

and capability necessary to comply with this subchapter;

(2) shall take into consideration—

(A) the need for and availability of financing for rural business concerns in the geographic area in which the applicant is to commence business;

(B) the general business reputation of the owners and management of the applicant; and

(C) the probability of successful operations of the applicant, including adequate profitability and financial soundness; and

(3) shall not take into consideration any projected shortage or unavailability of grant funds or leverage.

(e) Approval; license

(1) In general

Except as provided in paragraph (2), the Secretary may approve an applicant to operate as a rural business investment company under this subchapter and license the applicant as a rural business investment company, if—

(A) the Secretary determines that the application satisfies the requirements of subsection (b);

(B) the area in which the rural business investment company is to conduct its operations, and establishment of branch offices or agencies (if authorized by the articles), are approved by the Secretary; and

(C) the applicant enters into a participation agreement with the Secretary.

(2) Capital requirements

(A) In general

Notwithstanding any other provision of this subchapter, the Secretary may approve an applicant to operate as a rural business investment company under this subchapter and designate the applicant as a rural business investment company, if the Secretary determines that the applicant—

(i) has private capital of more than \$2,500,000;

(ii) would otherwise be approved under this subchapter, except that the applicant does not satisfy the requirements of section 2009cc-8(c) of this title; and

(iii) has a viable business plan that—

(I) reasonably projects profitable operations; and

(II) has a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 2009cc-8(c) of this title.

(B) Leverage

An applicant approved under subparagraph (A) shall not be eligible to receive leverage under this subchapter until the applicant satisfies the requirements of section 2009cc-8(c) of this title.

(C) Grants

An applicant approved under subparagraph (A) shall be eligible for grants under section 2009cc-7 of this title in proportion to the private capital of the applicant, as determined by the Secretary.

(Pub. L. 87-128, title III, § 384D, as added Pub. L. 107-171, title VI, § 6029, May 13, 2002, 116 Stat. 391; amended Pub. L. 115-334, title VI, § 6426(c), Dec. 20, 2018, 132 Stat. 4770.)

Editorial Notes

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115-334 substituted “developmental” for “developmental venture”.

§ 2009cc-4. Debentures

(a) In general

The Secretary may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any rural business investment company.

(b) Terms and conditions

The Secretary may make guarantees under this section on such terms and conditions as the Secretary considers appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

(c) Full faith and credit of the United States

Section 2009g(i) of this title shall apply to any guarantee under this section.

(d) Maximum guarantee

Under this section, the Secretary may—

(1) guarantee the debentures issued by a rural business investment company only to the extent that the total face amount of outstanding guaranteed debentures of the rural business investment company does not exceed the lesser of—

(A) 300 percent of the private capital of the rural business investment company; or

(B) \$105,000,000; and

(2) provide for the use of discounted debentures.

(Pub. L. 87-128, title III, § 384E, as added Pub. L. 107-171, title VI, § 6029, May 13, 2002, 116 Stat. 393.)

§ 2009cc-5. Issuance and guarantee of trust certificates

(a) Issuance

The Secretary may issue trust certificates representing ownership of all or a fractional part of debentures issued by a rural business investment company and guaranteed by the Secretary under this subchapter, if the certificates are based on and backed by a trust or pool approved by the Secretary and composed solely of guaranteed debentures.

(b) Guarantee

(1) In general

The Secretary may, under such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Secretary or agents of the Secretary for purposes of this section.

(2) Limitation

Each guarantee under this subsection shall be limited to the extent of principal and inter-