) Loan guarantees; criteria for approval; recovery of payments by United States; modification, etc., of terms and conditions; incontestability

(1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of

the rights of the recipient of the payments with respect to which the guarantee was made.

(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this subchapter will be achieved.

(b) Loans; criteria for approval; terms and conditions; waiver of recovery of payments by United States

(1) The Secretary may not approve a loan under this part unless—

(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus any interest subsidy made in accordance with section 300q(a)(2)(B) of this title with respect to a loan made for a project located in an urban or rural poverty area, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this subchapter while adequately protecting the financial interests of the United States.

(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(c) Sale of loans; authority; amount; agreements with purchasers; deposit of proceeds

(1) The Secretary shall from time to time, but with due regard to the financial interests of the

United States, sell loans made under this part either on the private market or to the Federal National Mortgage Association in accordance with section 1717 of title 12 or to the Federal Financing Bank.

(2) Any loan so sold shall be sold for an amount which is equal (or approximately equal) to the amount of the unpaid principal of such loans as of time of sale.

(3)(A) The Secretary is authorized to enter into an agreement with the purchaser of any loan sold under this part under which the Secretary agrees—

(i) to guarantee to such purchaser (and any successor in interest to such purchaser) payments of the principal and interest payable under such loan, and

(ii) to pay as an interest subsidy to such purchaser (and any successor in interest of such purchaser) amounts which, when added to the amount of interest payable on such loan, are equivalent to a reasonable rate of interest on such loan as determined by the Secretary after taking into account the range of prevailing interest rates in the private market on similar loans and the risks assumed by the United States.

(B) Any agreement under subparagraph (A)—

(i) may provide that the Secretary shall act as agent of any such purchaser, for the purpose of collecting from the entity to which such loan was made and paying over to such purchaser any payments of principal and interest payable by such entity under such loan;

(ii) may provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement;

(iii) shall provide that, in the event of any default by the entity to which such loan was made in payment of principal or interest due on such loan, the Secretary shall, upon notification to the purchaser (or to the successor in interest of such purchaser), have the option to close out such loan (and any obligations of the Secretary with respect thereto) by paying to the purchaser (or his successor in interest) the total amount of outstanding principal and interest due thereon at the time of such notification; and

(iv) shall provide that, in the event such loan is closed out as provided in clause (iii), or in the event of any other loss incurred by the Secretary by reason of the failure of such entity to make payments of principal or interest on such loan, the Secretary shall be subrogated to all rights of such purchaser for recovery of such loss from such entity.

(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection (d).

(5) If any loan to a public entity under this part is sold and guaranteed by the Secretary under this subsection, interest paid on such loan after its sale and any interest subsidy paid, under paragraph (3)(A)(ii), by the Secretary with respect to such loan which is received by the purchaser of the loan (or the purchaser's successor in interest) shall be included in the gross

income of the purchaser or successor for the purpose of chapter 1 of title 26.

(d) Loan and loan guarantee fund; establishment; amounts authorized to be appropriated; issuance, purchase, and sale of notes, obligations, etc.; interest rates; public debt transactions

(1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the "fund") which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriations Acts—

(A) to enable him to make loans under this part,

(B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,

(C) for payment of interest under section 300q(a)(2)(B) of this title on loans guaranteed under this part,

(D) for repurchase of loans under subsection (c)(3)(B),

(E) for payment of interest on loans which are sold and guaranteed, and

(F) to enable the Secretary to take the action authorized by subsection (f).

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets.

(2) If at any time the sums in the funds are insufficient to enable the Secretary—

(A) to make payments of interest under section 300q(a)(2)(B) of this title,

(B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,

(C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or

(D) to repurchase loans under subsection (c)(3)(B),

(E) to make payments of interest on loans which are sold and guaranteed, and

(F) to enable the Secretary to take the action authorized by subsection (f),

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The

Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which the securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

(e) Transfers to and additional capitalization of loan and loan guarantee fund

(1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 291j-6 of this title shall be transferred to the fund established by subsection (d) of this section.

(2) To provide additional capitalization for the fund established under subsection (d) there are authorized to be appropriated to the fund, such sums as may be necessary for the fiscal years ending June 30, 1975, June 30, 1976, September 30, 1977, September 30, 1978, September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(f) Default prevention measures; terms and conditions; implementation of reforms; foreclosures; protection of Federal interest on default

(1) The Secretary may take such action as may be necessary to prevent a default on a loan made or guaranteed under this part or under subchapter IV, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a medical facility shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

(2) The Secretary may take such action, consistent with State law respecting foreclosure procedures, as he deems appropriate to protect the interest of the United States in the event of a default on a loan made or guaranteed under this part or under subchapter IV, including selling real property pledged as security for such a loan or loan guarantee and for a reasonable period of time taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.

(July 1, 1944, ch. 373, title XVI, §1602, formerly §1622, as added Pub. L. 93-641, §4, Jan. 4, 1975, 88 Stat. 2265; amended Pub. L. 95-83, title I, §106(x)(2), (y), Aug. 1, 1977, 91 Stat. 385; renumbered §1602 and amended Pub. L. 96-79, title II, §§201(b)(2), (3), 203(a)(1), (3), (g), Oct. 4, 1979, 93 Stat. 631, 635; Pub. L. 97-414, §8(q), Jan. 4, 1983, 96 Stat. 2062; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

Editorial Notes

CODIFICATION

In subsec. (d), "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act" and "that Act", respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1602 of act July 1, 1944, ch. 373, title XVI, as added Jan. 4, 1975, Pub. L. 93-641, §4, 88 Stat. 2258; amended Aug. 1, 1977, Pub. L. 95-83, title I, §106(r), (s), 91 Stat. 385, was classified to section 300o-1 of this title, prior to repeal by Pub. L. 96-79, title II, §202(a), Oct. 4, 1979, 93 Stat. 632.

AMENDMENTS

1986—Subsec. (c)(5). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1983—Subsec. (f)(2). Pub. L. 97-414 inserted "selling real property pledged as security for such a loan or loan guarantee and" after "including".

1979—Subsec. (b)(2)(D). Pub. L. 96-79, §201(b)(2), substituted "minus any interest subsidy made in accordance with section 300q(a)(2)(B) of this title (with respect to a loan made for a project located in an urban or rural poverty area" for "minus 3 per centum per annum".

Subsec. (d)(1). Pub. L. 96-79, §203(a)(3), (g)(2), substituted in subpar. (C) reference to section "300q(a)(2)(B)" for "300q(b)(2)" of this title, and added subpar. (F).

Subsec. (d)(2). Pub. L. 96-79, §203(a)(3), (g)(3), substituted in subpar. (A) reference to section "300q(a)(2)(B)" for "300q(b)(2)" of this title, and added subpar. (F).

Subsec. (e)(2). Pub. L. 96-79, §201(b)(3), authorized appropriations for fiscal years ending Sept. 30, 1979 through 1982.

Subsec. (f). Pub. L. 96-79, §203(g)(1), added subsec. (f). 1977—Subsec. (c)(5). Pub. L. 95-83, §106(y), added subsec. (c)(5).

Subsec. (e)(2). Pub. L. 95-83, §106(x)(2), substituted provisions authorizing appropriations for fiscal years ending Sept. 30, 1977 and 1978, for prior such authorization for fiscal year ending June 30, 1977.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-79 effective Oct. 1, 1979, except that amendment of subsec. (b)(2)(D) respecting interest subsidy payments for loans or loan guarantees applicable only with respect to loans and loan guarantees made after Oct. 1, 1979, and that subsidies for such commitments made before Oct. 1, 1979, payable as authorized before Oct. 1, 1979, see section 204 of Pub. L. 96-79, set out as a note under section 300q of this title.

PART B—PROJECT GRANTS

Editorial Notes

CODIFICATION

Pub. L. 96-79, title II, §§201(a), 202(a), Oct. 4, 1979, 93 Stat. 630, 632, repealed part B relating to allotments,